



Registration of a Charge

Company Name: **DUFERCO UK LIMITED**

Company Number: **03538773**



XC6AG2JF

Received for filing in Electronic Format on the: **23/06/2023**

Details of Charge

Date of creation: **22/06/2023**

Charge code: **0353 8773 0011**

Persons entitled: **NATIXIS**

Brief description: **NONE.**

Contains floating 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 PART OF THE CHARGING INSTRUMENT SIGNED BY OR ON BEHALF OF THE CHARGOR, AND A CORRECT COPY OF THE SIGNATURE PAGE TO EACH OTHER PART OF SUCH CHARGING INSTRUMENT.**

Certified by: **DENTONS UK AND MIDDLE EAST LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3538773

Charge code: 0353 8773 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd June 2023 and created by DUFERCO UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd June 2023 .

Given at Companies House, Cardiff on 23rd June 2023

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**

EXECUTION VERSION

DATED 22 June **2023**

DUFERCO UK LIMITED
(as Chargor)

NATIXIS
(as Security Agent)

DEED OF FLOATING CHARGE

ARTHUR COX

TABLE OF CONTENTS

1	DEFINITIONS AND INTERPRETATION	2
2	COVENANT TO PAY	4
3	CREATION OF SECURITY	4
4	RESERVED.....	6
5	REPRESENTATIONS AND WARRANTIES.....	6
6	NEGATIVE PLEDGES	6
7	COVENANTS	7
8	DOCUMENTS OF TITLE	7
9	FURTHER ASSURANCES	8
10	ENFORCEMENT: GENERAL	8
11	ENFORCEMENT: MORTGAGEE IN POSSESSION	9
12	ENFORCEMENT: RECEIVER APPOINTMENTS	9
13	ENFORCEMENT: RECEIVER POWERS	10
14	DELEGATION.....	12
15	POWER OF ATTORNEY	12
16	APPLICATION OF PROCEEDS	12
17	PROTECTION OF THIRD PARTIES	13
18	AVOIDANCE OF PAYMENTS	13
19	MISCELLANEOUS PROVISIONS.....	13
20	RELEASE OF SECURITY	17
21	EXECUTION; ELECTRONIC ORIGINALS	18
22	GOVERNING LAW AND JURISDICTION.....	18

THIS DEED OF FLOATING CHARGE is made on May 2023

BETWEEN:

- (1) **DUFERCO UK LIMITED**, a company incorporated under the laws of England and Wales with registration number 03538773 and whose registered office is at Duferco House, Buntsford Park Road, Bromsgrove, Worcestershire B60 3DX (the “**Chargor**”); and
- (2) **NATIXIS**, whose principal place of business in France is at 30, avenue Pierre Mendès-France, 75013, Paris, France as security agent for the Secured Parties (the “**Security Agent**”).

RECITALS:

- A. The Finance Parties agreed to make credit facilities available to the Borrower on the terms of the Facility Agreement.
- B. The parties hereto entered into the 2016 Deed of Floating Charge on or about the date of the Facility Agreement.
- C. The Chargor has now agreed to provide Security to the Security Agent (as trustee for the Secured Parties) to secure the payment and discharge of the Secured Liabilities.
- D. The parties acknowledge that, in respect of the assets already secured by the 2016 Deed of Floating Charge, the security constituted hereby shall be second-ranking (and in respect of all other assets charged hereby, shall be first-ranking).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, defined terms have the meanings given to them in the Facility Agreement unless otherwise expressly defined herein and, unless the context requires otherwise, the following terms have the following meanings:

- (a) “**2009 Act**” means the Land and Conveyancing Law Reform Act 2009.
- (b) “**2016 Deed of Floating Charge**” means the floating charge dated 23 March 2016 between the Chargor and the Agent.
- (c) “**Charged Property**” means the Chargor’s present and future assets secured in favour of the Security Agent by this Deed and any reference to “**Charged Property**” includes a reference to any part thereof.
- (d) “**Companies Act**” means the Companies Act 2014.
- (e) “**Deed**” means this deed of floating charge.
- (f) “**Enforcement Date**” means a date on which:
 - (i) an Event of Default has occurred; or
 - (ii) the Chargor requests that the Security Agent either appoint a Receiver or enter into all or any part of the Charged Property as mortgagee in possession.

- (g) **"Facility Agreement"** means the GBP 120,000,000 uncommitted secured borrowing base facility agreement originally dated 23 March 2016 between, among others, the Chargor and Natixis as Agent, as amended, novated, supplemented, extended or restated from time to time.
- (h) **"Floating Charge"** means the floating charge created by Clause 3.1.
- (i) **"Parties"** means the parties to this Deed and any reference to **"Party"** means any one of them.
- (j) **"Receiver"** means any one or more receivers and/or managers appointed by the Security Agent over any part of the Charged Property.
- (k) **"Secured Party"** means each Finance Party from time to time party to the Facility Agreement and any Receiver and Delegate.
- (l) **"Secured Liabilities"** means the liabilities of the Borrower to the Secured Parties under or pursuant to the Finance Documents.
- (m) **"Security"** means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect.
- (n) **"Security Interest"** means any mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
- (o) **"Security Period"** means the period starting on the date of this Deed and ending on the date on which the Security Agent is satisfied that:
 - (i) all of the Secured Liabilities have been fully and finally discharged; and
 - (ii) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents.

1.2 Interpretation

- (a) Any reference in this Deed to:
 - (i) the **"Chargor"**, the **"Security Agent"** or other person includes a reference to its successors in title, permitted assigns, permitted transferees and any person to whom its rights and/or obligations have been transferred under any applicable law;
 - (ii) **"dispose"** includes part with possession of, grant any interest (by way of security or otherwise) in, declare any trust over, sell, lease, licence, discount, factor, loan, assign (by way of security or otherwise), convey, agree to convey, transfer, release, exchange and set-off and **"disposal"** shall be construed accordingly;
 - (iii) **"insolvency"** includes insolvency, winding-up, dissolution, examinership, the granting of court protection, administration,

liquidation, bankruptcy, any composition or arrangement, and any analogous or similar event under the laws of any jurisdiction;

- (iv) “**month**” is a reference to a calendar month; and
 - (v) “**deal with**” includes any amendment, grant, development, waiver, termination, change, removal, redemption, conversion, frustration, rescission, surrender, encashment, realisation or alteration (or permitting any of the foregoing to take place).
- (b) The provisions of Clause 1.2 (*Construction*) of the Facility Agreement dealing with the interpretation of certain terms or the interpretation of a provision of law or regulation, shall apply to this Deed as if expressly set out herein (and as if references therein to “this Agreement” were references to “this Deed”).
 - (c) Words in the singular shall include the plural and vice versa.
 - (d) Clause headings are for ease of reference only.
 - (e) An Event of Default is “*continuing*” if it has not been waived.
 - (f) This Deed is intended to take effect as a deed, notwithstanding that the Security Agent may only execute it under hand or not at all.
 - (g) The Security created under this Deed is created:
 - (i) as a continuing security to secure the payment and discharge of the Secured Liabilities;
 - (ii) over all present and future assets of the kind described which are owned by the Chargor and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them; and
 - (iii) in favour of the Security Agent as trustee for the Secured Parties.

2. COVENANT TO PAY

2.1 The Chargor:

- (a) covenants that it will, on demand by the Security Agent, pay, perform or discharge the Secured Liabilities when they become due for payment, performance or discharge; and
- (b) undertakes to pay to the Security Agent every sum now or hereafter due, owing or incurred by the Chargor in respect of the Secured Liabilities.

2.2 If the Security Agent makes a demand under this Deed, that shall not preclude the Security Agent from making one or more further demands and shall not invalidate any previous demands.

3. CREATION OF SECURITY

3.1 Grant of Floating Charge

As continuing security for the payment, performance and discharge of the Secured Liabilities, the Chargor hereby charges by way of first-ranking floating charge in favour of the Security Agent all of its right, title, benefit and interest (both present and future) in, to, under and with respect to, any and all of its assets of whatever nature (including, without limitation, its stock-in-trade, inventory and raw materials) from time to time in any Eligible Warehouse in Ireland.

3.2 Conversion of Floating Charge on notice

The Security Agent may by notice to the Chargor at any time during the Security Period convert the Floating Charge into a fixed charge in respect of any Charged Property specified in that notice if:

- (a) an Event of Default is continuing; or
- (b) the Security Agent considers that Charged Property to be in danger of being seized, attached, charged, taken possession of or sold under any form of distress, sequestration, execution or other process or otherwise to be in jeopardy.

3.3 Automatic conversion

The Floating Charge will convert automatically into fixed charges if:

- (a) The Chargor takes any step towards creating or permitting the creation of any Security over the Charged Property in favour of a third party; or
- (b) Any creditor of the Chargor levies any distress, attachment, execution, sequestration or other legal process against any of the Chargor's Charged Property or takes any steps to do so.

3.4 Effect of Crystallisation

With effect from crystallisation of the Floating Charge under Clauses 3.2 or 3.3 above:

- (a) in the case of Clause 3.2 above, the Security Agent shall have exclusive control over so much of the Charged Property as is specified in the notice;
- (b) in the case of Clause 3.3 above, the Security Agent shall have exclusive control over all Charged Property (other than book debts to the extent that they form part of the Charged Property);
- (c) the Chargor may not deal with all or any part of the property at (a) or (b) above (as appropriate) without the prior written consent of the Security Agent; and
- (d) where the property at (a) above comprises book debts of the Chargor, the proceeds of such book debts shall be paid into such account as the Security Agent shall designate and the Chargor shall not be permitted to make withdrawals or payments from that account without the Security Agent's prior written consent.

4. **RESERVED**

5. **REPRESENTATIONS AND WARRANTIES**

5.1 The Chargor represents and warrants to the Security Agent, at the date of this Deed, that:

- (a) it will not be entitled to claim immunity from suit, execution, attachment or other legal process in connection with this Deed;
- (b) it has no branch, establishment or place of business in Ireland;
- (c) this Deed creates the security which it purports to create and is not liable to be avoided or otherwise set aside in an insolvency of the Chargor;
- (d) where the Security is being provided to support the Chargor's obligations under a guarantee, an indemnity or a similar arrangement, it has not taken or received the benefit of any Security Interest from another person in respect of its obligations under this Deed;
- (e) there are no:
 - (i) covenants, agreements, stipulations, conditions, rights or other matters whatsoever affecting the Charged Property; or
 - (ii) breaches of law, regulation or covenant outstanding,which conflict with the present use of the Charged Property or which could affect its value or saleability;
- (f) no part of the Charged Property is subject to any prohibition or restriction on the creation of a Security Interest; and
- (g) it has not taken (or omitted to take) any action, or permitted anything to be done, which could (in the Security Agent's opinion) jeopardise the existence or value of the Charged Property or the Security, or the priority of the Security.

5.2 The representations and warranties contained in Clause 5.1 are made by the Chargor on the date of this Deed and shall be deemed to be made on each date on which the Secured Liabilities are outstanding (by reference to the facts and circumstances existing at the date that they are deemed to be made).

6. **NEGATIVE PLEDGES**

6.1 The provisions of Clause 22.4 (*Negative Pledge*) and 22.5 (*Disposals*) of the Facility Agreement shall apply to this Deed as if set out herein in full.

6.2 The Parties agree that the Chargor is permitted to:

- (a) deal with so much of the Charged Property in respect of which crystallisation has not occurred pursuant to Clause 3.4(b) or Clause 3.4(c) above in the ordinary course of its business; and
- (b) deal with the Charged Property as expressly permitted by the Facility Agreement.

6.3 The Chargor covenants for the benefit of the Security Agent that, for the duration of the Security Period, it will not (save as permitted by Clause 6.1 above):

- (a) enter into any onerous obligation or restriction affecting the Charged Property;
- (b) take any Security in connection with its liabilities under this Deed from any guarantor of, or provider of security for, the Secured Liabilities; or
- (c) exercise the statutory powers conferred on it by Sections 112 and 114 of the 2009 Act, or any similar powers, without the Security Agent's prior written consent.

7. COVENANTS

The Chargor covenants for the benefit of the Security Agent, in the manner set out in this Clause 7, for the duration of the Security Period.

7.1 Preservation of Charged Property

The Chargor shall:

- (a) observe and perform all covenants, undertakings, laws and regulations from time to time affecting any Charged Property or its use or enjoyment;
- (b) pay all Tax, rents, duties, fees, charges, assessments, impositions, calls, instalments and outgoings which are property payable at any time during the Security Period in respect of any Charged Property or by the owner of them (and if it fails to pay that amount when due, the Security Agent may pay it);
- (c) notify the Security Agent of any action commenced by a third party to seize, attach, charge, take possession of or sell any Charged Property which (to the best of its knowledge and belief) has been started or threatened; and
- (d) at its own cost, defend any proceedings (including proceedings to seize, attach, charge, take possession of or sell) brought by a third party relating to any Charged Asset.

7.2 Payments without deduction

The Chargor covenants with the Secured Parties that all payments to be made by it under this Deed shall be calculated and made without (and free and clear of any deduction for) set-off or counterclaim.

7.3 Where the Chargor breaches any provision of this Deed, the Security Agent may (but is not obliged to) do whatever it deems necessary to rectify that breach. All monies expended by the Security Agent (or on its behalf) in so doing (including under Section 110 of the 2009 Act) shall form part of the Secured Liabilities.

8. DOCUMENTS OF TITLE

- 8.1 On crystallisation of the Floating Charge, the Chargor shall deliver (or procure delivery of) to the Security Agent all agreements, certificates and other documents of title relating to the Charged Property in respect of which crystallisation has occurred.
- 8.2 Following crystallisation of the Floating Charge, promptly on the acquisition by it of any right, title, benefit or interest in any other asset, the Chargor shall deliver (or

procure delivery) to the Security Agent of all agreements, certificates and other documents of title relating to that asset.

8.3 Safe Custody

- (a) The Security Agent undertakes with the Chargor for the safe custody of such documents of title to the Charged Property as it holds in its possession or control.
- (b) The Chargor agrees that, in the event of the loss or destruction of, or injury to, the documents of title relating to the Charged Property, the Security Agent will not be liable to the Chargor if the loss, destruction or injury occurred before the Security Agent actually received the documents of title, or after the documents of title were given by the Security Agent (at the Chargor's request) to some other person at the request of the Chargor and before those documents of title are returned to the Security Agent.
- (c) Further, the Chargor agrees that the Security Agent will not be liable for any loss of profit, reputational damage, indirect loss or consequential loss.

9. FURTHER ASSURANCES

- 9.1 The Chargor shall, at its own cost, take such action as the Security Agent or any Receiver or Delegate may require for the purpose of creating, perfecting, maintaining, protection, facilitating the realisation of, or facilitating the exercise of any rights in respect of, the Security.
- 9.2 The foregoing may include re-executing this Deed, executing other agreements creating a Security Interest or dealing with the Charged Property, serving notices, giving orders, giving directions, making filings or making registrations.

10. ENFORCEMENT: GENERAL

10.1 On an Enforcement Date:

- (a) the Security will be immediately enforceable, and the Secured Liabilities will be immediately due for payment, performance and discharge, without any requirement for notice to, or for demand to be served on, the Chargor; and
- (b) the statutory power of sale together with all other rights, powers, privileges, discretions and immunities conferred on mortgagees by law (in each case as varied by this Deed) will be immediately exercisable and the Security Agent shall have no liability arising out of its exercise of any such rights, powers, privileges, discretions and immunities.

10.2 On or at any time after an Enforcement Date:

- (a) the Security Agent may enforce, in its absolute discretion, all or any part of the Security in any manner that it sees fit. It shall not be necessary for any consent or court order to be obtained, any event to occur, any notification to be made or any condition to be fulfilled under any of Sections 97, 98, 100(1), 100(2), 100(3), 103(2) or 108(1) of the 2009 Act before the Security Agent takes steps to enforce the Security (including by way of appointment of one or more Receivers); and
- (b) the Security Agent may:

- (i) redeem any prior Security Interest over the Charged Property; and/or
 - (ii) procure the transfer of any such Security Interest to itself; and/or
 - (iii) settle and pass the accounts of the beneficiary of the prior Security Interest with any accounts so settled and passed being, in the absence of manifest error, conclusive and binding on the Chargor;
 - (c) the Chargor will, immediately on demand, pay to the Security Agent all of the Security Agent's costs and expenses (including Tax) in connection with the matters set out at (b) above and, until such amounts are paid in full, those amounts shall form part of the Secured Liabilities.
- 10.3 Sections 92 (and any other restriction on the consolidation of mortgages), 94, 96(1)(c), 99, 101, 105(2), 106(3), 107 and 109 of the 2009 Act shall not apply to this Deed, the Security or any enforcement thereof.
- 10.4 Once the Security has become enforceable:
- (a) the Chargor shall:
 - (i) take such steps as the Security Agent may require (at the Chargor's cost) to facilitate enforcement of the Security; and
 - (ii) hold any payment received by it in respect of any part of the Charged Property in trust for the Security Agent; and
 - (b) the Security Agent may exercise (without any consent or authority from the Chargor, and irrespective of any direction given by the Chargor) all of the Chargor's rights in respect of the Charged Property.

11. ENFORCEMENT: MORTGAGEE IN POSSESSION

- 11.1 On or at any time after an Enforcement Date, the Security Agent may (without any requirement for notice to, or for demand to be served on, the Chargor) and without prejudice to any other express or implied right of the Security Agent, enter into possession of all or any part of the Charged Property as mortgagee in possession.
- 11.2 If the Security Agent enters into possession as set out in Clause 11.1 above:
- (a) it shall not be liable to account as mortgagee in possession, for any loss in connection with the Charged Property, for any loss on realisation of the Charged Property or for any default or omission for which a mortgagee in possession might be liable; and
 - (b) it shall not be obliged to take steps to sell or lease the Charged Property.
- 11.3 The statutory powers to lease and accept surrenders conferred on the Security Agent by Sections 112-114 of the 2009 Act are extended to enable the Security Agent to arrange to lease, lease, arrange to accept surrenders, accept surrenders and grant new leases free of any restrictions imposed in Sections 112-114 or other restrictions imposed by law.

12. ENFORCEMENT: RECEIVER APPOINTMENTS

- 12.1 On or at any time after an Enforcement Date, the Security Agent may appoint any person or persons as Receiver or Receivers of all or any part of the Charged Property,

regardless of whether the Security Agent is mortgagee in possession or not. The appointment of a Receiver over part of the Charged Property will not preclude the Security Agent from appointing the same or another Receiver over all or any part of the balance of the Charged Property.

- 12.2 Any appointment of a Receiver, or removal or replacement of a Receiver, by the Security Agent must be in writing and may be made either under the hand of any officer, employee or agent of the Security Agent or as a deed.
- 12.3 The above powers of appointment are in addition, and without prejudice, to the Security Agent's powers under the 2009 Act and under other applicable laws, save as those powers may be expressly varied by this Deed.
- 12.4 The remuneration of any Receiver may be fixed by the Security Agent and, in doing so, the Security Agent shall not be bound by any restriction or maximum rate imposed by law (including by Section 108(7) of the 2009 Act).
- 12.5 Any such Receiver shall be the Chargor's agent for all purposes, and the Chargor will be solely responsible for the Receiver's acts, remuneration, contracts, engagements, defaults, losses, omissions and liabilities. All costs, expenses, outgoings and liabilities incurred by any such Receiver shall form part of the Secured Liabilities.
- 12.6 The Security Agent shall not incur any liability whatsoever to any person as a result of either its appointment of a Receiver in respect of all or any part of the Charged Property, or as a result of any action or inaction on the part of such Receiver.

13. **ENFORCEMENT: RECEIVER POWERS**

- 13.1 If more than one Receiver has been appointed, each may act individually or jointly (subject to the terms of the relevant appointment).
- 13.2 A Receiver may exercise any or all of its powers in its absolute discretion, and shall not be obliged to take any steps to sell or lease all or any part of the Charged Property.
- 13.3 No Receiver shall be liable to account as mortgagee in possession for any loss in connection with the Charged Property or the realisation thereof, or for any default or omission for which a mortgagee in possession might be liable.
- 13.4 A Receiver shall have all rights, powers, privileges, discretions and immunities conferred on receivers by law (in each case as varied by this Deed) including the powers listed in Section 437 (*Powers of receiver*) of the Companies Act and shall also have the power to:
 - (a) exercise (without being under any obligation to do so and without any liability for so doing) all rights in respect of the Charged Property over which he has been appointed, whether those rights are originally available (at law, in equity, under this Deed or under another agreement) to the Chargor, the Security Agent or any Receiver or Delegate;
 - (b) make filings, registrations, notifications and renewals, and apply for and maintain any planning permissions, building approvals, regulatory approvals and other authorisations of any nature whatsoever;
 - (c) arrange for the provision of any service desirable for the efficient use or management of the Charged Property over which he has been appointed;

- (d) lend money or advance credit;
- (e) purchase any property;
- (f) borrow or otherwise raise money on a secured or unsecured basis on such terms as he sees fit;
- (g) enter into and perform his obligations in respect of bonds, guarantees, indemnities, covenants and the like;
- (h) procure the formation of bodies corporate in connection with the exercise of his powers and his dealings with the Charged Property;
- (i) enter into, amend, rescind or repudiate any agreements;
- (j) take an indemnity from any person against any losses, howsoever arising, in connection with the exercise by him of his powers;
- (k) comply with any requirement of law or regulation, and with any notices or orders received in respect of the Charged Property;
- (l) deal with the Chargor's tax affairs as he may see fit;
- (m) deal with any accounts, claims (howsoever arising), contracts, demands, questions or disputes (howsoever arising) whatsoever which may arise in connection with the Chargor's business, the Security or the Charged Property;
- (n) enter into any arrangement or compromise in respect of amounts owing to the Chargor, give valid receipts, and otherwise deal with such amounts as he sees fit;
- (o) otherwise deal with the Charged Property in such manner and on such terms and conditions as he may see fit;
- (p) use the Chargor's name and seal in the exercise of any of his powers; and
- (q) delegate any or all of his powers.

- 13.5 A Receiver may exercise any powers referred to (expressly or by incorporation) in this Clause 13 (*Enforcement: Receiver Powers*) notwithstanding any insolvency of the Chargor, and a Receiver shall not be liable for any loss arising in connection with the exercise of those powers.
- 13.6 The Security Agent may exercise all rights, powers, privileges, discretions and immunities conferred on receivers by law or by this Deed irrespective of whether or not a Receiver has been appointed.

14. **DELEGATION**

- 14.1 The Security Agent or any Receiver (each a “**Delegating Party**”) may appoint (on such terms as it sees fit) a Delegate by power of attorney or in any other manner as it sees fit (whether under hand or under seal) to be the delegate of any right, power, privilege, discretion or immunity conferred on the Security Agent or that Receiver by law or by this Deed.
- 14.2 No such delegation will preclude a subsequent delegation.
- 14.3 A delegation may be revoked by the Delegating Party at any time.
- 14.4 The Delegating Party shall not be liable for any loss suffered by any person as a result of any action, inaction, omission, default or misconduct of any Delegate.

15. **POWER OF ATTORNEY**

- 15.1 The Chargor irrevocably appoints, by way of security, the Security Agent, each Receiver and each Delegate (acting solely, some acting together or all acting together) to be its attorney (with full powers of substitution and delegation) in its name and otherwise on its behalf, and as its act and deed to:
- (a) execute, deliver and perfect any agreement or form, and take any action (including the making of registrations, filings or notifications), which the Chargor is required to execute, deliver, perfect or take pursuant to this Deed whether for the purposes of perfecting the Security, or vesting the Charged Property in the Security Agent, any Receiver, any Delegate, any nominee of any of the foregoing, or any purchaser; and
 - (b) generally use its name in connection with the exercise of any rights under this Deed.
- 15.2 The Chargor agrees that:
- (a) it will be deemed to have ratified and approved anything done by any attorney pursuant to Clause 15.1; and
 - (b) all monies expended by any such attorney in its capacity as such will be deemed to form part of the Secured Liabilities.

16. **APPLICATION OF PROCEEDS**

- 16.1 The Security Agent shall apply any moneys received or recovered by it pursuant to this Deed in accordance with the Facility Agreement.
- 16.2 Any Receiver shall apply any moneys received or recovered by it pursuant to this Deed:
- (a) first, in or towards the pro rata payment of or provision for any sums owing to the Security Agent, any Receiver or any Delegate; and
 - (b) secondly, to the Security Agent for application in accordance with Clause 16.1.
- 16.3 Clauses 16.1 and 16.2 will override any appropriation made by the Chargor.

- 16.4 The order of payments set out at Clause 16.1 above is subject to any claims having priority, as a matter of law, to the Security.

17. PROTECTION OF THIRD PARTIES

- 17.1 No person dealing with the Security Agent, any Receiver or Delegate shall be obliged to enquire:

- (a) whether the Secured Liabilities are outstanding or whether they have become due;
- (b) whether any right or power exercised by the Security Agent, any Receiver or Delegate has arisen, accrued or become exercisable, or whether it has been properly exercised;
- (c) how monies received by the Security Agent, any Receiver or Delegate are to be applied; or
- (d) the legality, validity or enforceability of any act of the Security Agent, any Receiver or Delegate.

- 17.2 A receipt of the Security Agent, any Receiver or Delegate shall be an absolute and conclusive discharge to a purchaser from the Security Agent, any Receiver or Delegate.

18. AVOIDANCE OF PAYMENTS

- 18.1 If any amount paid to the Security Agent in respect of the Secured Liabilities is capable of being avoided, reduced, adjusted, clawed-back or otherwise set aside on the insolvency of the payer or otherwise, that amount will not be considered as having been irrevocably paid for the purposes of this Deed and the Chargor's liability to the Security Agent in respect of that amount shall continue.

- 18.2 If any release, discharge, re-assignment or settlement is agreed to by or on behalf of the Security Agent in respect of the Secured Liabilities and any such avoidance, reduction, adjustment, claw-back or otherwise occurs, that release, discharge, re-assignment or settlement will be deemed not to have taken place, and the Security will be deemed to have remained in place at all times without any prejudice to the rights of the Security Agent, any Receiver or any Delegate.

19. MISCELLANEOUS PROVISIONS

19.1 Continuing Security

The Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or settlement of all or any part of the Secured Liabilities.

19.2 Additional Security

The Security is in addition to, and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy or any other guarantee or security for the Secured Liabilities or any of them which are now or may hereafter be held by the Security Agent whether from the Chargor or otherwise.

19.3 No Liability

None of the Security Agent, any Receiver or any Delegate or any person acting on its or their behalf shall incur any liability as a result of exercising its rights under this Deed, any neglect or default in respect of the Charged Property, taking possession of the Charged Property or realising the Security.

19.4 Financial Assistance

This Deed does not render any liability a Secured Liability to the extent that to do so would result in this Deed or part thereof constituting unlawful financial assistance under Section 82 of the Companies Act or any analogous provision under the laws of any Relevant Jurisdiction.

19.5 Financial Collateral

If any Charged Property constitutes “**financial collateral**” or this Deed and any Secured Liabilities constitute a “**security financial collateral arrangement**” (in each case as defined in the European Communities (Financial Collateral Regulations) 2010 (the “**Financial Collateral Regulations**”), the Security Agent may, on or after an Enforcement Date, appropriate all or any part of that financial collateral towards satisfaction of the Secured Liabilities.

For that purpose, the Parties agree that:

- (a) the value of the appropriated financial collateral will be its market value determined by the Security Agent by reference to a public index, independent valuation or other method chosen by the Security Agent; and
- (b) the foregoing will constitute a commercially reasonable valuation method for the purposes of the Financial Collateral Regulations.

19.6 Confirmation

The Chargor confirms that this Deed and the Security extend to any amendment to any Finance Document, however fundamental, and irrespective of whether such amendment imposes more onerous obligations on the Chargor.

19.7 Subsequent Security Interests and new accounts

If any subsequent Security Interest or any analogous expropriation, attachment, sequestration, distress, execution or process affects all or any part of the Charged Property, the Security Agent may open a new account or accounts for the Chargor in its books or with any other person.

If the Security Agent does not do so, such account opening shall, unless express written notice is given by the Security Agent to the Chargor, be deemed to have taken place at the time when the Security Agent received, or was deemed to have received, notice of such Security Interest or process.

From the time that such account(s) is/are opened or deemed to have been opened, all payments made to the Security Agent will be credited, or will be deemed to be credited, to such new account(s) and will not operate to reduce any or all of the Secured Liabilities.

19.8 Obligations not affected

The Chargor’s obligations under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause 19.8, would reduce, release, prejudice or

diminish any of those obligations, in whole or in part (whether or not known to the Security Agent), including (in respect of the Chargor or any other person):

- (a) the grant of any time, waiver, consent, indulgence or concession;
- (b) the entry into, or the granting of any release in respect, of any composition or similar arrangement;
- (c) the entry into, amendment or release of any security or guarantee;
- (d) the enforcement, compromise, refusal to enforce or failure to enforce of any right, security or guarantee;
- (e) the failure to observe a formality or other requirement;
- (f) the failure to realise the full value of any security or guarantee;
- (g) a lack of capacity, power or authority;
- (h) an insolvency;
- (i) a change in constitution or membership;
- (j) the amendment (however fundamental) of any agreement;
- (k) any illegality, invalidity or unenforceability of any Secured Liability or of any liability of another person;
- (l) the issue, confirmation, amendment, renewal or termination of any negotiable instrument;
- (m) any merger or amalgamation, howsoever effected;
- (n) any judgment being obtained; or
- (o) any act, event or omission which, but for this Clause 19.8, would or might operate to impair, discharge or otherwise affect the Chargor's obligations hereunder and the Secured Liabilities.

19.9 Obligations remain enforceable

The Chargor's obligations under this Deed will remain enforceable notwithstanding:

- (a) any restructuring of the Security Agent (including by way of an acquisition, change of control, change in legal status, change in constitution, merger, scheme of arrangement or division); or
- (b) the exercise of any stabilisation, recovery or resolution power in respect of the Security Agent.

19.10 Dealing with amounts received etc.

During the Security Period, the Security Agent may:

- (a) refrain from applying any monies received by, or enforcing any security or rights held by, the Security Agent or on its behalf in connection with the Secured Liabilities, or apply and enforce the same as it sees fit and the Chargor shall not be entitled to have those monies transferred to it; and

- (b) hold, in an interest-bearing suspense account, any monies received from the Chargor or from another person in respect of the Secured Liabilities.

19.11 **Waivers**

The Chargor waives:

- (a) any present or future right of set-off that it may have in respect of the Secured Liabilities or the Charged Property; and
- (b) any right to interpose any defence based on any statute of limitations, claim of laches, claim of set-off or other counterclaim whatsoever.

19.12 **Security Agent's discretion**

Any right, remedy, power, authority or similar which may be exercised by the Security Agent or any Receiver or Delegate under this Deed may be exercised in its absolute and unfettered discretion without any obligation to provide a reason.

19.13 **Protection of the Secured Parties**

(a) **Exclusion of liability**

None of the Security Agent, the other Secured Parties or any of their respective officers or employees shall have any responsibility or liability:

- (i) for any action taken, or any failure to take any action, in relation to all or any of the Charged Property;
- (ii) to account as mortgagee in possession or for any loss upon realisation of any Charged Property;
- (iii) for any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies under Clause 19.14 (*Currency*); or
- (iv) for the loss or destruction of, or damage to, any of the Charged Property, or to any documents of or evidencing title to them, which are in the possession or held to the order of any such person (and which will be held by such persons at the expense and risk of the Chargor); or
- (v) for any other default or omission in relation to all or any of the Charged Property for which a mortgagee in possession might be liable,

except in the case of gross negligence or wilful misconduct on the part of that person.

(b) **General indemnity**

The Chargor shall indemnify the Security Agent, the other Secured Parties and their respective officers and employees against all actions, proceedings, demands, claims, costs, expenses, and other liabilities incurred by them in respect of all or any of the following:

- (i) any act or omission by any of them in relation to all or any of the Charged Property;
- (ii) any payment relating to or in respect of all or any of the Charged Property which becomes payable at any time by any of them;
- (iii) any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;
- (iv) carrying out or purporting to carry out any of the rights, powers and discretions conferred on them by or permitted under this Deed; and
- (v) any breach by the Chargor of any of its covenants or other obligations to the Security Agent or any other Secured Party,

except in the case of gross negligence or wilful misconduct on the part of that person.

- (c) The Chargor shall pay interest at the Default Rate on the sums payable under this Clause from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

(d) **Indemnity out of the Charged Property**

The Security Agent, the other Secured Parties and their respective officers and employees shall be entitled to be indemnified out of the Charged Property in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 19.13(b) (*General indemnity*).

19.14 Currency

(a) **The Spot Rate**

In this Clause 19.14, the **Spot Rate** means, in relation to the Security Agent or any other Finance Party, the spot rate of exchange of that Finance Party for the purchase of any currency with any other currency in the London foreign exchange market.

(b) **Conversion of moneys received**

The Security Agent or any other Finance Party may convert any moneys received, recovered or realised in any currency under this Deed (including the proceeds of any previous conversion under this Clause 19.14) from their existing currency into any other currency, by purchasing that other currency at the Spot Rate.

20. RELEASE OF SECURITY

- 20.1 Subject to Clause 20.2 below and to the other provisions of this Deed, at the end of the Security Period the Security Agent will, at the Chargor's request and cost, release, discharge and re-assign the Security to the Chargor.
- 20.2 The Security Agent may retain this Deed after the end of the Security Period for such period as the Security Agent shall determine up to a maximum of seven months.

21. EXECUTION; ELECTRONIC ORIGINALS

21.1 Execution

The Parties consent to the execution by or on behalf of each other Party of this Deed, and the witnessing thereof, by electronic signature, provided that such manner of execution is permitted by law.

21.2 Retention

The Parties also:

- (a) agree that an executed copy of this Deed may be retained in electronic form; and
- (a) acknowledge that such electronic form shall constitute an original of this Deed and may be relied upon as evidence of this Deed.

22. GOVERNING LAW AND JURISDICTION

22.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by the laws of Ireland.

22.2 The Parties agree that the courts of Ireland:

- (a) have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed) or any non-contractual obligation arising out of or in connection with this Agreement (a “Dispute”); and
- (b) are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

22.3 Clause 22.2 above is for the benefit of the Security Agent only. The Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction, and to the extent allowed by law, may take concurrent proceedings in any number of jurisdictions.

22.4 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Chargor:

- (a) irrevocably appoints Bradwell Limited as its agent for service of process in relation to any proceedings before the Irish courts in connection with this Deed;
- (b) agrees to procure that Bradwell Limited executes a letter confirming its appointment on or about the date of this Deed;
- (c) agrees that failure by a process agent to notify the Chargor of the process will not invalidate the proceedings concerned;
- (d) if any person so appointed as an agent for service of process is unable or becomes unwilling to so act, agrees that it shall immediately and in any event within ten Business Days of such an event occurring appoint another agent

for service of process on terms acceptable to the Security Agent failing which the Security Agent may appoint another agent for service of process.

Execution Page

IN WITNESS WHEREOF the Parties hereto have caused this Deed to be executed and delivered as a deed the day and year first written above.

By its execution of this Deed, the Chargor irrevocably and unconditionally authorises any and each solicitor from time to time in the Irish law firm acting for the Security Agent (the "**Security Agent's Solicitors**") to:

- (a) sign or complete (whether electronically or otherwise) on behalf the Chargor all required security related registration forms required to be delivered to the Companies Registration Office ("**CRO**") in connection with this Deed,
- (b) file (whether electronically or otherwise) each such registration form with the CRO; and
- (c) include an email address for a solicitor in the Security Agent's Solicitors in each such registration form for the purposes of receiving any certificate of registration of charge electronically from the CRO.

In giving this authorisation, the Chargor agrees and acknowledges that:

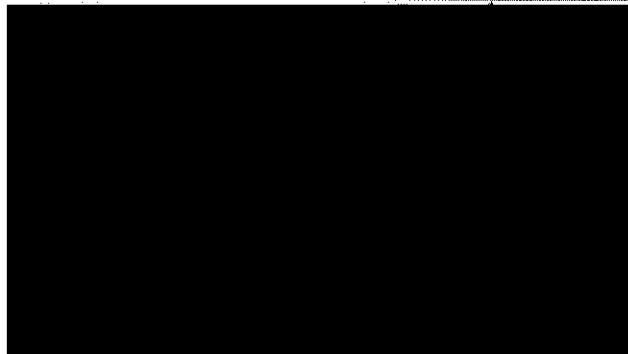
- (a) no solicitor/client relationship exists between the Security Agent's Solicitors (or any solicitor at that law firm) and the Chargor;
- (b) it is the Chargor's responsibility to comply with the procedures set out in Sections 409(3) and (4) of the Companies Act (without prejudice to Section 410(2) thereof); and
- (c) the Security Agent's Solicitors have no liability or responsibility to the Chargor for any failure to comply with the terms of this authorisation where such failure is due to anything outside the reasonable control of the Security Agent's Solicitors.

EXECUTED as a deed by **DUFERCO UK LIMITED** acting by a director in the presence of:

Signature of Witness:

Name of Witness:

Address of Witness:



SIGNED for and on behalf of **NATIXIS** in the presence of:

Execution Page

IN WITNESS WHEREOF the Parties hereto have caused this Deed to be executed and delivered as a deed the day and year first written above.

By its execution of this Deed, the Chargor irrevocably and unconditionally authorises any and each solicitor from time to time in the Irish law firm acting for the Security Agent (the "**Security Agent's Solicitors**") to:

(a) sign or complete (whether electronically or otherwise) on behalf the Chargor all required security related registration forms required to be delivered to the Companies Registration Office ("**CRO**") in connection with this Deed,

(b) file (whether electronically or otherwise) each such registration form with the CRO; and

(c) include an email address for a solicitor in the Security Agent's Solicitors in each such registration form for the purposes of receiving any certificate of registration of charge electronically from the CRO.

In giving this authorisation, the Chargor agrees and acknowledges that:

(a) no solicitor/client relationship exists between the Security Agent's Solicitors (or any solicitor at that law firm) and the Chargor;

(b) it is the Chargor's responsibility to comply with the procedures set out in Sections 409(3) and (4) of the Companies Act (without prejudice to Section 410(2) thereof); and

(c) the Security Agent's Solicitors have no liability or responsibility to the Chargor for any failure to comply with the terms of this authorisation where such failure is due to anything outside the reasonable control of the Security Agent's Solicitors.

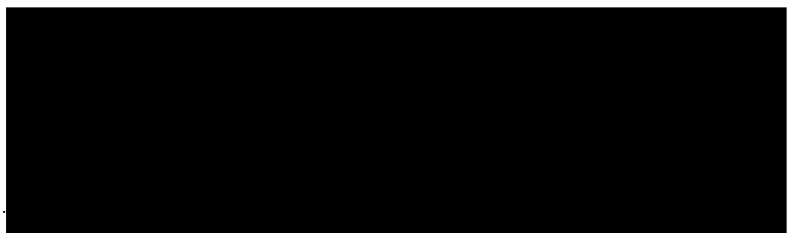
EXECUTED as a deed by **DUFERCO UK LIMITED** acting by a director in the presence of:

Signature of Witness:

Name of Witness:

Address of Witness:

SIGNED for and on behalf of **NATIXIS** in the presence of:

A large black rectangular box redacting the signature of the authorized signatory for NATIXIS.

Authorized Signatory

Authorized Signatory