



**Registration of a Charge**

Company Name: **H & T GROUP PLC**

Company Number: **05188117**



Received for filing in Electronic Format on the: **20/11/2023**

XCG07GG3

**Details of Charge**

Date of creation: **16/11/2023**

Charge code: **0518 8117 0007**

Persons entitled: **ALLICA FINANCIAL SERVICES 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: **PINSENT MASONS LLP**



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

Company number: 5188117

Charge code: 0518 8117 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th November 2023 and created by H & T GROUP PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th November 2023 .

Given at Companies House, Cardiff on 20th November 2023

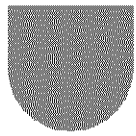
The above information was communicated by electronic means and authenticated  
by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**



# Allica Bank

## Debenture – Limited Company or Limited Liability Partnership

**THIS DOCUMENT CONTAINS IMPORTANT LEGAL OBLIGATIONS. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE FROM A SOLICITOR TO ENSURE THAT YOU FULLY UNDERSTAND THE NATURE AND EFFECT OF THE OBLIGATIONS CONTAINED IN IT. IF YOU DEFAULT IN YOUR OBLIGATIONS TO THE LENDER, THE LENDER MAY ENFORCE AGAINST ANY SECURITY PROVIDED FOR UNDER THIS DOCUMENT IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO IT.**

This deed is made on 16 November 2023

### BETWEEN:

- (1) **Chargor** : H & T Group PLC incorporated and registered in England and Wales with registered number 05188117 whose registered office is at Harvey & Thompson Ltd, Times House Throwley Way, Sutton, Surrey, SM1 4AF
- (2) **Lender** : ALLICA FINANCIAL SERVICES LIMITED incorporated and registered in England and Wales with company number 12784979 whose registered office is at 4<sup>TH</sup> Floor, 164 Bishopsgate, London EC2M 4LX

### BACKGROUND

- 1. Under this deed, the Chargor provides security to the Lender for all its present and future obligations and liabilities to the Lender.

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation under Schedule 1 hereto apply in this deed.
- 1.2 This obligations and covenants in this deed of the Chargor and the rights of the Lender are subject at all times to the terms of the Intercreditor Deed.

### 2. COVENANT TO PAY

#### 2.1 Covenant to pay

The Chargor shall, on demand, pay to the Lender and discharge the Secured Liabilities.

#### 2.2 Interest

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

### **3. GRANT OF SECURITY**

#### **3.1 Legal mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender, by way of first legal mortgage, all estates or interests in any freehold or leasehold property specified in Schedule 2.

#### **3.2 Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender by way of first fixed charge:

- 3.2.1 all present and future estates or interests of the Chargor in, or over, any freehold, or leasehold property (other than any such property effectively mortgaged under clause 3.1);
- 3.2.2 the benefit of all other contracts, guarantees, appointment and warranties relating to each Charged Property and other documents to which the Chargor is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of any Charged Property or otherwise relating to any Charged Property (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them);
- 3.2.3 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Chargor's business or the use of any Secured Assets, and all rights in connection with them;
- 3.2.4 all its present and future goodwill;
- 3.2.5 all its uncalled capital;
- 3.2.6 all the Equipment and the benefit of all contracts, licences and warranties relating to it;
- 3.2.7 all the Intellectual Property;
- 3.2.8 all the Book Debts;
- 3.2.9 all the Investments;
- 3.2.10 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account), together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 3.2.11 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3;

- 3.2.12 all its agreements, instruments and rights relating to the Secured Assets, to the extent not effectively assigned under clause 3.3; and
- 3.2.13 the benefit of all instruments, guarantees, charges, pledges and other rights now or in the future available to it as security in respect of any Secured Assets itself subject to a fixed charge in favour of the Lender.

### **3.3 Assignment**

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

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

provided that nothing in this clause 3.3 shall constitute the Lender as mortgagee in possession.

### **3.4 Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender, by way of first floating charge, all the undertaking, property, assets and rights of the Chargor at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.3 inclusive.

### **3.5 Qualifying floating charge**

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

### **3.6 Automatic crystallisation of floating charge**

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

- 3.6.1 the Chargor creates, or attempts to create, without the prior written consent of the Lender, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed);
- 3.6.2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets;
- 3.6.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor; or
- 3.6.4 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed.

### **3.7 Crystallisation of floating charge by notice**

The Lender may, at any time and by written notice to the Chargor, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice if:

- 3.7.1 an Event of Default has occurred and is continuing; or
- 3.7.2 in the reasonable opinion of the Lender that Secured Assets is in danger of being seized or any legal process or execution is being enforced against that Secured Assets.

### 3.8 **Assets acquired after any floating charge has crystallised**

Any asset acquired by the Chargor after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Lender confirms otherwise to the Chargor in writing) be charged to the Lender by way of first fixed charge.

### 3.9 **Overriding Clauses in respect of Secured Assets**

Notwithstanding any other clause of this deed:

- 3.9.1 the charges on the property and assets contained in this deed in clauses 3.1 and 3.2 are created as fixed charges and constitute charges by way of legal mortgage, but shall not extend to any property and assets of the Chargor that are situated in Scotland;
- 3.9.2 any assets or rights held by the Chargor under any contract or agreement, the terms of which either preclude absolutely the Chargor from creating any charge or security or assigning the benefit of the contract or agreement or require the consent of any third party prior to the creation of such charge or security or assignment and such consent shall not have been previously obtained and provided that this deed may secure all amounts which the Chargor may receive, or has received, under that contract but will not secure the contract itself;
- 3.9.3 with regard to the contracts, assets and rights which have been excluded from the charging and assignment provisions of the deed where the consent of a third party is required to create the security set out in this deed, the Chargor will, at the reasonable request of the Lender, and at the cost of the Chargor, make application for the consent of the relevant third party to the creation of the relevant security set out in this Deed and use reasonable endeavours to obtain such consent as soon as reasonably practicable;
- 3.9.4 any leasehold property held by the Chargor which is subject, in the lease, to provisions prohibiting or restricting the lessee's ability to charge and assign such lease, shall nevertheless be subject to the security created by this deed save that:
  - a. in respect of any properties held by the Chargor on the date of this deed, the Lender will only be entitled to request that the Chargor to notify each landlord of the existence of this deed and to obtain the relevant landlord's consent to the security in this deed upon the occurrence of an Event of Default which is continuing; and
  - b. in respect of any leasehold properties acquired by the Chargor following the date of this deed (each a "**Future Acquired Leasehold Property**"), the Lender will:

- i. if such Future Acquired Leasehold Property is a leasehold property with a term of seven years or longer and with a leasehold premium in excess of £500,000, be entitled to request that the Chargor notify the relevant landlord of the existence of this deed and to obtain the relevant landlord's consent to the security in this deed at any time (and where such request is issued by the Lender, such property shall be a **"Material Future Acquired Leasehold Property"**); and
- ii. in respect of any other Future Acquired Leasehold Property, only be entitled to request that the Chargor notify the relevant landlord of the existence of this deed and to obtain the relevant landlord's consent to the security in this deed upon the occurrence of an Event of Default which is continuing.

3.9.5 Nothing in this deed shall require the Chargor to, in respect of:

- i. a leasehold property other than a Material Future Acquired Leasehold Property; or
- ii. a freehold property other than a freehold property where the purchase price exceeds £500,000 (a **"Material Future Acquired Freehold Property"**),

apply to the Land Registrar to register this security interest against the relevant title number.

3.9.6 If the Chargor is the lessee of a leasehold property (other than any leasehold property in respect of which notice has been served on and consent obtained from any landlord pursuant to this clause 3.9) and the lessor (i) intimates that it will serve a notice under s146 of the Law of Property Act 1925 (a **s.146 Notice**) (ii) serves a s.146 Notice in relation to or (iii) otherwise begins to take proceedings for forfeiture of a lease on the grounds that its consent had not been obtained to the creation of charge over that leasehold interest in this deed, the Lender will promptly release the security constituted by this deed over that lease.

#### **4. LIABILITY OF THE CHARGOR**

##### **4.1 Liability not discharged**

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

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

##### **4.2 Immediate recourse**

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

## **5. REPRESENTATIONS AND WARRANTIES**

### **5.1 Times for making representations and warranties**

The Chargor makes the representations and warranties set out in this clause 5 to the Lender on the date of this deed and the representations and warranties contained in this clause 5 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

### **5.2 Ownership of Secured Assets**

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

### **5.3 No Security**

The Secured Assets are free from any Security other than Permitted Security.

### **5.4 No adverse claims**

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

### **5.5 No breach of laws**

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

### **5.6 Avoidance of security**

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

### **5.7 No prohibitions or breaches**

There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Chargor does not, and will not, constitute a breach of any Insurance Policy.

### **5.8 Environmental compliance**

The Chargor has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

### **5.9 Enforceable security**

Subject to the Legal Reservations, this deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargor, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

### **5.10 Investments**

5.10.1 The Investments are fully paid and are not subject to any option to purchase or similar rights.

5.10.2 No constitutional document of an issuer of an Investment, nor any other agreement:

- a. restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this deed; or
- b. contains any rights of pre-emption in relation to the Investments.

5.10.3 The Chargor has complied with all notices relating to all or any of the Investments received by it pursuant to sections 790D and 790E of the Companies Act 2006.

5.10.4 No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Investments.

## **6. GENERAL COVENANTS**

### **6.1 Negative pledge and disposal restrictions**

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

- 6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Assets other than any Permitted Security;
- 6.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge) other than a Permitted Disposal; or
- 6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party other than any Permitted Security.

### **6.2 Preservation of Secured Assets**

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

### **6.3 Compliance with laws and regulations**

6.3.1 The Chargor shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

6.3.2 The Chargor shall:

- a. comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them where failure to comply would have a Material Adverse Effect;
- b. obtain, and promptly renew from time to time, and comply with the material terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Assets; and

- c. promptly effect any material maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

#### **6.4 Enforcement of rights**

The Chargor shall use all reasonable endeavours to:

- 6.4.1 procure the prompt observance and performance by each counterparty to any agreement or arrangement with the Chargor forming part of the Secured Assets (including each insurer in respect of an Insurance Policy) of the covenants and other obligations imposed on that counterparty; and
- 6.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets as the Lender may require from time to time.

#### **6.5 Notice of misrepresentation and breaches**

The Chargor shall, promptly on becoming aware of any of the same, notify the Lender in writing of:

- 6.5.1 any representation or warranty set out in this deed which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 6.5.2 any breach of any covenant set out in this deed.

#### **6.6 Title documents**

Subject to the terms of the Intercreditor Deed, the Chargor shall, as so required by the Lender, deposit with the Lender and the Lender shall, for the duration of this deed be entitled to hold:

- 6.6.1 all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Chargor (and if these are not within the possession or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title); and
- 6.6.2 all Insurance Policies and any other insurance policies relating to any of the Secured Assets that the Chargor is entitled to possess.

#### **6.7 Notices to be given by the Chargor**

- 6.7.1 The Chargor shall as requested by the Lender from time to time:
  - a. give notice to the relevant insurers under the Insurance Policies of the assignment of the Chargor's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3.3.1 and use reasonable endeavours to procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Lender; and
  - b. give notice the relevant bank, building society, financial institution or other person with whom the Chargor holds any accounts of the fixed charge over such account(s) under clause 3.2.9 and use reasonable endeavours to

procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Lender.

- 6.7.2 The Chargor shall obtain the Lender's prior written approval of the form of any notice or acknowledgement to be used under this clause 6.7.

## **6.8 Information**

The Chargor shall:

- 6.8.1 give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may reasonably require;
- 6.8.2 permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Assets, and the records relating to that Secured Assets, at all reasonable times and on reasonable prior notice; and
- 6.8.3 promptly notify the Lender in writing of any material action, claim, notice or demand made by or against it in writing in connection with all or any part of a Secured Assets or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

## **6.9 Payment of outgoings**

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

## **6.10 Appointment of accountants**

- 6.10.1 After an Event of Default has occurred and is continuing, the Chargor shall:
- a. at its own cost, if at any time so required by the Lender, appoint an accountant or firm of accountants nominated by the Lender to investigate the financial affairs of the Chargor and those of its subsidiaries and report to the Lender; and
  - b. co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.

## **7. PROPERTY COVENANTS**

### **7.1 Repair and maintenance**

The Chargor shall keep all premises and fixtures and fittings on each Charged Property in:

- 7.1.1 good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings which have become worn out or otherwise unfit for use with others of a like nature and equal value; and

- 7.1.2 such repair and condition as to enable each Charged Property to be let in accordance with all applicable laws and regulations.

## 7.2 **No alterations**

The Chargor shall not, without the prior written consent of the Lender:

- 7.2.1 pull down or remove the whole, or any part of, any building forming part of any Charged Property or permit the same to occur;
- 7.2.2 make or permit to be made any material alterations to any Charged Property, or sever or remove or permit to be severed or removed, any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 7.1); or
- 7.2.3 remove or make any material alterations to any of the Equipment belonging to, or in use by, the Chargor on any Charged Property (except to effect necessary repairs or replace them with new or improved models or substitutes).

## 7.3 **Conduct of business on Charged Properties**

The Chargor shall carry on its trade and business on those parts (if any) of the Charged Properties as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business.

## 7.4 **Notices or claims relating to the property**

7.4.1 The Chargor shall:

- a. give full particulars to the Lender of any material notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a **Notice**) that specifically applies to any Charged Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Notice; and
- b. (if the Lender so requires) promptly and in any event within 3 Business Days, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Lender in making, any objections or representations in respect of that Notice that the Lender thinks fit.

- 7.4.2 The Chargor shall give full particulars to the Lender of any claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to any Charged Property.

## 7.5 **Compliance with and enforcement of covenants**

The Chargor shall:

- 7.5.1 observe and perform all material covenants, stipulations and conditions to which each Charged Property, or the use of it, is or may be subject, and (if the Lender so requires) produce to the Lender evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed; and

- 7.5.2 diligently enforce all covenants, stipulations and conditions benefiting each Charged Property and shall not (and shall not agree to) waive, release or vary any of the same.

#### **7.6 Payment of rent and outgoings**

The Chargor shall:

- 7.6.1 where a Charged Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and
- 7.6.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Charged Property or on its occupier.

#### **7.7 Registration restrictions and cautions against first registration and notices**

- 7.7.1 If the title to any Charged Property is not registered at the Land Registry, the Chargor shall procure that no person (other than itself) shall be registered under the Land Registration Act 2002 as proprietor of all or any part of any Charged Property, without the prior written consent of the Lender.
- 7.7.2 Whether or not title to any Charged Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Chargor's title to any Charged Property, the Chargor shall immediately provide the Lender with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Chargor shall immediately, and at its own expense, take such steps as the Lender may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.
- 7.7.3 The Chargor shall be liable for the costs and expenses of the Lender in lodging cautions against the registration of the title to the whole or any part of any Charged Property from time to time.

#### **7.8 Environment**

The Chargor shall in respect of each Charged Property:

- 7.8.1 comply with all the requirements of Environmental Law; and
- 7.8.2 obtain and comply with all Environmental Licences,

each in case, where failure to comply would have a Material Adverse Effect.

#### **7.9 No restrictive obligations**

The Chargor shall not, without the prior written consent of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of any Charged Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Charged Property.

#### **7.10 Proprietary rights**

The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Charged Property without the prior written consent of the Lender.

#### **7.11 Inspection**

The Chargor shall permit the Lender, any Receiver and any person appointed by either of them to enter on and inspect any Charged Property on reasonable prior notice.

#### **7.12 VAT option to tax**

The Chargor shall not, without the prior written consent of the Lender:

7.12.1 exercise any VAT option to tax in relation to any Charged Property; or

7.12.2 revoke any VAT option to tax exercised, and disclosed to the Lender, before the date of this deed.

#### **7.13 Registration of legal mortgage at the Land Registry**

In respect of any Material Future Acquired Leasehold Property and any Material Future Acquired Freehold Property, the Chargor consents, upon the request of the Lender, to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to each Charged Property over which the Lender has a legal mortgage:

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

### **8. INVESTMENTS COVENANTS**

#### **8.1 Deposit of title documents**

8.1.1 Subject to the terms of the Intercreditor Deed, the Chargor shall:

- a. on the execution of this deed, deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Chargor at that time; and
- b. on the purchase or acquisition by it of Investments after the date of this deed, deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title or evidence of ownership relating to those Investments.

8.1.2 At the same time as depositing documents with the Lender, or as the Lender may direct, in accordance with clause 8.1.1, the Chargor shall also deposit with the Lender, or as the Lender may direct:

- a. all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Chargor, but with the name of the transferee, the consideration and the date left blank; and

- b. any other documents (in each case duly completed and executed by or on behalf of the Chargor) that the Lender may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments,

so that the Lender may, at any time and without notice to the Chargor, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

## **8.2 Nominations**

8.2.1 The Chargor shall terminate with immediate effect all nominations it may have made (including, where relevant, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:

- a. does not exercise any rights in respect of any Investments without the prior written approval of the Lender; and
- b. immediately on receipt by it, forward to the Lender all communications or other information received by it in respect of any Investments for which it has been so nominated.

8.2.2 The Chargor shall not, during the Security Period, exercise any rights (including, where relevant, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person other than the Lender to enjoy or exercise any right relating to any of the Investments.

## **8.3 Pre-emption rights and restrictions on transfer**

The Chargor shall:

- 8.3.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Investments, for the transfer of the Investments to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this deed; and
- 8.3.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that the Lender may require in order to permit the transfer of the Investments to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this deed.

## **8.4 Dividends and voting rights before enforcement**

- 8.4.1 Before the security constituted by this deed becomes enforceable, the Chargor may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Lender or any of its nominees, the Lender will hold all those dividends, interest and other monies received by it for the Chargor and will pay them to the Chargor promptly on request.
- 8.4.2 Before the security constituted by this deed becomes enforceable, the Chargor may exercise all voting and other rights and powers in respect of the Investments

or, if any of the same are exercisable by the Lender of any of its nominees, direct in writing the exercise of those voting and other rights and powers provided that:

- a. it shall not do so in any way that would breach any provision of this deed or for any purpose inconsistent with this deed; and
- b. the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Lender's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Lender's security under this deed.

8.4.3 The Chargor shall indemnify the Lender against any loss or liability incurred by the Lender (or its nominee) as a consequence of the Lender (or its nominee) acting in respect of the Investments at the direction of the Chargor.

8.4.4 The Lender shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Lender considers prejudicial to, or impairing the value of, the security created by this deed.

## **8.5 Dividends and voting rights after enforcement**

After the security constituted by this deed has become enforceable:

8.5.1 all dividends and other distributions paid in respect of the Investments and received by the Chargor shall be held by the Chargor on trust for the Lender and immediately paid into a Designated Account or, if received by the Lender, may be applied by the Lender in accordance with clause 20.1; and

8.5.2 all voting and other rights and powers attaching to the Investments may be exercised by, or at the direction of, the Lender and the Chargor shall, and shall procure that its nominees shall, comply with any directions the Lender may give, in its absolute discretion, concerning the exercise of those rights and powers.

## **8.6 Calls on Investments**

Notwithstanding the security created by this deed, the Chargor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Chargor acknowledges that the Lender shall not be under any liability in respect of any such calls, instalments or other payments.

## **8.7 No alteration of constitutional documents or rights attaching to Investments**

The Chargor shall not, without the prior written consent of the Lender, amend, or agree to the amendment of:

8.7.1 the memorandum or articles of association, or any other constitutional documents, of any issuer of the Investments that is not a public company; or

8.7.2 the rights or liabilities attaching to, or conferred by, all or any of the Investments. where that amendment would have a Material Adverse Effect.

## **8.8 Preservation of Investments**

The Chargor shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of the Investments that is not a public company shall not:

- 8.8.1 consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;
- 8.8.2 issue any new shares or stock; or
- 8.8.3 refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, the Lender or the Chargor in accordance with this deed.

without the Lender's prior written consent and, in where consent is given in respect of any steps taken by the Chargor under 8.8.1 or 8.8.2 above, provided that, the Chargor promptly delivers revised or new title certificates and transfer forms in accordance with the terms of the Intercreditor Deed.

## **8.9 Compliance with requests for information**

The Chargor shall promptly send a copy to the Lender and comply with all requests for information which are within its knowledge and which are made under any law or regulation or any similar provision in any articles of association or other constitutional document, or by any listing or other authority, relating to all or any part of the Investments. If it fails to do so, the Lender may elect to provide such information as it may have on behalf of the Chargor.

## **9. EQUIPMENT COVENANTS**

### **9.1 Maintenance of Equipment**

The Chargor shall:

- 9.1.1 maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- 9.1.2 at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and
- 9.1.3 not permit any Equipment to be:
  - a. used or handled other than by properly qualified and trained persons; or
  - b. overloaded or used for any purpose for which it is not designed or reasonably suitable.

### **9.2 Payment of Equipment taxes**

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

### **9.3 Notice of charge**

- 9.3.1 The Chargor shall, if so requested by the Lender, affix to and maintain on each item of Equipment in a conspicuous place, a clearly legible identification plate containing the following wording:

**"NOTICE OF CHARGE**

This [DESCRIBE ITEM] and all additions to it [and ancillary equipment] are subject to a fixed charge dated [DATE] in favour of [LENDER]."

- 9.3.2 The Chargor shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 9.3.1.

## **10. BOOK DEBTS COVENANTS**

- 10.1.1 During the continuance of this deed the Chargor shall:

(a) unless an Event of Default is continuing, deal with the book debts and other debts only in the ordinary course of getting in and realising the same but shall not sell, assign, factor or discount the same in any way except with the consent of the Lender (such consent not be unreasonably withheld);

(b) if an Event of Default is continuing, deal with its book debts in accordance with any directions from time to time given in writing by the Lender provided that in the absence of any such directions the Chargor may deal in accordance with subparagraph (a) above; and

(c) at any time if called upon to do so by the Lender following the occurrence of an Event of Default but only while it is continuing, execute an assignment of such book debts and other debts to the Lender in such terms as the Lender may reasonably require and give notice thereof to the debtors from whom the debts are owing or incurred and take such other steps as the Lender may require to perfect such legal assignment.

## **11. RELEVANT AGREEMENTS COVENANTS**

### **11.1 Relevant Agreements**

- 11.1.1 The Chargor shall, unless the Lender agrees otherwise in writing, comply with the material terms of any document, agreement or arrangement comprising the Secured Assets.

- 11.1.2 The Chargor shall not, save in the ordinary course of its business operations, unless the Lender agrees otherwise in writing:

- a. amend or vary or agree to any change in, or waive any requirement of or its rights under;
- b. settle, compromise, terminate, rescind or discharge (except by performance); or
- c. abandon, waive, dismiss, release or discharge any action, claim or proceedings against any counterparty to or other person in connection with,

any document, agreement or arrangement comprising the Secured Assets.

## **12. INTELLECTUAL PROPERTY COVENANTS**

### **12.1 Preservation of rights**

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

### **12.2 Registration of Intellectual Property**

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

### **12.3 Maintenance of Intellectual Property**

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

## **13. VALUATION**

13.1 The Lender may, acting reasonably, at any time after an Event of Default has occurred and is continuing, require any Secured Assets to be professionally valued at the Chargor's expense including but not limited to an up to date Valuation of any Charged Property.

13.2 The Chargor shall promptly on demand pay to the Lender the costs of any valuation obtained pursuant to clause 13.1.

## **14. POWERS OF THE LENDER**

### **14.1 Power to remedy**

14.1.1 The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this deed.

14.1.2 The Chargor irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.

14.1.3 Any monies expended by the Lender in remedying a breach by the Chargor of its obligations contained in this deed shall be reimbursed by the Chargor to the Lender on a full indemnity basis and shall carry interest in accordance with clause 21.1.

### **14.2 Exercise of rights**

14.2.1 The rights of the Lender under clause 14.1 are without prejudice to any other rights of the Lender under this deed.

14.2.2 The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

### **14.3 Power to dispose of chattels**

14.3.1 At any time after the security constituted by this deed has become enforceable, the Lender or any Receiver may, as agent for the Chargor, dispose of any chattels or produce found on any Charged Property.

14.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 14.3.1, the Chargor shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 14.3.1.

#### **14.4 Lender has Receiver's powers**

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

#### **14.5 Conversion of currency**

14.5.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 14.5) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.

14.5.2 Any such conversion shall be effected at the Lender's then prevailing spot selling rate of exchange for such other currency against the existing currency.

14.5.3 Each reference in this clause 14.5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **14.6 New accounts**

14.6.1 If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the Chargor in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

14.6.2 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 14.6.1, then, unless the Lender gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Lender shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender.

#### **14.7 Indulgence**

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

#### **14.8 Appointment of an Administrator**

14.8.1 The Lender may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.

14.8.2 Any appointment under this clause 14.8 shall:

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

14.8.3 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 14.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

#### **14.9 Further advances**

This deed secures further advances and re-advances but the Lender is not obliged to make further advances.

### **15. WHEN SECURITY BECOMES ENFORCEABLE**

#### **15.1 Security becomes enforceable on Event of Default**

The Security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

#### **15.2 Discretion**

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

### **16. ENFORCEMENT OF SECURITY**

#### **16.1 General**

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

16.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 15.1.

16.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

#### **16.2 Extension of statutory powers of leasing**

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

- 16.2.1 grant a lease or agreement for lease;
- 16.2.2 accept surrenders of leases; or
- 16.2.3 grant any option in respect of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

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

### **16.3 Access on enforcement**

- 16.3.1 At any time after the Lender has demanded payment of the Secured Liabilities or if the Chargor defaults in the performance of its obligations under this deed or an Event of Default is continuing, the Chargor will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Assets and for that purpose to enter on any premises where a Secured Assets is situated (or where the Lender or a Receiver reasonably believes a Secured Assets to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry.
- 16.3.2 At all times, the Chargor must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 16.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

### **16.4 Redemption of prior Security**

- 16.4.1 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lender may:
  - a. redeem any prior Security over any Secured Assets;
  - b. procure the transfer of that Security to itself; and
  - c. settle and pass any account of the holder of any prior Security (and any account so settled and passed shall in the absence of any manifest error, be conclusive and binding on the Chargor).
- 16.4.2 The Chargor shall pay to the Lender immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this deed as part of the Secured Liabilities.

### **16.5 Protection of third parties**

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

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

#### **16.6 Privileges**

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

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

Neither the Lender, nor any Receiver or Delegate shall be liable to the Chargor or any other person:

- 16.7.1 (by reason of entering into possession of a Secured Assets or for any other reason) to account as mortgagee in possession in respect of all or any of the Secured Assets;
- 16.7.2 for any loss on realisation, or for any act, default or omission for which a mortgagee in possession might be liable; or
- 16.7.3 for any expense, loss or liability relating to the enforcement of, or any failure to enforce or delay in enforcing, any security constituted by or pursuant to this deed, or relating to an exercise of rights, or by any failure to exercise or delay in exercising, rights under this deed, or arising in any other way in connection with this deed.

#### **16.8 Conclusive discharge to purchasers**

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

#### **16.9 Right of appropriation**

16.9.1 To the extent that:

- a. the Secured Assets constitute Financial Collateral; and
- b. this deed and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

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

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

- a. in the case of cash, the amount standing to the credit of each of the Chargor's accounts with any bank, financial institution or other person, together with all accrued but unpaid interest, at the time the right of appropriation is exercised; and
- b. in the case of Investments, the market price of those Investments at the time the right of appropriation is exercised determined by the Lender by reference to a recognised market index or determined by any other method that the Lender may select (including independent valuation).

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

## **17. RECEIVER**

### **17.1 Appointment**

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

### **17.2 Removal**

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

### **17.3 Remuneration**

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

### **17.4 Power of appointment additional to statutory powers**

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

### **17.5 Power of appointment exercisable despite prior appointments**

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

### **17.6 Agent of the Chargor**

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

## **18. POWERS OF RECEIVER**

### **18.1 General**

18.1.1 Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on it by statute, have the powers set out in clause 18.2 to clause 18.23.

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

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

18.1.4 Any exercise by a Receiver of any of the powers given by clause 18 may be on behalf of the Chargor, the directors of the Chargor (if the Chargor is a limited company), the members of the Chargor (if the Chargor is a limited liability partnership) or itself.

### **18.2 Repair and develop Charged Property**

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

### **18.3 Grant or accept surrender of leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Charged Property and may grant any other interest or right over any Charged Property on any terms, and subject to any conditions, that it thinks fit.

### **18.4 Employ personnel and advisers**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.

### **18.5 Make and revoke VAT options to tax**

A Receiver may make, exercise or revoke any VAT option to tax as it thinks fit.

### **18.6 Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Lender may prescribe or agree with it.

**18.7 Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which it is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

**18.8 Manage or reconstruct the Chargor's business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Chargor.

**18.9 Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

**18.10 Sever fixtures and fittings**

A Receiver may sever and sell separately any fixtures or fittings from any Charged Property without the consent of the Chargor.

**18.11 Sell Book Debts**

A Receiver may sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit.

**18.12 Valid receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

**18.13 Make settlements**

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that it may think expedient.

**18.14 Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

**18.15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as it may think expedient.

**18.16 Make calls on Chargor members**

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

#### **18.17 Insure**

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 21, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this deed.

#### **18.18 Subsidiaries**

A Receiver may form a subsidiary of the Chargor and transfer to that subsidiary any Secured Assets.

#### **18.19 Borrow**

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

#### **18.20 Redeem prior Security**

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

#### **18.21 Delegation**

A Receiver may delegate his powers in accordance with this deed.

#### **18.22 Absolute beneficial owner**

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

#### **18.23 Incidental powers**

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

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

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

18.23.3 lawfully may or can do as agent for the Chargor.

### **19. DELEGATION**

#### **19.1 Delegation**

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 23.1).

## **19.2 Terms**

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

## **19.3 Liability**

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

## **20. APPLICATION OF PROCEEDS**

### **20.1 Order of application of proceeds**

Subject to the terms of the Intercreditor Deed, all monies received or recovered by the Lender, a Receiver or a Delegate pursuant to this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Lender's right to recover any shortfall from the Chargor):

20.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;

20.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines; and

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

### **20.2 Appropriation**

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

### **20.3 Suspense account**

All monies received by the Lender, a Receiver or a Delegate under this deed:

20.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;

20.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Chargor; and

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

## **21. COSTS AND INDEMNITY**

### **21.1 Costs**

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

- 21.1.1 the negotiation, preparation, execution and delivery of this deed;
- 21.1.2 the Secured Assets;
- 21.1.3 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed;
- 21.1.4 any amendment, extension, waiver, consent or suspension of rights (or any proposal for any of these) under or in connection with this deed;
- 21.1.5 any release of any security constituted by this deed; or
- 21.1.6 taking proceedings for, or recovering, any of the Secured Liabilities, together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment) at the Default Rate.

### **21.2 Indemnity**

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

- 21.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- 21.2.2 taking, holding, protecting, perfecting, preserving, releasing or enforcing (or attempting to do so) the security constituted by this deed; or
- 21.2.3 any default or delay by the Chargor in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 21.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **22. FURTHER ASSURANCE**

### **22.1 Further assurance**

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

- 22.1.1 creating, perfecting or protecting the security created or intended to be created by this deed;
- 22.1.2 facilitating the realisation of any Secured Assets; or
- 22.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Assets,  
  
including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Lender may consider necessary or desirable.

## **23. POWER OF ATTORNEY**

### **23.1 Appointment of attorneys**

By way of security, following the occurrence of an Event of Default which is continuing, the Chargor irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- 23.1.1 the Chargor is required to execute and do under this deed and which it has failed to do within 5 Business Days of a request to do so by the Lender; or
- 23.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate.

### **23.2 Ratification of acts of attorneys**

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 23.1.

## **24. RELEASE**

- 24.1 Subject to clause 32.3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to:

- 24.1.1 release the Secured Assets from the security constituted by this deed; and
- 24.1.2 reassign the Secured Assets to the Chargor.

## **25. ASSIGNMENT AND TRANSFERS**

### **25.1 Assignment by Lender**

The Lender may assign or transfer any of its rights under this deed or otherwise grant an interest in any such rights to any person or persons to whom the Facility Agreement is assigned. On request by the Lender the Chargor shall immediately execute and deliver

to the Lender any form of instrument required by the Lender to confirm or facilitate any such assignment or transfer or grant of interest.

## **25.2 Assignment by Chargor**

The Chargor may not assign any of its rights, or transfer any of its rights or obligations, under this deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

## **26. SET-OFF**

### **26.1 Lender's right of set-off**

The Lender may at any time set off any liability of the Chargor to the Lender against any liability of the Lender to the Chargor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 26 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

### **26.2 No obligation to set off**

The Lender is not obliged to exercise its rights under clause 26.1. If, however, it does exercise those rights it must promptly notify the Chargor of the set-off that has been made.

### **26.3 Exclusion of Chargor's right of set-off**

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

## **27. AMENDMENTS, WAIVERS AND CONSENTS**

### **27.1 Amendments**

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party to it.

### **27.2 Waivers and consents**

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

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

### **27.3 Rights and remedies**

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

## **28. SEVERANCE**

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

## **29. MISCELLANEOUS**

29.1 The Lender may disclose information about the Chargor to any affiliate, their authorised agents and credit reference agencies for credit assessment, fraud prevention, processing of transactions, debt recovery and for other purposes related to the performance of this deed or the Secured Liabilities.

29.2 The Lender may disclose any information relating to the Chargor, this deed and any other document related to the Chargor or the Secured Liabilities:

29.2.1 to any person in connection with any proposed assignment and/or transfer;

29.2.2 to any person with whom the Lender has entered into, or proposes to enter into, any contractual arrangements in connection with this deed;

29.2.3 to any company within its group of companies from time to time, or any of its or their agents, who provide services to the Lender or functions in relation to the Secured Liabilities;

29.2.4 to any insurer who is to or who proposes to provide insurance to the Lender in respect of the Secured Liabilities;

29.2.5 to any auditor of, or other advisor to, the Lender;

29.2.6 to anyone to whom information is required or requested to be disclosed by any court of competent jurisdiction or governmental, banking, taxation or other regulatory authority or similar body;

29.2.7 to anyone to whom information is required or requested to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes; and

29.2.8 to any prospective purchaser of the Lender or prospective purchaser of the whole or any part of the Lender's business and their professional advisers.

## **30. COUNTERPARTS**

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

### **31. THIRD PARTY RIGHTS**

Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed.

### **32. FURTHER PROVISIONS**

#### **32.1 Independent security**

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

#### **32.2 Continuing security**

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

#### **32.3 Discharge conditional**

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

32.3.1 the Lender or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and

32.3.2 the Lender may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

#### **32.4 Certificates**

Any certification or determination by the Lender of any rate or amount under this deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

#### **32.5 Consolidation**

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

### **33. NOTICES**

33.1 Any notice, demand or other communication to be made under or in connection with this deed shall be made in writing.

33.2 Any communication, demand or notice given by the Lender to the Chargor under this deed may be made:

33.2.1 by letter addressed to the Chargor or any officer of the Chargor sent by first class post to or left at the Chargor's address last known to the Lender or at the Chargor's registered office; or

33.2.2 by electronic means to the Chargor's electronic mail address last known to the Lender.

If sent by post, the communication, demand or notice will be deemed to have been received at 10.00 a.m. on the second Business Day following the day the letter was posted. If delivered by hand, the communication, demand or notice will be deemed to have been received at the time it is left at the relevant address. If sent by electronic means, the communication, demand or notice will be deemed to have been received at the time of transmission (provided that if the date of transmission is not a Business Day, or the time of transmission is after 5:00 p.m., it shall be deemed to have been received at 9 a.m. on the next Business Day).

33.3 Unless otherwise advised by the Lender any notices or other communications given by the Chargor to the Lender under this deed shall be by letter and sent by first class post or delivered by hand to: the Company Secretary, Allica Financial Services Limited, 4<sup>th</sup> Floor, 164 Bishopsgate London EC2M 4LX.

33.4 All notices or other communications to the Lender shall be effective only on actual receipt by the Lender.

#### **34. GOVERNING LAW AND JURISDICTION**

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

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

34.3 The Chargor irrevocably consents to any process in any legal action or proceedings under clause 34.1 being served on it in accordance with the provisions of this deed relating to services of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

**In witness whereof** this document has been executed and delivered as a deed on the date first stated above.

## **SCHEDULE 1**

### **Definitions and Interpretation**

#### **1. Definitions**

The following definitions apply in this deed:

- Administrator:** an administrator appointed to manage the affairs, business and property of the Chargor pursuant to clause 14.8
- Book Debts:** all present and future book and other debts, and monetary claims due or owing to the Chargor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Chargor in relation to any of them
- Business Day:** means a day other than a Saturday, Sunday or public holiday on which the Lender is open for normal banking business in England
- Charged Property:** all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Chargor, or in which the Chargor holds an interest, and references to "Charged Property" shall include references to the whole or any part of it
- Default Rate:** means:
- a. the default interest rate set out in the document under which the relevant liability for the overdue amount initially arose; or
  - b. if no default rate is set out in such document, 2% per annum above the Bank of England's base rate from time to time
- Delegate:** any person appointed by the Lender or any Receiver pursuant to clause 19 and any person appointed as attorney of the Lender, Receiver or Delegate
- Designated Account:** any account of the Chargor nominated by the Lender as a designated account for the purposes of this deed
- Disposal:** a sale, transfer or other disposal (including by way of lease, licence or loan) by a person of all or part of its assets, undertaking or business whether by a voluntary or involuntary one transaction or a series of transactions and whether at the same time or over a period of time
- Environment:** the natural and man-made environment including all or any of the following media, namely air, water and land (including

air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media

**Environmental Law:** all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment

**Environmental Licence:** any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets

**Equipment:** all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Chargor or in which it has an interest, including any part of it and all spare parts, replacements, modifications and additions

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

**Facility Agreement:** the £10,000,000 Term Loan Offer Letter and the Business Loan Terms and Conditions to be entered between (1) the Lender and (2) the Chargor on or around the date of this deed

**Financial Collateral:** has the meaning given to that expression in the Financial Collateral Regulations

**Financial Collateral Regulations:** the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226)

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

**Insurance Policy:** each contract and policy of insurance effected or maintained by the Chargor from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Charged Property or the Equipment)

**Intellectual Property:** the Chargor's present and future patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each

case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

**Intercreditor Deed:**

any document entered into by the Lender and another creditor of the Chargor that purports to regulate the ranking and priority of debt and/or security owing or granted by the Chargor

**Investments:**

all present and future certificated stocks, shares, debentures, loan capital or other securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Chargor, including any:

- a. dividend, interest or other distribution paid or payable in relation to that stock, share, debenture, loan capital or other security, bond or investment; and
- b. right, money, shares or property accruing, offered or issued at any time in relation to that stock, share, debenture, loan capital or other security, bond or investment by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise

**LPA 1925:**

the Law of Property Act 1925

**Market Value:**

means market value as defined in the then current Valuation Standards issued by the Royal Institution of Chartered Surveyors (the "Red Book"). If market value ceases to be defined by the Red Book, market value shall be calculated on the basis from time to time determined by the Lender

**Material Adverse Effect:**

means in the reasonable opinion of the Lender a material adverse effect on:

- a. the business, operations, property, condition (financial or otherwise) or prospects of the Obligors taken as a whole;
- b. the ability of the Obligors (taken as a whole) to perform their obligations under the Finance Documents; or
- c. the validity or enforceability of, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of, the Finance Documents or

the rights or remedies of the Lender and the Obligors under any of the Finance Documents

**Permitted Disposal:**

any sale, lease, transfer or other Disposal:

- a. made in the ordinary course of trading of the disposing entity;
- b. of assets in exchange for other assets comparable or superior as to type, value and quality, where such replacement asset is acquired within 90 days of the date of the relevant Disposal;
- c. of assets which are obsolete for the purpose of which such an asset is normally utilised, where such asset is accounted for as obsolete in the relevant Accounts;
- d. between Group Companies where the transferee has granted Security to the Lender over its assets; or
- e. where the higher of the market value or consideration receivable (when aggregated with the higher of the market value or consideration receivable for any other sale, lease, transfer or other disposal, other than any permitted under paragraphs (i) to (iv) above) does not exceed £1,000,000 (or its equivalent in another currency or currencies) in any financial year

**Permitted Security:**

has the meaning given to it in the Facility Agreement

**Receiver:**

a receiver, receiver and manager or administrative receiver appointed by the Lender under clause 17.1

**Secured Assets:**

all the assets, property and undertaking which are, or are expressed to be, subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them)

**Secured Liabilities:**

all present and future obligations and liabilities of the Chargor to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety under the Finance Documents together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities

**Security:**

any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any

person, or any other agreement or arrangement having a similar effect

**Security Financial Collateral Arrangement:** has the meaning given to that expression in the Financial Collateral Regulations

**Security Period:** the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding

**Valuation:** a valuation from a Valuer in respect of a Secured Assets addressed to and satisfactory to the Lender in substance and content (including, in the case of a Charged Property, Market Value and/or vacant possession value of any Charged Property) and on which the Lender is entitled to rely

**Valuer:** means such valuer or surveyor instructed, and on terms approved, by the Lender

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

## 2. Interpretation

In this deed:

- 2.1 a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- 2.2 references to statutes, statutory provision and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation from time to time;
- 2.3 references to any clause, paragraph or schedule shall be construed as a reference to the clauses, paragraphs or schedules in this deed unless otherwise specified;
- 2.4 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 2.5 any term or phrase defined in the Companies Act 2006 (as amended from time to time) shall (whether or not it is capitalised) bear the same meaning in this deed;

- 2.6 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 2.7 any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 2.8 clause, schedule and paragraph headings shall not affect the interpretation of this deed;
- 2.9 an Event of Default is continuing if it has not been waived;
- 2.10 a reference to writing or written includes fax and email in respect of communications from the Lender to the Chargor but not in respect of communications from the Chargor to the Lender unless otherwise specified;
- 2.11 a reference to this deed to a document, agreement or instrument is a reference to that document, agreement or instrument as amended or novated, supplemented, extended or restated (however fundamentally) from time to time;
- 2.12 a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 2.13 a reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights;
- 2.14 an obligation on a party not to do something includes an obligation not to allow that thing to be done; and
- 2.15 a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description.
- 2.16 **Clawback**

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

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

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

- 2.17.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of that Charged Property at any time;
- 2.17.2 the proceeds of the sale of any part of that Charged Property and any other monies paid or payable in respect of or in connection with that Charged Property;
- 2.17.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of that Charged Property, and any monies paid or payable in respect of those covenants; and
- 2.17.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property.

## **2.18 Perpetuity period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

## **2.19 Schedules**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

**SCHEDULE 2**  
**Real Property**

None.

**EXECUTION PAGE**

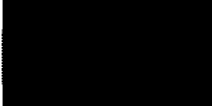
Executed as a deed by H & T Group PLC, the Chargor  
acting by:

Signature  Director

.....

Name in full (block capitals)

C.D. Gillespie  
.....

Signature  Director/ Secretary

.....

Name in full (block capitals)

D E Giddy  
.....

**EXECUTION PAGE FOR ALLICA FINANCIAL SERVICES LIMITED**

EXECUTED as a DEED for ALLICA  
FINANCIAL SERVICES LIMITED, the  
Lender, under a power of attorney by  
two attorneys:

.....  
.....

**Director**

Richard Davies

.....  
Name of Director (in block capitals)

.....  
.....

**Director**

J Heath

.....  
Name of Director (in block capitals)