



**Registration of a Charge**

Company Name: **DENARA HOLDINGS LIMITED**

Company Number: **04822804**



XA7TMMBV

Received for filing in Electronic Format on the: **01/07/2021**

**Details of Charge**

Date of creation: **24/06/2021**

Charge code: **0482 2804 0004**

Persons entitled: **U.S. BANK TRUSTEES LIMITED**

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: **ROSIE MARRIOTT**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 4822804

Charge code: 0482 2804 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th June 2021 and created by DENARA HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st July 2021 .

Given at Companies House, Cardiff on 2nd July 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**

EXECUTION VERSION

**Date** 24 June **2021**

**THE COMPANIES IDENTIFIED IN SCHEDULE 1  
as Original Chargors**

**U.S. BANK TRUSTEES LIMITED  
as Security Agent**

**SECURITY AGREEMENT**

**This deed is subject to the terms of the Intercreditor Agreement**

**MACFARLANES**

Macfarlanes LLP  
20 Cursitor Street  
London EC4A 1LT

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**DATE**

24 June 2021

**PARTIES**

- 1 **THE COMPANIES** whose names, registered numbers and registered offices are set out in schedule 1 (*Original Chargors*) (the "**Original Chargors**"); and
- 2 **U.S. BANK TRUSTEES LIMITED** acting through its office at 5<sup>th</sup> Floor, 125 Old Broad Street, London EC2N 1AR as agent and trustee for the Secured Parties (as defined below) (the "**Security Agent**").

**BACKGROUND**

- A The Chargors are entering into this deed in connection with the Finance Documents.
- B The Security Agent and the Chargors intend this document to take effect as a deed notwithstanding the fact that a party may only execute this document under hand.

**IT IS AGREED** as follows:1 **Definitions and interpretation**1.1 **Definitions**

Unless otherwise provided in this deed, terms defined in the Facilities Agreement (as defined below) shall have the same meaning where used in this deed.

In addition, in this deed, unless the context otherwise requires, the following words shall have the following meanings:

**Accounts:** all accounts (including any Designated Accounts), and all moneys from time to time standing to the credit (including any interest thereon) of such accounts and all rights in relation thereto, with any bank, financial institution or other person in any jurisdiction now or at any time hereafter (and from time to time) owned, operated or held by any Chargor or in which any Chargor has an interest;

**Additional Chargor:** any person which becomes a Chargor by executing a Deed of Accession;

**Administrator:** a person appointed in accordance with Sched B1 Insolvency Act 1986 to manage a Chargor's affairs, business and property;

**Assigned Agreements:** the Acquisition Documents, the KCOM Acquisition Documents, the Specified Contracts and any other agreement designated in writing as an Assigned Agreement by the Parent and the Security Agent;

**Charged Assets:** all the assets for the time being subject to the Security created by this deed (and references to the Charged Assets include references to any part of them);

**Chargor:** an Original Chargor or an Additional Chargor;

**Debts:** all book and other debts, of any kind whatsoever now or at any time hereafter (and from time to time) due, owing or payable to any Chargor or in which any Chargor has an interest and the proceeds of the same, including the benefit of any judgement or order to pay a sum of money, and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to the same;

**Declared Default:** an Event of Default which has resulted in the Agent exercising any of its rights under clause 26.17 (*Acceleration*) of the Facilities Agreement;

**Deed of Accession:** a deed substantially in the form of **Error! Reference source not found.**

**Designated Accounts:** each of the accounts so detailed in part 1 of schedule 3 or part 1 of schedule 2 of any Deed of Accession;

**Equipment:** all equipment, plant, machinery, tools, vehicles, furniture and other tangible moveable property now or at any time hereafter (and from time to time) owned by any Chargor, and any part thereof, together with the benefit of all contracts and warranties relating to the same;

**Existing Debenture:** the security agreement dated 4 May 2018 between the Original Chargors (as defined therein) and the Security Agent;

**Existing Debenture Accession Deeds:** (1) the deed of accession dated 14 June 2018 made between the Additional Chargors (as defined therein) and the Security Agent; (2) the deed of accession dated 1 August 2019 made between the Additional Chargor (as defined therein) and the Security Agent, and (3) the deed of accession dated 3 April 2020 made between the Additional Chargors (as defined therein) and the Security Agent;

**Existing Security Documents:** the Existing Debenture and the Existing Debenture Accession Deeds;

**Facilities Agreement:** the term and revolving agreement dated on or around the date of this deed and made between, among others, Nasstar Group Limited (formerly Divitias Midco Limited) as Parent, Nasstar Limited (formerly Divitias Bidco Limited) as Original Borrower, the Security Agent as security agent, and U.S. Bank Global Corporate Trust Limited as agent;

**Floating Charge Assets:** all the assets for the time being subject to the floating charge created by this deed (and references to the Floating Charge Assets include references to any part of it);

**Goodwill:** all goodwill now or at any time hereafter (and from time to time) of or in a Chargor;

**Insolvency Event:** the occurrence of any of the events or circumstances set out in clauses 26.6 (*Insolvency*) – 26.8 (*Creditors' Process*) (inclusive) of the Facilities Agreement;

**Insurance Policies:** all contracts and policies of insurance or assurance and all moneys payable under or pursuant to such policies, now or at any time hereafter (and from time to time) taken out by or on behalf of any Chargor or (to the extent of its interest) in which any Chargor has an interest excluding, in each case, contracts and policies of insurance or assurance which relate to liabilities to third parties;

**Intellectual Property:** means:

- a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, software rights, design rights, domain names, moral rights, source code, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- b) the benefit of all applications and rights to use such assets of each member of the Group (which may now or in the future subsist),

owned or held by any Chargor or (to the extent of its interest) in which any Chargor has an interest;

**LPA:** the Law of Property Act 1925;

**Material Equipment:** in relation to a Chargor, any Equipment that is material to the business or operations of that Chargor or to the business or operations of the Group as a whole;

**Obligor:** each Obligor as defined in the Facilities Agreement;

**Pension Fund Interests:** all interests and rights now or at any time hereafter (and from time to time) owned or held by any Chargor in relation to any pension fund;

**Properties:** all estates or interests in any freehold and leasehold (with 15 years or more remaining on the lease) properties (whether registered or unregistered) and all commonhold or other immoveable properties now or at any time hereafter (and from time to time) owned by any Chargor (including the properties which are briefly described in schedule 2 (*Properties currently owned*)) but excluding in each case Short Leasehold Properties or rack rent leases;

**Property Interests:** all interests in or over the Properties and all rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to the Properties, in each case, now or at any time hereafter (and from time to time) owned or held by any Chargor;

**Receiver:** a person appointed by the Security Agent to be a receiver or receiver and manager or (if permitted by law) an administrative receiver of all or any part of the Charged Assets of any Chargor;

**Restrictions Notice:** a "restrictions notice" as defined in paragraph 1(2) of Schedule 1B of the Companies Act 2006;

**Secured Liabilities:** all present and future moneys, obligations and liabilities owed by any Obligor to the Secured Parties, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever, under or in connection with the Finance Documents;

**Securities:** all stocks, shares, loan capital, securities, bonds and investments of any kind whatsoever (whether or not marketable) now or at any time hereafter (and from time to time) owned by any Chargor, or in which any Chargor has an interest, together with all allotments offered or arising in respect thereof or incidental thereto and all stocks, shares, loan capital, securities, bonds, investments, rights, income, money or property accruing, deriving, offered or paid from time to time by way of dividend, distribution, interest, exchange, capital reorganisation, conversion, redemption, bonus, rights, preference, option or otherwise in respect thereof;

**Securities Issuer:** the issuer of any Securities;

**Security Period:** the period starting on the date of this deed and ending on the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full;

**Short Leasehold Properties:** all leasehold properties for a term of less than 15 years unexpired at the date of acquisition of the lease (whether registered or unregistered) owned by any Chargor;

**Specified Contracts:** the agreements specified in schedule 6 (*Specified contracts*);

**Trading Account:** in relation to any Chargor, any Account which is not a Designated Account (including but not limited to any account detailed in part 2 of schedule 3 or part 2 of schedule 2 of any Deed of Accession by which it has acceded to this deed in each case specified as belonging to it);

**Uncalled Capital:** all the uncalled capital now or at any time hereafter (and from time to time) of a Chargor; and

**Warning Notice:** a “warning notice” as defined in paragraph 1(2) of Schedule 1B of the Companies Act 2006.

## 1.2 Construction

1.2.1 Unless otherwise provided in this deed, the provisions of clause 1.2 (*Construction*) of the Facilities Agreement apply to this deed as though they were set in full in this deed, *mutatis mutandis*.

1.2.2 In this deed (unless the context requires otherwise) any reference to:

1.2.2.1 each Chargor, each Secured Party, each Obligor, any Securities Issuer, any Administrator or Receiver or any other person shall be construed so as to include their successors in title, permitted assigns, permitted transferees and (in the case of any Administrator or Receiver) lawful substitutes and/or replacements;

1.2.2.2 a “Finance Document” or a “Transaction Document” or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated and/or replaced from time to time however fundamentally, whether or not as a result of any of the same:

- (i) there is an increase or decrease in any facility made available under it or in the period for which it is available or in which it is repayable;
- (ii) any additional, further or substituted facility to or for such facility is provided;
- (iii) any rate of interest, commission or fees or relevant purpose is changed;
- (iv) the identity of the parties is changed;
- (v) the identity of the providers of any Security is changed;
- (vi) there is an increased or additional liability on the part of any person; or
- (vii) a new agreement is effectively created or deemed to be created;

1.2.2.3 “assets” includes present and future properties, revenues and rights of every description;

1.2.2.4 the Security constituted by this deed becoming “enforceable” shall mean that the Security created under this deed has become enforceable under clause 14.1 (*Enforcement events*);

1.2.2.5 “owned” includes having legal or equitable title to or a right to have legal or equitable title transferred;

1.2.2.6 “law” includes the common law, any statute, bye-law, regulation or instrument and any kind of subordinate legislation, and any order, requirement, code of practice, circular, guidance note, licence, consent or permission made or given pursuant to any of the foregoing;



- 1.2.2.7 a provision of law is a reference to that provision as amended or re-enacted from time to time;
- 1.2.2.8 a time of day is a reference to London time;
- 1.2.2.9 any gender includes a reference to the other genders;
- 1.2.2.10 the singular includes a reference to the plural and vice versa; and
- 1.2.2.11 a clause or schedule is to a clause or schedule (as the case may be) of or to this deed.

1.2.3 Clause and schedule headings are for ease of reference only.

### 1.3 **Nature of security over real property**

A reference in this deed to any freehold, leasehold or commonhold property includes:

- 1.3.1 all buildings and fixtures (including trade and tenant's fixtures of the Chargor) which are at any time situated on that property;
- 1.3.2 the proceeds of sale of any part of that property; and
- 1.3.3 the benefit of any covenants for title given or entered into by any predecessor in title of any Chargor in respect of that property or any monies paid or payable in respect of those covenants.

### 1.4 **Secured Liabilities**

References in this deed to the Secured Liabilities shall be construed in relation to the Finance Documents so as to include (i) any increase or reduction in any amount made available thereunder including any Additional Facility and/or any alteration and/or addition to the purposes for which any such amount, or increased or reduced amount, may be used, (ii) any ancillary facilities provided in substitution for or in addition to the facilities originally made available thereunder, (iii) any rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing and (iv) any combination of any of the foregoing.

### 1.5 **Personal Liability**

A director, officer, employee or other individual who signs in good faith a certificate or other document required to be delivered pursuant or in connection with this deed on behalf of any Chargor which proves to be incorrect or misleading shall not incur any individual personal liability to any Secured Party provided such person did not act fraudulently or negligently in so signing such certificate or other document.

### 1.6 **Conflict with the Facilities Agreement**

To the extent of any conflict between the provisions of this deed and the provisions of the Facilities Agreement, the provisions of the Facilities Agreement shall prevail.

## 2 **Covenant to pay; Further advances**

### 2.1 **Covenant to pay**

Each Chargor hereby covenants with the Security Agent (as trustee for the Secured Parties) that it will on demand pay and discharge all Secured Liabilities owing or incurred from or by it to the Secured Parties when the same become due in accordance with the terms of the Finance Documents, whether by acceleration or otherwise, together with interest to the date of payment at such rates and upon such terms as may from time to time be agreed,

commission, fees, enforcement expenses and other charges and all legal and other costs, charges and expenses, on a full and unqualified indemnity basis, which may be incurred by the Secured Parties in relation to any such Secured Liabilities or generally in respect of the Chargors.

## 2.2 **Potential invalidity**

Neither the covenant to pay in clause 2.1 (*Covenant to pay*) nor the Security constituted by this deed shall extend to or include any liability or sum which would, but for this clause, cause such covenant or Security to be unlawful under any applicable law.

## 2.3 **Further advances**

This deed secures further advances made under or pursuant to the terms of the Finance Documents and the Lenders are, subject to and upon the terms and conditions of the Finance Documents, under an obligation to make further advances.

## 3 **Grant of security**

### 3.1 **Fixed security**

As a continuing security for the payment or discharge of the Secured Liabilities, each Chargor with full title guarantee (in each case, subject to, and with any covenant implied in relation thereto qualified by reference to, the Existing Security Documents) hereby:

3.1.1 grants to the Security Agent (as trustee for the Secured Parties), a charge by way of legal mortgage over the Properties which are listed in schedule 2 (*Properties currently owned*) opposite its name;

3.1.2 charges to the Security Agent (as trustee for the Secured Parties), by way of first fixed charge, all its:

3.1.2.1 Properties now owned by it to the extent that they are not the subject of a charge by way of legal mortgage pursuant to clause 3.1.1;

3.1.2.2 Properties acquired by it after the date of this deed;

3.1.2.3 Property Interests;

3.1.2.4 Material Equipment;

3.1.2.5 Securities;

3.1.2.6 Intellectual Property;

3.1.2.7 Debts;

3.1.2.8 Accounts;

3.1.2.9 Pension Fund Interests;

3.1.2.10 Goodwill and Uncalled Capital; and

3.1.2.11 rights, title and interest to any agreement, licence, consent or authorisation relating to its business at any time not otherwise mortgaged, charged or assigned pursuant to clauses 3.1.1-3.1.4 inclusive.

3.1.3 assigns to the Security Agent (as trustee for the Secured Parties) absolutely, subject to a proviso for reassignment on redemption, all of its right, title and interest in and to the Insurance Policies; and

3.1.4 assigns to the Security Agent (as trustee for the Secured Parties) absolutely, subject to a proviso for reassignment on redemption, the benefit of the Assigned Agreements to which it is a party or an addressee and any claims arising under any of the same, and the benefit of any guarantee or security for the performance of the Assigned Agreements.

## 3.2 Floating security

### 3.2.1 Floating charge

As a continuing security for the payment or discharge of the Secured Liabilities, each Chargor with full title guarantee hereby charges to the Security Agent (as trustee for the Secured Parties), by way of first floating charge, (a) all of its undertaking and assets at any time not effectively mortgaged, charged or assigned pursuant to clauses 3.1.1 - 3.1.4 (*Fixed security*) inclusive and (b) all its assets situated in Scotland.

### 3.2.2 Qualifying floating charge

Sched B1 para 14 Insolvency Act 1986 (as inserted by s.248 of, and Sched 16 Enterprise Act 2002) applies to the floating charge created by this deed.

### 3.2.3 Automatic conversion of floating charge

Notwithstanding anything express or implied in this deed (save for clause 3.2.7 (*Moratorium*)) and without prejudice to any law which may have similar effect, if:

3.2.3.1 a Declared Default has occurred; or

3.2.3.2 any Chargor creates or attempts to create any Security (other than any Permitted Security or a Permitted Transaction or any trust in favour of another person over all or any of its assets; or

3.2.3.3 any Chargor disposes or attempts to dispose of all or any of its assets other than by way of a Permitted Disposal pursuant to a Permitted Transaction or in the ordinary course of its trading; or

3.2.3.4 an Insolvency Event has occurred,

the floating charge created by this deed will automatically and immediately (without notice) be converted into a fixed charge over the Floating Charge Assets (in the case of clause 3.2.3.2 above, over the assets subject to the relevant Security or trust; in the case of clause 3.2.3.3 above, over the assets subject to the relevant disposal; and in the case of clause 3.2.3.4, over the assets of the Chargor in respect of which the relevant Insolvency Event has occurred).

### 3.2.4 Conversion of floating charge by notice

Notwithstanding anything express or implied in this deed, and without prejudice to any law which may have a similar effect (save for clause 3.2.7 (*Moratorium*)), if:

3.2.4.1 a Declared Default has occurred; or

3.2.4.2 the Security Agent considers (acting reasonably) that any Charged Assets are in jeopardy,

the Security Agent may at any time thereafter, by notice to a Chargor, convert the floating charge created by this deed with immediate effect into a fixed charge over (i) when acting in accordance with clause 3.2.4.1 above, all or any of the Floating Charge Assets of the relevant Chargor specified in such notice or (ii) when acting in accordance with clause 3.2.4.2 above, those assets which are considered to be in jeopardy (but without prejudice to the Security Agent's rights to serve a notice in respect of any other Floating Charge Assets and any other rights of the Security Agent whatsoever).

### 3.2.5 **Assets acquired after any floating charge conversion**

Any asset acquired by any Chargor after any conversion of the floating charge created by this deed, in accordance with clauses 3.2.3 (*Automatic conversion of floating charge*) above or 3.2.4 (*Conversion of floating charge by notice*) which but for such conversion would be subject to a floating charge shall, (unless the Security Agent confirms in writing to the contrary) be charged to the Security Agent (as trustee for the Secured Parties) by way of first fixed charge.

### 3.2.6 **Reconversion of fixed charge assets into floating charge assets**

The Security Agent may at any time after any conversion of the floating charge created by this deed over any Charged Assets into a fixed charge in accordance with clauses 3.2.3 (*Automatic Conversion of floating charge*) or 3.2.4 (*Conversion of floating charge by notice*) reconvert such fixed charge into a floating charge by notice to the relevant Chargor.

### 3.2.7 **Moratorium**

Unless s.A52(4) Insolvency Act 1986 allows, the floating charge created by this deed may not be converted into a fixed charge solely by reason of:

3.2.7.1 the obtaining of a moratorium; or

3.2.7.2 anything done with a view to obtaining a moratorium (including any preliminary decision or investigation),

under Part A1 Insolvency Act 1986.

## 3.3 **Title documents**

Each Chargor shall as soon as reasonably practicable and in any event within five Business Days of the execution of this deed or in the case of an Additional Chargor, as soon as reasonably practicable and in any event within five Business Days of the date of the relevant Deed of Accession (or, if later, the date of acquisition of the relevant Charged Assets) deposit with the Security Agent (and the Security Agent shall during the continuance of this security be entitled to hold):

3.3.1 all deeds and documents of title relating to the Charged Assets as the Security Agent may from time to time require; and

3.3.2 all certificates relating to the Securities and such instruments of transfer in blank and other documents as the Security Agent may from time to time require.

## 3.4 **Security notices**

Each Chargor shall within five Business Days of the execution of this deed (or, in the case of clause 3.4.1 below and in relation to any Insurance Policy which is taken out subsequent

to the date of this deed, in the case of clause 3.4.2 and in relation to any Assigned Agreement which is entered into subsequent to the date of this deed, or in the case of clause 3.4.3 below and in relation to any Designated Account which is opened subsequent to the date of this deed in accordance with the terms of the Facilities Agreement, within five Business days of the date on which such Insurance Policy is taken out, such Assigned Agreement is entered into or such Account is opened (as applicable)) or in the case of an Additional Chargor, as soon as reasonably practicable and in any event within five Business Days of the date of the relevant Deed of Accession:

- 3.4.1 give notice in the form set out in **Error! Reference source not found.** of 0 (*Form of notice to insurers*) to the relevant insurers of the assignment pursuant to clause 3.1 (*Fixed security*) of its rights and interest in and under the Insurance Policies and use all reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to the Security Agent in the form set out in part 2 of 0 (*Form of acknowledgement from insurers*) except the obligation to obtain such acknowledgement will expire twenty Business Days from service of the relevant notice; and
- 3.4.2 give notice in the form set out in part 1 of **Error! Reference source not found.** (*Form of notice to counterparties of Assigned Agreements*) to the other parties to the Assigned Agreements to which it is a party of the assignment pursuant to clause 3.1.4 (*Fixed security*) of its rights and interest in and under the Assigned Agreements and use all reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to the Security Agent in the form set out in part 2 of **Error! Reference source not found.** (*Form of acknowledgement from counterparties to Assigned Agreements*) except the obligation to obtain such acknowledgement will expire twenty Business Days from service of the relevant notice; and
- 3.4.3 save in relation to any account held with the Security Agent (in respect of which the execution of this deed (or, in the case of an Additional Chargor, the relevant Deed of Accession) by the relevant Chargor and the Security Agent shall constitute notice to the Security Agent of the charge created by this deed over that Chargor's rights and interests under such account), give notice in the form set out in **Error! Reference source not found.** of **Error! Reference source not found.** (*Form of notice of charge to third party bank*) to any bank, financial institutions and other persons of charging to the Security Agent pursuant to clause 3.1 (*Fixed Security*) of its rights and interests under such accounts and use all reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to the Security Agent in the form set out in part 2 of **Error! Reference source not found.** (*Form of acknowledgement from third party bank*) except the obligation to obtain such acknowledgement will expire twenty Business Days from service of the relevant notice.

### 3.5 Exclusion of assets from fixed Security

- 3.5.1 There shall be excluded from the Security created by clause 3.1 (*Fixed security*):
  - 3.5.1.1 any leasehold Property held by a Chargor under a lease which precludes absolutely or conditionally (including requiring the consent of any third party (other than any member of the Group)) that Chargor from creating any charge over its leasehold interest in that Property;
  - 3.5.1.2 any agreement, licence, consent or authorisation in which a Chargor has any right, title or interest which precludes absolutely or conditionally (including requiring the consent of any third party (other than any member of the Group)) that

Chargor from creating any charge over its right, title or interest in such agreement, licence, consent or authorisation; and

- 3.5.1.3 any Debts which cannot be secured under the terms of the relevant contract under which they are owing or payable to any Chargor,

(each an "**Excluded Asset**"), in each case until the relevant condition, consent or waiver has been satisfied and obtained or the agreement of all relevant third parties is obtained. For the avoidance of doubt, no Excluded Asset shall be excluded from the Security created by clause 3.2 (*Floating charge*) by operation of this clause 3.5.

- 3.5.2 For each Excluded Asset, the relevant Chargor undertakes to, upon reasonable request by the Security Agent:

- 3.5.2.1 apply for the relevant consent, waiver of prohibition or condition, or agreement within 10 Business Days of the date of such request and to use its reasonable endeavours to obtain that consent, waiver of prohibition or condition, or agreement as soon as possible;

- 3.5.2.2 keep the Security Agent informed of its progress in obtaining such consent, waiver or agreement; and

- 3.5.2.3 forthwith upon receipt of such consent, waiver or agreement, provide the Security Agent with a copy.

Immediately upon receipt of the relevant waiver, consent or agreement, the relevant Excluded Asset shall stand charged to the Security Agent (as trustee for the Secured Parties) under clause 3.1 (*Fixed security*). If required by the Security Agent at any time following receipt of that waiver, consent or agreement, the relevant Chargor will execute a further valid fixed charge in such form as the Security Agent shall require.

- 3.5.3 If a Chargor receives notice from a third party of its intention to bring proceedings against that Chargor for the forfeiture of that Chargor's leasehold property which is (a) an Excluded Asset, and (b) subject only to the Security created by clause 3.2 (*Floating charge*) (a "**Floating Charge Excluded Property**"), the relevant Chargor will:

- 3.5.3.1 as soon as reasonably practicable (and in any event within five Business Days of receipt of such notice or becoming aware of such intention), inform the Security Agent of the proceedings; and

- 3.5.3.2 take all reasonable actions or which the Security Agent may reasonably request to resolve any issue or dispute with such third party (a "**Property Dispute**") in such a way as to enable the Security created over such Floating Charge Excluded Property by this deed to remain in place.

Upon request from the relevant Chargor, the Security Agent (acting reasonably) may decide to release the leasehold interest in respect of the relevant Floating Charge Excluded Property from the Security created by this deed if it considers that the Property Dispute relating to the relevant Floating Charge Excluded Property would otherwise result, or be reasonably likely to result, in the forfeiture of the relevant Chargor's leasehold interest therein or damages being paid by the Chargor.

## 4 **Restrictions on dealing**

### 4.1 **Negative pledge and restriction on disposal**

Each Chargor hereby covenants with the Security Agent that it will not at any time except in accordance with the terms of the Facilities Agreement or with the prior consent of the Security Agent:

- 4.1.1 create or permit to subsist any Security on or in relation to the Charged Assets; or
- 4.1.2 enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, surrender or otherwise dispose of or cease to exercise control over any interest in any Charged Assets.

### 4.2 **Land Registry restriction**

- 4.2.1 In respect of any Property registered at the Land Registry and charged by way of legal mortgage under this deed and/or any Deed of Accession and/or pursuant to clause 7.11.2 (*Property acquisitions*) each Chargor hereby consents to the entry of the following restriction on the register of its title to such Property:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ ] in favour of [*name of Security Agent*] referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its conveyancer".

- 4.2.2 Each Chargor authorises the Security Agent to make any application which it deems appropriate for the designation of this deed or any other Finance Document as an exempt information document under rule 136 Land Registration Rules 2003 and will use its reasonable endeavours to assist with any such application made by or on behalf of the Security Agent. Each Chargor will notify the Security Agent in writing as soon as reasonably practicable and in any event within five Business Days of receiving notice of any person's application under rule 137 Land Registration Rules 2003 for the disclosure of this deed or any other Finance Document, following its designation as an exempt information document and will not make any application under rule 138 Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document.

## 5 **Debts and Accounts**

### 5.1 **Preservation of debts**

Each Chargor shall not, except in accordance with the terms of the Facilities Agreement, sell, factor, discount, release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Debts save as hereinafter expressly provided.

### 5.2 **Realising debts**

Each Chargor shall:

- 5.2.1 as agent for the Security Agent, collect in and realise all Debts in the ordinary course of its business, pay the proceeds into the relevant Accounts forthwith upon receipt and, pending that payment, hold those proceeds in trust for the Security Agent (in each case unless otherwise agreed with the Security Agent or provided for in the Facilities Agreement); and

- 5.2.2 if called upon so to do by the Security Agent, upon a Declared Default, execute a legal assignment of the Debts to the Security Agent (as trustee for the Secured Parties) in such terms as the Security Agent may require and give notice thereof to the debtors from whom the Debts are due, owing or incurred in such terms as the Security Agent may reasonably require;

### 5.3 **Accounts**

- 5.3.1 All Accounts must be opened and operated in accordance with the terms of the Facilities Agreement.
- 5.3.2 The Security Agent shall have sole signing rights on each Designated Account.
- 5.3.3 Subject to the terms of the Facilities Agreement, no Trading Account or other Account may be overdrawn at any time.
- 5.3.4 No Chargor shall open or procure the opening of any Account unless permitted under the Facilities Agreement or with the prior written consent of the Security Agent.

### 5.4 **Withdrawals**

- 5.4.1 Except with the prior consent of the Security Agent or as expressly permitted under the terms of the Facilities Agreement, no Chargor may withdraw any amounts from time to time standing to the credit of the Designated Accounts; and
- 5.4.2 after the security constituted by this deed has become enforceable, each Chargor shall comply with any notice served by the Security Agent on that Chargor prohibiting it from withdrawing all or any monies from time to time standing to the credit of any of its Accounts except with the prior consent of the Security Agent.

## 6 **Insurance**

Each Chargor hereby covenants with the Security Agent that it will insure its assets and business in accordance with the requirements of the Facilities Agreement.

## 7 **Properties**

Each Chargor hereby covenants with the Security Agent that it will:

### 7.1 **Maintenance**

keep all buildings on each Property and all fixtures belonging to it thereon and therein in good and substantial repair and condition where failure to do so would have a Material Adverse Effect;

### 7.2 **Preservation of property and fixtures**

not without the prior consent of the Security Agent or unless permitted in the Facilities Agreement:

- 7.2.1 pull down or remove the whole or any part of any buildings forming part of any Property;
- 7.2.2 make any material alterations to any Property; or
- 7.2.3 sever or unfix or remove any of the material fixtures thereto (except for the purpose of effecting necessary repairs thereto);



### 7.3 **Information**

- 7.3.1 within five Business Days after becoming aware thereof give particulars to the Security Agent of any material notice, order, direction, designation, resolution or proposal having specific application to any Property given or made by any planning authority or other public body or authority whatsoever; and
- 7.3.2 if required by the Security Agent, forthwith and at the cost of such Chargor take all steps to comply with any such notice, order, direction, designation or resolution and make or join with the Security Agent in making such objections or representations in respect of any such proposal as the Security Agent may (acting reasonably) require;

### 7.4 **Compliance with obligations**

- 7.4.1 observe and perform all covenants, stipulations and conditions to which each Property or the user thereof is now or may hereafter be subjected where failure to do so would have a Material Adverse Effect;
- 7.4.2 perform and observe all covenants and conditions on its part contained in any lease, agreement for lease, licence or other agreement under which any Property or part of any Property is held where failure to do so would have a Material Adverse Effect; and
- 7.4.3 promptly pay all taxes, fees, duties, rates, charges and other outgoings in respect of the Properties where failure to do so would have a Material Adverse Effect;

### 7.5 **Maintenance of interests in Properties**

not without the prior consent of the Security Agent or unless permitted in the Facilities Agreement:

- 7.5.1 grant or agree to grant any licence or tenancy affecting any Property or part of a Property;
- 7.5.2 exercise the powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by ss.99 or 100 LPA; or
- 7.5.3 in any other way dispose or agree to dispose of or surrender or create any legal or equitable estate or interest in any Property or any part thereof;

### 7.6 **Registration restrictions**

procure that no person shall be registered under the Land Registration Act 2002 as proprietor of any Property or any part thereof without the prior consent of the Security Agent or as permitted under the terms of the Facilities Agreement;

### 7.7 **Development restrictions**

not without the prior consent of the Security Agent or as permitted under the terms of the Facilities Agreement carry out or permit or suffer to be carried out on any Property any development as defined in the Town and Country Planning Act 1990 or change or permit or suffer to be changed the user of any Property;

### 7.8 **No restrictive obligations**

not without the prior consent of the Security Agent or as permitted under the terms of the Facilities Agreement enter into any materially onerous or restrictive obligations affecting any Property or any part thereof or create or permit to arise any overriding interest or easement or right whatever in or over any Property or any part thereof;

## 7.9 **Proprietary rights**

procure that no person shall become entitled to assert any proprietary or other like right or interest over any Property or any part thereof without the prior consent of the Security Agent (such consent not to be unreasonably withheld or delayed) or as permitted under the terms of the Facilities Agreement; and

## 7.10 **Property acquisitions**

if it acquires any Property;

7.10.1 inform the Security Agent promptly of such acquisition;

7.10.2 subject to the Agreed Security Principles, as soon as reasonably practicable and in any event within five Business Days of request by the Security Agent and at the cost of that Chargor (other than in relation to any leasehold property which is an Excluded Asset (as defined in clause 3.5 (*Exclusion of assets from fixed Security*))), subject to the terms of this deed), execute and deliver to the Security Agent a legal mortgage in favour of the Security Agent (as trustee for the Secured Parties) over that Property in such form as the Security Agent may require (or such other Security in the jurisdiction where such property is located as the Security Agent may require), such security to contain terms no more onerous than those set out in this deed; and

7.10.3 comply with all registration requirements resulting from the acquisition of such Property and the creation of Security over such Property pursuant to this deed and the legal mortgage (or other Security) referred to above.

## 8 **Material Equipment**

Each Chargor hereby covenants with the Security Agent as follows:

### 8.1 **Maintenance of equipment**

to maintain the Material Equipment in good and serviceable condition (fair wear and tear excepted) where failure to do so would have or would be reasonably likely to have a Material Adverse Effect;

### 8.2 **Payment of equipment taxes**

promptly to pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Material Equipment where failure to do so would have or would be reasonably likely to have a Material Adverse Effect and if requested by the Security Agent (acting reasonably) within three Business Days of demand produce evidence thereof to the Security Agent;

### 8.3 **Material Equipment information**

to give the Security Agent such information concerning the location, condition, use and operation of the Material Equipment as the Security Agent may reasonably request and to permit any persons designated by the Security Agent at all reasonable times to inspect and examine the Material Equipment and the records maintained in connection therewith;

### 8.4 **Notice of Charge**

if so requested by the Security Agent (acting reasonably):

8.4.1 at any time whilst a Declared Default is continuing; or

8.4.2 in respect of any item of Material Equipment the book value of which is greater than or equal to £250,000,

place and maintain on each item of Material Equipment, in a conspicuous place, a clearly legible identification plate containing the following wording:

"NOTICE OF CHARGE

This [*description of item*] and ancillary equipment is subject to a fixed charge dated [ ] in favour of [*name of Security Agent*]."

## 9 Intellectual Property

Each Chargor hereby covenants with the Security Agent as follows:

### 9.1 Preservation of rights

to take all action to safeguard and maintain its present and future rights in or relating to the Intellectual Property owned by it and necessary for the business of the relevant Chargor (except that it may allow any Intellectual Property which is no longer (i) material and (ii) necessary to its business to lapse) and, subject to the Agreed Security Principles, if reasonably requested to do so by the Security Agent, sign or procure the signature of, and comply with all instructions of the Security Agent in respect of, any document required to make entries in any public register of Intellectual Property which either record the existence of this deed or the restrictions on disposal imposed by this deed; and

### 9.2 Consents

to use reasonable endeavours to obtain any consent required for the creation of a fixed charge over any Intellectual Property.

## 10 Securities

### 10.1 Registration of Securities

The Security Agent may at any time after the Security constituted by this deed becomes enforceable cause any or all of the Securities to be registered in the name of the Security Agent or its nominee. Each Chargor agrees promptly to execute and deliver to the Security Agent all such transfers and other documents and do all such things as may be necessary to achieve such registration.

### 10.2 Additional registration obligations

Each Chargor hereby:

10.2.1 grants and agrees to procure as necessary, all consents, waivers, approvals and permissions which are necessary, under the articles of association of any Securities Issuer or otherwise, for the transfer of the Securities to the Security Agent or its nominee or to a purchaser upon enforcement of this deed; and

10.2.2 agrees to procure the amendment of the share transfer provisions of each Securities Issuer's articles of association in such manner as the Security Agent may require in order to permit such a transfer.

### 10.3 Dividends and voting rights prior to enforcement

Until the security constituted by this deed becomes enforceable:

10.3.1 all cash dividends or other cash distributions paid or payable in respect of the Securities may be paid directly to the relevant Chargor which shall be permitted to apply such dividends or distributions as it deems fit to the extent permitted by the Facilities Agreement and the Intercreditor Agreement;

- 10.3.2 any cash dividends or other cash distributions paid in respect of any of the Securities and received by the Security Agent or its nominee shall, on request by the relevant Chargor, be released and paid to such Chargor;
- 10.3.3 the relevant Chargor may exercise all voting and other rights and powers attaching to the Securities and exercisable by the relevant Chargor provided that the exercise of such voting and other rights and powers would not prejudice the Security Agent's security under this deed or the value of the Securities or contravene any Finance Document; and
- 10.3.4 the Security Agent will (to the extent that it has or will acquire any such rights or powers) exercise all voting and other rights and powers attaching to the Securities and exercisable by the Security Agent or its nominee as the relevant Chargor may from time to time direct provided that acting in accordance with such directions would not prejudice the Security Agent's security under this deed or the value of the Securities or contravene any Finance Document.

#### 10.4 **Dividends and voting rights post enforcement**

After the security constituted by this deed has become enforceable:

- 10.4.1 all dividends and other distributions paid in respect of the Securities and received by any Chargor shall be held on trust for the Security Agent (as trustee for the Secured Parties) and forthwith paid into the Designated Account or, if received by the Security Agent or its nominee, shall be retained by the Security Agent; and
- 10.4.2 (subject to service of notice on the relevant Chargor of the intention to do so for the purpose of preserving or realising the value of the relevant Securities) the Security Agent may exercise or direct the exercise (or refrain from exercising or directing the exercise) of all voting and other rights and powers attaching to the Securities as the Security Agent may in its absolute discretion think fit and each Chargor shall, and shall procure that its nominees shall, comply with any such directions from the Security Agent concerning the exercise of such rights and powers.

#### 10.5 **Warning Notice or Restrictions Notice**

- 10.5.1 Each Chargor represents and warrants to the Security Agent that no Warning Notice or Restrictions Notice has been issued to it in respect of all or any part of the Securities and remains in effect.
- 10.5.2 Each Chargor shall comply with any notice served on it in respect of all or any part of the Securities pursuant to part 21A of the Companies Act 2006 within the timeframe specified in that notice and shall deliver a copy of any such notice to the Security Agent promptly upon receipt.

#### 10.6 **Additional undertakings**

Each Chargor further undertakes to the Security Agent that it shall:

- 10.6.1 duly and promptly pay all calls, instalments and other moneys which may be payable from time to time in respect of the Securities, it being acknowledged by the Chargors that the Security Agent shall be under no liability whatsoever in respect of any such calls, instalments or other moneys;
- 10.6.2 not without the Security Agent's prior consent or unless permitted under the Facilities Agreement amend, or agree to the amendment of, the memorandum or articles of association of any Securities Issuer or the rights or liabilities attaching to any of the Securities;

- 10.6.3 ensure (insofar as it is able by the exercise of all voting rights, powers of control and other means available to it to do so) that no Securities Issuer will:
- 10.6.3.1 consolidate or sub-divide any of its Securities or reduce or re-organise its share capital in any way (other than in respect of a Permitted Transaction);
  - 10.6.3.2 issue any new shares or stock (other than in respect of a Permitted Share Issue or a Permitted Transaction); or
  - 10.6.3.3 refuse to register any transfer of any of its Securities which may be lodged for registration by or on behalf of the Security Agent or a Chargor in accordance with this deed;
- 10.6.4 as soon as reasonably practicable and in any event within five Business Days send to the Security Agent copies of all documents which are sent to holders of any Securities in such capacity; and
- 10.6.5 as soon as reasonably practicable and in any event within five Business Days give notice of this deed to any custodian of any Securities in any form which the Security Agent may reasonably require and use its reasonable endeavours to ensure that the custodian acknowledges that notice in any form which the Security Agent may reasonably require.

## 11 **Uncalled Capital**

Each Chargor further covenants with the Security Agent that it will not call up, or receive in advance of calls, any Uncalled Capital and it will apply all proceeds of any Uncalled Capital, immediately on receipt, towards the discharge of the Secured Liabilities.

## 12 **Representations and warranties**

### 12.1 **Representations and warranties**

Each Chargor represents and warrants to the Security Agent on the date of this deed (in the case of each Original Chargor) or on the date of the relevant Deed of Accession (in the case of each Additional Chargor), as follows:

- 12.1.1 it is (except as permitted under the terms of the Finance Documents) the legal and beneficial owner of the Charged Assets;
- 12.1.2 it has not received or acknowledged notice of any existing adverse claim by any person in respect of the Charged Assets or any interest in them;
- 12.1.3 there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever which materially and adversely affect the Charged Assets taken as a whole;
- 12.1.4 no facility necessary for the enjoyment and use of the Charged Assets (where failure to have it would have, or would be reasonably likely to have, a Material Adverse Effect) is subject to terms entitling any person to terminate or curtail its use;
- 12.1.5 nothing has arisen or has been created or is subsisting which would be an overriding interest in any Property;
- 12.1.6 there is no prohibition on assignment in any insurances, agreements or authorisations referred to in clause 3.1.3 or 3.1.4 (*Fixed security*), or the relevant clauses of them as the case may be, and the Chargors entering into this deed will not constitute a breach of any such insurances, agreements or authorisations; and

- 12.1.7 subject to the Legal Reservations and the Perfection Requirements this deed creates the Security it purports to create and is not liable to be amended or otherwise set aside on its liquidation or otherwise.

## 12.2 Repetition

The representations and warranties set out in clause 12.1 (*Representations and warranties*) will be deemed to be repeated by each Chargor on each day the Repeating Representations are deemed to be repeated by reference to the facts and circumstances then existing.

## 12.3 Notice of breach

Each Chargor will promptly upon becoming aware of the same give the Security Agent notice in writing of any breach of any representation or warranty set out in clause 12.1 (*Representations and warranties*).

## 13 Power to remedy

- 13.1 If a Chargor is at any time in breach of any of its obligations contained in this deed, the Security Agent shall be entitled (but shall not be bound) to remedy such breach and each Chargor hereby irrevocably authorises the Security Agent and its agents to do all things necessary in connection therewith.

- 13.2 The rights of the Security Agent contained in this clause 13 are without prejudice to any other rights of the Security Agent hereunder and the exercise by the Security Agent of its rights under this clause shall not make the Security Agent liable to account as a mortgagee in possession.

## 14 Enforcement

### 14.1 Enforcement events

- 14.1.1 The security constituted by this deed shall become immediately enforceable if a Declared Default occurs.

- 14.1.2 After the security constituted by this deed has become enforceable, the powers of sale under the LPA and all other powers of the Security Agent shall immediately be exercisable and the Security Agent may in its absolute discretion enforce all or any part of the security created by this deed as it sees fit or as the Majority Lenders direct.

### 14.2 Statutory power of sale

The statutory power of sale shall arise on and be exercisable at any time after the execution of this deed (and the Secured Liabilities shall be deemed to have become due and payable for that purpose), provided that the Security Agent shall not exercise such power of sale until the security constituted by this deed has become enforceable.

### 14.3 Extension of statutory powers

- 14.3.1 Any restriction imposed by law on the power of sale (including under s.103 LPA) or on the right of a mortgagee to consolidate mortgages (including under s.93 LPA) does not apply to the security constituted by this deed and the Security Agent or any Receiver shall have the right to consolidate all or any of the security constituted by this deed with any other Security in existence at any time and to make any applications to the Land Registry in support of the same.

- 14.3.2 Any powers of leasing conferred on the Security Agent or any Receiver by law are extended so as to authorise the Security Agent or any Receiver to lease, make agreements for leases, accept surrenders of leases and grant options as

the Security Agent or Receiver may think fit and without the need to comply with any restrictions conferred by law (including under ss.99 or 100 LPA).

#### **14.4 No obligation to enquire**

No person dealing with the Security Agent, any Administrator or any Receiver appointed hereunder, or its agents or brokers, shall be concerned to enquire:

- 14.4.1 whether the security constituted by this deed has become enforceable;
- 14.4.2 whether any power exercised or purported to be exercised has become exercisable;
- 14.4.3 whether any money remains due under the Finance Documents;
- 14.4.4 as to the necessity or expediency of the stipulations and conditions subject to which any sale of any Charged Assets shall be made, or otherwise as to the propriety or regularity of any sale of any of the Charged Assets; or
- 14.4.5 how any money paid to the Security Agent, Administrator or Receiver, or its agents or brokers is to be applied.

#### **14.5 No liability as mortgagee in possession**

None of the Security Agent, any Administrator or any Receiver shall be liable:

- 14.5.1 to account as mortgagee in possession in respect of all or any of the Charged Assets; or
- 14.5.2 for any loss upon realisation of, or for any neglect or default of any nature whatsoever in connection with, all or any of the Charged Assets for which a mortgagee in possession might as such be liable.

#### **14.6 Power to dispose of chattels**

After the security constituted by this deed has become enforceable, the Security Agent, any Administrator or any Receiver may dispose of any chattels or produce found on any Property as agent for the relevant Chargor and, without prejudice to any obligation to account for the proceeds of any sale of such chattels or produce the Security Agent, the Administrator or the Receiver shall be indemnified by such Chargor against any liability arising from such disposal.

#### **14.7 Redemption of prior Security**

At any time after the security constituted by this deed shall have become enforceable the Security Agent may:

- 14.7.1 redeem any prior Security;
- 14.7.2 procure the transfer thereof to itself; and/or
- 14.7.3 settle and pass the accounts of the prior encumbrancer and any account so settled and passed shall be conclusive and binding on the relevant Chargor and all monies paid by the Security Agent to the prior encumbrancer in accordance with such accounts shall as from such payment be due from such Chargor to the Security Agent on current account and shall bear interest and be secured as part of the Secured Liabilities.

## 15 **Administrator and Receiver**

### 15.1 **Appointment of Administrator or Receiver**

At:

- (a) any time after the security constituted by this deed becomes enforceable;
- (b) any time after any corporate action or any other steps are taken or legal proceedings started by or in respect of any Obligor with a view to the appointment of an Administrator; or
- (c) the request of the relevant Chargor,

the Security Agent may without further notice, under seal or by writing under hand of a duly authorised officer of the Security Agent:

- 15.1.1 appoint any person or persons to be an Administrator of any Chargor; or
- 15.1.2 appoint any person or persons to be a Receiver of all or any part of the Charged Assets of any Chargor; and
- 15.1.3 (subject to s.45 Insolvency Act 1986) from time to time remove any person appointed to be Receiver and appoint another in his place.

### 15.2 **Moratorium**

Unless s.A52(4) Insolvency Act 1986 allows, the Security Agent is not entitled to appoint a Receiver solely by reason of:

- 15.2.1 the obtaining of a moratorium; or
- 15.2.2 anything done with a view to obtaining a moratorium (including any preliminary decision or investigation),  
under Part A1 Insolvency Act 1986.

### 15.3 **More than one appointment**

Where more than one person is appointed Administrator or Receiver, they will have power to act separately (unless the appointment by the Security Agent specifies to the contrary).

### 15.4 **Additional powers**

- 15.4.1 The powers of appointing an Administrator or a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986 and the LPA or otherwise and shall be exercisable without the restrictions contained in s.109 LPA or otherwise.
- 15.4.2 The power to appoint an Administrator or a Receiver (whether conferred by this deed or by statute) shall be and remain exercisable by the Security Agent notwithstanding any prior appointment in respect of all or any part of the Charged Assets.

### 15.5 **Agent of the relevant Chargor**

- 15.5.1 Any Administrator or Receiver shall be the agent of the relevant Chargor and the relevant Chargor shall be solely responsible for his acts and remuneration as well as for any defaults committed by him.



- 15.5.2 No Secured Party will incur any liability (either to a Chargor or to any other person) by reason of the appointment of an Administrator or Receiver.

## **15.6 Powers of Administrator and Receiver**

A Receiver shall have (and shall be entitled to exercise), in relation to the Charged Assets over which he is appointed, and an Administrator shall have in addition to the powers he enjoys under Sched B1 Insolvency Act 1986, the following powers (as the same may be varied or extended by the provisions of this deed):

- 15.6.1 (in respect of a Receiver) all of the powers of an administrative receiver set out in Sched 1 Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- 15.6.2 all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;
- 15.6.3 all of the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which any relevant Chargor itself could do or omit to do; and
- 15.6.4 the power to do all things which, in the opinion of the Administrator or Receiver (as appropriate) are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Administrator or Receiver pursuant to this deed or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, any relevant Chargor; the collection and/or realisation of Charged Assets in such manner and on such terms as the Administrator or Receiver sees fit; and the execution of documents in the name of the relevant Chargor (whether under hand, or by way of deed or by utilisation of the company seal of such Chargor)).

## **16 Amounts received**

### **16.1 Application of proceeds**

Any Receiver shall apply all monies received by him (other than insurance monies):

- 16.1.1 first in paying all rents, taxes, duties, rates and outgoings affecting any Charged Assets;
- 16.1.2 secondly in paying all costs, charges and expenses of and incidental to his appointment and the exercise of his powers and all outgoings paid by him;
- 16.1.3 thirdly in paying his remuneration (as agreed between him and the Security Agent);
- 16.1.4 fourthly in or towards discharge of the Secured Liabilities in such order and manner as provided for in the Finance Documents; and
- 16.1.5 finally in paying any surplus to the Chargors or any other person entitled to it.

### **16.2 Section 109(8) Law of Property Act 1925**

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

**16.3 Currencies of denomination**

For the purpose of or pending the discharge of any of the Secured Liabilities the Security Agent may convert any monies received, recovered or realised by the Security Agent under this deed from their existing denominations and/or currencies of denomination into such other denominations and/or currencies of denomination as the Security Agent may think fit and any such conversion shall be effected at the Security Agent's then prevailing spot selling rate of exchange.

**16.4 Suspense account**

All monies received recovered or realised by the Security Agent under this deed may at the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account and may be held in such account for so long as the Security Agent thinks fit pending the application from time to time (as the Security Agent shall be entitled to do as it may think fit) of such monies and accrued interest thereon (if any) in or towards the discharge of any of the Secured Liabilities, except where such monies are sufficient to discharge the Secured Liabilities in which case the monies will be so applied.

**16.5 New accounts**

If the Security Agent receives notice of any subsequent charge or other interest affecting all or part of the Charged Assets, the Security Agent may open a new account or accounts for the relevant Chargor in its books and (without prejudice to the Security Agent's right to combine accounts) no money paid to the credit of such Chargor in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities. If the Security Agent does not open a new account or accounts immediately on receipt of such notice then unless the Security Agent gives express notice to the contrary to the relevant Chargor as from the time of receipt of such notice by the Security Agent all payments made by the relevant Chargor to the Security Agent in the absence of any express appropriation by such Chargor to the contrary shall be treated as having been credited to a new account of such Chargor and not as having been applied in reduction of the Secured Liabilities.

**16.6 Security Agent set-off rights**

If the Security Agent shall have more than one account for any Chargor in its books the Security Agent may at any time after the security constituted by this deed has become enforceable or the Security Agent has received notice of any subsequent charge or other interest affecting all or any part of the Charged Assets and without prior notice forthwith transfer all or any part of the balance standing to the credit of any such account to any other such account which may be in debit but the Security Agent shall notify the relevant Chargor of the transfer having been made.

**17 Power of attorney and delegation****17.1 Power of attorney**

Each Chargor hereby by way of security irrevocably appoints the Security Agent and (jointly and severally) each and every Administrator or Receiver to be its attorney and in its name, on its behalf and as its act and deed, and after (i) the occurrence of a Declared Default or (ii) the failure of a Chargor to take any action it is required to take under this deed within five Business Days of the earlier of (a) being notified in writing of a failure to comply with a provision of this Deed and (b) becoming aware of such failure, to sign, execute, seal, deliver, complete any blanks in and otherwise perfect any deed, transfer, assurance, agreement, instrument or act which such Administrator or Receiver or the Security Agent may consider expedient in the exercise of any of his or its powers or in respect of such Chargor's obligations under this deed for so long as the Administrator or Receiver or Security Agent considers necessary to do so. The power of attorney hereby granted is to secure the performance of obligations owed to the donees within the meaning of the Powers of Attorney Act 1971.

**17.2 Ratification**

Each Chargor ratifies and confirms and agrees to ratify and confirm:

17.2.1 all transactions entered into by the Security Agent and/or any Administrator or Receiver in the proper exercise of its or their powers in accordance with this deed; and

17.2.2 all transactions entered into by the Security Agent and/or any Administrator or Receiver in signing, sealing, delivering and otherwise perfecting any assignment, mortgage, charge, security, document or other act.

17.3 The Security Agent and any Administrator or Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this deed (including the power of attorney), on such terms and conditions as it or he shall see fit which shall not preclude exercise of these powers, authorities or discretions by it or him or any revocation of the delegation or subsequent delegation.

**18 Protection of security and further assurance****18.1 Independent security**

This deed shall be in addition to and independent of every other security or guarantee that the Security Agent or any other Secured Party may at any time hold for any of the Secured Liabilities. No prior security held by the Security Agent or any other Secured Party over the whole or any part of the Charged Assets shall merge in the security created by this deed.

**18.2 Continuing security**

This deed shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or discharge in whole or in part.

**18.3 No waivers; rights cumulative**

No failure to exercise, nor delay in exercising, on the part of the Security Agent or any Secured Party, any right or remedy under this deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise, or the exercise of any other right or remedy. The rights and remedies of the Security Agent and each Secured Party provided in this deed are cumulative and not exclusive of any rights or remedies provided by law.

**18.4 No Chargor set-off**

Each Chargor waives any right of set-off it may have now or at any time in the future in respect of the Secured Liabilities (including sums payable by such Chargor under this deed).

**18.5 Further assurance**

18.5.1 Each Chargor must, promptly upon request by the Security Agent or any Receiver or Administrator, at its own expense, take whatever action the Security Agent or a Receiver or Administrator may require for:

18.5.1.1 creating, perfecting or protecting any security intended to be created by or pursuant to this deed;

18.5.1.2 facilitating the realisation of any Charged Asset;

18.5.1.3 exercising any right, power or discretion conferred on the Security Agent, or any Receiver or any Administrator or any of

their respective delegates or sub-delegates in respect of any Charged Asset; or

18.5.1.4 creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by this deed) over any assets of any Chargor located in any jurisdiction outside England and Wales.

18.5.2 This includes:

18.5.2.1 the re-execution of this deed;

18.5.2.2 the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; and

18.5.2.3 the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent (or the Receiver or Administrator, as appropriate) may think expedient (but, prior to a Declared Default, to be no more onerous to the Group (taken as a whole) than the terms of this deed at the relevant time).

## 19 **Costs**

19.1 The provisions of clause 20 (*Costs and expenses*) of the Facilities Agreement are incorporated into this deed as if set out in full *mutatis mutandis*.

## 20 **Miscellaneous**

### 20.1 **Benefit of Deed**

The benefit of this deed will be held by the Security Agent on and subject to the terms of the Intercreditor Agreement on trust for the benefit of itself and the other Secured Parties without preference or priority amongst themselves as security for the Secured Liabilities.

### 20.2 **Certificates and determinations**

A certificate or determination by the Security Agent as to any amount or rate under this deed shall be prima facie evidence of that amount or rate in the absence of any manifest error.

### 20.3 **Limitations**

The obligations of any Additional Chargor are subject to the limitations (if any) set out in the Deed of Accession executed by that Additional Chargor.

### 20.4 **Notice of assignment**

This deed constitutes notice in writing to each Chargor of any charge or assignment of a debt owed by that Chargor to any other member of the Group and contained in any other Finance Document.

### 20.5 **Financial collateral**

20.5.1 To the extent that the Charged Assets constitute "financial collateral" and this deed and the obligations of the Chargors under this deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)), the Security Agent shall have the right after the Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

20.5.2 For the purpose of clause 20.5.1, the value of the financial collateral appropriated shall be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

## 20.6 **Severability**

If any of the provisions of this deed is or becomes invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected or impaired thereby.

## 20.7 **Section 2(1) Law of Property (Miscellaneous Provisions) Act 1989**

The terms of the Finance Documents and of any side letters between any parties in relation to the Finance Documents are incorporated in this deed to the extent required to ensure that any purported disposition of Charged Assets contained in this deed is a valid disposition in accordance with s.2(1) Law of Property (Miscellaneous Provisions) Act 1989.

## 20.8 **Third party rights**

Save as expressly provided to the contrary in a Finance Document, a third party (being any person other than the Chargors and the Secured Parties and their successors and permitted assigns) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this deed. Notwithstanding any term of any Finance Document, the consent of such third party is not required to rescind or vary this deed at any time.

## 20.9 **Joint and several liability**

The covenants, agreements, obligations and liabilities of the Chargors contained in this deed or implied on their part are joint and several and shall be construed accordingly.

## 20.10 **Trustee Act 2000**

The Chargors and the Security Agent agree that the Security Agent shall not be subject to the duty of care imposed on the trustees by the Trustee Act 2000.

## 21 **Demands and notices**

Any demand, notice, consent or communication to be made or given by or to a Chargor or the Security Agent under or in connection with this deed shall be made and delivered as provided in clause 35 (*Notices*) of the Facilities Agreement. Any demand on a Chargor shall be validly made whether or not it contains an accurate statement of the amount of the Secured Liabilities.

## 22 **Assignment and transfer**

### 22.1 **Assignment by Security Agent**

The Security Agent may at any time without the consent of any Chargor, assign or transfer the whole or any part of its rights under this deed to any person to which it can transfer its rights in accordance with the terms of the Intercreditor Agreement.

### 22.2 **Assignment by Chargor**

No Chargor may assign any of its rights or transfer any of its obligations under this deed or enter into any transaction which would result in any of these rights or obligations passing to another person.

## 23 **Release of Security**

### 23.1 **Release**

Subject to clause 23.3 (*Discharge conditional*), upon the expiry of the Security Period (but not otherwise) the Security Agent shall at the request and cost of the Chargors, take whatever action is necessary to release the Charged Assets from the Security constituted by this deed and re-assign the Charged Assets to the relevant Chargor(s).

### 23.2 **Avoidance of payments and reinstatement**

If any payment by an Obligor or any discharge given by a Secured Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is (a) capable of being avoided or reduced (in the opinion of the Security Agent) or (b) avoided or reduced in each case as a result of insolvency or any similar event, then:

- 23.2.1 the liability of each Obligor will continue as if the payment, discharge, avoidance or reduction had not occurred;
- 23.2.2 each Secured Party will be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred; and
- 23.2.3 the Security Agent shall be entitled to enforce this deed subsequently as if such payment, discharge, avoidance or reduction had not occurred.

### 23.3 **Discharge conditional**

Any release, discharge or settlement between any Chargor and the Security Agent or any other Secured Party shall be deemed conditional upon no payment or security received by the Security Agent or such other Secured Party in respect of the Secured Liabilities being avoided or reduced or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership and, notwithstanding any such release, discharge or settlement:

- 23.3.1 the Security Agent or its nominee shall be at liberty to retain this deed and the Security created by or pursuant to this deed, including all certificates and documents relating to the Charged Assets or any part thereof, for such period as the Security Agent shall deem necessary to provide the Security Agent with security against any such avoidance or reduction or order for refund; and
- 23.3.2 the Security Agent shall be entitled to recover the value or amount of such security or payment from the Chargor concerned subsequently as if such settlement, discharge or release had not occurred and each Chargor agrees with the Security Agent accordingly and charges the Charged Assets and the proceeds of sale thereof with any liability under this clause, whether actual or contingent.

## 24 **Governing law**

This deed and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed in accordance with, English law.

## 25 **Enforcement**

### 25.1 **Jurisdiction of English courts**

- 25.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) (a "**Dispute**").

25.1.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

25.1.3 This clause 25.1 is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

**25.2 Service of process**

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

25.2.1 irrevocably appoints the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with this deed; and

25.2.2 agrees that failure by a process agent to notify any Chargor of the process will not invalidate the proceedings concerned.

**26 Counterparts**

This deed may be executed in counterparts, all of which when taken together shall be deemed to constitute one and the same instrument.

**In Witness** whereof this deed has been executed by the Original Chargors and is intended to be and is hereby delivered as a deed the day and year first above written and has been signed on behalf of the Security Agent.

**SCHEDULE 1****Original Chargors**

<b>Name</b>	<b>Registered Number</b>	<b>Registered Office</b>
Nasstar Group Limited (formerly Divitias Midco Limited)	11334361	19-25 Nuffield Road, Poole BH17 0RU
Nasstar Limited (formerly Divitias Bidco Limited)	11334412	19-25 Nuffield Road, Poole BH17 0RU
Nasstar Managed Services Group Limited	05396496	19-25 Nuffield Road, Poole BH17 0RU
GCI Network Solutions Limited	04082862	19-25 Nuffield Road, Poole BH17 0RU
Blue Chip Data Systems Limited	02708840	19-25 Nuffield Road, Poole BH17 0RU
Freedom Communications (U.K.) Limited	02443243	19-25 Nuffield Road, Poole BH17 0RU
Fusion Managed Services Limited	08245593	19-25 Nuffield Road, Poole BH17 0RU
Fusion Media Networks Ltd	05019767	19-25 Nuffield Road, Poole BH17 0RU
Modality Systems Limited	06143649	19-25 Nuffield Road, Poole BH17 0RU
Nasstar Services Limited	05623736	19-25 Nuffield Road, Poole BH17 0RU
Nasstar Trading Limited	03883933	19-25 Nuffield Road, Poole BH17 0RU
Nasstar South Limited	05022857	19-25 Nuffield Road, Poole BH17 0RU
Denara Holdings Limited	04822804	19-25 Nuffield Road, Poole BH17 0RU



**SCHEDULE 2****Properties currently owned****Part A: Registered Land**

<b>Chargor</b>	<b>Address</b>	<b>Freehold/Leasehold</b>	<b>Title number</b>
GCI Network Solutions Limited	GCI Smartbunker, Crown Buildings, Claxby St Andrew, Alford, Lincolnshire, LN13 0HJ	Freehold	LL116806
Blue Chip Data Systems Limited	19-25 Nuffield Road, Poole, BH17 0RU	Freehold	DT165956

**Part B: Unregistered Land**

None at the date of this debenture

**SCHEDULE 3****Accounts****PART 1****Designated Accounts**

<b>Chargor</b>	<b>Account type</b>	<b>Account name</b>	<b>Account number</b>	<b>Sort code</b>
None				

**PART 2****Trading Accounts**

<b>Chargor</b>	<b>Bank</b>	<b>Account name</b>	<b>Account number</b>	<b>Sort code</b>
Nasstar Managed Services Group Limited	HSBC Bank plc	GCI Managed Services Group Limited	██████	██████
GCI Network Solutions Limited	HSBC Bank plc	GCI Network Solutions Limited	██████	██████
Blue Chip Data Systems Limited	HSBC Bank plc	Blue Chip Data Systems Limited	██████	██████
Freedom Communications (U.K.) Ltd	HSBC Bank plc	Freedom Communications (U.K.) Ltd	██████	██████
Fusion Media Networks Limited	HSBC Bank plc	Fusion Media Networks Limited	██████	██████
Nasstar Trading Limited	Santander	Current account	██████	██████
		USD account	██████	██████
Nasstar South Limited	Santander	Current account	██████	██████
Nasstar Services Limited	Santander	Current account	██████	██████
<b>Chargor</b>	<b>Bank</b>	<b>Account name</b>	<b>Account number</b>	<b>Sort code</b>
Nasstar Managed Services Group Limited	HSBC Bank plc	GCI Managed Services Group Limited	██████	██████

Chargor	Bank	Account name	Account number	Sort code
GCI Network Solutions Limited	HSBC Bank plc	GCI Network Solutions Limited	████████	██████
Blue Chip Data Systems Limited	HSBC Bank plc	Blue Chip Data Systems Limited	████████	██████

**SCHEDULE 4****Specified Contracts**

<b>DOCUMENT</b>	<b>DATE</b>	<b>PARTIES</b>
Asset Purchase Agreement	Dated on or around the date of this agreement.	KCOM Holdings Limited (as seller); KCOM Group Limited (as seller); and GCI Network Solutions Limited (as Buyer).
Transitional Services Agreement	To be entered into on or around the KCOM Closing Date.	KCOM Group Limited; and GCI Network Solutions Limited.
The warranty and indemnity insurance policy taken out in connection with the Asset Purchase Agreement	Dated on or around the date of this agreement.	GCI Network Solutions Limited; and Berkshire Hathaway International Insurance Limited.

## SCHEDULE 5

### Form of Deed of Accession

**DATE**

20[ ]

**PARTIES**

- 1 [ ] (registered number [ ]) with its registered office at [ ] (the "**Additional Chargor**"); and
- 2 [ ] acting through its office at [ ] as agent and trustee for the Secured Parties (as defined below) (the "**Security Agent**").

**BACKGROUND**

- A The Additional Chargor is a Subsidiary of the Parent.
- B The Parent [and others] has entered into a security agreement dated [ ], 20[ ] (the "**Security Agreement**") between the Parent, the Chargors under and as defined in the Security Agreement and the Security Agent.
- C The Additional Chargor has agreed to enter into this deed and to become an Additional Chargor under the Security Agreement.
- D The Security Agent and the Additional Chargor intend this document to take effect as a deed notwithstanding the fact that a party may only execute this document under hand.
- E The Security Agent holds the benefit of this deed on trust for the Finance Parties on the terms of the Finance Documents.

**IT IS AGREED** as follows:

**1 Definitions and interpretation**

Terms defined in the Security Agreement have the same meaning in this deed unless given a different meaning in this deed. This deed is a Finance Document.

**2 Accession and covenant to pay**

2.1 With effect from the date of this deed the Additional Chargor:

2.1.1 will become a party to the Security Agreement as a Chargor; and

2.1.2 will be bound by all the terms of the Security Agreement which are expressed to be binding on a Chargor.

2.2 The Additional Chargor hereby covenants with the Security Agent (as trustee for the Secured Parties) that it will pay and discharge all Secured Liabilities owing or incurred from or by it to the Secured Parties when the same become due in accordance with the Finance Documents, whether by acceleration or otherwise, together with interest to the date of payment at such rates and upon such terms as may from time to time be agreed, commission, fees, enforcement expenses and other charges and all legal and other costs, charges and expenses, which may be incurred by the Secured Parties in relation to any such Secured Liabilities or generally in respect of the Chargors.

2.3 Neither the covenant to pay in clause 2.2 above nor the Security constituted by this deed shall extend to or include any liability or sum which would, but for this clause, cause such covenant or Security to be unlawful under any applicable law.

### 3 **Grant of security**

#### 3.1 **Fixed security**

As a continuing security for the payment or discharge of the Secured Liabilities, the Additional Chargor with full title guarantee hereby:

3.1.1 grants to the Security Agent (as trustee for the Secured Parties), a charge by way of legal mortgage over the Properties which are listed in schedule 1 (*Properties currently owned*) to this deed;

3.1.2 charges to the Security Agent (as trustee for the Secured Parties), by way of first fixed charge, all its:

3.1.2.1 Properties now owned by it to the extent that they are not the subject of a charge by way of legal mortgage pursuant to clause 3.1.1;

3.1.2.2 Properties acquired by it after the date of this deed;

3.1.2.3 Property Interests;

3.1.2.4 Material Equipment;

3.1.2.5 Securities;

3.1.2.6 Intellectual Property;

3.1.2.7 Debts;

3.1.2.8 Accounts;

3.1.2.9 Pension Fund Interests;

3.1.2.10 Goodwill and Uncalled Capital; and

3.1.2.11 right, title and interest to any agreement, licence, consent or authorisation relating to its business at any time not otherwise mortgaged, charged or assigned pursuant to clauses 3.1.1-3.1.4 inclusive.

3.1.3 assigns to the Security Agent (as trustee for the Secured Parties) absolutely, subject to a proviso for reassignment on redemption, all of its right, title and interest in and to the Insurance Policies; and

3.1.4 assigns to the Security Agent (as trustee for the Secured Parties), absolutely, subject to a proviso for reassignment on redemption, the benefit of the Assigned Agreements to which it is a party or an addressee and any claims arising under any of the same, and the benefit of any guarantee or security for the performance of the Assigned Agreements.

#### 3.2 **Floating Security**

As a continuing security for the payment or discharge of the Secured Liabilities, the Additional Chargor with full title guarantee hereby charges to the Security Agent (as trustee for the Secured Parties), by way of first floating charge, all of its undertaking, property, assets and rights at any time not effectively mortgaged, charged or assigned pursuant to clauses 3.1.1-3.1.4 inclusive above.

#### 3.3 **Exclusion of assets from fixed Security**

3.3.1 There shall be excluded from the Security created by clause 3.1 (*Fixed security*):

3.3.1.1 any leasehold Property held by the Additional Chargor under a lease which precludes absolutely or conditionally (including requiring the consent of any third party (other than any member of the Group)) the Additional Chargor from creating any charge over its leasehold interest in that Property;

3.3.1.2 any agreement, licence, consent or authorisation in which the Additional Chargor has any right, title or interest which precludes absolutely or conditionally (including requiring the consent of any third party (other than any member of the Group)) the Additional Chargor from creating any charge over its right, title or interest in such agreement, licence, consent or authorisation; and

3.3.1.3 any Debts which cannot be secured under the terms of the relevant contract under which they are owing or payable to any Chargor,

(each an "**Excluded Asset**"), in each case until the relevant condition, consent or waiver has been satisfied and obtained or the agreement of all relevant third parties is obtained. For the avoidance of doubt, no Excluded Asset shall be excluded from the Security created by clause 3.2 (*Floating charge*) by operation of this clause 3.3.

3.3.2 For each Excluded Asset, the Additional Chargor undertakes to, upon request by the Security Agent:

3.3.2.1 apply for the relevant consent, waiver of prohibition or condition, or agreement within 10 Business Days of the date of such request and to use its reasonable endeavours to obtain that consent, waiver of prohibition or condition, or agreement as soon as possible;

3.3.2.2 keep the Security Agent informed of its progress in obtaining such consent, waiver or agreement; and

3.3.2.3 forthwith upon receipt of such consent, waiver or agreement, provide the Security Agent with a copy.

Immediately upon receipt of the relevant waiver, consent or agreement, the relevant Excluded Asset shall stand charged to the Security Agent (as trustee for the Secured Parties) under clause 3.1 (*Fixed security*). If required by the Security Agent at any time following receipt of that waiver, consent or agreement, the Additional Chargor will execute a further valid fixed charge in such form as the Security Agent shall require.

3.3.3 If the Additional Chargor receives notice from a third party of its intention to bring proceedings against the Additional Chargor for the forfeiture of the Additional Chargor's leasehold property which is (a) an Excluded Asset, and (b) subject only to the Security created by clause 3.2 (*Floating charge*) (a "**Floating Charge Excluded Property**"), the Additional Chargor will:

3.3.3.1 as soon as reasonably practicable (and in any event within five Business Days of receipt of such notice or becoming aware of such intention), inform the Security Agent of the proceedings; and



3.3.3.2 take all reasonable actions or which the Security Agent may reasonably request to resolve any issue or dispute with such third party (a "**Property Dispute**") in such a way as to enable the Security created over such Floating Charge Excluded Property by this deed to remain in place.

3.3.4 Upon request from the Additional Chargor, the Security Agent (acting reasonably) may decide to release the leasehold interest in respect of the relevant Floating Charge Excluded Property from the Security created by this deed if it considers that the Property Dispute relating to the relevant Floating Charge Excluded Property would otherwise result, or be reasonably likely to result, in the forfeiture of the Additional Chargor's leasehold interest therein or damages being paid by the Additional Chargor.

## 4 **Land Registry restriction**

In respect of any Property registered at the Land Registry, the Additional Chargor hereby consents to the entry of the following restriction on the register of its title to such Property:

""No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ ] in favour of [*name of Security Agent*] referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its conveyancer".

## 5 **Miscellaneous**

With effect from the date of this deed:

- 5.1 the Security Agreement will be read and construed for all purposes as if the Additional Chargor had been an original party in the capacity of Chargor (but so that the security created on this accession will be created on the date of this deed);
- 5.2 any reference in the Security Agreement to this deed and similar phrases will include this deed and all references in the Security Agreement to schedule 1 (*Properties currently owned*) (or any part of it) will include a reference to schedule 1 (*Properties currently owned*) to this deed (or relevant part of it).

## 6 **Governing law**

This deed is governed by, and shall be construed in accordance with, English law.

## 7 **Enforcement**

### 7.1 **Jurisdiction of English courts**

- 7.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) (a "**Dispute**").
- 7.1.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- 7.1.3 This clause 7 is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

## **7.2 Service of process**

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

7.2.1 irrevocably appoints the Parent as its agent for service of process in relation to any proceedings before the English courts in connection with [this deed]/[any Finance Document]; and

7.2.2 agrees that failure by a process agent to notify the Additional Chargor of the process will not invalidate the proceedings concerned.

## **8 Counterparts**

This deed may be executed in counterparts, all of which when taken together shall be deemed to constitute one and the same instrument.

**In Witness** whereof this deed has been duly executed on the date first above written.

**SCHEDULE 1**

**Properties currently owned**

**Part A: Registered Land**

**Part B: Unregistered Land**

**SCHEDULE 2**

**Accounts**

**Part 1**

**Designated Accounts**

<b>Chargor</b>	<b>Account type<sup>1</sup></b>	<b>Account name</b>	<b>Account number</b>	<b>Sort code</b>

**Part 2**

**Trading Accounts**

<b>Chargor</b>	<b>Bank</b>	<b>Account name</b>	<b>Account number</b>	<b>Sort code</b>

\_\_\_\_\_

<sup>1</sup> Mandatory Prepayment Account, Holding Account or Blocked Account.

**[SIGNATORIES (TO DEED OF ACCESSION)]**

### The Additional Chargo

EXECUTED as a DEED and )  
 DELIVERED by [ ] )  
 [LIMITED] acting by: )

Director

in the presence of: \_\_\_\_\_ )

Signature:

Name:

Address:

Occupation:

## The Security Agent

SIGNED by \_\_\_\_\_ )  
for and on behalf of \_\_\_\_\_ )  
U.S. BANK TRUSTEES \_\_\_\_\_ )  
LIMITED: \_\_\_\_\_ )

## SCHEDULE 6

### PART 1

#### Form of notice to insurers

From: [relevant Chargor] (the "**Company**")

To: [insurer]

2021

Dear Sirs

We refer to the [describe policy and its number] (the "**Policy**").

We hereby give notice that, pursuant to a security agreement dated [ ] 2021 (the "**Security Agreement**"), we have assigned to [ ] as trustee for the Secured Parties (as defined therein) (the "**Security Agent**") all our right, title, interest and benefit in and to the Policy.

We irrevocably authorise and instruct you upon written notice from the Security Agent that a Declared Default has occurred :

- (a) to disclose to the Security Agent without any reference to or further authority from us (and without any enquiry by you as to the justification for each disclosure), such information relating to the Policy as the Security Agent may at any time and from time to time request;
- (b) to hold all sums from time to time due and payable by you to us under the Policy to the order of the Security Agent;
- (c) to pay or release all or any part of the sums from time to time due and payable by you to us under the Policy only in accordance with the written instructions given to you by the Security Agent from time to time;
- (d) to comply with any written notice or instructions in any way relating to, or purporting to relate to, the Policy, the sums payable to us from time to time under the Policy or the debts represented thereby which you receive at any time from the Security Agent without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction; and
- (e) to send copies of all notices and other information given or received under the Policy to the Security Agent.

Upon a Declared Default we are not permitted to receive from you, otherwise than through the Security Agent, any amount in respect of or on account of the sums payable to us from time to time under the Policy or to agree any amendment or supplement to, or waive any obligation under, the Policy without the prior written consent of the Security Agent.

This notice may only be revoked or amended with the prior written consent of the Security Agent.

Please confirm by completing the enclosed acknowledgement and returning it to the Security Agent (with a copy to us) that:

- (a) you accept the instructions and authorisations contained in this notice;

- (b) you have not, at the date this notice is returned to the Security Agent, received any notice that any third party has or will have any right or interest in, or has made, or will be making any claim or demand or taking any action in respect of, the rights of the Company under or in respect of the Policy and you will notify the Security Agent promptly if you should do so in future;
- (c) you will pay or release all or part of the amounts from time to time due and payable by you under the Policy in accordance with the written instructions given to you by the Security Agent upon a Declared Default;
- (d) you will not exercise any right to terminate, cancel, vary or waive the Policy or take any action to amend or supplement the Policy without first giving 14 days' written notice to the Security Agent; and
- (e) that the Security Agent's interest as mortgagee is noted on the Policy.

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

Yours faithfully

.....  
for and on behalf of  
[                      ]

## PART 2

### Form of acknowledgement from insurers

From: [insurer]

To: [Security Agent] (the "**Security Agent**")

2021

Dear Sirs

We acknowledge receipt of a notice dated [ ] (the "**Notice**") and addressed to us by

[ ] (the "**Company**") regarding the Policy (as defined in the Notice).

- (a) we accept the instructions and authorisations contained in this notice;
- (b) we have not, at the date of this acknowledgement, received any notice that any third party has or will have any right or interest in, or has made, or will be making any claim or demand or taking any action in respect of, the rights of the Company under or in respect of the Policy and we will notify the Security Agent promptly if you should do so in future;
- (c) we will pay or release all or part of the amounts from time to time due and payable by us under the Policy in accordance with the written instructions given to us by the Security Agent upon a Declared Default;
- (d) we will not exercise any right to terminate, cancel, vary or waive the Policy or take any action to amend or supplement the Policy without first giving 14 days' written notice to the Security Agent; and
- (e) the Security Agent's interest as mortgagee is noted on the Policy.

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

Yours faithfully

[insurer]



## SCHEDULE 7

### PART 1

#### Form of notice to counterparties of Assigned Agreements

From: [relevant Chargor]

To: [counterparty]

2021

Dear Sirs

We refer to the [describe relevant Assigned Agreement] (the "**Agreement**")

We hereby notify you that pursuant to a security agreement dated 2021 (the "**Security Agreement**") we have assigned to [ ] as trustee for the Secured Parties (as defined therein) (the "**Security Agent**") absolutely (subject to a proviso for reassignment on redemption) all our right, title, interest and benefit in and to the Agreement.

We further notify you that:

- (a) except as permitted by the Security Agreement, we may not agree to amend, modify or terminate the Agreement without the prior written consent of the Security Agent;
- (b) subject to paragraph (a) above you may continue to deal with us in relation to the Agreement until you receive written notice to the contrary from the Security Agent that a Declared Default has occurred. Thereafter we will cease to have any right to deal with you in relation to the Agreement and therefore from that time you should deal only with the Security Agent;
- (c) you are authorised to disclose information in relation to the Agreement to the Security Agent on request;
- (d) upon written notice from the Security Agent you must pay all monies to which we are entitled under the Agreement direct to the Security Agent (and not to us) unless the Security Agent otherwise agrees in writing; and
- (e) the provisions of this notice may only be revoked with the written consent of the Security Agent.

Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to us) by way of confirmation that:

- (i) you agree to the terms set out in this notice and to act in accordance with its provisions; and
- (ii) you have not received notice that we have assigned our rights under the Agreement to a third party or created any other interest (whether by way of security or otherwise) in the Agreement in favour of a third party.

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

Yours faithfully

.....  
for and on behalf of  
[ ]

## PART 2

### Form of acknowledgement from counterparties of Assigned Agreements

From: [counterparty]  
To: [Security Agent]  
Copy to: [relevant Chargor]

2021

We hereby acknowledge receipt of the notice dated [ ], a copy of which is attached to the acknowledgment (the "**Notice**") and confirm the matters set out in paragraphs (i) and (ii) of the Notice.

.....  
for and on behalf of  
[counterparty]

## SCHEDULE 8

### PART 1

#### Form of notice of charge to third party bank

To: [name and address of third party bank]

Attention: [ ]

2021

Dear Sirs

We hereby give you notice that by a security agreement dated [ ] 20[ ] (the "**Security Agreement**") (a copy of which is attached) we have charged to [ ] as trustee for the Secured Parties (as defined therein) (the "**Security Agent**") all our right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following accounts in our name with you together with all interest credited thereto and the debts represented by those sums:

[ ]

(together the "**Accounts**")

We hereby irrevocably instruct and authorise you:

- 1 to credit to each Account all interest from time to time earned on the sums of money held in that Account;
- 2 to disclose to the Security Agent, without any reference to or further authority from us and without any liability or inquiry by you as to the justification for such disclosure, such information relating to the Accounts and the sums in each Account as the Security Agent may, at any time and from time to time, request you to disclose to it;
- 3 to hold all sums from time to time standing to the credit of each Account in our name with you to the order of the Security Agent;
- 4 to pay or release all or any part of the sums from time to time standing to the credit of each Account in our name with you in accordance with the written instructions of the Security Agent at any time and from time to time; and
- 5 to comply with the terms of any written notice or instructions in any way relating to the Accounts or the sums standing to the credit of any Account from time to time which you may receive at any time from the Security Agent without any reference to or further authority from us and without any liability or inquiry by you as to the justification for or validity of such notice or instructions.

Please note we are not permitted to withdraw any amount from the Account without the prior written consent of the Security Agent or as expressly permitted under the terms of the Facilities Agreement.

These instructions cannot be revoked or varied without the prior written consent of the Security Agent.

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

Please confirm your acceptance of the above instructions by returning the attached acknowledgement to the Security Agent with a copy to ourselves.

Yours faithfully

By: .....  
for and on behalf of  
[*relevant Chargor*]

[Counter-signed by:

.....  
for and on behalf of  
[*Security Agent*]]<sup>2</sup>

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<sup>2</sup> Include if using the second option above.

## PART 2

### Form of acknowledgement from third party bank

To: [name and address of Security Agent]

20[ ]

Dear Sirs

We confirm receipt of a notice dated [ ] 2021 (the "**Notice**") from [relevant Chargor] (the "**Company**") of a charge, upon the terms of a Security Agreement dated [ ] 2021, over all the Company's right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following accounts with us in the name of the Company together with interest relating thereto:

[ ]  
(together the "**Accounts**")

We confirm that:

- 1 we accept the instructions and authorisations contained in the Notice and undertake to comply with its terms;
- 2 we have not received notice of the interest of any third party in any Account or in the sums of money held in any Account or the debts represented by those sums and we will notify you promptly should we receive notice of any third party interest;
- 3 we have not claimed or exercised, nor will we claim or exercise, any Security or right of set-off or combination or counterclaim or other right in respect of any Account, the sums of money held in any Account or the debts represented by those sums;
- 4 we will not permit any amount to be withdrawn from any Account except against the signature of one of your authorised signatories or as expressly permitted by the terms of the Facilities Agreement; and
- 5 we will not seek to modify, vary or amend the terms upon which sums are deposited in the Accounts without your prior written consent.

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


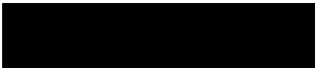
Yours faithfully

.....  
for and on behalf of  
[third party bank]

The Original Chargors



EXECUTED as a DEED and  
DELIVERED by **NASSTAR  
LIMITED**

acting by:

)   
) .....  
)  
Director  
  
.....  
Director


EXECUTED as a DEED and  
DELIVERED by **NASSTAR GROUP  
LIMITED**

acting by:


)   
) .....  
)  
Director  
  
.....  
Director

EXECUTED as a DEED and  
DELIVERED by **NASSTAR  
MANAGED SERVICES GROUP  
LIMITED**

acting by:

) .....  
) .....  
)  
Director  
  
.....  
Director

EXECUTED as a DEED and  
DELIVERED by **GCI NETWORK  
SOLUTIONS LIMITED**  
acting by:

)   
) .....  
)  
Director  
  
.....  
Director

EXECUTED as a DEED and  
DELIVERED by **BLUE CHIP DATA  
SYSTEMS LIMITED**  
acting by:

)  
)  
)  
Director

Director

EXECUTED as a DEED and  
DELIVERED by **FREEDOM  
COMMUNICATIONS (U.K.) LIMITED**  
acting by:

)  
)  
)  
Director

Director

EXECUTED as a DEED and  
DELIVERED by **FUSION MANAGED  
SERVICES LIMITED**  
acting by:

)  
)  
)  
Director

Director

EXECUTED as a DEED and  
DELIVERED by **FUSION MEDIA  
NETWORKS LTD**  
acting by:

)  
)  
)  
Director

Director

EXECUTED as a DEED and  
DELIVERED by **MODALITY  
SYSTEMS LIMITED**  
acting by:

)  
)  
) .....  
Director

.....

Director

EXECUTED as a DEED and  
DELIVERED by **NASSTAR  
SERVICES LIMITED**  
acting by:

)  
)  
) .....  
Director

.....

Director

EXECUTED as a DEED and  
DELIVERED by **NASSTAR TRADING  
LIMITED**  
acting by:

)  
)  
) .....  
Director

.....

Director

EXECUTED as a DEED and  
DELIVERED by **NASSTAR SOUTH  
LIMITED**  
acting by:

)  
)  
) .....  
Director

.....

Director



EXECUTED as a DEED and )  
DELIVERED by **DENARA HOLDINGS** )  
**LIMITED** )  
acting by:

  
.....  
Director

  
.....  
Director

**The Security Agent**

SIGNED by )  
for and on behalf of )  
U.S. BANK TRUSTEES LIMITED )

[Redacted Signature]

Charlotte Simon

[Redacted Title]