



**Registration of a Charge**

Company name: **AUDLEY COURT LIMITED**

Company number: **05160167**



X567G5SJ

Received for Electronic Filing: **03/05/2016**

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**Details of Charge**

Date of creation: **29/04/2016**

Charge code: **0516 0167 0015**

Persons entitled: **BANK LEUMI (UK) PLC**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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: **BURGES SALMON LLP (JP21)**



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

Company number: 5160167

Charge code: 0516 0167 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th April 2016 and created by AUDLEY COURT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd May 2016 .

Given at Companies House, Cardiff on 4th May 2016

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

Dated 29 April 2016

**AUDLEY COURT LIMITED**

and

**BANK LEUMI (UK) plc**

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**CHARGE OVER SHARES AND  
INVESTMENTS**

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This charge over shares and investments is dated 29<sup>th</sup> April 2016 and made by way of deed by:

- (1) **The entity** listed in part 1 of Schedule 1 (the **Chargor**); in favour of
- (2) **Bank Leumi (UK) plc** (incorporated and registered in England with company number 00640370) (the **Bank**).

**It is agreed**

## **1 Definitions and interpretation**

### **1.1 Definitions**

In this Deed:

**Act** means the Companies Act 2006

**Authorisation** means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, or any other similar permission

**Business Day** means a day on which banks are open for general business in London (not being a Saturday, a Sunday or a Jewish High Holy Day)

**Event of Default** has the meaning given to it in the Facility Agreement

**Facility Agreement** means the facility agreement dated on or about the date of this Deed between, amongst others, Audley Redwood Limited as the Borrower, Audley Redwood Management Limited as the Guarantor and the Bank as the Lender

**Finance Documents** has the meaning given to it in the Facility Agreement

**Fixtures** means, in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Secured Property

**Group** has the meaning given to it in the Facility Agreement

**Investments** means:

- (a) the shares, stocks, debenture, security, securities, bonds and investments listed or described in Schedule 3 (Investments)
- (b) any other shares, stocks, debenture security, securities, bonds and investments of any type (which are not Subsidiary Shares) whatever, including but not limited to, negotiable instruments, certificates of deposit, eligible debt securities, interests in collective investment schemes, or other investments referred to in section 22 of, and as defined in Part II of schedule 2 to, the Financial Services and Markets Act 2000 and Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, whether certificated or uncertificated, physical or dematerialised, registered or unregistered, held by a Chargor or by a trustee or clearance system or nominee or custodian or other person and
- (c) any other shares, stocks, debenture security, securities, bonds and investments designated as such by the Bank and a Chargor from time to time in writing

**Jewish High Holy Day** means Jewish New Year (Rosh Hashanah) and the Day of Atonement (Yom Kippur)

**Legal Reservations** has the meaning given to it in the Facility Agreement

**LIBOR** has the meaning given to it in the relevant Facility Agreement

**Obligor** means each entity listed in part 2 of Schedule 1 (The Chargor and Obligors)

**Officer** means, in relation to a person, any officer, employee or agent of that person

**Party** means a party to this Deed

**Receiver** means any receiver, manager or administrative receiver appointed by the Bank in respect of the Chargor or any of the Secured Assets

**Regulations** means the Uncertificated Securities Regulations 2001 (SI/2001/3775)

**Related Rights** means in respect of any Investment or Subsidiary Share:

- (a) all monies paid or payable in respect of that Investment or Subsidiary Share (whether as income, capital or otherwise)
- (b) all shares, investments or other assets derived from that Investment or Subsidiary Share and
- (c) all rights derived from or incidental to that Investment or Subsidiary Share

**Rights** means any Security or other right, privilege, power, immunity or benefit or any interest or remedy, of any kind, whether it is personal or proprietary whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise

**Secured Assets** means in respect of the Chargor, all of its assets and undertaking the subject of or expressed to be the subject of, any Security created by, under or supplemental to this Deed, in favour of the Bank.

**Secured Obligations** means in respect of each Obligor, all monies and liabilities now or after the date of this Deed due, owing or incurred by that Obligor to the Bank under the Finance Documents, in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by the Bank under the Finance Documents, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction.

**Secured Property** means at any time the Properties and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to, this Deed

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Secured Obligations have been irrevocably and unconditionally satisfied in full

and the Bank has no further obligation, liability or commitment to any Chargor or Obligor (as the case may be)

**Subsidiary** means a subsidiary undertaking within the meaning of section 1162 of the Act and any company which would be a subsidiary undertaking within the meaning of section 1162 of the Act but for any Security subsisting over the shares in that company from time to time

**Subsidiary Shares** means, in respect of the Chargor, all shares or membership interests present and future held by it in its Subsidiaries listed in Schedule 2 (Subsidiary Shares)

**Tax** means all forms of taxation and statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction and any penalty, fine, surcharge, interest, charges or costs relating to them

**VAT** means value added tax as provided for in the Value Added Tax Act 1994 and any other Tax of a similar nature

## 1.2 Interpretation

- (a) Headings and sub-headings are for ease of reference only and do not affect the interpretation of this Deed.
- (b) Unless a contrary indication appears, a reference in this Deed to:
  - (i) **assets** includes present and future properties, revenues and rights of every description (including any right to receive such revenues);
  - (ii) the **Bank**, the **Chargor**, any **Obligor**, any **Party** or any other **person** shall be construed so as to include its successors in title, permitted assigns and permitted transferees and includes any individual person, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality) or any other entity or body of any description;
  - (iii) a **clause**, **sub-clause**, **appendix** and **schedule** are to clauses and sub-clauses of and appendices and schedules to, this Deed;
  - (iv) this **Deed** (or any **provision** of it) or any other **document** shall be construed as reference to this Deed, that provision or that document as it is in force for the time being and as amended, varied, replaced or supplemented from time to time in accordance with its terms, or with the agreement of the relevant parties;
  - (v) **dispose** includes any sale, lease, licence, transfer or loan;
  - (vi) an Event of Default is **continuing** if it has not been waived;
  - (vii) **equivalent** means in relation to a currency (the first currency) means the amount of a second currency that may be purchased with the first currency at the Bank's spot rate of exchange at or about 11.00am on a particular day;
  - (viii) **guarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or

contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;

- (ix) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (x) the **Insolvency Act 1989** includes any amendments made to that Act by the Limited Liability Partnerships Regulations 2001 (SI 2001/1090);
- (xi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law, then being a type with which persons to which it applies customarily comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (xii) **sterling** and **£** shall be construed as a reference to the lawful currency of the United Kingdom;
- (xiii) **to including** or in **particular** (or, in each case, cognate expressions) does not limit words and expressions with which it is used;
- (xiv) a provision of law is a reference to a provision, of any treaty, legislation, regulation, decree, order or by-law and any secondary legislation enacted under a power given by that provision, as amended, applied or re-enacted or replaced (whether with or without modification) whether before or after the date of this Deed;
- (xv) a time of day is a reference to London time;
- (xvi) any word importing the singular shall include the plural and vice versa; and
- (xvii) a term defined in this Deed has the same meaning when used in any notices, acknowledgements or other documents issued under or in connection with this Deed.

### 1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party other than an Officer of the Bank has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it.
- (b) Unless expressly provided to the contrary in any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

### 1.4 Deed

This Deed is intended to take effect as a deed notwithstanding the fact that the Bank may execute this Deed under hand.



## 1.5 Administration

- (a) Any reference in this Deed, or any other Finance Document entered into under or in connection with it, to the making of an administration order shall be treated as including a reference to the appointment of an administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of a Chargor's assets) or 22 (by a Chargor or the directors or members of a Chargor) of Schedule B1 to the Insolvency Act 1986 or any steps taken toward such order or appointment.
- (b) Any reference in this Deed or any other Finance Document entered into under or in connection with it, to making an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an administrator under paragraph 14 or 22 of that Schedule, or giving notice under paragraph 15 or 26 of that Schedule of intention to appoint an administrator or any steps taken towards such application or notice.

## 1.6 Incorporated terms

The terms of the Finance Documents and of any side letters relating to the Finance Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Secured Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## 2 Covenant to pay

- 2.1 Subject to clause 2.4 below, the Chargor covenants with the Bank that it will, on demand, pay and discharge the Secured Obligations from time to time when they fall due for payment and discharge.
- 2.2 Notwithstanding any other provision of this Deed, it is expressly agreed and understood that:
  - (a) the sole recourse of the Bank to the Chargor under this Deed is to the Chargor's interest in the Charged Assets; and
  - (b) the liability of the Chargor to the Bank pursuant to or otherwise in connection with this Deed shall be:
    - (i) limited in aggregate to an amount equal to that recovered as a result of enforcement of this Deed with respect to the Charged Assets; and
    - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Charged Assets pursuant to this Deed.
- 2.3 In the case of ambiguity or conflict between the terms of clause 2.2 and any other terms of the Finance Documents, the terms of clause 2.2 shall prevail.
- 2.4 Interest on any sum due pursuant to this Deed but unpaid shall accrue from the due date up to the date of actual payment (both before and after judgment) at the rate that is 2% above three-month LIBOR from time to time, such interest to be compounded at such intervals as the Bank thinks fit.

### **3 Charging provisions**

#### **3.1 General**

All Security created by a Chargor under clause 3.2 inclusive is:

- (a) granted in favour of the Bank;
- (b) a continuing security for the payment and discharge of the Secured Obligations and shall remain in full force and effect regardless of any intermediate payment or discharge by any Chargor or any other person of the whole or any part of the Secured Obligations;
- (c) granted with full title guarantee;
- (d) in addition to any other Security which the Bank may hold at any time for the Secured Obligations (or any of them) and may be enforced without first having recourse to any other rights of the Bank; and
- (e) granted in respect of all the right, title and interest (if any), present and future, of that Chargor in and to the relevant Secured Asset.

#### **3.2 Fixed charges**

The Chargor charges by way of fixed charge:

- (a) the Subsidiary Shares together with all Related Rights; and
- (b) the Investments together with all Related Rights.

### **4 Representations**

The Chargor makes the representations and warranties set out in this clause 4 to the Bank on the date of this Deed and on each day of the Security Period.

- 4.1 It is a private limited liability corporation duly incorporated and validly existing under the laws of the jurisdiction of its incorporation with the power to own its assets and carry on its business as it is being conducted.
- 4.2 The obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations.
- 4.3 Subject to the Legal Reservations, this Deed creates Security of the type which this Deed purports to create and over the assets which it is expressed to create Security and that Security is valid and effective and is not liable to be set aside on its insolvency, bankruptcy, liquidation or administration or otherwise.
- 4.4 The entry into and performance by it of, and the transactions contemplated by, the Finance Documents, and the granting of the Security, do not and will not conflict with any law or regulation, or judicial or official order, applicable to it, its constitutional documents or any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

- 4.5 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.
- 4.6 No limit on its powers will be exceeded as a result of the borrowing, granting of Security or giving of guarantees or indemnities contemplated by the Finance Documents to which it is a party.
- 4.7 All Authorisations required to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party have been obtained or effected and are in full force and effect.
- 4.8 It is the sole legal and beneficial owner of the assets over which it purports to grant Security and such assets are free from any Security granted in favour of any person other than the Bank and from any third party right or claim, including (but without limitation, any option to purchase or similar rights).

## **5 Negative pledge**

- 5.1 No Chargor shall create or permit to subsist any Security over any of the Secured Assets.
- 5.2 No Chargor shall sell, transfer or otherwise dispose of any of the Secured Assets on terms whereby they are or may be leased to or re-acquired by it, the Chargor or any other member of the Group in circumstances where the arrangement or transaction is entered into primarily as a method of raising financial indebtedness or of financing the acquisition of an asset.
- 5.3 Clauses 5.1 and 5.2 do not apply to any Security created by or pursuant to this Deed or any Security or arrangement which is permitted by the Bank in writing or expressly permitted under the terms of any Finance Document.

## **6 Restrictions on disposals**

- 6.1 No Chargor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets.
- 6.2 Clause 6.1 does not apply to any disposal which is permitted by the Bank in writing or expressly permitted under the terms of any Finance Document.

## **7 Further assurance**

- 7.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Bank may reasonably specify (and in such form as the Bank may reasonably require) in favour of the Bank or its nominee(s):
  - (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Bank provided by or pursuant to this Deed or by law;
  - (b) to confer on the Bank Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or

- (c) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.

7.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Bank by or pursuant to this Deed.

7.3 Any document required to be executed by the Chargor under this clause 7 will be prepared at the cost of that Chargor.

## **8 Appropriations**

Until all amounts which may be or become payable by the Chargor to the Bank have been irrevocably paid in full, the Bank may:

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by the Bank in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed.

### **8.1 Deferral of Chargor's rights**

Unless the Bank otherwise directs, no Chargor will exercise any rights including any Rights and any right of set off which it may have by reason of performance by it of its obligations to the Bank or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by the Chargor;
- (b) to claim any contribution from any other guarantor or surety of the Chargor's obligations to the Bank;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Bank or of any other guarantee or Security taken by the Bank;
- (d) to bring legal or other proceedings for an order requiring the Chargor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity or any Security whether pursuant to this Deed or otherwise;
- (e) to exercise any right of set-off against the Chargor; and/or
- (f) to claim or prove as a creditor of the Chargor in competition with the Bank.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Bank by the Chargor to be repaid in full on trust for the Bank and shall promptly pay or transfer the same to the Bank for application towards the Secured Obligations.

## 9 Undertakings

The Chargor undertakes to the Bank in accordance with this clause 9. The undertakings in this clause 9 shall remain in force during the Security Period.

### 9.1 Subsidiary Shares, Investments and Related Rights

- (a) On the later of:
  - (i) the date of this Deed; and
  - (ii) the date of acquisition of those Subsidiary Shares, Investments or Related Rights
 it shall:
  - (A) deliver to the Bank all certificates of title and other documents of title or evidence of ownership in respect of its Subsidiary Shares or Investments and the Related Rights; and
  - (B) promptly upon request by the Bank deliver to the Bank such transfer documents (with the transferee left blank) or any other documents as the Bank may require or otherwise request in respect of those Subsidiary Shares, Investments and Related Rights.
- (b) Until any steps are taken to enforce the Security created by or under this Deed, it shall be entitled to receive and retain all dividends, distributions, drawings and other monies receivable in respect of its Subsidiary Shares, Investments and Related Rights.
- (c) It shall not exercise its voting and other rights in respect of its Subsidiary Shares, Investments and Related Rights in a manner which is likely to be prejudicial to the interests of the Bank.
- (d) It shall make all payments which may become due and payable in respect of any of its Subsidiary Shares, Investments and Related Rights. If it fails to make any such payments, the Bank may but shall not be obliged to make such payment on behalf of the Chargor. Any sums so paid by the Bank shall be repayable by the Chargor to the Bank on demand and pending such repayment shall constitute part of the Secured Obligations.
- (e) It shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of its Subsidiary Shares, Investments and Related Rights and the Bank shall not be required to perform or fulfil any obligation of the Chargor in respect of any Subsidiary Shares, Investments or Related Rights.
- (f) It shall comply with any notice served on it under the Law of Property Act 1925 and under the Act or pursuant to the articles of association, limited liability partnership members' agreement or any other constitutional document of any relevant entity in respect of or in connection with the Subsidiary Shares, Investments or Related Rights and will promptly provide to the Bank a copy of that notice.
- (g) It shall ensure that none of its Subsidiary Shares, Investments or Related Rights are converted into uncertificated form without the prior written consent of the Bank.

- (h) Immediately on conversion of any of its Subsidiary Shares, Investments or Related Rights from a certificated to an uncertificated form, and on the acquisition by it of any Subsidiary Shares, Investments or Related Rights in an uncertificated form, it shall give such instructions or directions and take such other steps and enter into such documentation as the Bank may require in order to protect or preserve the Security intended to be created by this Deed.

## **9.2 General**

It shall not do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Bank of the Security created by or under this Deed.

## **10 Power to remedy**

- 10.1 If the Chargor fails to comply with any of the undertakings set out in clause 9 (Undertakings), it shall allow and irrevocably authorises the Bank and/or such persons as it shall nominate to take such action on its behalf as shall be necessary to ensure that it complies with those undertakings.
- 10.2 If the Chargor fails to perform any obligation or other covenant affecting the Secured Property or other Secured Asset, the Chargor shall permit the Bank or its agents and contractors:
  - (a) to enter on the Secured Property;
  - (b) to comply with or object to any notice served on the Chargor relating to the Secured Property or other Secured Asset; and
  - (c) to take any action the Bank may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.
- 10.3 The Chargor shall on demand (or by such later time as the Bank may have specified in such demand) indemnify the Bank against any cost, loss or liability incurred by it in taking any of the steps referred to in this clause 10.

## **11 Security power of attorney**

The Chargor, by way of security, irrevocably and severally appoints the Bank, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed but has failed to take, including the giving of notices to third parties of the creation of any Security pursuant to this Deed. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 11.

## **12 Enforcement of security**

### **12.1 When security is enforceable**

On the occurrence of an Event of Default which is continuing, the Security created by and under this Deed is immediately enforceable.

### **12.2 Acts of enforcement**

The Bank may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable:

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets;
- (d) appoint an administrator in respect of the Chargor and take any steps to do so;
- (e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or
- (f) if permitted by law, appoint an administrative receiver in respect of the Chargor.

### 12.3 Right of appropriation

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Secured Assets constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 (**Financial Collateral Regulations**), the Bank shall have the right on giving prior notice to the Chargor, at any time after the relevant Security becomes enforceable, to appropriate all or any part of those Secured Assets in or towards discharge of the Secured Obligations. The Parties agree that the value of the appropriated Secured Assets shall be, in the case of cash, the amount of cash appropriated and, in the case of Subsidiary Shares and Investments, determined by the Bank by reference to any publicly available market price and, in the absence of which, by such other means as the Bank (acting reasonably) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Financial Collateral Regulations, the Chargor agrees that any such determination by the Bank will constitute a valuation "in a commercially reasonable manner".

### 12.4 Statutory powers - general

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on the Bank are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Bank is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and the Bank is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

### 12.5 Contingencies

If the Bank enforces the Security constituted by or under this Deed at a time when no amounts are due to the Bank but at a time when amounts may or will become so due, the

Bank (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

#### **12.6 Mortgagee in possession - no liability**

Neither the Bank nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

#### **12.7 Redemption of prior mortgages**

At any time after the Security created by or under this Deed has become enforceable, the Bank may, at the sole cost of the Chargor (payable to the Bank on demand):

- (a) redeem any prior form of Security over any Secured Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor.

#### **12.8 Subsidiary Shares and Investments – following an Event of Default**

- (a) If an Event of Default is continuing, the Chargor shall on request by the Bank:
  - (i) deliver to the Bank such stock transfer forms or other transfer documents as the Bank may require to enable the Bank or its nominee or nominees to be registered as the owner of, and to obtain legal and beneficial title to, the Subsidiary Shares, the Investments and/or Related Rights referred to in such request;
  - (ii) provide to the Bank certified copies of all resolutions and Authorisations approving the execution of such transfer forms or other appropriate transfer documents and registration of such transfers as the Bank may reasonably require;
  - (iii) procure that each such transfer is promptly registered by the relevant company, limited liability partnership or other entity;
  - (iv) procure that, immediately on their issue, all share certificates or other documents of title in the appropriate form, in respect of the relevant Subsidiary Shares, Investments and/or Related Rights, are delivered to the Bank in each case showing the registered holder as the Bank or its nominee or nominees (as applicable); and
  - (v) exercise all voting rights in respect of its Subsidiary Shares, Investments and Related Rights only in accordance with the instructions of the Bank.
- (b) At any time while an Event of Default is continuing, the Bank may complete any transfer documents held by it in respect of the Subsidiary Shares, the Investments and/or the Related Rights in favour of itself or such other person or nominee as it shall select.
- (c) At any time after the Security created by or under this Deed has become enforceable, the Bank and its nominee or nominees may sell all or any of the Subsidiary Shares,



Investments or Related Rights of the Chargor (or any of them) in any manner permitted by law and on such terms as the Bank shall in its absolute discretion determine.

- (d) If the Chargor receives any dividends, distributions, drawings or other monies in respect of its Subsidiary Shares, Investments and Related Rights at a time when the Bank has made a request under clause 12.8(a) or taken any steps to enforce the Security created by or under this Deed under clause 12.2, the Chargor shall immediately pay such sums received directly to the Bank for application in accordance with clause 15 (Application of monies) and shall hold all such sums on trust for the Bank pending payment of them to such account as the Bank shall direct.

### **13 Receiver**

#### **13.1 Appointment of Receiver**

- (a) At any time:
  - (i) after any Security created by or under this Deed is enforceable, the Bank may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 12.2(c) (Acts of enforcement).
  - (ii) if so requested in writing by the Chargor, without further notice, the Bank may appoint a Receiver to all or any part of the Secured Assets as if the Bank had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.
- (b) Any Receiver appointed under this Deed shall be the agent of the Chargor and that Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Bank be in any way responsible for any misconduct, negligence or default of the Receiver.
- (c) Where the Chargor is an eligible company or limited liability partnership within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:
  - (i) obtaining a moratorium; or
  - (ii) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

#### **13.2 Removal**

The Bank may by written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receiver) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### 13.3 Powers of Receiver

#### (a) General

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 13.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver of the Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.
- (iv) A Receiver may, in the name of the Chargor:
  - (A) do all other acts and things which he may consider expedient for realising any Secured Asset; and
  - (B) exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

#### (b) Borrow money

A Receiver may raise and borrow money (either unsecured or on the security of any Secured Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

#### (c) Carry on business

A Receiver may carry on the business of the Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

#### (d) Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Secured Asset.

#### (e) Delegation

A Receiver may delegate his powers in accordance with clause 14 (Delegation).

#### (f) Employees

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Chargor or for itself as Receiver, may:

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and
- (ii) discharge any such persons appointed by the Chargor.

(g) **Leases**

A Receiver may let any Secured Asset for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Secured Assets on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

(h) **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Chargor in relation to any Secured Asset as he considers expedient.

(i) **Possession**

A Receiver may take immediate possession of, get in and collect any Secured Asset.

(j) **Protection of assets**

A Receiver may, in each case as he may think fit:

- (i) make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets;
- (ii) commence and/or complete any building operations on the Secured Property or other Secured Asset; and
- (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

(k) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset.

(l) **Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the Chargor.

**(m) Subsidiaries**

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Secured Asset.

**(n) Deal with Secured Assets**

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

**(o) Voting rights**

A Receiver may exercise all voting and other rights attaching to the Investments, Subsidiary Shares, Related Rights, and stocks, shares and other securities owned by the Chargor and comprised in the Secured Assets in such manner as he may think fit.

**(p) Security**

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

**(q) Acquire land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

**(r) Development**

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

**(s) Landlord's obligations**

A Receiver may on behalf of the Chargor and without consent of or notice to that Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.

**(t) Uncalled capital**

A Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital.

**(u) Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the Chargor for all the purposes set out in this clause 13.

**13.4 Remuneration**

The Bank may from time to time fix the remuneration of any Receiver appointed by it.

**14 Delegation**

14.1 The Bank and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Bank and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Bank and Receiver (as appropriate) may think fit.

14.2 The Bank and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

**15 Application of monies**

15.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

15.2 All monies received by the Bank or any Receiver under this Deed shall be applied to the Secured Obligations in such order as the Bank may determine.

15.3 The Bank and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

**16 Amendments, waivers and consents**

16.1 No failure to exercise, nor any delay in exercising, on the part of the Bank or any Receiver, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

16.2 A waiver given or consent granted by the Bank under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

- 16.3 Any amendment to this Deed will be effective only if in writing and executed by the parties to this Deed.

## **17 Protection of third parties**

- 17.1 No person (including a purchaser) dealing with the Bank or a Receiver or its or his agents has an obligation to enquire of the Bank, Receiver or others:
- (a) whether the Secured Obligations have become payable;
  - (b) whether any power purported to be exercised has become exercisable;
  - (c) whether any Secured Obligations or other monies remain outstanding;
  - (d) how any monies paid to the Bank or to the Receiver shall be applied; or
  - (e) the status, propriety or validity of the acts of the Receiver or Bank.
- 17.2 The receipt by the Bank or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Bank or any Receiver.
- 17.3 In clauses 17.1 and 17.2, **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

## **18 Additional security**

The Security created by or under this Deed is in addition to and shall not affect nor be affected by or merge with any other judgment, guarantee or Security right or remedy obtained or held by the Bank from time to time for the discharge and performance of the Secured Obligations.

## **19 Settlements conditional**

- 19.1 If the Bank (acting reasonably) believes that any amount paid by the Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- 19.2 Any settlement, discharge or release between the Chargor and the Bank shall be conditional upon no Security or payment to or for the Bank by that Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

## **20 Subsequent Security**

If the Bank receives notice of any other subsequent Security or other interest affecting all or any of the Secured Assets it may open a new account or accounts for the Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to that Chargor, as from the time of receipt of such notice by the Bank, all payments made by that Chargor to the Bank shall be treated as having been credited to a new account of that Chargor and not as having been applied in reduction of the Secured Obligations.

**21 Set-off**

The Bank may, set off any matured obligation due from the Chargor (to the extent beneficially owned by the Bank) against any matured obligation owed by the Bank to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Bank may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

**22 Notices**

22.1 Each notice or other communication under, or in connection with, this Deed shall be:

- (a) in English;
- (b) in writing, delivered personally or sent by pre-paid first-class letter or fax; and
- (c) sent: to the Chargor at the address and fax number identified with its signature below; and to the Bank at:

20 Stratford Place, London W1C 1BG

Attention: General Counsel

Fax number: 0044 207 907 8022

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

22.2 Any notice or other communication given by the Bank shall be deemed to have been received:

- (a) if sent by fax, when received in legible form;
- (b) if given by hand, at the time of actual delivery; and
- (c) if posted, 2 Business Days after the day on which it was sent by pre-paid first class post.

Any notice or other communication given to the Bank shall be deemed to have been received only on actual receipt and then only if it is expressly marked for the attention of the department or officer specified above (or any substitute department or officer as the Bank shall specify for this purpose). A notice or other communication given on a day which is not a Business Day, or after normal business hours in the place of receipt, shall be deemed to have been received on the next Business Day.

**23 Invalidity**

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification as is necessary to give effect to the commercial intention of the parties.

**24 Assignment**

24.1 The Bank may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it.

- 24.2 No Chargor may assign or otherwise transfer any of its rights or obligations under this Deed.

## **25 Releases**

Upon the expiry of the Security Period, the Bank shall, at the request and cost of the Chargor, take whatever action is necessary to release and reassign to the Chargor:

- (a) its rights arising under this Deed;
- (b) the Secured Assets from the Security created by and under this Deed,

and return all documents or deeds of title delivered to it under this Deed.

## **26 Certificates and determinations**

- 26.1 The Bank shall maintain, in accordance with its usual practice, records evidencing the amounts owed to it by the Chargor and each Obligor. For the purpose of any litigation or arbitration proceedings arising out of or in connection with this Deed, entries in those records are prima facie evidence of the existence and amount of the Chargor's obligations as recorded in them and any certificate, determination or notification by the Bank of a rate or any amount payable under this Deed is, prima facie evidence of the matter to which it relates.
- 26.2 Any certification or determination by the Bank of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **27 Indemnity**

### **Chargor's indemnity**

- (a) The Chargor shall promptly indemnify the Bank and the Bank's Officers and employees and each Receiver and Delegate against any cost, loss or liability together with any associated VAT incurred by any of them as a result of:
  - (i) the taking, holding, protection or enforcement of this Deed;
  - (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Bank and each Receiver and Delegate by this Deed or by law; and
  - (iii) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed.
- (b) The Bank may indemnify itself out in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause and shall have a lien on this Deed and the proceeds of the enforcement of this Deed for all monies payable to it.

## **28 Exclusion of liability**

### **28.1 No liability**

Neither the Bank nor any Receiver shall be liable in respect of all or any part of the Secured Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.



**28.2 Officers and agents**

No Chargor may take proceedings against any Officer, employee or agent of the Bank in respect of any claim it might have against the Bank or in respect of any act or omission of any kind by that Officer, employee or agent in relation to this Deed and any Officer, employee or agent of the Bank may rely on this clause.

**29 Fees, costs and expenses****29.1 Transaction expenses**

The Chargor shall promptly on demand pay the Bank the amount of all costs, fees and expenses (including legal fees) together with any associated Tax including VAT incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this Deed.

**29.2 Amendment costs**

If the Chargor requests an amendment, waiver or consent of this Deed, the Chargor shall, within 3 Business Days of written demand, reimburse the Bank for the amount of all costs and expenses (including legal fees) together with any associated Tax including VAT reasonably incurred by the Bank in responding to, evaluating, negotiating or complying with the request or requirement.

**29.3 Enforcement and preservation costs**

The Chargor shall, within 3 Business Days of written demand, pay to the Bank the amount of all costs, fees and expenses (including legal fees) together with any associated Tax including VAT incurred by the Bank in connection with the enforcement of or the preservation of any rights under this Deed and any proceedings instituted by or against the Bank as a consequence of taking or holding the Security created or expressed to be created in favour of the Bank under this Deed or enforcing these rights.

**29.4 Counterparts**

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

**30 Governing law**

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

**31 Enforcement****Jurisdiction of English courts**

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

- (b) 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.
- (c) This clause 31 is for the benefit of the Bank. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

**This Deed** has been entered into as a deed on the date given at the beginning of this Deed.

**Schedule 1****The Chargor and Obligors****Part 1 - The Chargor**

<b>Name</b>	<b>Jurisdiction of Incorporation</b>	<b>Registered number</b>
Audley Court Limited	England and Wales	05160167

**Part 2 - The Obligors**

<b>Name</b>	<b>Jurisdiction of Incorporation</b>	<b>Registered number</b>
Audley Redwood Limited	England and Wales	09261039
Audley Redwood Management Limited	England and Wales	09636958

**Schedule 2****Subsidiary Shares**

<b>Chargor</b>	<b>Name and registered number of Subsidiary</b>	<b>Number and class of shares/ description of membership interest</b>
Audley Court Limited	Audley Redwood Limited	1 ordinary share
Audley Court Limited	Audley Redwood Management Limited	1 ordinary share

**Schedule 3**

**Investments**

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## SIGNATURES TO THE CHARGE OVER SHARES AND COMMITMENTS

**Chargor**Executed as a deed by **Audley Court Limited**

acting by a director in the presence of

Director

*Alison Barry*  
 .....  
 Signature of witness

Name *Alison Barry*  
 .....

Address *One wood street*  
*London, EC2V 7WS*  
 .....

Address: *Swan court, kingsbury crescent, staines,*  
*Middlesex, TW18 3BA*

Facsimile: *01784 412 870*

Attention: *Directors*

**Bank**

Signed on behalf of

**Bank Leumi (UK) plc**

By: \_\_\_\_\_

SIGNATURES TO THE CHARGE OVER SHARES AND COMMITMENTS

**Chargor**

Executed as a deed by **Audley Court Limited** )  
 ) .....  
acting by a director in the presence of ) Director

.....  
Signature of witness

Name .....

Address .....

.....

Address:

Facsimile:

Attention:

**Bank**

Signed on behalf of  
**Bank Leumi (UK) plc**  
By:

*J Ragol-Levy*

