



Registration of a Charge

Company name: **DALATA UK LTD**

Company number: **06574723**



X8428P6B

Received for Electronic Filing: **24/04/2019**

Details of Charge

Date of creation: **09/04/2019**

Charge code: **0657 4723 0010**

Persons entitled: **THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND**

Brief description:

Contains fixed charge(s).

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: **GOWLING WLG (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6574723

Charge code: 0657 4723 0010

The Registrar of Companies for England and Wales hereby certifies that a charge dated 9th April 2019 and created by DALATA UK LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th April 2019 .

Given at Companies House, Cardiff on 25th April 2019

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



Companies House



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

DATED 9 April 2019

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND
(as the Security Agent)

and

DALATA UK LIMITED
(as the Grantor)

SECURITY AGREEMENT
(relating to shares in Hintergard Limited)

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THIS SECURITY AGREEMENT is made the 9 day of April 2019

BETWEEN:

- (1) **THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND** acting as security agent and trustee for the Secured Parties (as defined below) (the "**Security Agent**"); and
- (2) **DALATA UK LIMITED** a company incorporated under the laws of England with registered number 06574723 (the "**Grantor**").

RECITALS:

- (A) The Lenders have (inter alia) made available to certain Borrowers certain facilities on the terms and conditions set out in the Facilities Agreement.
- (B) It is a condition subsequent under the Facilities Agreement that the Grantor executes and delivers this Agreement in favour of the Security Agent.
- (C) The Security Agent has been appointed to act as security agent and trustee for the Secured Parties.
- (D) This Agreement includes the terms of and constitutes a security agreement in accordance with the provisions of the Security Law.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

(1) Definitions

Unless the context otherwise requires, words or expressions defined in the Facilities Agreement shall have the same meanings in this Agreement and this construction shall survive the termination of the Facilities Agreement. In addition, in this Agreement (including, without limitation, the recitals), the following words and expressions shall, except where the context otherwise requires, have the following meanings:

- (a) "**bankrupt**" shall have the meaning given to it in Article 8 of the Interpretation Law and shall also include any proceedings of a similar nature in any place outside Jersey and "**bankruptcy**" shall be construed accordingly;
- (b) "**Collateral**" means:
 - (i) the Shares; and
 - (ii) the Related Property;
- (c) "**Company**" means Hintergard Limited a company incorporated under the laws of Jersey with registered number 114525;
- (d) "**control**" shall have the meaning given to it in Article 3 of the Security Law;
- (e) "**Default Rate**" means the rate determined from time to time in accordance with clause 11.3 of the Facilities Agreement;
- (f) "**distribution**" shall have the meaning given to it in Articles 114(1) and 114(2) of the Companies (Jersey) Law 1991;

- (g) **"Event of Default"** shall have the meaning given to it in the Facilities Agreement;
- (h) **"Facilities Agreement"** means the facilities agreement dated 26 October 2018 made between, amongst others, (1) Dalata Hotel Group plc, (2) the Original Borrowers party thereto (3) the Original Guarantors party thereto, (4) the Arrangers party thereto, (5) the Original Lenders party thereto, (6) The Governor and Company of the Bank of Ireland as Agent and Security Agent in respect of multicurrency term and revolving credit facilities (as amended from time to time);
- (i) **"Finance Document"** shall have the meaning given to it in the Facilities Agreement;
- (j) **"financing change statement"** shall have the meaning given to it in Article 1 of the Security Law;
- (k) **"financing statement"** shall have the meaning given to it in Article 1 of the Security Law;
- (l) **"further advance"** shall have the meaning given to it in Article 33(4) of the Security Law;
- (m) **"intangible movable property"** shall have the meaning given to it in Article 1 of the Security Law;
- (n) **"Interpretation Law"** means the Interpretation (Jersey) Law 1954;
- (o) **"investment security"** shall have the meaning given to it in Article 1 of the Security Law;
- (p) **"Issuer Documents"** means, in relation to any Shares, the following documents and register:
 - (i) the constitutional documents of the Company;
 - (ii) any statutory or regulatory authorisation or consent issued in respect of such Shares; and
 - (iii) the register of members of the Company showing such Shares as being registered in the name of the Grantor;
- (q) **"Lender"** shall have the meaning given to it in the Facilities Agreement;
- (r) **"Party"** means a party to this Agreement;
- (s) **"Powers of Attorney Law"** means the Powers of Attorney (Jersey) Law 1995;
- (t) **"Proceeds"** means identifiable or traceable property, being intangible movable property in which the Grantor acquires an interest at any time on or after the date of this Agreement and that is derived directly or indirectly from a dealing with the Collateral (such identifiable or traceable property being hereinafter referred to as the **"Primary Proceeds"**) or from a dealing with the Primary Proceeds but does not include interest or other income derived from the Collateral or the Primary Proceeds;
- (u) **"Related Property"** means:
 - (i) all present and future monies paid or payable by the Company in respect of the Shares (whether by way of redemption, return of

capital, distribution or otherwise howsoever) and any right thereto;
and

- (ii) all present and future stocks, shares, securities (and all monies paid or payable in respect thereof (whether by way of redemption, return of capital, distribution or otherwise howsoever)), rights, money or property accrued, accruing or offered at any time by way of redemption, bonus, preference, option rights or otherwise howsoever to or in respect of any of the Shares or in substitution or exchange for any of the Shares (provided always that any Shares shall be excluded from this paragraph (ii) of this definition of Related Property and accordingly the Shares shall not constitute Related Property for the purposes of this Agreement);

- (v) **"Secured Liabilities"** means all monies, obligations and liabilities (including, without limitation, in respect of principal, interest, discount, commission, fees and expenses) which are now or at any time hereafter may be or become due, owing or incurred by the Grantor to the Secured Parties or any one or more of them whatsoever or howsoever under, pursuant to or in connection with the Finance Documents (including, without limitation, all such obligations and liabilities in respect of further advances (whether or not such further advances are in the contemplation of the Parties on the date of this Agreement)):

- (i) whether actually or contingently;
- (ii) whether alone or jointly or jointly and severally with any other person(s);
- (iii) in whatever style or name;
- (iv) whether as principal or surety or otherwise; and
- (v) whether originally due, owing or incurred to the Security Agent or to some other person(s);

and any reference to the "Secured Liabilities" includes a reference to any of them;

- (w) **"Secured Party"** shall have the meaning given to it in the Facilities Agreement;
- (x) **"security interest"** shall have the meaning given to it in Article 1A of the Security Law;
- (y) **"Security Law"** means the Security Interests (Jersey) Law 2012;
- (z) **"Shares"** means all present and future shares of any class in the capital of the Company in or to which the Grantor has on or after the date of this Agreement any rights, title or interest; and
- (aa) **"verification statement"** shall have the meaning given to it in Article 1 of the Security Law.

(2) Interpretation

In this Agreement, unless the context otherwise requires:

- (a) words in the singular shall include the plural and words in the plural shall include the singular;

- (b) this "**Agreement**" shall mean and extend to every separate and independent stipulation contained herein including, without limitation, the parties clause and the recitals;
- (c) words denoting any gender shall include all genders;
- (d) words following the terms "**include**" and "**including**" or any similar term are only illustrative and shall not limit the meaning of words preceding such terms;
- (e) Clause headings are used for convenience only and shall not affect the construction or interpretation of this Agreement;
- (f) references to Clauses are to be construed as references to the Clauses of this Agreement;
- (g) references to the Security Agent or the Grantor or any other person shall include their respective successors, assignees and transferees;
- (h) no Clause or provision of this Agreement shall limit the operation of another Clause or provision of this Agreement;
- (i) references to any agreement or document (including, without limitation, any Finance Document) shall include references to such agreement or document as amended, varied, supplemented, restated, novated or replaced from time to time (howsoever fundamentally and whether or not in the contemplation of the Parties on the date of this Agreement) including, without limitation and in relation to any Finance Document, any such amendment, variation, supplement, restatement, novation or replacement which increases, extends (whether as to maturity or otherwise) or changes the purpose of any facility or amount made available under any Finance Document or which makes available any new or additional facility under any Finance Document;
- (j) references to a Finance Document shall include any agreement or document designated as a Finance Document from time to time on or after the date of this Agreement in accordance with the Facilities Agreement notwithstanding that such designated Finance Document may relate to fundamental obligations and notwithstanding that such designated Finance Document may not have been in the contemplation of the Parties on the date of this Agreement;
- (k) references to a person shall include any person, firm, company, corporation, government, state, or agency of a state or any association, trust or partnership (whether or not having separate legal personality);
- (l) references to any legislation (or to any provision of any legislation) shall include any modification or re-enactment of such legislation, any legislation enacted in substitution for such legislation and any enactment issued under such legislation;
- (m) references to the Collateral shall include any part thereof;
- (n) any covenant of the Grantor under this Agreement shall remain in force during the until the Security Agent releases the security interest constituted by or pursuant to this Agreement pursuant to Clause 11 or such longer period as may be specified in this Agreement; and

- (o) a Default (other than an Event of Default) is "**continuing**" for the purposes of the Finance Documents if it has not been remedied or waived and an Event of Default for those purposes is "continuing" if it has not been waived.

(3) **Conflict of terms**

Where any conflict exists between the positive covenants and undertakings in Clause 4 and the covenants and undertakings in clause 24 of the Facilities Agreement, the covenants and undertakings given in the Facilities Agreement shall prevail.

2. **SECURITY INTEREST**

- (1) The Grantor hereby, as primary obligor and not merely as surety, covenants with the Security Agent that it will on the Security Agent's written demand, pay or discharge all the Secured Liabilities when the same are due to be paid and discharged. The Grantor acknowledges that the Secured Liabilities shall, in the absence of express written agreement to the contrary, be due and payable on demand.
- (2) In order to provide continuing security for the payment and performance of the Secured Liabilities, the Grantor hereby creates a security interest under the Security Law in or over all of its present and future rights, title and interest in and to the Collateral in favour of the Security Agent.
- (3) The Grantor acknowledges and agrees that value (as defined in the Security Law) has been given in respect of this Agreement.
- (4) It is acknowledged and agreed by the Parties that the Parties have not entered into (i) any agreement referred to in Article 18(1) of the Security Law which defers or delays any attachment of the security interest constituted by or pursuant to this Agreement or (ii) any agreement to the contrary referred to in Article 19(2) of the Security Law.
- (5) The Grantor acknowledges and agrees that the security interest created by Clause 2(2) will extend to any Proceeds in accordance with Article 24 of the Security Law to the extent that such Proceeds are capable, according to Part 2 of the Security Law, of being the subject of a security interest to which the Security Law applies.
- (6) The Grantor shall promptly pay all calls, that are now due in respect of the Collateral and shall pay all payments that become due in respect of the Collateral. If the Grantor does not make any such payment, the Security Agent may do so and the Grantor shall reimburse the Security Agent for any such payment on demand. The Grantor acknowledges and agrees that the Security Agent shall have no liabilities in relation to the Collateral and shall have no obligation to preserve or enhance the Collateral or its value.
- (7) To the extent that any Collateral under or pursuant to this Agreement does not fall within the intangible movable property referred to in Article 4(a) of the Security Law, the Parties agree for the purposes of Article 5 of the Security Law that this Agreement shall apply to such Collateral.

3. **REPRESENTATIONS AND WARRANTIES**

- (1) The Grantor represents and warrants to the Security Agent on the date of this Agreement as follows:
 - (a) this Agreement has been properly executed by the Grantor and the Grantor has taken all necessary action to authorise the execution and delivery of this Agreement, which is valid and binding upon the Grantor and enforceable in accordance with its terms; and

- (b) the Grantor is the sole legal and beneficial owner of the Collateral;
- (2) Each of the representations and warranties set out in Clause 3(1) are made on the date of this Agreement and on each date on which the Grantor acquires any additional Shares.

4. GENERAL COVENANTS

The Grantor agrees and covenants:

- (1) contemporaneously with the execution and delivery of this Agreement, to deliver to the Security Agent (or to such person that the Security Agent may direct) share certificates in respect of all Shares which have been issued on or before the date of this Agreement, together with undated and signed duly completed stock transfer forms in respect of such Shares in a form acceptable to the Security Agent;
- (2) to deliver to the Security Agent (or to such person that the Security Agent may direct) share certificates in respect of all Shares which are issued after the date of this Agreement promptly after such Shares are issued, together with undated and signed duly completed stock transfer forms in respect of such Shares in a form acceptable to the Security Agent;
- (3) to deliver to the Security Agent (or to such person that the Security Agent may direct) any certificates representing any investment securities which constitute Related Property and which are issued after the date of this Agreement promptly after such certificates are issued, together with (a) undated and signed duly completed stock transfer forms in respect of such Related Property in a form acceptable to the Security Agent, (b) any statutory or regulatory authorisation or consent issued in respect of such Related Property, and (c) any register of title or register evidencing title relating to such Related Property and showing such Related Property as being registered in the name of the Grantor;
- (4) without prejudice to any other provision of this Agreement and after any request is made by the Security Agent, to do all things necessary to ensure that the Security Agent has control for the purposes of Article 3 of the Security Law in respect of any investment securities that constitute Collateral (including, without limitation, following the occurrence of an Event of Default that is continuing, by the Security Agent becoming the registered holder of such investment securities);
- (5) that it shall not, without the prior written consent of the Security Agent or as expressly permitted pursuant to the Facilities Agreement, create or permit to subsist any Security over or relating to the whole or any part of the Collateral or any Proceeds (other than any such Security which is in favour of the Security Agent);
- (6) that it shall not, without the prior written consent of the Security Agent or as expressly permitted pursuant to the Facilities Agreement, sell, transfer or otherwise dispose of all or any part of the Grantor's rights, title and interest in and to the whole or any part of the Collateral or any Proceeds or enter into any agreement relating to any such sale, transfer or disposal;
- (7) that it shall not, without the prior written consent of the Security Agent, take any action which causes or permits any rights attaching to the Collateral to be varied, altered or cancelled and, to the extent that it has a material effect on the Collateral and or the interests of the Security Agent, not permit the Issuer Documents to be amended or altered;
- (8) that it shall not, without the prior written consent of the Security Agent, take any action which causes any of the Shares to be cancelled, forfeited, surrendered,

consolidated, subdivided, redeemed, repurchased or made the subject of any capital reduction;

- (9) that it shall not, without the prior written consent of the Security Agent, cause or permit any Shares to be cancelled, consolidated, subdivided or converted or the other capital of the Company to be re-organised, exchanged or repaid;
- (10) it will procure the discharge of any financing statement that is registered against it by any person (other than the Security Agent) in relation to the whole or any part of the Collateral or any Proceeds including, without limitation, any such registration made at any time on or before the date of this Agreement;
- (11) to procure that the only register of members of the Company is at all times kept and maintained in Jersey;
- (12) to procure that the Security Agent's security interest in the Shares is noted on the register of members of the Company; and
- (13) to notify the Security Agent in writing of any proposal to change its name (together with the correct spelling of its proposed new full name) promptly after becoming aware of any such proposal and to deliver to the Security Agent within three Business Days of any change of name taking effect, a certified copy of the Grantor's constitutional documents showing the Grantor's new full name.

5. SHARE RIGHTS AND DISTRIBUTIONS

The Security Agent and the Grantor agree:

- (1) unless an Event of Default has occurred which is continuing, the Grantor may:
 - (a) exercise all voting rights and powers in respect of the Collateral provided that the Grantor shall not exercise any voting rights or powers in any way to jeopardise the value of the Collateral, the security interest constituted by or pursuant to this Agreement or the rights or interests of the Security Agent under this Agreement or the Security Law; and
 - (b) without prejudice to any other provision of any other Finance Document, retain all distributions made by the Company at any time in respect of the Shares;
- (2) if an Event of Default has occurred which is continuing, the Grantor (unless directed in accordance with Clause 5(4)) shall not exercise any voting rights or any other rights and powers attached to or arising from the Collateral and instead the Security Agent shall have the right to exercise all voting rights and all other rights and powers attached to or arising from the Collateral;
- (3) if an Event of Default has occurred which is continuing, the Grantor shall forthwith upon the request of the Security Agent, appoint the Security Agent as its proxy or corporate representative in accordance with the provisions of the Company's articles of association to exercise all voting rights in relation to the Collateral;
- (4) without prejudice to any other provision of this Agreement, if an Event of Default has occurred which is continuing, the Grantor shall exercise the right to vote and all other rights and powers attached to or arising from the Collateral as directed by the Security Agent from time to time;
- (5) without prejudice to any other provision of any other Finance Document, if an Event of Default has occurred which is continuing and the Grantor receives any distribution or payment in respect of the Collateral, it will forthwith transfer or pay such

distribution or payment to the Security Agent and the Security Agent shall be entitled to apply such distribution or payment in or towards the payment or discharge of the Secured Liabilities in accordance with clause 32.1 of the Facilities Agreement;

- (6) if the Grantor receives at any time any Related Property, the Grantor shall promptly notify the Security Agent of such receipt; and
- (7) the Grantor shall continue to be responsible (notwithstanding anything to the contrary contained in this Agreement) for all liabilities and obligations in respect of the Collateral and the Security Agent shall have no liability or obligation in relation to the Collateral or any matter or proceeding arising out of or related thereto and, without limitation, shall be under no liability to the Grantor for exercising (or not exercising) its right to vote in respect of the Collateral or for any failure to present any coupon, bond, share, stock or other document which may be called or drawn for payment, repayment or redemption or to pay any calls, instalments or other payments which may become payable on the Collateral or to accept any offer relating to the Collateral or to notify the Grantor of any such matters.

6. ENFORCEMENT

- (1) The power of enforcement in respect of the security interest constituted by or pursuant to this Agreement shall become exercisable when an Event of Default has occurred and the Security Agent has served on the Grantor written notice specifying such Event of Default.
- (2) The Security Agent may exercise the power of enforcement in respect of the security interest constituted by or pursuant to this Agreement by doing any of the matters set out in Article 43(2) of the Security Law.
- (3) The Security Agent shall not appropriate the whole or any part of the Collateral or any Proceeds unless the Security Agent has given notice in accordance with Article 44(1) of the Security Law to the persons entitled to receive such notice under Article 44(1) of the Security Law. The Grantor unconditionally and irrevocably waives any right to receive any such notice. Accordingly, the Grantor acknowledges and agrees that it does not have any right to receive any notice pursuant to Article 44(1) of the Security Law.
- (4) The Security Agent shall not sell the whole or any part of the Collateral or any Proceeds unless the Security Agent has given notice in accordance with Article 44(2) of the Security Law to the persons entitled to receive such notice under Article 44(2) of the Security Law. The Grantor unconditionally and irrevocably waives any right to receive any such notice. Accordingly, the Grantor acknowledges and agrees that it does not have any right to receive any notice pursuant to Article 44(2) of the Security Law. It is further acknowledged and agreed that the Security Agent does not have to give any notice under Article 44(2) of the Security Law to any person in circumstances where Article 44(3) of the Security Law applies.
- (5) The power of enforcement in respect of the security interest constituted by or pursuant to this Agreement shall be exercisable by the Security Agent in such manner, at such time, at such intervals and for such cash or other consideration (whether payable immediately, by instalments or otherwise deferred) as the Security Agent may in its absolute discretion deem appropriate and with all the powers of a beneficial owner. Without prejudice to the generality of the foregoing, the Security Agent may sell the whole or any part of the Collateral or any Proceeds without giving any representation or warranty of any nature whatsoever in favour of the purchaser

thereof and the Security Agent may sell the whole or any part of the Collateral or any Proceeds to itself or any subsidiary of the Security Agent or any subsidiary of any holding body of the Security Agent.

- (6) The power of enforcement in respect of the security interest constituted by or pursuant to this Agreement may be exercised in respect of the whole or any part of the Collateral and any Proceeds and may be exercised any number of times.
- (7) Unless otherwise required by law, any amount or value received or recovered by the Security Agent as a result of exercising the power of enforcement in respect of the security interest constituted by or pursuant to this Agreement shall be applied by the Security Agent in or towards payment or discharge of the Secured Liabilities in accordance with clause 32.1 of the Facilities Agreement. If any surplus arises as described in Article 51 of the Security Law, then the Security Agent shall either apply such surplus in accordance with Article 49 of the Security Law or pay such surplus into court pursuant to Article 50 of the Security Law. If the Security Agent elects to apply any surplus in accordance with Article 49 of the Security Law, the Security Agent shall not be liable for any failure to apply the surplus in accordance with Article 49 of the Security Law provided that the Security Agent sought to comply with Article 49 of the Security Law in good faith and after having made reasonable enquiries.
- (8) No purchaser or other person shall be bound or concerned to see or enquire whether the Security Agent may exercise the power of enforcement in respect of the security interest constituted by or pursuant to this Agreement or with the propriety of the exercise or purported exercise of such power of enforcement.
- (9) Any amount received or recovered by the Security Agent as a result of exercising the power of enforcement in respect of the security interest constituted by or pursuant to this Agreement may be placed in a suspense account for so long as the Security Agent thinks fit. When the Security Agent withdraws any moneys from any such suspense account, such moneys shall be applied in accordance with Clause 6(7).
- (10) The Grantor shall have no right or claim against the Security Agent in respect of any loss arising out of the exercise of, or a failure to exercise, the power of enforcement in respect of the security interest constituted by or pursuant to this Agreement except in respect of loss arising from gross negligence or wilful default of the Security Agent.
- (11) The Security Agent shall be under no liability or obligation to the Grantor arising out of any failure to preserve, maintain or enhance the value of the Collateral or any rights relating to the Collateral.
- (12) The Grantor irrevocably and unconditionally waives any right which it may have under Article 54 of the Security Law to reinstate this Agreement. Accordingly, the Grantor does not have (and shall not seek to exercise) any right of reinstatement under the Security Law.
- (13) Save for the gross negligence or wilful default of the Security Agent, the Security Agent will only be accountable, and the Grantor will only be entitled to be credited, for the actual moneys or value received by the Security Agent arising from the sale, appropriation or other realisation of the Collateral and any Proceeds.
- (14) If the value of the Collateral and any Proceeds appropriated or the proceeds of sale or other realisation of the Collateral and any Proceeds is insufficient to pay or

discharge the Secured Liabilities in full, the Grantor shall remain liable for any such deficiency or shortfall.

7. FURTHER ASSURANCE

The Grantor shall at any time (and from time to time) if required by the Security Agent, promptly sign, seal, deliver and compete all documents and do all acts and things which the Security Agent is entitled by the terms of this Agreement to require for:

- (a) perfecting or improving its title to and security over the Collateral and any Proceeds; or
- (b) vesting or enabling the Security Agent to vest the Collateral and any Proceeds in itself or its nominee or in an purchaser or to facilitate the sale or other disposal of any of the Collateral and any Proceeds; or
- (c) the exercise of any of the rights or powers attaching to the Collateral and any Proceeds conferred on the Security Agent by this Agreement, such documents to be prepared by or on behalf of the Security Agent (as the cost of the Grantor) and to be in such form as the Security Agent may require.

8. POWER OF ATTORNEY

- (1) In accordance with Article 5(2)(a) of the Powers of Attorney Law, for the purpose of facilitating the exercise of the powers of the Security Agent under the Security Law and of the powers given pursuant to this Agreement, the Grantor irrevocably appoints the Security Agent as the Grantor's attorney (with full power of substitution in accordance with Article 8 of the Powers of Attorney Law) for the Grantor and in the name and on behalf of the Grantor to:
 - (a) do anything which the Grantor is obliged to do (but has not done) in accordance with this Agreement, including to sign, execute, seal, deliver, register and perfect any instruments, agreements, documents, notices, transfers, orders and directions; and
 - (b) to enable the Security Agent to exercise all or any of the rights, powers and discretions granted (or intended to be granted) by or pursuant to this Agreement or the Security Law.
- (2) The Grantor hereby covenants with the Security Agent to ratify and confirm any exercise or purported exercise of the power of attorney granted in Clause 8(1).
- (3) All sums expended by the Security Agent under this Clause 8 shall be recoverable from the Grantor under Clause 14.

9. REINSTATEMENT OF SECURITY

If any discharge or release of any of the Secured Liabilities or any security for the Secured Liabilities is made in whole or in part on the basis of any payment, security or other disposition which is subsequently avoided, reduced or otherwise set aside on the bankruptcy, liquidation or dissolution of any person or otherwise howsoever:

- (1) the liability of the Grantor under, and the security interest constituted by or pursuant to, this Agreement will continue or be reinstated as if that discharge or release had not occurred (and notwithstanding any release of the security interest constituted by or pursuant to this Agreement pursuant to Clause 11); and
- (2) the Security Agent and the Grantor will be restored to the position in which each would have been, and will be entitled to exercise all the rights which each would

have had, if that discharge or release had not been made (and the security interest constituted by or pursuant to this Agreement had not been released).

10. NO IMPAIRMENT

The obligations of the Grantor under this Agreement, and the security interest constituted by or pursuant to this Agreement, shall not be discharged, released, impaired, prejudiced or otherwise affected in any way by:

- (1) any amalgamation, reorganisation, reconstruction or merger of or relating to the Grantor or any other person;
- (2) any act or omission by the Security Agent in taking up, perfecting or enforcing any security, indemnity, guarantee or other claim from or against the Grantor or any other person;
- (3) any defect in or any termination, amendment, variation, novation, restatement or supplement of or to any Finance Document or any other document;
- (4) any time, indulgence, waiver or consent being granted to the Grantor or any other person by the Security Agent or any other person;
- (5) any insolvency, bankruptcy, liquidation, administration, receivership or winding up relating to the Grantor or any other person;
- (6) any composition or arrangement being made with the Grantor or any other person;
- (7) the death, incapacity, lack of authority, limitation or disability relating to the Grantor or any other person;
- (8) any change in the name, constitution, members, partners or status of the Grantor or any other person;
- (9) any release, termination, frustration, non-provability, illegality, invalidity or unenforceability of any obligation of the Grantor or any other person under or in connection with any Finance Document or any other document;
- (10) any variation, extension, compromise, discharge, release, dealing with, exchange or renewal of any right or remedy which the Security Agent or any other person may at any time have against the Grantor or any other person;
- (11) any non-observance of any formality or other requirement in respect of any Finance Document;
- (12) any refusal or neglect to perfect, take up or enforce any rights against, or security over, any asset of the Grantor or any other person;
- (13) any failure to realise the full value of any security; or
- (14) any other act, omission or circumstance which but for this provision might operate to exonerate or discharge the Grantor or reduce or extinguish its liability under this Agreement or release or discharge the security interest constituted by or pursuant to this Agreement.

11. RELEASE OF SECURITY

- (1) If all Secured Liabilities have been irrevocably and unconditionally paid, discharged or performed in full and no Secured Party has any obligation to provide any further credit or financial accommodation to any person under or in connection with any Finance Document, the Security Agent will, on the written request of the Grantor and at the cost of the Grantor, execute a release of the security interest constituted

by or pursuant to this Agreement on such terms as the Security Agent may determine and return to the Grantor such share certificates in respect of the Collateral as have been delivered by the Grantor to the Security Agent pursuant to this Agreement.

- (2) The Security Agent may, on the written request of the Grantor and at the cost of the Grantor, execute a partial release of the security interest constituted by or pursuant to this Agreement on such terms as the Security Agent may determine.
- (3) The Security Agent (or any representative of the Security Agent) may at the cost of the Grantor file a financing change statement to reflect any release or partial release of the security interest constituted by or pursuant to this Agreement.

12. TACKING AND CURRENT ADVANCES

- (1) The Parties acknowledge that the Secured Liabilities include obligations and liabilities in respect of further advances.
- (2) The security interest constituted by or pursuant to this Agreement shall have the same priority in relation to all Secured Liabilities.
- (3) The security interest constituted by or pursuant to this Agreement shall not be extinguished by the repayment of any current advance from time to time. Accordingly, the security interest constituted by or pursuant to this Agreement shall constitute a continuing security and will extend to the ultimate balance of the Secured Liabilities from time to time notwithstanding any intermediate payment or discharge in whole or in part.

13. CUSTOMARY LAW WAIVERS

The Grantor irrevocably and unconditionally waives any and all rights under the laws of Jersey:

- (1) whether by virtue of the droit de division or otherwise, to require that any liability under the Finance Documents be divided or apportioned with any other person or reduced in any manner whatsoever; and
- (2) whether by virtue of the droit de discussion or otherwise, to require that the Security Agent claim payment from, or proceed against, any other person or its assets before any claim is enforced against the Grantor under the Finance Documents.

14. REMEDIES AND WAIVER

- (1) No failure or delay by the Security Agent in exercising any right or remedy under this Agreement, the Security Law or otherwise howsoever shall operate as a waiver or release of such right or remedy nor shall any single or partial exercise of any such right or remedy preclude its further exercise or the exercise of any other right or remedy.
- (2) The rights provided to the Security Agent in this Agreement are cumulative, may be exercised as often as the Security Agent considers appropriate, are in addition to its rights provided by law and may be waived only in writing.
- (3) The Security Agent shall not be liable for any losses arising in connection with the exercise or purported exercise of any of its rights, powers and discretions under this Agreement or conferred by the Security Law except if and to the extent that such losses result from its own gross negligence or wilful default.

15. **RECONSTRUCTION OR REORGANISATION**

The rights of the Security Agent shall not be affected or prejudiced in any way by any change in its constitution or by its reconstruction or reorganisation or its absorption in or amalgamation or merger or consolidation with any other person or the acquisition of all or part of its undertaking by any other person.

16. **REGISTRATION**

The Grantor hereby consents to the Security Agent (or any representative of the Security Agent) registering such financing statements and financing change statements as the Security Agent may consider appropriate to perfect the security interest constituted by or pursuant to this Agreement continuously until the Security Agent releases the security interest constituted by or pursuant to this Agreement pursuant to Clause 11.

17. **MISCELLANEOUS**

- (1) All payments to be made by the Grantor under this Agreement will be made without any withholding (whether in respect of tax or otherwise howsoever), set off or counterclaim.
- (2) The security interest constituted by or pursuant to this Agreement shall be independent of and in addition to and shall not merge with or be prejudiced or affected by or otherwise prejudice or affect any contractual or other right or remedy or any guarantee, indemnity, lien, right of set off, right of combination or consolidation of accounts, security interest, mortgage, charge or other security or other right now or hereafter held by or available to the Security Agent.
- (3) No provision of this Agreement may be amended or varied without the express written agreement of the Security Agent.
- (4) If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect the legality, validity or enforceability:
 - (a) in that jurisdiction of any other provision of this Agreement; or
 - (b) in other jurisdictions of that or any other provision of this Agreement.
- (5) A certificate of the Security Agent setting out the amount due in respect of the Secured Liabilities shall, in the absence of manifest error, be conclusive evidence of such amount.
- (6) This Agreement may be executed in any number of counterparts and this shall have the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- (7) The Security Agent is not obliged to marshal, enforce, apply, appropriate, recover or exercise any security, guarantee or other right held at any time by it, or any amounts or other property that it holds or is entitled to receive, or have recourse to any other remedy, before enforcing the security interest constituted by or pursuant to this Agreement.
- (8) The Security Agent shall have full power to delegate (either generally or specifically) to any person whatsoever any of the powers, authorities and discretions conferred on it by this Agreement on such terms and conditions as it shall see fit. Any such delegation shall not prevent any further delegation to any person whatsoever or any revocation of any delegated power, authority or discretion.
- (9) The Security Agent may at any time (without exercising the power of enforcement):

- (a) transfer possession of any certificates of title or other documentary evidence of ownership relating to any Collateral to any nominee; and
- (b) following the occurrence of an Event of Default that is continuing, become (or cause its nominee to become) the registered owner or holder of any investment security which constitutes Collateral.

18. NOTICES

The provisions of clause 37 of the Facilities Agreement shall apply to this Agreement as if such provisions were set out in full in this Agreement.

19. CHANGE DEMANDS

If the Grantor makes or lodges any demand pursuant to Article 75 of the Security Law, the Grantor shall in addition send a notice in writing to the Security Agent in accordance with Clause 20 (other than by email) notifying the Security Agent that such a demand has been made and giving full details as to the nature of the demand.

20. ASSIGNMENT

- (1) The Security Agent may assign all or any of its rights, title and interest in and to this Agreement to any replacement Security Agent appointed in accordance with the Facilities Agreement and for such purpose shall be entitled and authorised to disclose any information concerning the Grantor to any proposed assignee.
- (2) The Grantor may not assign transfer, novate or dispose of all or any of its rights and/or obligations under this Agreement.
- (3) If the security interest constituted by or pursuant to this Agreement is assigned, the Security Agent may register a financing change statement recording such assignment.

21. GOVERNING LAW AND JURISDICTION

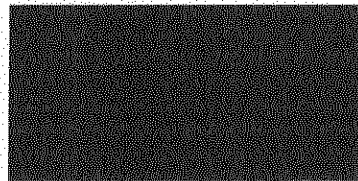
- (1) This Agreement shall be governed by and construed in accordance with the laws of Jersey.
- (2) The Parties submit to the non-exclusive jurisdiction of the courts of Jersey.
- (3) Nothing contained in this Clause 23 shall limit the right of the Security Agent to institute proceedings against the Grantor in any other court of competent jurisdiction nor shall the institution of proceedings in one or more jurisdictions preclude the institution of proceedings in any other jurisdiction, whether concurrently or not.
- (4) The Grantor irrevocably and unconditionally waives (and irrevocably and unconditionally agrees not to raise) any objection which it may at any time have to the venue of any proceedings in any such court as is referred to in this Clause 23 and any claims that any such proceedings have been instituted in an inconvenient forum.
- (5) The Grantor unconditionally agrees that a judgment in any proceedings brought in any court as is referred to in this Clause 23 will be conclusive and binding upon the Grantor and may be enforced in the courts of any other jurisdiction.
- (6) The Grantor irrevocably and unconditionally:
 - (a) confirms that its obligations and liabilities under this Agreement are commercial rather than public or governmental acts; and

- (b) agrees not to claim any immunity from proceedings brought by the Security Agent against it in connection with any Finance Document.
- (7) The Grantor shall at all times ensure that it has appointed an agent for service of process in relation to any proceedings before the courts of Jersey in connection with this Agreement. On the date of this Agreement, such process agent is the Company and in the event that any new process agent is appointed, the Grantor shall notify the Security Agent of any such appointment forthwith. If requested by the Security Agent, the Grantor shall promptly provide evidence acceptable to the Security Agent of the appointment of any process agent. The Grantor agrees that any failure by any process agent to notify the Grantor of the process will not invalidate the proceedings concerned.

IN WITNESS WHEREOF the Parties have entered into this Agreement on the date first above written.

The Security Agent:

SIGNED for and on behalf of THE GOVERNOR)
AND COMPANY OF THE BANK OF IRELAND)
acting by an authorised signatory)



.....
Authorised Signatory

The Grantor:

SIGNED for and on behalf of DALATA UK)
LIMITED acting by one director in the presence)
of a witness)

.....
Director

Signature of Witness:

Name of Witness:

Address of Witness:

Occupation of Witness:

- (4) The Grantor irrevocably and unconditionally waives (and irrevocably and unconditionally agrees not to raise) any objection which it may at any time have to the venue of any proceedings in any such court as is referred to in this Clause 23 and any claims that any such proceedings have been instituted in an inconvenient forum.
- (5) The Grantor unconditionally agrees that a judgment in any proceedings brought in any court as is referred to in this Clause 23 will be conclusive and binding upon the Grantor and may be enforced in the courts of any other jurisdiction.
- (6) The Grantor irrevocably and unconditionally:
- (a) confirms that its obligations and liabilities under this Agreement are commercial rather than public or governmental acts; and
 - (b) agrees not to claim any immunity from proceedings brought by the Security Agent against it in connection with any Finance Document.
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IN WITNESS WHEREOF the Parties have entered into this Agreement on the date first above written.

The Security Agent:

SIGNED for and on behalf of THE GOVERNOR)
AND COMPANY OF THE BANK OF IRELAND)
acting by an authorised signatory)

.....
Authorised Signatory

The Grantor:

SIGNED for and on behalf of DALATA UK)
LIMITED acting by one director in the presence)
of a witness)

.....
Director

Signature of Witness: [REDACTED]

Name of Witness: JOANNE SHERIDAN

Address of Witness: [REDACTED]

Occupation of Witness: [REDACTED]