

# MR01

## Particulars of a charge



052410/13

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Please see 'How to pay' on the  
last page

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☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form

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This form must be delivered to the Registrar for registra  
21 days beginning with the day after the date of creation of  
delivered outside of the 21 days it will be rejected unless it is  
court order extending the time for delivery

You must enclose a certified copy of the instrument with this  
scanned and placed on the public record

TUESDAY



\*L2BQJ5WP\*  
LD6 02/07/2013 #94  
COMPANIES HOUSE

### 1 Company details

Company number 0 5 5 1 2 5 4 9  
Company name in full MWB Business Exchange Centres Limited

For official use  
**Filing in this form**  
Please complete in typescript or in  
bold black capitals  
All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 0 1 0 7 2 0 1 3

### 3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name Pathway Finance S à r l as chargee

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

# MR01

## Particulars of a charge

4

### Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

**Continuation page**  
Please use a continuation page if you need to enter more details

Description

5

### Fixed charge or fixed security

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ **Yes**

☐ **No**

6

### Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ **Yes** Continue

☒ **No** Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ **Yes**

7

### Negative Pledge

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☐ **Yes**

☒ **No**

MR01

Particulars of a charge

8

**Trustee statement<sup>1</sup>**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)

9

**Signature**

Please sign the form here

Signature

Signature

X *Sidley Austin LLP* X

This form must be signed by a person with an interest in the charge

# MR01

## Particulars of a charge



### Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name **Dasha Popova**

Company name **Sidley Austin LLP**

Address **Woolgate Exchange**

**25 Basinghall Street**

Post town **London**

County/Region **Greater London**

Postcode **E C 2 V 5 H A**

Country **United Kingdom**

DX

Telephone **0207 3602598**



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

**We may return forms completed incorrectly or with information missing**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



### Important information

**Please note that all information on this form will appear on the public record**



### How to pay

**A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper**

Make cheques or postal orders payable to 'Companies House'



### Where to send

**You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below**

**For companies registered in England and Wales**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

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**This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)**



**FILE COPY**

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

Company number: 5512549

Charge code: 0551 2549 0012

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st July 2013 and created by MWB BUSINESS EXCHANGE CENTRES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd July 2013

Given at Companies House, Cardiff on 4th July 2013



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

**DATED** 1 July **2013**

## **Certified Copy**

We certify that this is a complete and accurate copy of the original executed document, except that certain amendments have been made in accordance with section 859G of the Companies Act 2006

**MWB BUSINESS EXCHANGE CENTRES LIMITED**  
(as Chargor)

*Sidley Austin LLP*  
*02/07/2013*

- and -

**PATHWAY FINANCE S.À R.L**  
(as Chargee)

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## **SECURITY AGREEMENT**

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SIDLEY AUSTIN LLP  
**SIDLEY**

REF SWO/SM/38221-30030/6382310

## CONTENTS

Clause	Page
1 INTERPRETATION. . . . .	4
2 COVENANT TO PAY . . . . .	6
3. CREATION OF SECURITY . . . . .	6
4 CONTINUING SECURITY . . . . .	7
5 REPRESENTATIONS AND WARRANTIES.. . . .	8
6. UNDERTAKINGS – GENERAL. . . . .	10
7 SHARES . . . . .	10
8. WHEN SECURITY BECOMES ENFORCEABLE .....	11
9 ENFORCEMENT OF SECURITY . . . . .	11
10. RECEIVER . . . . .	13
11. POWERS OF RECEIVER.....	14
12. APPLICATION OF PROCEEDS. .. . . .	15
13 INDEMNITY. . . . .	15
14. DELEGATION. . . . .	16
15. FURTHER ASSURANCES . . . . .	16
16. POWER OF ATTORNEY.....	16
17 FINANCIAL COLLATERAL. . . . .	17
18. RELEASE .....	17
19. NOTICES . . . . .	17
20. SEVERABILITY . . . . .	18
21 COUNTERPARTS . . . . .	18
22. NO THIRD PARTY RIGHTS .....	18
23. AMENDMENTS IN WRITING ... . . . .	18
24 GOVERNING LAW . . . . .	18
25. JURISDICTION. . . . .	18

**THIS DEED** is dated

1 July

2013

**BETWEEN:**

- (1) **MWB BUSINESS EXCHANGE CENTRES LIMITED**, with its registered number 05512549 and its registered address at 1 West Garden Place, Kendal Street, London W2 2AQ (the "**Chargor**"), and
- (2) **PATHWAY FINANCE S.À R.L.**, with its registered number B 142709 and its registered address at 26 Boulevard Royal, L-2449 Luxembourg (the "**Chargee**", which expression includes its successors and assigns)

**BACKGROUND:**

- (A) Pursuant to an intra-group facility agreement dated 19 December 2012 (as amended by a deed of amendment dated 19 February 2013 and as further amended by agreement between the parties from time to time) the Chargee provided a facility to Marley Acquisitions Limited ("**Marley**") for the purposes of funding the acquisition of the entire issued share capital of MWB Business Exchange Limited (the "**Acquisition Facility**"),
- (B) Pursuant to an intra-group facility agreement dated 22 March 2013 the Chargee provided a facility to certain chargors, including the Chargor, for the purposes of operation and management of such Chargor's business and for general corporate purposes (as amended and restated from time to time) (the "**WC Facility**");
- (C) The Acquisition Facility and WC Facility are repayable on demand by the Chargee;
- (D) The Chargee has agreed to refinance the Acquisition Facility on the terms set out in the facility agreement dated on or about the date hereof and made between the Chargee as the lender and Marley as the borrower (the "**Refinancing Facility Agreement**"), subject to the giving of a joint and several guarantee by the Chargee and MWB Business Exchange Limited ("**Bx Ltd**") in respect of the Marley's indebtedness under the Refinancing Facility Agreement,
- (E) The Chargee has agreed to an amendment to the WC Facility on the terms set out in the amendment agreement dated on or about the date hereof and made between the Chargee as the lender and the Chargor as one of the borrowers (the "**Amendment Agreement**"), subject to the giving of a guarantee by MWB Business Exchange Covent Garden Ltd, Business Exchange Holdings Ltd, Startland Ltd and MWB Executive Centres (Holdings) Ltd in respect of their respective direct and, as the case may be, indirect subsidiaries' obligations under the Facility Agreement (as defined below),
- (F) The Chargor enters into this Deed in connection with the Facility Agreement and the Guarantee (as defined below); and
- (G) The Board of Directors of the Chargor is satisfied that the Chargor is entering into this Deed for the purposes of its business and that its doing so benefits the Chargor.

**IT IS AGREED** as follows



# 1 INTERPRETATION

## 1 1 Definitions

In this Deed.

**"Administrator"** means an administrator appointed pursuant to the provisions of the Insolvency Act,

**"Enforcement Event"** means

- (a) an Event of Default occurring and continuing under the Facility Agreement,
- (b) any amount being due but unpaid under the Guarantee,
- (c) any representation made by the Chargor under Clause 5 (*Representations and Warranties – General*) to Clause 7 (*Shares*) of this Deed is or proves to have been incorrect or misleading in any material respect when made or deemed made,
- (d) any breach by the Chargor of its obligations under Clause 6 (*Undertakings*) to Clause 7 (*Shares*), and
- (e) any corporate action or any other steps having been taken or legal proceedings been started or threatened against the Chargor for its winding-up, dissolution, administration or re-organisation or for the appointment of a receiver, administrator, administrative receiver, trustee or similar officer of it or of any or all of its assets or revenues,

**"Event of Default"** shall have the meaning given to it in the Facility Agreement;

**"Facility Agreement"** means the intra-group working capital loan facility agreement, as amended by the Amendment Agreement dated on or about the date of this Deed and made between the Chargor as one of the borrowers and the Chargee as lender;

**"Finance Documents"** means the Facility Agreement, the Guarantee and this Deed;

**"Guarantee"** means the guarantee entered into on or about the date hereof between BxC and Bx Ltd (as guarantors) and the Chargee (as beneficiary), pursuant to which BxC and Bx Ltd agree to jointly and severally guarantee certain liabilities of Marley under the Refinancing Facility Agreement for the benefit of the Chargee;

**"Insolvency Act"** means the Insolvency Act 1986;

**"Law of Property Act"** means the Law of Property Act 1925,

**"Party"** means a party to this Deed;

**"Receiver"** means an administrative receiver, a receiver and manager or a receiver, in each case, appointed under this Deed or pursuant to any applicable law and, unless the context otherwise requires, the expression "Receiver" includes the plural and any

substituted receiver and manager and (if permitted by the applicable law) an administrative receiver as defined in section 251 of the Insolvency Act,

**"Related Share Assets"** means:

- (a) all dividends, interest and other monies payable at any time in respect of the Shares, and
- (b) all other rights, benefits and proceeds in respect of or derived from the Shares (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise)

held by, to the order or on behalf of the Chargor at any time,

**"Secured Liabilities"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Chargor to the Chargee, including without limitation, under the Finance Documents (as amended from time to time) together with all costs, charges and expenses incurred by the Chargee in connection with the protection, preservation or enforcement of its rights;

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

**"Security Assets"** means all assets of the Chargor the subject of the Security created or evidenced by this Deed;

**"Security Period"** means, in respect of the Chargor, the period beginning on the date of this Deed and ending on the date on which its Secured Liabilities are satisfied, and

**"Shares"** means all shares in any direct subsidiary of the Chargor

Unless this Deed provides otherwise, or the context otherwise requires, a term which is defined (or expressed to be subject to a particular construction) in the Facility Agreement shall have the same meaning (or be subject to the same construction) in this Deed.

## 12 Construction

- (a) Any covenant of the Chargor under this Deed remains in force during the Security Period and is given for the benefit of the Chargee
- (b) If the Chargee considers that an amount paid to a Chargee under the Finance Documents is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed
- (c) Unless the context otherwise requires, a reference to a Security Asset includes
  - (i) any part of that Security Asset;

- (ii) the proceeds of sale of that Security Asset; and
  - (iii) any present and future assets of any type deriving from that Security Asset
- (d) A reference in this Deed to any shares, stock, debenture, bond, warrant, coupon or other security or investment includes:
- (i) any dividend, interest or other distribution paid or payable;
  - (ii) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,
  - (iii) any right against any clearance system, and
  - (iv) any right under any custodian or other agreement,
- in relation to that share, stock, debenture, bond, warrant, coupon or other security or investment
- (e) This document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand

### **1.3 Certificates**

A certificate of the Chargee setting forth the amount of any Secured Liability due from the Chargor shall, in the absence of manifest error, be prima facie evidence of such amount against the Chargor

## **2 COVENANT TO PAY**

The Chargor covenants with the Chargee to discharge each of the Secured Liabilities on their due date in accordance with their respective terms

## **3 CREATION OF SECURITY**

### **3.1 General**

- (a) All the Security created or evidenced by this Deed
- (i) is created in favour of the Chargee,
  - (ii) is continuing security for the payment, discharge and performance of all the Secured Liabilities and will extend to the ultimate balance of all sums payable under the Finance Documents in respect of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part; and
  - (iii) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

- (b) If any of the assets of the Chargor cannot be fully and effectively secured in the manner envisaged by this Deed without the consent of a third party
  - (i) upon becoming aware of that fact the Chargor must promptly notify the Chargee, and
  - (ii) upon becoming aware of that fact the Chargor must, and each other Chargor must procure that the Chargor will, use all reasonable endeavours to obtain that consent as soon as practicable and, once obtained, will promptly provide a copy of that consent to the Chargee

### **3.2 Fixed Charge**

The Chargor, by way of first fixed security for the payment or discharge of the Secured Liabilities, hereby charges in favour of the Chargee all of its rights, title, benefit and interest, present and future, in, to and under the Shares and the Related Share Assets

## **4 CONTINUING SECURITY**

### **4.1 Continuing and independent security**

The Security of the Chargor under this Deed shall constitute and be continuing security which shall not be released or discharged by any intermediate payment or settlement of the Secured Liabilities or any of them, shall continue in full force and effect until the end of the Security Period and is in addition to and independent of, and shall not prejudice or merge with, any other security (or right of set off) which the Chargee may at any time hold in respect of the Secured Liabilities or any of them.

### **4.2 New accounts**

If the Chargee receives notice of any Security created or arising after the date of this Deed in respect of the Security Assets or any of them or makes demand of the Chargor for payment any or all of the Secured Liabilities:

- (a) the Chargee may open a new account or accounts in respect of any or all of the Secured Liabilities (and if it does not do so it shall be treated as if it had done so at the time it made such demand), and
- (b) thereafter any amounts paid to the Chargee in respect of the Secured Liabilities, or realised or recovered by the Chargee under this Deed, shall be credited (or be treated as having been credited) to that new account and not treated as having been applied in or towards payment of all or any of the Secured Liabilities

### **4.3 Avoidance of payments**

Where any release, discharge or other arrangement in respect of any Secured Liability or any security the Chargee may hold for such Secured Liability is given or made in reliance on any payment or other disposition which is avoided or must be repaid in an insolvency, liquidation, bankruptcy or otherwise, and whether or not the Chargee has conceded or compromised any claim that any such payment or other disposition will

or should be avoided or repaid, this Deed shall continue as if such release, discharge or other arrangement had not been given or made

#### **4.4 Appropriation**

The Chargee shall not be obliged to apply any sums held or received by it in respect of the Secured Liabilities in or towards payment of the Secured Liabilities and any such sum may be credited to a suspense or impersonal account and held in such account pending the application from time to time (as the Chargee may think fit) of such sums in or towards the discharge of such obligations of the Chargor to the Chargee as the Chargee may select

#### **4.5 Additional security**

- (a) This Deed is in addition to and is not in any way prejudiced by any other security now or subsequently held by the Chargee
- (b) No prior security held by the Chargee over any Security Asset will merge into the Security

### **5. REPRESENTATIONS AND WARRANTIES**

The Chargor makes the representations and warranties to the Chargee set out in Clauses 5.1 (*Status and due authorisation*) to 5.9 (*Nature of security*) to the Chargee and acknowledges that the Chargee has entered into the Finance Documents in reliance on such representations and warranties.

#### **5.1 Status and due authorisation**

It is a limited company incorporated under the laws of England with power to enter into this Deed and to exercise its rights and perform its obligations under this Deed and all corporate and other action required to authorise its execution of this Deed and its performance of its obligations under this Deed has been duly taken.

#### **5.2 Binding obligations**

The obligations expressed to be assumed by it in this Deed are legal, valid and binding obligations, enforceable against it in accordance with the terms of this Deed and no limit on its powers will be exceeded as a result of the grant of the Security or the performance of its obligations hereunder.

#### **5.3 No conflicts**

Its execution of this Deed and the exercise of its rights and performance of its obligations under this Deed do not and will not conflict with

- (a) any agreement, mortgage, bond or other instrument or treaty to which it is a party or which is binding upon it or any of its assets or, except as provided in this Deed, result in a requirement for the creation of any security over any of its assets in any way; or
- (b) any applicable law, regulation or official or judicial order

#### **5 4 All actions taken**

All acts, conditions and things required to be done, fulfilled and performed in order to:

- (a) to enable it lawfully to enter into, exercise its rights under and perform and comply with the obligations expressed to be assumed by it in this Deed;
- (b) to ensure that the obligations expressed to be assumed by it in this Deed are legal, valid and binding, and
- (c) to make this Deed admissible in evidence in England have been done, fulfilled and performed

#### **5.5 No breach or default**

It is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which might have a material adverse effect on its business or financial condition.

#### **5 6 No filing or stamp taxes**

It is not necessary that this Deed be filed, recorded or enrolled with any court of other authority in England and Wales or that any stamp, registration or similar tax be paid on or in relation to this Deed, save that it is registrable under the Companies Act 2006

#### **5 7 No proceedings**

No action or administrative proceeding of or before any court or agency which might have a material adverse effect on its financial condition has been started or threatened

#### **5.8 No winding-up**

It has not taken any corporate action nor have any steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened against it for its administration or winding-up.

#### **5.9 Nature of security**

- (a) This Deed creates the Security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise
- (b) Except for the Security granted to the Chargee pursuant to this Deed, the Chargor owns each item of the Security Assets free and clear of any and all Security or claims of others

#### **5 10 Times for making representations**

- (a) The representations and warranties set out in this Deed (including in this Clause) are made by the Chargor on the date of this Deed

- (b) Each representation and warranty under this Deed is deemed to be repeated by the Chargor on each date during the Security Period
- (c) When a representation and warranty is deemed to be repeated, it is deemed to be made by reference to the facts and circumstances existing at the time of repetition

## **6 UNDERTAKINGS – GENERAL**

### **6.1 Authorisations**

The Chargor shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect all necessary authorisations required in or by the laws of England to enable it lawfully to enter into and perform its obligations under this Deed and to ensure the legality, validity, enforceability and admissibility in evidence in England or this Deed.

### **6.2 No action**

The Chargor shall not take any action which would cause any of the representations and warranties made in Clause 5 (*Representations and Warranties*) to be untrue at any time during the Security Period.

## **7 SHARES**

### **7.1 Voting Rights prior to an Enforcement Event**

Prior to the occurrence of an Enforcement Event, the Chargor shall at all times be entitled to exercise (or refrain from exercising) all voting rights in relation to the Shares provided that the exercise of such rights is consented to by Chargee or:

- (a) is not inconsistent with the terms of this Deed or the Facility Agreement, and
- (b) does not adversely affect the validity or enforceability of this Deed or the Facility Agreement.

### **7.2 Voting Rights after an Enforcement Event**

Upon or at any time following the occurrence of an Enforcement Event, the Chargee shall at all times be entitled to exercise (or refrain from exercising) all voting rights in relation to the Shares in such manner and on such terms as the Chargee may think fit.

### **7.3 Dividends prior to an Enforcement Event**

Prior to the occurrence of an Enforcement Event, the Chargor shall be permitted to receive and retain free from the Security and use all the dividends, interest and other monies arising from the Shares

### **7.4 Dividends after an Enforcement Event**

Upon or at any time following the occurrence of an Enforcement Event, the Chargee may, at its discretion (in the name of the Chargor or otherwise and without any further

consent or authority from the Chargor), apply all dividends, interest and other monies arising from the Shares as though they were the proceeds of sale under this Deed

#### **7.5 Transfer**

Following the occurrence of an Enforcement Event (but not before) the Chargee may transfer the Shares to, and register the Shares in the name of, the Chargee (or its nominee(s)) and/or transfer to the Chargee (or its nominee(s)) any Related Share Assets.

#### **7.6 Ownership**

The Chargor represents and warrants to the Chargee and each other party that:

- (a) the Shares subject to the Security created hereby are duly authorised, validly issued and fully paid and are not subject to any option to purchase or similar right, and
- (b) it is the sole legal and beneficial owner of the Shares

#### **7.7 Other obligations in respect of Shares**

- (a) The Chargor must upon request by the Chargee promptly supply a copy to the Chargee of any information relating to any of the Shares supplied in compliance with the applicable law or the constitutional documents relating to any of the Shares.
- (b) The Chargor must comply with all other conditions and obligations assumed by it in respect of any of the Shares.

### **8. WHEN SECURITY BECOMES ENFORCEABLE**

#### **8.1 Enforcement Event**

The Security created or evidenced by this Deed will become immediately enforceable upon the occurrence of an Enforcement Event and at any time thereafter

#### **8.2 Discretion**

After the Security created or evidenced by this Deed has become enforceable, the Chargee may in its absolute discretion enforce all or any part of such Security in any manner it sees fit.

### **9. ENFORCEMENT OF SECURITY**

#### **9.1 General**

- (a) The power of sale and any other power conferred on a mortgagee by law (including under section 101 of the Law of Property Act) as varied or amended by this Deed will be immediately exercisable at any time after the occurrence of an Enforcement Event.



- (b) For the purposes of all powers implied by law, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (c) Any restriction imposed by law on the power of sale (including under section 103 of the Law of Property Act) or the right of a mortgagee to consolidate mortgages (including under section 93 of the Law of Property Act) does not apply to the Security created or evidenced by this Deed
- (d) Any powers of leasing conferred on the Chargee by law are extended so as to authorise the Chargee to lease, make agreements for leases, accept surrenders of leases and grant options as the Chargee may think fit and without the need to comply with any restrictions conferred by law (including under section 99 or 100 of the Law of Property Act).

## **9 2 No liability as mortgagee in possession**

Neither the Chargee nor any Receiver will be liable, by reason of entering into possession of a Security Asset:

- (a) to account as mortgagee in possession or for any loss on realisation or otherwise for any money not actually received by it or him respectively, or
- (b) for any default or omission for which a mortgagee in possession might be liable.

## **9 3 Privileges**

Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by law (including the Law of Property Act) on mortgagees and receivers duly appointed under any law (including the Law of Property Act), except that section 103 of the Law of Property Act does not apply

## **9 4 Protection of third parties**

No person (including a purchaser) dealing with the Chargee or a Receiver or its or his agents will be concerned to enquire

- (a) whether the Secured Liabilities have become payable,
- (b) whether any power which the Chargee or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Finance Documents; or
- (d) how any money paid to the Chargee or to that Receiver is to be applied.

## **9 5 Redemption of prior mortgages**

- (a) At any time after the Security created or evidenced by this Deed has become enforceable, the Chargee may:
  - (i) redeem any prior Security against any Security Asset,

- (ii) procure the transfer of that Security to itself; and/or
  - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer, any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor
- (b) The Chargor must pay to the Chargee, immediately on demand, the costs and expenses incurred by the Chargee in connection with any such redemption and/or transfer referred to in paragraph (a), including the payment of any principal or interest.

## **9.6 Contingencies**

If the Security created or evidenced by this Deed is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Chargee (or the Receiver) may pay the proceeds of any recoveries effected by it into such number of suspense accounts as it considers appropriate

## **10 RECEIVER**

### **10.1 Appointment of Receiver**

- (a) Except as provided below, at the cost and expense of the Chargor, the Chargee may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if
  - (i) an Enforcement Event has occurred, or
  - (ii) the Chargor so requests the Chargee in writing at any time.
- (b) Any appointment under paragraph (a) above may be by deed or writing signed by any officer or any manager of the Chargee
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Law of Property Act) does not apply to this Deed
- (d) The Chargee may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act) over the Security Assets if the Chargee is prohibited from so doing by section 72A of the Insolvency Act and no exception to the prohibition on appointing an administrative receiver applies.

### **10.2 Removal**

The Chargee may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) 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

### **10.3 Remuneration**

- (a) Subject to section 36 of the Insolvency Act, the remuneration of any Receiver may be determined by the Chargee without being limited to the maximum rate specified by sections 109(6) of the Law Property Act (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise)

### **10.4 Agent of the Chargor**

- (a) A Receiver will be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Law Property Act. The Chargor is solely liable for the acts, omissions, defaults, remuneration of the Receiver, and any contracts or engagements made, entered into or adopted and any losses liabilities, costs, charges and expenses incurred by the Receiver.
- (b) The Chargee will not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **10.5 Relationship with Chargee**

To the fullest extent allowed 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 created or evidenced by this Deed becomes enforceable be exercised by the Chargee in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver

## **11 POWERS OF RECEIVER**

### **11.1 General**

- (a) Every Receiver shall have and be entitled to exercise all the rights, powers and discretions set out in this Clause in addition and not in substitution for the powers conferred on mortgagees or receivers under the Law of Property Act and the Insolvency Act and where there is any ambiguity or conflict between the powers contained in either of such acts and those conferred by this Deed, the terms of this Deed shall prevail to those conferred on it by any law; this includes
  - (i) all the powers conferred by the Law of Property Act on mortgagors and on mortgagees in possession and on receivers appointed under the Law of Property Act,
  - (ii) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act (whether or not the Receiver is an administrative receiver),

- (iii) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do, and
  - (iv) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to (i) any of the functions, powers, authorities or discretions conferred on or vested in him or (ii) the exercise of any rights, powers or remedies provided by this Deed or by law (including realisation of all or any part of the Security Assets ) or (iii) bringing to his hands any assets of the Chargor forming part of, or which when received would be Security Assets
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver

## **12. APPLICATION OF PROCEEDS**

Any moneys received by the Chargee or any Receiver after the Security created or evidenced by this Deed has become enforceable must be applied by the Chargee for the following purposes and, unless otherwise determined by the Chargee or that Receiver, in the following order of priority

- (a) in or towards payment of or provision for all costs, charges and expenses incurred and payments made by the Chargee or any Receiver under or in connection with this Deed and of all remuneration due to any Receiver under or in connection with this Deed;
- (b) in payment to the Chargee for application towards the balance of the Secured Liabilities, and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it

This Clause is subject to the payment of any claims having priority over the Security created or evidenced by this Deed. This Clause does not prejudice the right of the Chargee to recover any shortfall from the Chargor

## **13 INDEMNITY**

The Chargor must keep the Chargee and any Receiver, attorney, manager, agent or other person appointed by the Chargee under this Deed indemnified against any loss or liability incurred by it in connection with any litigation, arbitration or administrative proceedings concerning the Security created or evidenced by this Deed save to the extent arising from such person's gross negligence or wilful misconduct; this includes any loss or liability arising from any actual or alleged breach by the Chargor of any law or regulation, whether relating to the environment or otherwise

## **14. DELEGATION**

### **14.1 Power of Attorney**

The Chargee or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

### **14.2 Terms**

Any such delegation may be made upon any terms (including power to sub-delegate) which the Chargee or any Receiver may think fit.

### **14.3 Liability**

Neither the Chargee nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

## **15 FURTHER ASSURANCES**

The Chargor must, at its own expense, take whatever action the Chargee or a Receiver may require for:

- (a) creating, perfecting or protecting any security intended to be created by or pursuant to this Deed,
- (b) facilitating the realisation of any Security Asset upon and after the occurrence of an Enforcement Event,
- (c) facilitating the exercise of any right, power or discretion exercisable by the Chargee or any Receiver or any of their respective delegates or sub delegates in respect of any Security Asset, or
- (d) creating and perfecting security in favour of the Chargee (equivalent to the security intended to be created by this Deed) over any assets of the Chargor located in any jurisdiction outside England and Wales.

This includes:

- (i) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any Security Asset or any other property, whether to the Chargee or to its nominee; or
- (ii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Chargee may consider expedient.

## **16 POWER OF ATTORNEY**

The Chargor, by way of security, irrevocably and severally appoints the Chargee, each Receiver and each of their respective delegates and sub-delegates to be its

attorney to take any action which the Chargor is obliged to take under this Deed including without limitation, to do any act, matter or thing which the Chargee or each Receiver considers bona fide necessary for the performance, protection, perfection, maintenance or preservation or attempted performance, protection or preservation of the security constituted by this Deed

The Chargor hereby undertakes to ratify and confirm all things done and all documents executed by the Chargee or Receiver in the exercise or purported exercise of the power of attorney conferred by this Clause 16

## **17. FINANCIAL COLLATERAL**

The parties intend that the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226) (the "**Regulations**") shall apply to financial collateral (as defined in the Regulations) mortgaged, charged and/or assigned by this Deed.

## **18. RELEASE**

At the end of the Security Period, the Chargee must take whatever action is reasonably necessary to release the Security Assets from the Security created or evidenced by this Deed.

## **19. NOTICES**

### **19.1 Communications in Writing**

Each communication to be made under this Deed shall be made in writing and shall be sent for the attention of the person, and to the address or fax number, notified to, in the case of the Chargor's communications, the Chargee and in the case of the Chargee's communications, the Chargor on the date of this Deed (or such other address, fax number or person as each party may notify to the others in accordance with the provisions of this Clause 19).

### **19.2 Giving of Notice**

- (a) Any communication or document to be made or delivered by one person to another pursuant to this Deed shall (unless that other person has by 10 days' written notice to the other specified another address or fax number) be made or delivered to that other person at the address or fax number specified on the date of this Deed and shall be deemed to have been made or delivered
  - (i) if delivered personally, at the time of delivery;
  - (ii) in the case of fax, at the time of transmission,
  - (iii) in the case of pre-paid first class post, recorded delivery, two business days from the date of posting; or
  - (iv) in the case of registered airmail, five business days from the date of posting

- (b) To prove service, it is sufficient to prove that the notice was transmitted by fax to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted
- (c) If deemed receipt in paragraph (a) above is not within business hours (meaning 9 00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), the date of deemed receipt shall be the next following business day in the place of receipt

## **20. SEVERABILITY**

If a term of this Deed is or becomes illegal, invalid or unenforceable in any respect under any jurisdiction in relation to any Party, that will not affect.

- (a) in respect of such Party the legality, validity or enforceability in that jurisdiction of any other term of this Deed,
- (b) in respect of any other Party the legality, validity or enforceability in that jurisdiction of that or any other term of this Deed; or
- (c) in respect of any Party the legality, validity or enforceability in other jurisdictions of that or any other term of this Deed

## **21. COUNTERPARTS**

This Deed may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

## **22. NO THIRD PARTY RIGHTS**

Without prejudice to Clauses 1.2 (*Construction*), and except for any Receiver, attorney, manager, agent or other person appointed by the Chargee, no person who is not a Party may enforce any rights under this Deed. No consent of any person who is not a Party is required to amend this Deed

## **23. AMENDMENTS IN WRITING**

None of the terms or provisions of this Deed may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Chargors and the Chargee

## **24. GOVERNING LAW**

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

## **25. JURISDICTION**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed and any non-contractual obligations

arising out of or in connection with it (including a dispute regarding the existence, validity or termination of this Deed) (a "**Dispute**")

- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause is for the benefit of the Chargee only. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions

**THIS DEED** has been executed and delivered as a deed on the date stated at the beginning of this Deed.



## SIGNATORIES

### THE CHARGOR

**EXECUTED** as a **DEED** by  
**MWB BUSINESS EXCHANGE**  
**CENTRES LIMITED**  
acting by

)  
) Signature redacted  
)  
)  
)  
)  
) Director V

Witness

Signature redacted

Name

SARAH LAINCHURCH

Occupation

TRAINEE SOLICITOR

Address

SIDLEY AUSTIN LLP  
25 BASINGHAU STREET  
LONDON, EC2V 5HA

### THE CHARGEЕ

**EXECUTED** as a **DEED** by  
**PATHWAY FINANCE S.À R.L**  
acting by

)  
) Signature redacted  
)  
)  
)  
) Director

Witness

Signature redacted

Name

Delphine Cimonon

Occupation

Executive Assistant

Address

Address redacted