



Registration of a Charge

Company Name: **ULTIMATE TRADING UK LIMITED**

Company Number: **03827060**



Received for filing in Electronic Format on the: **13/12/2023**

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Details of Charge

Date of creation: **06/12/2023**

Charge code: **0382 7060 0005**

Persons entitled: **GARRY WARDLE**

Brief description: **THE CHARGED PROPERTY INCLUDES ALL BUILDINGS, FIXTURES AND FITTINGS AND FIXED PLANT AND MACHINERY, THE PROCEEDS OF THE SALE OF ANY PART OF THAT CHARGED PROPERTY, THE BENEFIT OF ANY COVENANTS FOR TITLE GIVEN, OR ENTERED INTO BY ANY PREDECESSOR IN TITLE OF THE COMPANY IN RESPECT OF THAT CHARGED PROPERTY AND ALL RIGHTS UNDER ANY LICENSE, AGREEMENT FOR SALE OR AGREEMENT FOR LEASE IN RESPECT OF THAT CHARGED PROPERTY.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **BRABNERS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3827060

Charge code: 0382 7060 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th December 2023 and created by ULTIMATE TRADING UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th December 2023 .

Given at Companies House, Cardiff on 15th December 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**

DATED 6th December 2023

ULTIMATE TRADING UK LIMITED

and

GARRY WARDLE

DEBENTURE

Brabners

16-18 Sceptre Court
Sceptre Way
Bamber Bridge
Preston
PR5 6AW

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THIS DEBENTURE is dated 6th December 2023

BETWEEN:

- (1) **ULTIMATE TRADING UK LIMITED** incorporated and registered in England and Wales with company number 03827060 whose registered office is at 1 Park Street, Macclesfield, Cheshire, SK11 6SR (the **Company**); and
- (2) **GARRY WARDLE** of [REDACTED] (the **Noteholder**).

WHEREAS:

- (A) In connection with the acquisition of shares in the capital of Ultimate Trading UK Limited by Maple Plastics (EOT) Limited (acting in its capacity as sole trustee of the Maple Plastics Employee Ownership Trust) (the **Trustee**), the Trustee has entered into an instrument (the **Instrument**) on or around the date of this deed, constituting guaranteed loan notes 2030 (the **Notes**), which Notes (representing part of the consideration due by the Trustee in relation to such acquisition) have been issued to the Noteholder in his capacity as the seller of those shares.
- (B) Pursuant to the terms of the Instrument, the Company has entered into a limited form of guarantee (the **Guarantee**) pursuant to which the Company has agreed to guarantee the obligations of the Trustee to the Noteholder in respect of the Notes (subject to the conditions in relation to that guarantee being satisfied).
- (C) As a condition to the Noteholder agreeing to receive the Notes, the Company has, amongst other things, agreed to execute and deliver this debenture in order to provide security for its obligations under the Guarantee.

IT IS AGREED THAT:

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply in this Deed:

Administrator	means an administrator appointed to manage the affairs, business and property of the Company pursuant to clause 7.8.
Book Debts	means all present and future book and other debts, and monetary claims due or owing to the Company, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Company in relation to any of them.
Business Day	means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Charged Property	means any freehold, leasehold or commonhold property the subject of the security constituted by this Deed and references to Charged Property shall include references to the whole or any part or part of it.
Delegate	means any person appointed by the Noteholder or any Receiver pursuant to clause 12 and any person appointed as

	attorney of the Noteholder, Receiver or Delegate.
Designated Account	means any account of the Company nominated by the Noteholder as a designated account for the purposes of this Deed.
Equipment	means all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property owned by the Company or in which it has an interest, including any part of it and all spare parts, replacements, modifications and additions.
Event of Default	means the Company failing to pay or discharge any of the Secured Liabilities when the same ought to be paid or discharged (whether on demand or at scheduled maturity or by acceleration or otherwise as the case may be).
Excluded Property	means each leasehold property held by the Company under a lease that either precludes absolutely, or requires consent of a third party to, the creation of Security over the Company's leasehold interest in that property.
Financial Collateral	has the meaning given to that expression in the Financial Collateral Regulations.
Financial Collateral Regulations	means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226).
Insurance Policy	each contract and policy of insurance effected or maintained by the Company from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Charged Properties or the Equipment).
Intellectual Property	means the Company's present and future patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Investments	means all certificated shares, stock, debentures, bonds or other securities or investments (whether or not marketable) from time to time legally or beneficially owned by or on behalf of the Company.
LPA 1925	means the Law of Property Act 1925.
Receiver	means a receiver, receiver and manager or administrative receiver appointed by the Noteholder under clause 10.

Secured Assets	means all the assets, property and undertaking of the Company which are, or are expressed to be, subject to the Security created by, or pursuant to, this Deed (and references to the Secured Assets shall include references to any part of them).
Secured Liabilities	means all present and future obligations and liabilities of the Company to the Noteholder, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Guarantee and/or this Deed (including, without limitation, those arising under clause 24), together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.
Security Financial Collateral Arrangement	has the meaning given to that expression in the Financial Collateral Regulations.
Security	means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.
Security Period	means the period starting on the date of this Deed and ending on the date on which the Noteholder is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.
VAT	means value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 Interpretation

In this Deed:

- 1.2.1 clause and Schedule headings shall not affect the interpretation of this Deed;
- 1.2.2 a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this Deed shall be binding on, and enure to the benefit of, the parties to this Deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;

- 1.2.8 a reference to **writing** or **written** includes email;
- 1.2.9 an obligation on a party not to do something includes an obligation to take all reasonable steps not to allow that thing to be done;
- 1.2.10 a reference to **this Deed** (or any provision of it) or to any other agreement or document referred to in this Deed is a reference to this Deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Deed) from time to time;
- 1.2.11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this Deed;
- 1.2.12 any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.13 a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- 1.2.14 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.15 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;
- 1.2.17 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- 1.2.18 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Clawback

If the Noteholder considers that an amount paid by the Company in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Company or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.4 Nature of Security Over Real Property

A reference in this Deed to a charge or mortgage of or over any Charged Property includes:

- 1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of that Charged Property at any time;
- 1.4.2 the proceeds of the sale of any part of that Charged Property and any other monies paid or payable in respect of or in connection with that Charged Property;
- 1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Company in respect of that Charged Property, and any monies paid or payable in respect of those covenants; and

- 1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property.
- 1.5 **Nature of Security Over Investments**
- A reference in this Deed to any share, stock, debenture or other security or investment includes:
- 1.5.1 any dividend, interest or other distribution paid or payable in respect of that share, stock, debenture or other security or investment;
- 1.5.2 any right, money, shares or property accruing, offered or issued at any time in relation to that share, stock, debenture or other security or investment by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.
- 1.6 **Law of Property (Miscellaneous Provisions) Act 1989**
- For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Guarantee and of any side letters between any parties in relation to the Guarantee are incorporated into this Deed.
- 1.7 **Perpetuity Period**
- If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).
- 1.8 **Schedules**
- The Schedules form part of this Deed and shall have effect as if set out in full in the body of this Deed. Any reference to this Deed includes the Schedules.
2. **Covenant to Pay**
- The Company shall, on demand, pay to the Noteholder and discharge the Secured Liabilities when they become due.
3. **Grant of Security**
- 3.1 **Legal Mortgage**
- As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee charges to the Noteholder, by way of a first legal mortgage, all estates or interests in any freehold, leasehold or commonhold property now owned by it.
- 3.2 **Fixed Charges**
- As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee charges to the Noteholder by way of a first fixed charge:
- 3.2.1 all present and future estates or interests of the Company in, or over, any freehold, leasehold or commonhold property (other than any such property effectively mortgaged under clause 3.1);
- 3.2.2 the benefit of all other contracts, guarantees, appointments and warranties relating to each Charged Property and other documents to which the Company is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of any Charged Property or otherwise relating to any Charged Property (including, in each case, but without limitation, the right to demand

and receive all monies whatever 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 whatever accruing to or for its benefit arising from any of them);

- 3.2.3 all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business or the use of any Secured Asset, and all rights in connection with them;
- 3.2.4 all its present and future goodwill;
- 3.2.5 all its uncalled capital;
- 3.2.6 all the Equipment;
- 3.2.7 all the Intellectual Property;
- 3.2.8 all the Book Debts;
- 3.2.9 all the Investments;
- 3.2.10 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account), together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 3.2.11 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3; and
- 3.2.12 all its rights in respect of all agreements, instruments and rights relating to the Secured Assets, to the extent not effectively assigned under clause 3.3.

3.3 Assignment

As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee assigns to the Noteholder absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- 3.3.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and
- 3.3.2 the benefit of all agreements, instruments and rights relating to the Secured Assets.

3.4 Floating Charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee charges to the Noteholder, by way of first floating charge, all its undertaking, property, assets and rights not otherwise effectively mortgaged, charged or assigned under clause 3.1 to clause 3.3 inclusive.

3.5 Qualifying Floating Charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.4.

3.6 Leasehold Security Restrictions

3.6.1 Subject to clause 3.6.2 to clause 3.6.4, the security created by clause 3.1 to clause 3.2 shall not apply to an Excluded Property until the Company obtains any relevant consent, or waiver of any prohibition, to the creation of security over that Excluded Property.

3.6.2 In relation to each Excluded Property, the Company undertakes to:

3.6.2.1 use all reasonable endeavours to obtain any relevant consent or waiver of prohibition as soon as possible;

3.6.2.2 keep the Noteholder informed of its progress in obtaining that consent or waiver; and

3.6.2.3 immediately on receipt of the consent or waiver, provide the Noteholder with a copy of that consent or waiver.

3.6.3 Immediately on receipt by the Company of the relevant consent or waiver, that Excluded Property shall become the subject of a mortgage or charge (as appropriate) pursuant to clause 3.1 to clause 3.2.

3.6.4 If required by the Noteholder at any time following receipt of that consent or waiver, the Company shall, at its own cost, prepare and execute any further documents and take any further action the Noteholder may require, in his absolute discretion, for perfecting his security over that Excluded Property.

3.7 Automatic Crystallisation of Floating Charge

The floating charge created by clause 3.4 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

3.7.1 the Company:

3.7.1.1 creates, or attempts to create, without the prior written consent of the Noteholder, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this Deed); or

3.7.1.2 disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);

3.7.2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or

3.7.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Company.

3.8 Crystallisation of Floating Charge By Notice

The Noteholder may, in his sole discretion, by written notice to the Company, convert the floating charge created under this Deed into a fixed charge as regards any part of the Secured Assets specified by the Noteholder in that notice if:

3.8.1 an Event of Default is continuing; or

3.8.2 the Noteholder considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

3.9 Assets Acquired After Any Floating Charge Has Crystallised

Any asset acquired by the Company after any crystallisation of the floating charge created

under this Deed that, but for that crystallisation, would be subject to a floating charge under this Deed, shall (unless the Noteholder confirms otherwise to the Company in writing) be charged to the Noteholder by way of first fixed charge.

4. Liability of the Company

4.1 Liability Not Discharged

The Company's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Noteholder that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Noteholder varying the Notes in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Company.

4.2 Immediate Recourse

The Company waives any right it may have to require the Noteholder to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Company.

5. Representations and Warranties

5.1 Times for Making Representations and Warranties

The Company makes the representations and warranties set out in this clause 5 to the Noteholder on the date of this Deed and on each day of the Security Period with reference to the facts and circumstances existing at such time.

5.2 Ownership of Secured Assets

The Company is the sole legal and beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

5.3 No Security

The Secured Assets are free from any Security other than the Security created by this Deed.

5.4 No Adverse Claims

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

5.5 No Adverse Covenants

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

5.6 No Breach of Laws

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

5.7 No Interference in Enjoyment

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use.

5.8 No Overriding Interests

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Charged Property.

5.9 Avoidance of Security

No Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Company or otherwise.

5.10 No Prohibitions or Breaches

There is no prohibition on assignment in any Insurance Policy and the entry into this Deed by the Company does not, and will not, constitute a breach of any Insurance Policy or any other policy, agreement, document, instrument or obligation binding on the Company or its assets.

5.11 Enforceable Security

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

6. General Covenants

6.1 Negative Pledge and Disposal Restrictions

The Company shall not at any time, except with the prior written consent of the Noteholder:

6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this Deed;

6.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or

6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

6.2 Preservation of Secured Assets

The Company shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Noteholder, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this Deed.

6.3 Proceeds From Insurance Policies

All monies payable under any insurance policy maintained by the Company at any time (whether or not the security constituted by this Deed has become enforceable) shall be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or, after the security constituted by this Deed has become enforceable and if the Noteholder so directs, in or towards discharge or reduction of the Secured Liabilities.

6.4 Information

The Company shall:

- 6.4.1 give the Noteholder such information concerning the location, condition, use and operation of the Secured Assets as the Noteholder may require;
- 6.4.2 permit any persons designated by the Noteholder and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice;
- 6.4.3 promptly notify the Noteholder in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset;
- 6.4.4 promptly on becoming aware of any of the same, notify the Noteholder in writing of:

6.4.4.1 any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and

6.4.4.2 any breach of any covenant set out in this deed.

6.5 Property Information

The Company shall inform the Noteholder promptly of any acquisition by the Company of, or contract made by the Company to acquire, any freehold, leasehold or other interest in any property.

6.6 Registration of Legal Mortgage at the Land Registry

The Company consents to an application being made by the Noteholder to the Land Registrar for the following restriction in Form P to be registered against its title to each Charged Property over which the Noteholder has a legal mortgage:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of **Garry Wardle** referred to in the charges register."

7. Powers of the Noteholder

7.1 Power to Remedy

- 7.1.1 The Noteholder shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Company of any of its obligations contained in this Deed.
- 7.1.2 The Company irrevocably authorises the Noteholder and his agents to do all things that are necessary or desirable for that purpose.
- 7.1.3 Any monies expended by the Noteholder in remedying a breach by the Company of its obligations contained in this Deed shall be reimbursed by the Company to the Noteholder on a full indemnity basis and shall carry interest in accordance with clause 14.1.

7.2 Exercise of Rights

- 7.2.1 The rights of the Noteholder under clause 7.1 are without prejudice to any other rights of the Noteholder under this Deed.
- 7.2.2 The exercise of any rights of the Noteholder under this Deed shall not make the Noteholder liable to account as a mortgagee in possession.

7.3 Power to Dispose of Chattels

- 7.3.1 At any time after the security constituted by this Deed has become enforceable, the Noteholder or any Receiver may, as agent for the Company, dispose of any chattels or produce found on any Charged Property.
- 7.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 7.3.1, the Company shall indemnify the Noteholder and any Receiver against any liability arising from any disposal made under clause 7.3.1.

7.4 Noteholder Has Receiver's Powers

To the extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this Deed has become enforceable, be exercised by the Noteholder in relation to any of the Secured Assets whether or not he has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

7.5 Conversion of Currency

- 7.5.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Noteholder may convert any monies received, recovered or realised by him under this Deed (including the proceeds of any previous conversion under this clause 7.5) from their existing currencies of denomination into any other currencies of denomination that the Noteholder may think fit.
- 7.5.2 Any such conversion shall be effected at Lloyds Bank PLC's then prevailing spot selling rate of exchange for such other currency against the existing currency.
- 7.5.3 Each reference in this clause 7.5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

7.6 New Accounts

- 7.6.1 If the Noteholder receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Noteholder may open a new account for the Company in the Noteholder's books. Without prejudice to the Noteholder's right to combine accounts, no money paid to the credit of the Company in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 7.6.2 If the Noteholder does not open a new account immediately on receipt of the notice, or deemed notice, under clause 7.6.1, then, unless the Noteholder gives express written notice to the contrary to the Company, all payments made by the Company to the Noteholder shall be treated as having been credited to a new account of the Company and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Noteholder.

7.7 Indulgence

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

7.8 Appointment of An Administrator

- 7.8.1 The Noteholder may, without notice to the Company, appoint any one or more persons

to be an Administrator of the Company pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Deed becomes enforceable.

7.8.2 Any appointment under this clause 7.8 shall:

7.8.2.1 be in writing signed by a duly authorised signatory of the Noteholder; and

7.8.2.2 take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

7.8.3 The Noteholder may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 7.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

8. When Security Becomes Enforceable

8.1 Security Becomes Enforceable on Event of Default

The security constituted by this Deed shall become immediately enforceable if an Event of Default occurs.

8.2 Discretion

After the security constituted by this Deed has become enforceable, the Noteholder may, in his absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms he thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

9. Enforcement of Security

9.1 Enforcement Powers

9.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.

9.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall be immediately exercisable at any time after the security constituted by this Deed has become enforceable under clause 8.1.

9.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this Deed.

9.2 Extension of Statutory Powers of Leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Noteholder and any Receiver, at any time after the security constituted by this Deed has become enforceable, whether in his own name or in that of the Company, to:

9.2.1 grant a lease or agreement for lease;

9.2.2 accept surrenders of leases; or

9.2.3 grant any option in respect of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Company, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Noteholder or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

9.3 Access on Enforcement

- 9.3.1 At any time after the Noteholder has demanded payment of the Secured Liabilities or if the Company defaults in the performance of its obligations under this Deed or the Guarantee, the Company will allow the Noteholder or his Receiver, without further notice or demand, immediately to exercise all his rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Noteholder or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Company for, or by any reason of, that entry.
- 9.3.2 At all times, the Company must use all reasonable endeavours to allow the Noteholder or his Receiver access to any premises for the purpose of clause 9.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

9.4 Redemption of Prior Security

- 9.4.1 At any time after the security constituted by this Deed has become enforceable, the Noteholder may:

9.4.1.1 redeem any prior Security over any Secured Asset;

9.4.1.2 procure the transfer of that Security to itself; and

9.4.1.3 settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Company).

- 9.4.2 The Company shall pay to the Noteholder immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this Deed as part of the Secured Liabilities.

9.5 Protection of Third Parties

No purchaser, mortgagee or other person dealing with the Noteholder, any Receiver or any Delegate shall be concerned to enquire:

- 9.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- 9.5.2 whether any power the Noteholder, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
- 9.5.3 how any money paid to the Noteholder, any Receiver or any Delegate is to be applied.

9.6 Privileges

Each Receiver and the Noteholder is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

9.7 No Liability As Mortgagee in Possession

Neither the Noteholder nor any Receiver or Delegate shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

9.8 Conclusive Discharge to Purchasers

The receipt of the Noteholder, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Noteholder, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that he thinks fit.

9.9 Right of Appropriation

9.9.1 To the extent that:

9.9.1.1 the Secured Assets constitute Financial Collateral; and

9.9.1.2 this Deed and the obligations of the Company under it constitute a Security Financial Collateral Arrangement,

the Noteholder shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Noteholder may, in his absolute discretion, determine.

9.9.2 The value of any Secured Assets appropriated in accordance with this clause shall be:

9.9.2.1 in the case of cash, the amount standing to the credit of each of the Company's accounts with any bank, financial institution or other person, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and

9.9.2.2 in the case of Investments, the market price of those Investments at the time the right of appropriation is exercised determined by the Noteholder by reference to a recognised market index or by any other method that the Noteholder may select (including independent valuation).

9.9.3 The Company agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

10. Receiver

10.1 Appointment

At any time after the security constituted by this Deed has become enforceable, or at the request of the Company, the Noteholder may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

10.2 Removal

The Noteholder may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by him and may, whenever he thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

10.3 Remuneration

The Noteholder may fix the remuneration of any Receiver appointed by him without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this Deed, to the extent not otherwise discharged.

10.4 Power of Appointment Additional to Statutory Powers

The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Noteholder under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

10.5 Power of Appointment Exercisable Despite Prior Appointments

The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be, and remain, exercisable by the Noteholder despite any prior appointment in respect of all or any part of the Secured Assets.

10.6 Agent of the Company

Any Receiver appointed by the Noteholder under this Deed shall be the agent of the Company and the Company shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Company goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Noteholder.

11. Powers of Receiver

11.1 General

11.1.1 Any Receiver appointed by the Noteholder under this Deed shall, in addition to the powers conferred on it by statute, have the rights, powers and discretions set out in clause 11.2 to clause 11.23.

11.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.

11.1.3 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

11.1.4 Any exercise by a Receiver of any of the powers given by clause 11 may be on behalf of the Company, the directors of the Company (in the case of the power contained in clause 11.16) or itself.

11.2 Repair and Develop Charged Properties

A Receiver may undertake or complete any works of repair, alteration, building or development on the Charged Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

11.3 Grant or Accept Surrenders of Leases

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting any Secured Asset on any terms, and subject to any conditions, that it thinks fit.

11.4 Employ Personnel and Advisers

11.4.1 A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit.

- 11.4.2 A Receiver may discharge any such person or any such person appointed by the Company.
- 11.5 Make and Revoke VAT Options to Tax
- A Receiver may make, exercise or revoke any VAT option to tax as it thinks fit.
- 11.6 Remuneration
- A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Noteholder may prescribe or agree with it.
- 11.7 Possession
- A Receiver may take immediate possession of, get in and realise any Secured Asset.
- 11.8 Manage or Reconstruct the Company's Business
- A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Company.
- 11.9 Dispose of Secured Assets
- A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.
- 11.10 Sever Fixtures and Fittings
- A Receiver may sever and sell separately any fixtures or fittings from any Charged Property without the consent of the Company.
- 11.11 Sell Book Debts
- A Receiver may sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit.
- 11.12 Valid Receipts
- A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.
- 11.13 Make Settlements
- A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Company or relating in any way to any Secured Asset.
- 11.14 Legal Action
- A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.
- 11.15 Improve the Equipment
- A Receiver may make substitutions of, or improvements to, the Equipment as it may think

expedient.

11.16 Make Calls on Borrower Members

A Receiver may make calls conditionally or unconditionally on the members of the Company in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Company on its directors in respect of calls authorised to be made by them.

11.17 Insure

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 14, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Company under this Deed.

11.18 Subsidiaries

A Receiver may form a subsidiary of the Company and transfer to that subsidiary any Secured Asset

11.19 Borrow

A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Noteholder consents, terms under which that security ranks in priority to this Deed).

11.20 Redeem Prior Security

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Company, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

11.21 Delegation

A Receiver may delegate its powers in accordance with this Deed.

11.22 Absolute Beneficial Owner

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do, in the ownership and management of the Secured Assets or any part of the Secured Assets.

11.23 Incidental Powers

A Receiver may do any other acts and things that it:

11.23.1 may consider desirable or necessary for realising any of the Secured Assets;

11.23.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; or

11.23.3 lawfully may or can do as agent for the Company.

12. **Delegation**

12.1 Delegation

The Noteholder or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on him by this Deed (including the power of attorney granted under clause 16.1).

12.2 Terms

The Noteholder and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that he thinks fit.

12.3 Liability

Neither the Noteholder nor any Receiver shall be in any way liable or responsible to the Company for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

13. Application of Proceeds

13.1 Order of Application of Proceeds

All monies received or recovered by the Noteholder, a Receiver or a Delegate under this Deed or in connection with the realisation or enforcement of all or part of the security constituted by this Deed (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Noteholder's right to recover any shortfall from the Company):

13.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Noteholder (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Deed, and of all remuneration due to any Receiver under or in connection with this Deed;

13.1.2 in or towards payment of the Secured Liabilities in any order and manner that the Noteholder determines; and

13.1.3 in payment of the surplus (if any) to the Company or other person entitled to it.

13.2 Appropriation

Neither the Noteholder, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

13.3 Suspense Account

All monies received by the Noteholder, a Receiver or a Delegate under this Deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):

13.3.1 may, at the discretion of the Noteholder, Receiver or Delegate, be credited to a suspense account;

13.3.2 shall bear interest, if any, at the rate agreed in writing between the Noteholder and the Company; and

13.3.3 may be held in that account for so long as the Noteholder, Receiver or Delegate thinks fit.

14. Costs and Indemnity

14.1 Costs

The Company shall promptly pay to, or reimburse, the Noteholder and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Noteholder, any Receiver or any Delegate in connection with:

14.1.1 this Deed or the Secured Assets;

14.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Noteholder's, a Receiver's or a Delegate's rights under this Deed; or

14.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of the Company) at the rate and in the manner specified in the Guarantee.

14.2 Indemnity

14.2.1 The Company shall indemnify the Noteholder, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

14.2.1.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Deed or by law in respect of the Secured Assets;

14.2.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Deed; or

14.2.1.3 any default or delay by the Company in performing any of its obligations under this Deed.

14.2.2 Any past or present employee or agent may enforce the terms of this clause 14.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

15. Further Assurance

15.1 Further Assurance

The Company shall promptly, at its own expense, take whatever action the Noteholder or any Receiver may reasonably require for:

15.1.1 creating, perfecting or protecting the security created or intended to be created by this Deed;

15.1.2 facilitating the realisation of any Secured Asset; or

15.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Noteholder or any Receiver in respect of any Secured Asset,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured

Assets (whether to the Noteholder or to his nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Noteholder may consider necessary or desirable.

16. Power of Attorney

16.1 Appointment of Attorneys

By way of security, the Company irrevocably appoints the Noteholder, every Receiver and every Delegate separately to be the attorney of the Company and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

16.1.1 the Company is required to execute and do under this Deed; or

16.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Noteholder, any Receiver or any Delegate.

16.2 Ratification of Acts of Attorneys

The Company ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 16.1.

17. Release

Subject to clause 24.3, at the end of the Security Period, the Noteholder shall, at the request and cost of the Company, take whatever action is necessary to:

17.1.1 release the Secured Assets from the security constituted by this Deed; and

17.1.2 reassign the Secured Assets to the Company.

18. Assignment and Transfer

18.1 Assignment By Noteholder

18.1.1 At any time, without the consent of the Company, the Noteholder may assign or transfer any or all of his rights and obligations under this Deed to any Noteholder.

18.1.2 The Noteholder may disclose to any actual or proposed assignee or transferee any information in his possession that relates to the Company, the Secured Assets and this Deed that the Noteholder considers appropriate.

18.2 Assignment By Borrower

The Company may not assign any of its rights, or transfer any of its rights or obligations, under this Deed.

19. Set-off

19.1 Noteholder's Right of Set-off

The Noteholder may at any time set off any liability of the Company to the Noteholder against any liability of the Noteholder to the Company, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Deed. If the liabilities to be set off are expressed in different currencies, the Noteholder may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Noteholder of his rights under this clause 19 shall not limit or affect any other rights or remedies available

to him under this Deed or otherwise.

19.2 No Obligation to Set Off

The Noteholder is not obliged to exercise his rights under clause 19.1. If, however, he does exercise those rights he must promptly notify the Company of the set-off that has been made.

19.3 Exclusion of Company's Right of Set-off

All payments made by the Company to the Noteholder under this Deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

20. Amendments, Waivers and Consents

20.1 Amendments

No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

20.2 Waivers and Consents

20.2.1 A waiver of any right or remedy under this Deed or by law, or any consent given under this Deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

20.2.2 A failure or delay by a party to exercise any right or remedy provided under this Deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Deed. No single or partial exercise of any right or remedy provided under this Deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Deed by the Noteholder shall be effective unless it is in writing.

20.3 Rights and Remedies

The rights and remedies provided under this Deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

21. Severance

21.1 Severance

If any provision (or part of a provision) of this Deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Deed.

22. Counterparts

22.1 Counterparts

22.1.1 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

22.1.2 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

23. Third Party Rights

23.1 Third Party Rights

23.1.1 Except as expressly provided in this Deed, a person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

23.1.2 The rights of the parties to rescind or agree any amendment or waiver under this Deed are not subject to the consent of any other person.

24. Further Provisions

24.1 Independent Security

The security constituted by this Deed shall be in addition to, and independent of, any other security or guarantee that any Noteholder may hold for any of the Secured Liabilities at any time.

24.2 Continuing Security

The security constituted by this Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Noteholder discharges this Deed in writing.

24.3 Discharge Conditional

Any release, discharge or settlement between the Company and the Noteholder shall be deemed conditional on no payment or security received by the Noteholder in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

24.3.1 the Noteholder or his nominee may retain this Deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Noteholder deems necessary to provide the Noteholder with security against any such avoidance, reduction or order for refund; and

24.3.2 the Noteholder may recover the value or amount of such security or payment from the Company subsequently as if the release, discharge or settlement had not occurred.

24.4 Certificates

A certificate or determination by the Noteholder as to any amount for the time being due to the Noteholder from the Company under this Deed and/or the Guarantee shall be, in the absence of any manifest error, conclusive evidence of the amount due.

24.5 Consolidation

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this Deed.

24.6 Small Company Moratorium

Notwithstanding anything to the contrary in this Deed, neither the obtaining of a moratorium by the Company under schedule A1 to the Insolvency Act 1986 nor the doing of anything by the Company with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

- 24.6.1 an event under this Deed which causes any floating charge created by this Deed to crystallise;
- 24.6.2 an event under this Deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Company; or
- 24.6.3 a ground under this Deed for the appointment of a Receiver.

25. Notices

25.1 Delivery

Any notice or other communication given to a party under or in connection with this Deed shall be:

- 25.1.1 in writing;
- 25.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service; and
- 25.1.3 sent to:
 - 25.1.3.1 the Company at its registered office (from time to time) for the attention of the Directors:
 - 25.1.3.2 the Noteholder at [REDACTED]
 - or to any other address as is notified in writing by one party to the other from time to time.

25.2 Receipt By Company

Any notice or other communication that the Noteholder gives to the Company shall be deemed to have been received:

- 25.2.1 if delivered by hand, at the time it is left at the relevant address; and
- 25.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting.

A notice or other communication given as described in clause 25.2.1 or clause 0 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

25.3 Receipt By Noteholder

Any notice or other communication given to the Noteholder shall be deemed to have been received only on actual receipt.

25.4 Service of Proceedings

This clause 25 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26. Governing Law and Jurisdiction

26.1 Governing Law

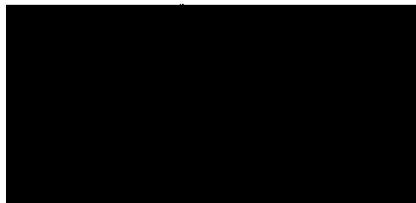
This Deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

26.2 Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Deed or its subject matter or formation. Nothing in this clause shall limit the right of the Noteholder to take proceedings against the Company in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SIGNED as a **DEED** by **ULTIMATE TRADING UK LIMITED** acting by a director in the presence of:



Witness signature



Witness name

JESSICA GRAHAM...

Witness address

BARBERS LLP 16-18...

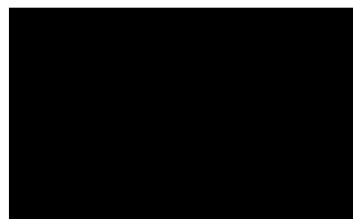
SCOTRE COURT PRESTON

PR. BAN...

Witness occupation

TRAINEE SOLICITOR

SIGNED as a **DEED** by **GARRY WARDLE** in the presence of:



Witness signature



Witness name

JESSICA GRAHAM...

Witness address

BARBERS LLP 16-18...

SCOTRE COURT PRESTON

PR. BAN...

Witness occupation

TRAINEE SOLICITOR