



Registration of a Charge

Company name: **HAVANA WEST LIMITED**

Company number: **04448428**



X9Y5SR97

Received for Electronic Filing: **12/02/2021**

Details of Charge

Date of creation: **03/02/2021**

Charge code: **0444 8428 0023**

Persons entitled: **LUCILE LANETTE DE SAVARY**

Brief description:

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:

DOUGLAS STEWART OF ADAMS & REMERS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4448428

Charge code: 0444 8428 0023

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd February 2021 and created by HAVANA WEST LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th February 2021 .

Given at Companies House, Cardiff on 15th February 2021

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 3 FEBRUARY 2001 ~~2020~~

HAVANA WEST LIMITED

and

LUCILE LANETTE DE SAVARY

DEBENTURE

A dark, textured square logo with the text "Adams & Remers" in a light, serif font.

Adams & Remers

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THIS DEED is dated on 3 FEBRUARY 2020 (2021)

BETWEEN:

- 1) **HAVANA WEST LIMITED** a company incorporated in England and Wales with company number 04448428 and whose registered office is at Minerva House, Lower Bristol Road, Bath BA2 9ER (the "Company");
- 2) **LUCILE LANETTE DE SAVARY** of Noddings Farm, Combe Lane, Chiddingfold, Surrey GU8 4XL (the "Lender")

AGREED TERMS

1 Definitions and interpretation

1.1 Definitions

The following definitions apply in this Deed:

"Administrator" an administrator appointed to manage the affairs, business and property of the Company pursuant to clause 8.8.

"Business Day" a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Charged Property" 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.

"Default Rate" 6% per annum above the base rate of Barclays Bank plc from time to time

"Delegate" any person appointed by the Lender or any Receiver pursuant to clause 13 and any person appointed as attorney of the Lender or any Receiver or Delegate.

"Disruption Event" either or both of:

- a) an event (not caused by, and outside the control of, either party) that materially disrupts the systems for payment or communication or the financial markets needed, in each case, to enable either payment to be made or transactions to be carried out under this deed or any document under which the Company owes obligations to the Lender; or
- b) any other event (not caused by, and outside the control of, the party whose operations are disrupted), that results in disruption (of a technical or systems-related nature) to the treasury or payments operations of a party and which prevents either or both parties from (i) performing its payment obligations under this deed or any document under which the Company owes obligations to the Lender; or (ii) communicating with the other party as required by the terms of this deed or any document under which the Company owes obligations to the Lender.

"Equipment" 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" any of the following events:

- a) the Company fails to pay any of the Secured Liabilities when due, unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three Business Days of its due date or by a Disruption Event and payment is made within three Business Days of its due date;

- b) the Company fails (other than a failure to pay) to comply with any provision of this deed or any document under which the Company owes obligations to the Lender and (if the Lender considers, acting reasonably, that the failure to comply is capable of remedy) such failure to comply is not remedied within 14 days of the earlier of the Lender notifying the Company of the failure to comply and the remedy required and the Company becoming aware of the failure to comply;
- c) any representation, warranty or statement made, repeated or deemed made by the Company to the Lender is (or proves to have been) incomplete, untrue, incorrect or misleading in any material respect when made, repeated or deemed made;
- d) the Company suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business;
- e) any Financial Indebtedness is not paid when due or within any originally applicable grace period;
- f) any Financial Indebtedness becomes due, or capable of being declared due and payable, before its stated maturity by reason of an event of default (however described);
- g) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor of the Company by reason of an event of default (however described);
- h) any creditor of the Company becomes entitled to declare any Financial Indebtedness due and payable before its stated maturity by reason of an event of default (however described);
- i) the Company stops or suspends payment of any of its debts or is unable to, or admits its inability to, pay its debts as they fall due;
- j) the Company commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors (excluding the Lender) with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties);
- k) a moratorium is declared in respect of any indebtedness of the Company;
- l) any action, proceedings, procedure or step is taken in relation to the suspension of payments, a moratorium in respect of any indebtedness, winding-up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Company;
- m) any action, proceedings, procedure or step is taken in relation to a composition, compromise, assignment or arrangement with any creditor of the Company;
- n) any action, proceedings, procedure or step is taken in relation to the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Company or any of its assets;
- o) the value of the Company's assets is less than its liabilities (taking into account contingent and prospective liabilities);
- p) any event occurs in relation to the Company similar to those set out in paragraphs (i) to (o) (inclusive) under the laws of any applicable jurisdiction;
- q) control of the Company's goods is taken or a distress, attachment, execution, expropriation, sequestration or other analogous legal process in any jurisdiction is levied, enforced or sued out on, or against, the Company's assets;

- r) any Security on or over the assets of the Company becomes enforceable;
- s) all or any part of this deed or any document under which the Company owes obligations to the Lender is or becomes invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect or it becomes unlawful for any party to this deed or any document under which the Company owes obligations to the Lender (other than the Lender) to perform any obligation under this deed or that document;
- t) any party to this deed or any document under which the Company owes obligations (other than the Lender) to the Lender repudiates or rescinds or shows an intention to repudiate or rescind this deed or that document; or
- u) any event occurs (or circumstances exist) that, in the reasonable opinion of the Lender, has or is reasonably likely to materially and adversely affect the Company's ability to perform all or any of its obligations under, or otherwise comply with the terms of, this deed or any document under which the Company owes obligations.

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

"Financial Collateral Regulations" the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226).

"Financial Indebtedness" any Indebtedness of the Company for or in respect of:

- a) borrowing or raising money, including any premium and any capitalised interest on that money;
- b) any bond, note, loan stock, debenture, commercial paper or similar instrument;
- c) any acceptance credit facility or dematerialised equivalent, bill discounting, note purchase or documentary credit facilities;
- d) monies raised by selling, assigning or discounting receivables or other financial assets on terms that recourse may be had to the Company in the event of non-payment of such receivables or financial assets when due;
- e) any deferred payments for assets or services acquired, other than trade credit that is given in the ordinary course of trade and which does not involve any deferred payment of any amount for more than 60 days;
- f) any capital balance outstanding under any finance lease;
- g) any counter-indemnity obligation in respect of any guarantee, bond, indemnity, standby letter of credit or other instrument issued by a third party in connection with the Company's performance of a contract;
- h) any other transaction that has the commercial effect of borrowing (including any forward sale or purchase agreement and any liabilities which are not shown as borrowed money on the Company's balance sheet because they are contingent, conditional or otherwise);
- i) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and when calculating the value of any derivative transaction, only the marked to market value shall be taken into account); and
- j) any guarantee, counter-indemnity or other assurance against financial loss that the Company has given for any indebtedness of the type referred to in any other paragraph of this definition incurred by any person.

When calculating Financial Indebtedness, no liability shall be taken into account more than once.

"Intellectual Property" the Company's present and future patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, 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" 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" the Law of Property Act 1925.

"Perfection Requirements" the making or procuring of all appropriate registrations, filings, stampings and/or notifications of this deed and/or the Security created by it.

"Receiver" a receiver, receiver and manager or administrative receiver appointed by the Lender under clause 11.

"Secured Assets" 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" all present and future obligations and liabilities of the Company to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity and whether or not the Lender was an original party to the relevant transaction and in whatever name or style, 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" 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" the period starting on the date of this Deed and ending on the date on which the Lender 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: value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 Interpretation

In this Deed:

- 1.2.1 clause, Schedule and paragraph 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 fax but not email;
- 1.2.9 an obligation on a party not to do something includes an obligation 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 and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 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 Lender 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 Facility Agreement and of any side letters between any parties in relation to the Facility Agreement 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

2.1 Covenant to pay

The Company shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

2.2 Interest

The Company covenants with the Lender to pay interest on any amounts due under clause 2.1 from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Company) at the Default Rate, provided that, in the case of any cost or expense, such interest shall accrue and be payable as from the date on which the relevant cost or expense arose without the necessity for any demand being made for payment.

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 Lender, 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 Lender 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; and
 - 3.2.8 all the Investments.
- 3.3 **Floating charge**
- As a continuing security for the payment and discharge of the Secured Liabilities, the Company with full title guarantee charges to the Lender, 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.
- 3.4 **Qualifying floating charge**
- Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3.
- 3.5 **Automatic crystallisation of floating charge**
- The floating charge created by clause 3.3 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:
- 3.5.1 the Company:
 - (a) creates, or attempts to create, without the prior written consent of the Lender, 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
 - (b) disposes, or attempts to 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);
 - 3.5.2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets;
 - 3.5.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Company; or
 - 3.5.4 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed

3.6 Crystallisation of floating charge by notice

The Lender may, in its sole discretion, at any time and 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 Lender in that notice.

3.7 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 Lender confirms otherwise to the Company in writing) be charged to the Lender 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 Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Lender renewing, determining, varying or increasing any facility or other transaction 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 Lender 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 General covenants

5.1 Negative pledge and disposal restrictions

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

- 5.1.1 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;
- 5.1.2 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
- 5.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

5.2 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 Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this Deed.

5.3 Compliance with laws and regulations

- 5.3.1 The Company shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.
- 5.3.2 The Company shall:

- (a) comply with the requirements of any law or regulation relating to or affecting the Secured Assets or the use of it or any part of them;
- (b) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
- (c) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

5.4 Notice of breach

The Company shall, promptly on becoming aware of any of the same, notify the Lender in writing of any breach of any covenant set out in this Deed.

5.5 Title documents

The Company shall, on the execution of this Deed (or, if later, the date of acquisition of the relevant Secured Asset), deposit with the Lender and the Lender shall, for the duration of this Deed be entitled to hold all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Company (and if they are not within the possession or control of the Company, the Company undertakes to obtain possession of all those deeds and documents of title).

5.6 Insurance

5.6.1 The Company shall insure and keep insured the Secured Assets against:

- (a) loss or damage by fire or terrorist acts, including any third party liability arising from such acts;
- (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Company; and
- (c) any other risk, perils and contingencies as the Lender may reasonably require.

5.6.2 Any such insurance must:

- (a) be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender; and
- (b) include property owners' public liability and third party liability insurance.

5.6.3 The Company shall, if requested by the Lender, produce to the Lender each policy, certificate or cover note relating to any insurance as is required by clause 5.6.1.

5.6.4 The Company shall, if requested by the Lender, procure that a note of the Lender's interest is endorsed on each insurance policy (other than public liability and third party liability insurances) effected or maintained by it or any person on its behalf in accordance with clause 5.6.1 but without the Lender having any liability for any premium in relation to those insurance policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy.

5.7 Insurance premiums

The Company shall:

- 5.7.1 promptly pay all premiums in respect of each insurance policy as is required by clause 5.6.1 and do all other things necessary to keep that policy in full force and effect; and

- 5.7.2 (if the Lender so requires) give to the Lender copies of the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy as is required by clause 5.6.1.

5.8 No invalidation of insurance

The Company shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy as is required by clause 5.6.1.

5.9 Proceeds from insurance policies

All monies payable under any insurance policy maintained by the Company in accordance with clause 5.6.1 at any time (whether or not the security constituted by this Deed has become enforceable) shall:

- 5.9.1 be paid immediately to the Lender;
- 5.9.2 if they are not paid directly to the Lender by the insurers, be held, pending such payment, by the Company as trustee of the same for the benefit of the Lender; and
- 5.9.3 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 Lender so directs, in or towards discharge or reduction of the Secured Liabilities.

5.10 Information

The Company shall:

- 5.10.1 give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require;
- 5.10.2 permit any persons designated by the Lender 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; and
- 5.10.3 promptly notify the Lender 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 or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Company's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

5.11 Payment of outgoings

The Company shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender.

5.12 Notification of default

The Company shall notify the Lender of any Event of Default or any event or circumstance which would, on the giving of notice, expiry of any grace period, making of any determination under this deed or any document under which the Company owes obligations to the Lender or satisfaction of any other condition (or any combination thereof), become an Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

5.13 Authorisations

The Company shall promptly obtain all consents and authorisations under any law or regulation (and do all that is needed to maintain them in full force and effect) to enable it to perform its obligations under this deed and to ensure the legality, validity,

enforceability and admissibility in evidence of this deed in its jurisdiction of incorporation.

5.14 Compliance with law

The Company shall comply in all respects with all laws to which it may be subject, if failure to do so would materially impair its ability to perform its obligations under this deed.

5.15 Change of business

The Company shall not make any substantial change to the general nature or scope of its business as carried on at the date of this deed.

5.16 Information

The Company shall supply to the Lender:

5.16.1 details of any litigation, arbitration or administrative proceedings that are current, threatened or pending against the Company or any of its directors as soon as it becomes aware of them and which might, if adversely determined, have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed or any document under which the Company owes obligations to the Lender; and

5.16.2 promptly, any further information about the financial condition, assets, business and operations of the Company as the Lender may reasonably request.

6 Property covenants

The Company shall:

6.1 at all times keep in good and substantial repair and condition all the Charged Property including, without limitation, all buildings, erections, structures and fixtures and fittings on and in the Property;

6.2 keep all Equipment in good repair, working order and condition and fit for its purpose; and

6.3 where it is uneconomic to repair any part of the Charged Property, replace such part by another similar asset of equal or greater quality and value.

7 Intellectual Property covenants

7.1 Preservation of rights

The Company shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

7.2 Registration of Intellectual Property

The Company shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Lender informed of all matters relating to each such registration.

7.3 Maintenance of Intellectual Property

The Company shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

8 Powers of the Lender

8.1 Power to remedy

8.1.1 The Lender 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.

- 8.1.2 The Company irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.
- 8.1.3 The Company shall reimburse the Lender, on a full indemnity basis, for any monies the Lender expends in remedying a breach by the Company of its obligations contained in this Deed, and such monies shall carry interest in accordance with clause 15.1.
- 8.2 Exercise of rights**
- 8.2.1 The rights of the Lender under clause 8.1 are without prejudice to any other rights of the Lender under this Deed.
- 8.2.2 The exercise of any rights of the Lender under this Deed shall not make the Lender liable to account as a mortgagee in possession.
- 8.3 Power to dispose of chattels**
- 8.3.1 At any time after the security constituted by this Deed has become enforceable, the Lender or any Receiver may, as agent for the Company, dispose of any chattels or produce found on any Charged Property.
- 8.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 8.3.1, the Company shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 8.3.1.
- 8.4 Lender 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 Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.
- 8.5 Conversion of currency**
- 8.5.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this clause 8.5) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.
- 8.5.2 Any such conversion shall be effected at the Lender's bank's then prevailing spot rate of exchange for such other currency against the existing currency.
- 8.5.3 Each reference in this clause 8.5 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.
- 8.6 New accounts**
- 8.6.1 If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the Company in the Lender's books. Without prejudice to the Lender'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.
- 8.6.2 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 8.6.1, then, unless the Lender gives express written notice to the contrary to the Company, all payments made by the Company to the Lender 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 Lender.

8.7 Indulgence

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this 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.

8.8 Appointment of an Administrator

8.8.1 The Lender 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.

8.8.2 Any appointment under this clause 8.8 shall:

- (a) be in writing signed by a duly authorised signatory of the Lender; and
- (b) take effect in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

8.8.3 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 8.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

9 When security becomes enforceable

9.1 Security becomes enforceable on Event of Default

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

9.2 Discretion

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

10 Enforcement of security

10.1 General

10.1.1 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.

10.1.2 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 9.1.

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

10.2 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 Lender and any Receiver, at any time after the security constituted by this Deed has become enforceable, whether in its own name or in that of the Company, to:

- 10.2.1 grant a lease or agreement for lease;

- 10.2.2 accept surrenders of leases; or
- 10.2.3 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 Lender or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

10.3 Access on enforcement

- 10.3.1 At any time after the Lender has demanded payment of the Secured Liabilities or if the Company defaults in the performance of its obligations under this Deed, the Company will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its 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 Lender 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.
- 10.3.2 At all times, the Company must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 10.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

10.4 Redemption of prior Security

- 10.4.1 At any time after the security constituted by this Deed has become enforceable, or after any powers conferred by any Security having priority to this Deed shall have become exercisable, the Lender may:
 - (a) redeem any prior Security over any Secured Asset;
 - (b) procure the transfer of that Security to itself; and
 - (c) 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).
- 10.4.2 The Company shall pay to the Lender 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.

10.5 Protection of third parties

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

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

10.6 Privileges

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

10.7 No liability as mortgagee in possession

Neither the Lender 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.

10.8 Conclusive discharge to purchasers

The receipt of the Lender, 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 Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

10.9 Right of appropriation

10.9.1 To the extent that:

- (a) the Secured Assets constitute Financial Collateral; and
- (b) this Deed and the obligations of the Company under it constitute a Security Financial Collateral Arrangement,

the Lender 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 Lender may, in its absolute discretion, determine.

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

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

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

11 Receiver

11.1 Appointment

11.1.1 At any time after the security constituted by this Deed has become enforceable, or at the request of the Company, the Lender 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.

11.1.2 The Lender may not appoint a Receiver solely as a result of the obtaining of a moratorium (or as a result of anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 other than in respect of a floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

11.2 Removal

The Lender 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 it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

11.3 Remuneration

The Lender may fix the remuneration of any Receiver appointed by it 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.

11.4 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 Lender 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.

11.5 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 Lender despite any prior appointment in respect of all or any part of the Secured Assets.

11.6 Agent of the Company

Any Receiver appointed by the Lender 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 Lender.

12 Powers of Receiver

12.1 General

- 12.1.1 Any Receiver appointed by the Lender under this Deed shall, in addition to the powers conferred on it by statute, have the rights, powers and discretions set out in clause 12.2 to clause 12.22.
- 12.1.2 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.
- 12.1.3 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.
- 12.1.4 Any exercise by a Receiver of any of the powers given by clause 12 may be on behalf of the Company, the directors of the Company (in the case of the power contained in clause 12.15) or itself.

12.2 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.

12.3 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.

12.4 Employ personnel and advisers

- 12.4.1 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.

- 12.4.2 A Receiver may discharge any such person or any such person appointed by the Company.
- 12.5 **Make and revoke VAT options to tax**
A Receiver may make, exercise or revoke any VAT option to tax as it thinks fit.
- 12.6 **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 Lender may prescribe or agree with it.
- 12.7 **Possession**
A Receiver may take immediate possession of, get in and realise any Secured Asset.
- 12.8 **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.
- 12.9 **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.
- 12.10 **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.
- 12.11 **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.
- 12.12 **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.
- 12.13 **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.
- 12.14 **Improve the Equipment**
A Receiver may make substitutions of, or improvements to, the Equipment as it may think expedient.
- 12.15 **Make calls on Company 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.
- 12.16 **Insure**
A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 15, 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.

12.17 Subsidiaries

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

12.18 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 Lender consents, terms under which that security ranks in priority to this Deed).

12.19 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.

12.20 Delegation

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

12.21 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.

12.22 Incidental powers

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

- 12.22.1 may consider desirable or necessary for realising any of the Secured Assets;
- 12.22.2 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
- 12.22.3 lawfully may or can do as agent for the Company.

13 Delegation

13.1 Delegation

The Lender 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 it by this Deed (including the power of attorney granted under clause 17.1).

13.2 Terms

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

13.3 Liability

Neither the Lender 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.

14 Application of proceeds

14.1 Order of application of proceeds

All monies received or recovered by the Lender, 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 Lender's right to recover any shortfall from the Company):

- 14.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Lender (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;
- 14.1.2 in or towards payment of the Secured Liabilities in any order and manner that the Lender determines; and
- 14.1.3 in payment of the surplus (if any) to the Company or other person entitled to it.

14.2 Appropriation

Neither the Lender, 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.

14.3 Suspense account

All monies received by the Lender, 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):

- 14.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to a suspense account;
- 14.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Company; and
- 14.3.3 may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

15 Costs and indemnity

15.1 Costs

The Company shall, within five Business Days of demand, pay to, or reimburse, the Lender 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 Lender, any Receiver or any Delegate in connection with:

- 15.1.1 this Deed or the Secured Assets;
- 15.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this Deed; or
- 15.1.3 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 Default Rate.

15.2 Indemnity

- 15.2.1 The Company shall indemnify the Lender, 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:

- (a) 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;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Deed; or
- (c) any default or delay by the Company in performing any of its obligations under this Deed.

15.2.2 Any past or present employee or agent may enforce the terms of this clause 15.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

16 Further assurance

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

- 16.1 creating, perfecting or protecting the security created or intended to be created by this Deed;
- 16.2 facilitating the realisation of any Secured Asset; or
- 16.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender 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 Lender or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Lender may consider necessary or desirable.

17 Power of attorney

17.1 Appointment of attorneys

By way of security, the Company irrevocably appoints the Lender, 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:

- 17.1.1 the Company is required to execute and do under this Deed; or
- 17.1.2 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 Lender, any Receiver or any Delegate.

17.2 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 17.1.

18 Release

Subject to clause 25.3, at the end of the Security Period, the Lender shall, at the request and cost of the Company, take whatever action is necessary to:

- 18.1 release the Secured Assets from the security constituted by this Deed; and
- 18.2 reassign the Secured Assets to the Company.

19 Assignment and transfer

19.1 Assignment by Lender

- 19.1.1 At any time, without the consent of the Company, the Lender may assign or transfer any or all of its rights and obligations under this Deed.

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

19.2 Assignment by the Company

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

20 Set-off

20.1 Lender's right of set-off

The Lender may at any time set off any liability of the Company to the Lender against any liability of the Lender 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 Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 20 shall not limit or affect any other rights or remedies available to it under this Deed or otherwise.

20.2 Exclusion of the Company's right of set-off

All payments made by the Company to the Lender 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).

21 Amendments, waivers and consents

21.1 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).

21.2 Waivers and consents

21.2.1 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.

21.2.2 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 Lender shall be effective unless it is in writing.

21.3 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.

22 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.

23 Counterparts

- 23.1 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.
- 23.2 Transmission of an executed counterpart of this Deed (but for the avoidance of doubt not just a signature page) by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 23.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

24 Third party rights

- 24.1 Except as expressly provided in clause 15.2, 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.
- 24.2 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.

25 Further provisions

25.1 Independent security

The security constituted by this Deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this Deed.

25.2 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 Lender discharges this Deed in writing.

25.3 Discharge conditional

Any release, discharge or settlement between the Company and the Lender shall be deemed conditional on no payment or security received by the Lender 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:

- 25.3.1 the Lender or its 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 Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
- 25.3.2 the Lender 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.

25.4 Certificates

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

25.5 Consolidation

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

26 Notices

26.1 Delivery

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

26.1.1 in writing;

26.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and

26.1.3 sent to:

(a) the Company at its registered office from time to time

Attention: Lucile Lanette de Savary

(b) the Lender at Noddings Farm, Combe Lane, Chiddingfold, Surrey GU8 4XL

or to any other address or fax number as is notified in writing by one party to the other from time to time.

26.2 Receipt by the Company

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

26.2.1 if delivered by hand, at the time it is left at the relevant address;

26.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and

26.2.3 if sent by fax, when received in legible form.

A notice or other communication given as described in clause 26.2.1 or clause 26.2.3 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.

26.3 Receipt by Lender

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

26.4 Service of proceedings

This clause 26 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.

26.5 No notice by email

A notice or other communication given under or in connection with this Deed is not valid if sent by email.

27 Governing law and jurisdiction

27.1 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.

27.2 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 Lender 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.

27.3 Other service

The Company irrevocably consents to any process in any legal action or proceedings under clause 27.2 being served on it in accordance with the provisions of this Deed relating to service of notices. Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law.

This agreement has been entered into on the date stated at the beginning of it.

SIGNED (but not delivered until the date hereof) as a DEED
by HAVANA WEST LIMITED acting by IAN DAVID SOLKIN
a director in the presence of:

Witness' Signature

Full name
(in block capitals)

Address

Occupation

[Redacted Signature]

CLAIRE LEWIS
34 BISHOPS ROAD
ABBERTON
SURREY S14 5AP
ACCOUNTANT

SIGNED (but not delivered until the date hereof) as a DEED
by LUCILE LANETTE DE SAVARY
in the presence of:

Witness' Signature

Full name
(in block capitals)

Address

Occupation

[Redacted Signature]

JOSEPH KEEFE
SUITE 202
34 SOUTH MOLTON STREET
LONDON W1K 5RG
CHARTERED ACCOUNTANT