



**Companies House**

**MR01**(ef)

**Registration of a Charge**

Company name: **CLINIGEN PHARMA LIMITED**

Company number: **07248508**

Received for Electronic Filing: **29/04/2013**



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**Details of Charge**

Date of creation: **25/04/2013**

Charge code: **0724 8508 0002**

Persons entitled: **THE ROYAL BANK OF SCOTLAND PLC (AS SECURITY AGENT)**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Notification of addition to or amendment of charge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**BROWNE JACOBSON LLP**



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

Company number: 7248508

Charge code: 0724 8508 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 25th April 2013 and created by CLINIGEN PHARMA LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th April 2013 .

Given at Companies House, Cardiff on 29th April 2013



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED 25<sup>th</sup> April 2013

**THE COMPANIES identified in Schedule 1**

**THE ROYAL BANK OF SCOTLAND PLC**

**as Security Agent**

**SECURITY AGREEMENT**

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DATE

25<sup>th</sup> April

2013

**PARTIES**

- 1 **THE COMPANIES** whose names, registered numbers and registered offices are set out in Schedule 1 (collectively the "**Charging Companies**" and each a "**Charging Company**")

in favour of:

- 2 **THE ROYAL BANK OF SCOTLAND PLC** acting through its office at Sixth Floor, Cumberland Place, Nottingham NG1 7ZS as security agent for the Beneficiaries (as defined below) (the "**Security Agent**")

**IT IS AGREED AS FOLLOWS:**

1 **Definitions and interpretation**

- 1.1 Unless otherwise provided in this Deed, terms defined in the Senior Facilities Agreement shall have the same meaning where used in this Deed.

1.2 **Definitions**

In this Deed, unless the context otherwise requires:

**Assigned Documents:** means each agreement specified in Schedule 3 (*Assigned Documents*);

**Beneficiaries:** means the Security Agent, each Finance Party and each Secured Party;

**Charged Property:** means all the assets for the time being subject to the Security created by this Deed (and references to the Charged Property include references to any part of it);

**Declared Default:** means an Event of Default in respect of which the Agent has exercised any of its rights under clause 24.13 (*Acceleration*) of the Senior Facilities Agreement;

**Environment:** means the air (including the air within buildings and the air within other natural or man-made structures above or below ground), water (including ground and surface water) and land (including surface and sub-surface soil) and any other meaning given to the term under Environmental Law;

**Equipment:** means all equipment, plant, machinery, tools, vehicles, furniture and other tangible moveable property now or at any time

hereafter (and from time to time) owned by any Charging Company or in which any Charging Company has an interest, including any part thereof, together with all spare parts, replacements, modifications and additions thereto and the benefit of all contracts and warranties relating to the same;

**Floating Charge Property:** means all or any part of the assets for the time being subject to the floating charge created by this Deed;

**Goodwill:** means all goodwill (including brands and brand names not comprising Intellectual Property) of or in a Charging Company now or at any time hereafter (and from time to time);

**Insurance Policies:** means all contracts and policies of insurance or assurance (including any insurance relating to the Properties or the Equipment) and all moneys payable under or pursuant to such policies and all rights and interests in such contracts and policies including the right to the refund of any premium, in each case, now or at any time hereafter (and from time to time) owned or taken out by any Charging Company or in which any Charging Company has an interest;

**Intellectual Property:** means all interests in respect of any patent (including supplementary protection certificates), trade mark, service mark, trade name, registered design, design right, copyright, know-how, utility model, topographical or similar right, moral right, invention, confidential information, trade secret, database right, right in passing off and any other right in intellectual property subsisting anywhere in the world in any of the foregoing whether registered or unregistered and any registration, extension, renewal or application for registration, including all present and future fees, royalties and other income or rights, derived therefrom or incidental thereto and also including the benefit of all present and future agreements relating to the use of licensing or exploitation of any such rights, in each case, now or at any time hereafter (and from time to time) owned or held by any Charging Company or in which any Charging Company has an interest;

**Other Rights:** means the benefit of all agreements, licences, consents and authorisations relating to the business of any Charging Company or any Charged Property and the right to recover and receive all compensation which may be payable in respect of them, in each case, now or at any time hereafter (and from time to time) owned or held by any Charging Company or in which any Charging Company has an interest;

**Permitted Security:** has the meaning given thereto in the Senior Facilities Agreement;

**Principal Debtor:** means: (a) each Borrower, (b) any Charging Company and (c) any other present or future Subsidiary of the Parent, in each

case, to the extent only that it owes or incurs any Secured Liabilities to the Beneficiaries;

**Properties:** means all estates or interests in any freehold and leasehold properties (whether registered or unregistered) and all commonhold and other immovable properties now or at any time hereafter (and from time to time) owned by any Charging Company wheresoever situate and all buildings, structures and fixtures thereon and the proceeds of sale of all or any part thereof (including the properties which are briefly described in Schedule 2 (*Properties*));

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

**Secured Documents:** means the Finance Documents;

**Secured Liabilities:** means any and all present and future moneys, obligations and liabilities owed by any Principal Debtor to the Beneficiaries, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity whatsoever including, inter alia, under or in connection with the Secured Documents including such monies, obligations and liabilities which may arise pursuant to Clause 21.3;

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

**Securities Issuer:** means the issuer of any Securities which are charged to the Security Agent pursuant to this Deed;

**Securities System:** means any securities system and any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of and/or clearance of transactions in Securities;



**Securities System Rights:** means all rights against the operator of any Securities System in relation to any Securities that are held in a Securities System or any participant in relation to any Securities, in each case, now or at any time hereafter (and from time to time) owned or held by any Charging Company;

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

**Senior Facilities Agreement:** means the revolving credit agreement dated on or about the date of this Deed and made between, inter alia, Clinigen Group PLC (as Borrower) and The Royal Bank of Scotland plc (as Agent, Arranger and Security Agent) and National Westminster Bank plc (as Original Lender) relating to certain loan and other banking facilities;

**Uncalled Capital:** means all the uncalled capital of a Charging Company now or at any time hereafter (and from time to time).

### 1.3 Construction

1.3.1 In this Deed (unless the context requires otherwise) any reference to:

- 1.3.1.1 each Charging Company, the Security Agent, the Borrower, the Parent, the Beneficiaries or any other person shall be construed so as to include their successors in title, permitted assigns and permitted transferees;
- 1.3.1.2 “**assets**” includes present and future properties, revenues and rights of every description;
- 1.3.1.3 an “**amendment**” includes a supplement, restatement, variation, novation or re-enactment (and “**amended**” is to be construed accordingly);
- 1.3.1.4 an “**authorisation**” includes an authorisation, consent, licence, approval, resolution, exemption, filing, registration and notarisation;
- 1.3.1.5 a Secured Document or any other agreement or instrument is a reference to that Secured Document or other agreement or instrument as amended from time to time with the agreement of the relevant parties and (where such consent is, by the terms of this Deed or the relevant document, required to be obtained as a conditions to such amendment being permitted) the prior written consent of the Security Agent;

- 1.3.1.6      **“including”** means “including without limitation”;
- 1.3.1.7      **“indebtedness”** includes any obligation for the payment or repayment of money, whether as principal or as surety and whether present or future, actual or contingent;
- 1.3.1.8      **“owned”** includes having legal or equitable title to or a right to have legal or equitable title transferred;
- 1.3.1.9      a **“person”** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- 1.3.1.10     a **“regulation”** includes any regulation, rule, official directive, request, guideline or concession (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.3.1.11     a **“law”** includes a reference to the common law, any statute, bye-law, regulation or instrument and any kind of subordinate legislation, and any order, requirement, code of practice, circular, guidance note, licence, consent or permission made or given pursuant to any of the foregoing;
- 1.3.1.12     a provision of law is a reference to that provision as amended or re-enacted from time to time;
- 1.3.1.13     a time of day is a reference to London time;
- 1.3.1.14     any gender includes a reference to the other genders;
- 1.3.1.15     the singular includes a reference to the plural and vice versa; and
- 1.3.1.16     a Clause or Schedule is to a Clause or Schedule (as the case may be) of or to this Deed.
- 1.3.2        Clause and Schedule headings are for ease of reference only.
- 1.4        **Clawback**

If the Security Agent considers, acting reasonably, that an amount paid by any Charging Company in respect of the Secured Liabilities is capable of and reasonably likely to be avoided or otherwise set aside whether on

the liquidation or administration of such Charging Company or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed until any applicable statutory time period for such clawback has expired.

**1.5 Nature of security over real property**

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

**1.5.1** all buildings and fixtures (including trade and tenant's fixtures) which are at any time situated on that property;

**1.5.2** the proceeds of sale of any part of that property; and

**1.5.3** the benefit of any covenants for title given or entered into by any predecessor in title of any Charging Company in respect of that property or any monies paid or payable in respect of those covenants.

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

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

**1.7 Rule 139 Land Registration Rules 1925**

For the purposes only of Rule 139 of the Land Registration Rules 1925 (as amended) the Secured Documents do not form part of the terms and conditions of this Deed.

**1.8 Third party rights**

A third party (being any person other than the Charging Companies and Beneficiaries and their permitted successors and assigns) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

**1.9 Perpetuity period**

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

**1.10 Joint and several liability**

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

**1.11 Enterprise Act 2002**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 (as inserted by section 248 of, and Schedule 16 to, the Enterprise Act 2002) applies to the floating charge created by this Deed.

**1.12 Secured Liabilities**

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

**2 Covenants to pay**

**2.1 Covenant to pay**

Each Charging Company hereby covenants with the Security Agent (as trustee for the Beneficiaries) that it will on demand pay and discharge all Secured Liabilities owing or incurred from or by it to the Beneficiaries when they become due for discharge under and in accordance with the Secured Documents.

**2.2 Further advances**

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

**3 Grant of security**

**3.1 Charging clause**

As a continuing security for the payment or discharge of the Secured Liabilities, each Charging Company with full title guarantee or as beneficial owner hereby:

- 3.1.1 charges to the Security Agent (as trustee for the Beneficiaries), by way of legal mortgage, all Properties in which it has a legal and/or beneficial interest including any Property listed in Schedule 2 (*Properties*);
- 3.1.2 charges to the Security Agent (as trustee for the Beneficiaries), by way of first fixed charge all its:
- 3.1.2.1 Properties hereafter acquired by it;
  - 3.1.2.2 Property Interests;
  - 3.1.2.3 Equipment;
  - 3.1.2.4 Securities;
  - 3.1.2.5 Securities System Rights;
  - 3.1.2.6 Intellectual Property;
  - 3.1.2.7 Insurance Policies;
  - 3.1.2.8 Goodwill and Uncalled Capital; and
  - 3.1.2.9 Other Rights.
- 3.1.3 assigns to the Security Agent (as trustee for the Beneficiaries), the benefit of the Assigned Documents to which it is a party or an addressee and any claims arising under any of the same, and the benefit of any guarantee or security for the performance of the Assigned Documents; and
- 3.1.4 charges to the Security Agent (as trustee for the Beneficiaries), by way of floating charge, all of its undertaking, property, assets and rights whatsoever and wheresoever both present and future not effectively mortgaged, charged or assigned pursuant to Clauses 3.1.1 to 3.1.3 inclusive.
- 3.2 **Title documents**
- Each Charging Company shall on the execution of this Deed (or, if later, the date of acquisition of the relevant Charged Property) deposit with the Security Agent (and the Security Agent shall during the continuance of this security be entitled to hold):
- 3.2.1 all deeds and documents of title relating to the Charged Property which are in its possession or control (and, if not within its possession and/or control, such Charging Company hereby undertakes to obtain possession of such deeds and documents of title);

3.2.2 all insurance policies relating to any of the Charged Property to which policies it is entitled to possession; and

3.2.3 all certificates relating to the Securities and such instruments of transfer in blank and other documents as the Security Agent may from time to time require for perfecting its title to the Securities or for vesting or enabling it to vest the Securities in itself or its nominee or in any purchaser.

**3.3 Security notices**

Each Charging Company will immediately upon request by the Security Trustee give notice in the form set out in Part I of Schedule 4 (*Form of notice to counterparties of Assigned Documents*) to the other parties to the Assigned Documents to which it is a party of the assignment pursuant to Clause 3.1.3 of its rights and interest in and under such Assigned Documents and use reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to the Security Agent in the form set out in Part II of Schedule 4 (*Form of acknowledgement from counterparties to Assigned Documents*).

**3.4 Leasehold security restrictions**

3.4.1 There shall be excluded from the charges created by Clause 3.1 (*Charging clause*) and from the operation of Clause 4.2 (*HMLR disposal restriction*) any leasehold property held by a Charging Company under a lease which either precludes absolutely or conditionally (including requiring the consent of any third party) that Charging Company from creating any charge over its leasehold interest in that property (each an “**Excluded Property**”) until the relevant condition or waiver has been satisfied or obtained.

3.4.2 For each Excluded Property, each relevant Charging Company undertakes to:

3.4.2.1 apply for the relevant consent or waiver of prohibition or conditions within 10 Business Days of execution of this Deed and, to use reasonable endeavours to obtain that consent or waiver of prohibition as soon as reasonably possible and to keep the Security Agent informed of the progress of its negotiations to obtain such consent or waiver; and

3.4.2.2 immediately upon receipt of such consent or waiver, provide the Security Agent with a copy.

3.4.3 Immediately upon receipt of the relevant waiver or consent, the relevant formerly Excluded Property shall stand charged to the Security

Agent (as trustee for the Beneficiaries) under Clause 3.1 (*Charging clause*). If required by the Security Agent at any time following receipt of that waiver or consent, the relevant Charging Company will execute a valid fixed charge in such form as the Security Agent shall require.

**3.5 Conversion of floating charge**

If:

- 3.5.1 the earlier of: (i) the Security Agent notifying any Charging Company that an Event of Default has occurred and is continuing, or (ii) any Charging Company becomes aware that an Event of Default has occurred and is continuing; or
- 3.5.2 any Charging Company creates or attempts to create a Security (other than a Permitted Security) or any trust in favour of another person over all or any of its assets or disposes or attempts to dispose of all or any of its assets except with the prior written consent of the Security Agent or in accordance with the terms of the Senior Facilities Agreement; or
- 3.5.3 the Security Agent reasonably considers (and notifies any Charging Company of such consideration) that any Charged Property to be in danger of being seized or sold under or pursuant to any form of distress, attachment, execution or other legal process; or
- 3.5.4 the members of any Charging Company convene to consider a resolution to voluntarily wind such Charging Company up (save in respect of a solvent reorganisation or with the consent of the Security Agent); or
- 3.5.5 any Charging Company is presented with a petition for the compulsory winding up of such Charging Company (save for any petition which is frivolous, vexatious or an abuse of the process which is dismissed, discharged, stayed or otherwise withdrawn within 14 days); or
- 3.5.6 if an administrator is appointed,  
  
the floating charge created by this Deed will automatically and immediately (without notice) be converted into a fixed charge over the Floating Charge Property,

**3.6 Assets acquired after any floating charge crystallisation**

Any asset acquired by any Charging Company after any crystallisation of the floating charge created under this Deed which but for such crystallisation would be subject to a floating charge shall, (unless the Security Agent confirms in writing to the contrary) be charged to the Security Agent (as trustee for the Beneficiaries) by way of first fixed charge.

**3.7                    Reconversion of fixed charge assets into floating charge assets**

The Security Agent may at any time after any conversion of the floating charge over any Charged Property into a fixed charge in accordance with Clause 3.5 (*Conversion of floating charge*) and by written notice to the relevant Charging Company reconvert such fixed charge into a floating charge.

**3.8                    Automatic Release from Fixed Charge for Assets Subject to a Permitted Disposal**

The Security Agent confirms that any Charged Assets which are the subject of a Permitted Disposal shall be automatically released from the fixed charge created by this Deed upon the occurrence of such Permitted Disposal.

**4                      No other security interest or disposals**

**4.1                    Negative pledge and disposal restrictions**

Each Charging Company hereby covenants with the Security Agent that it will not at any time, except with the prior written consent of the Security Agent or as permitted by or in accordance with the terms of the Senior Facilities Agreement or this Deed:

4.1.1                create or purport to create or permit to subsist any Security other than the Permitted Security on or in relation to the Charged Property other than this Deed; or

4.1.2                sell, transfer, or otherwise dispose of (or purport to sell, transfer or otherwise dispose of) all or any part of the Charged Property or of the equity of redemption of any such Charged Property or any interest in any such Charged Property; or

4.1.3                enter into any other preferential arrangement having a similar effect.

**4.2                    HMLR disposal restriction**

Each relevant Charging Company consents to an application being made by the Security Agent (on behalf of the Beneficiaries) to H.M. Chief Registrar for the following restriction to be entered on the register of that Charging Company's title to any Property:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Debenture dated [                    ] 2013 in favour of The Royal Bank of Scotland plc referred to in the Charges Register".



**5 Covenants relating to insurances**

**5.1 Insurance covenant**

Each Charging Company hereby covenants with the Security Agent that it will:

- 5.1.1 promptly pay all premiums and do all other things necessary to keep all of the Insurance Policies in force in accordance with the Senior Facilities Agreement;
- 5.1.2 at the request of the Security Agent, produce to or deposit with the Security Agent all Insurance Policies and the receipts for all premiums and other payments necessary for effecting and keeping up the Insurance Policies; and
- 5.1.3 following the occurrence of a Declared Default, pay all sums at any time but subject always to the terms of the Senior Facilities Agreement) paid to it under any of the Insurance Policies to the Security Agent (as trustee for the Beneficiaries) (and if the same are not paid directly to the Security Agent by the insurers then the relevant Charging Company shall be trustee of the same for the benefit of the Security Agent (as trustee for the Beneficiaries) and shall account to the Security Agent accordingly) and such sums shall at the option of the Security Agent be applied in making good or recouping expenditure in respect of the loss or damage for which such monies are received or in or towards discharge or reduction of any of the Secured Liabilities.

**6 NOT USED**

**7 Covenants relating to the Properties**

Each Charging Company hereby covenants with the Security Agent that it will:

**7.1 Maintenance and insurance**

- 7.1.1 keep all buildings on each of the Properties owned or leased by it and all fixtures belonging to it thereon and therein in good and substantial repair and condition; and
- 7.1.2 insure and keep insured (or, where relevant, to the extent it is able to do so, ensure that the relevant landlord of the Properties insures) all such buildings and fixtures.

**7.2 Preservation of property, fixtures and equipment**

not without the prior written consent of the Security Agent pull down or remove the whole or any material part of any buildings forming part of any of the Properties, make any alterations to any of the Properties (other than minor alterations which do not have an adverse effect on the market value of such Properties) or sever or unfix or remove any of the fixtures thereto nor (except for the purpose of effecting necessary repairs thereto or of replacing the same with new or improved models or substitutes) remove or make any material alterations to any of the Equipment thereon or therein belonging to it or in use by it and will whenever any of the said Equipment is destroyed or damaged or deteriorates forthwith repair, replace and make good the same where in each case such action could reasonably be expected to have a Material Adverse Effect;

**7.3 Conduct of business on Properties**

carry on its trade and business on such parts (if any) of the Properties as are now or may hereafter be used for the purposes of trade or business in accordance with the standards of good management from time to time current in such trade or business if failure to so could reasonably be expected to have a Material Adverse Effect;

**7.4 Information**

**7.4.1** within five Business Days after becoming aware thereof give full particulars to the Security Agent of any material notice, order, direction, designation, resolution or proposal having specific application to any of the Properties or to the locality in which it is situated given or made by any planning authority or other public body or authority whatsoever to the extent only that the same could, if not implemented or complied with, reasonably be expected to have a Material Adverse Effect; and

**7.4.2** (if the Security Agent so requires (acting reasonably)) forthwith and at the cost of such Charging Company take all reasonable and necessary steps to comply with any such notice, order, direction, designation or resolution and make or join with the Security Agent where the value of the Security Agent's security is reasonably likely to be materially and adversely affected in making such objections or representations in respect of any such proposal as the Security Agent may reasonably request;

**7.5 Compliance with covenants; payment of rent**

observe and perform all material covenants, stipulations and conditions to which each of the Properties or the user thereof is now or may hereafter be subject and (if the Security Agent so requires) produce to the Security Agent evidence sufficient to satisfy the Security Agent that

such covenants, stipulations and conditions have been observed and performed and (without prejudice to the generality of the foregoing) as regards any lease under which any of the Properties or any part of any of the Properties is held duly and punctually pay all rents due or to become due thereunder and perform and observe all the covenants and conditions on the part of the tenant which are therein contained where, in each case, failure to do so could reasonably be expected to have a Material Adverse Effect;

**7.6 Maintenance of interests in Properties**

not without the prior written consent of the Security Agent grant or agree to grant any licence or tenancy affecting any of the Properties or any part of any of the Properties nor exercise the powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by Sections 99 or 100 of the Law of Property Act 1925 where such license, tenancy or lease exceeds a period of ten years, nor in any other way dispose or agree to dispose of or surrender or create any legal or equitable estate or interest in any Property or any part thereof other than as permitted under the Senior Facilities Agreement;

**7.7 Registration restrictions**

procure that no person shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of any of the Properties or any part thereof without the prior written consent of the Security Agent and such Charging Company shall be liable for the costs incurred by the Security Agent in lodging from time to time cautions against the registration of the title to any of the Properties or any part thereof;

**7.8 Development restrictions**

not without the prior written consent of the Security Agent carry out or permit or suffer to be carried out on any of the Properties any development as defined in the Town and Country Planning Act 1990 or change or permit or suffer to be changed the user of any of the Properties where to do so could reasonably be expected to have a Material Adverse Effect;

**7.9 No Restrictive Obligations**

not without the prior consent of the Security Agent enter into any onerous or restrictive obligations affecting any of the Properties or any part thereof or create or permit to arise any overriding interest or easement or right whatever in or over any of the Properties or any part thereof if to do so would materially and adversely effect the value of the security created under this Deed;

**7.10 Proprietary rights**

procure that no person shall become entitled to assert any proprietary or other like right or interest over any of the Properties or any part thereof without the prior written consent of the Security Agent (such consent not to be unreasonably withheld or delayed) if to do so would materially and adversely effect the value of the security created under this Deed;

**7.11 Payment of property taxes**

promptly pay all taxes, fees, duties, rates, charges and other outgoings in respect of the Properties (if failure to do so could reasonably be expected to have a Material Adverse Effect) and if so requested by the Security Agent (acting reasonably) produce evidence of payment to the Security Agent;

**7.12 Inspection**

at any time while an Event of Default is continuing, permit the Security Agent, any Administrator and any Receiver (as each of those terms is defined in Clause 15.1 (*Appointment of Administrator or Receiver*)) and any person appointed by either of them to enter upon and inspect any Property during normal business hours and upon reasonable prior notice; and

**7.13 Property information**

inform the Security Agent promptly of any acquisition by it of, or contract made by it to acquire, any freehold or leasehold property or any interest therein.

**8 Covenants relating to the Equipment**

**8.1** Each Charging Company hereby covenants with the Security Agent as follows:

**8.1.1 Maintenance of equipment**

to maintain the Equipment in good and serviceable condition (fair wear and tear excepted) and not to permit the same to be used or handled other than by persons properly qualified and trained or to be overloaded or to be used for any purpose for which the Equipment is not designed or reasonably suitable where failure to do so could be reasonably be expected to have a Material Adverse Effect;

**8.1.2 Payment of equipment taxes**

promptly to pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and on demand produce evidence thereof to the Security Agent where failure to do so could reasonably be expected to have a Material Adverse Effect; and

**8.1.3 Equipment information**

to give the Security Agent such information concerning the location, condition, use and operation of the Equipment as the Security Agent may reasonably require and, following the occurrence of an Event of Default which is continuing, to permit any persons designated by the Security Agent at all reasonable times and upon reasonable prior notice to inspect and examine the Equipment and the records maintained in connection therewith.

**8.2 Equipment insurance**

Each Charging Company shall at its own expense procure that the Equipment shall be covered and kept covered by insurance which is standard for the type of business of the relevant Charging Company and shall if the Security Agent so requires use reasonable endeavours to procure that the interest of the Security Agent is noted upon all such policies of insurance. Each Charging Company shall with respect to third party liabilities maintain insurance in such amount and on such terms as is usual for users of equipment of the same type as the Equipment.

**9 Covenants relating to the Intellectual Property**

Each Charging Company hereby covenants with the Security Agent as follows:

**9.1 Preservation of rights**

to take all necessary action to safeguard and maintain its present and future rights in or relating to the Intellectual Property to the extent that failure to do so could be reasonably likely to have a Material Adverse Effect including, observing all material covenants and stipulations relating thereto and paying all applicable renewal fees, licence fees, registration taxes and other outgoings;

**9.2 Consents**

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

**9.3 Registration of intellectual property**

to use all reasonable efforts to effect registration of applications for registration of any Intellectual Property and keep the Security Agent informed of all material matters relating to such registration;

**9.4 Maintenance of intellectual property**

not, without the consent of the Security Agent, permit any Intellectual Property to be abandoned, cancelled or to lapse or to be liable to any claim of abandonment for non-use or otherwise; and

**9.5 Disposal of Intellectual Property**

not without the prior written consent of the Security Agent to sell transfer, license or otherwise dispose of all or any part of its Intellectual Property.

**10 Provisions relating to the Securities**

**10.1 Registration of Securities**

After the security constituted by this Deed has become enforceable in accordance with Clause 14, the Security Agent may at any time cause any or all of the Securities to be registered in the name of the Security Agent or its nominee. Each Charging Company agrees to execute and deliver all such transfers and other documents and do all such things as may be necessary or desirable to achieve such registration.

**10.2 Additional registration obligations**

Each Charging Company hereby grants and agrees to procure as necessary, all consents, waivers, approvals and permissions which are necessary, under the articles of association of any Securities Issuer or otherwise, for the transfer of the Securities to the Security Agent or its nominee or to a purchaser upon enforcement of this Deed. Each Charging Company further agrees to procure the amendment of the share transfer provisions of each Securities Issuer's articles of association in such manner as the Security Agent may reasonably require in order to permit such a transfer.

**10.3 Dividends and voting rights prior to enforcement**

Until the security constituted by this Deed becomes enforceable in accordance with Clause 14:

**10.3.1** any cash dividends paid in respect of any of the Securities may be paid to the relevant Charging Company; if any such dividends are received by the Security Agent or its nominee the Security Agent or its nominee (as

the case may be) shall, on request by the relevant Charging Company, pay such dividends to such Charging Company; and

- 10.3.2 the relevant Charging Company may exercise all voting and other rights and powers attaching to the Securities provided that such exercise would not prejudice the Security Agent's security under this Deed or the value of the Securities or cause a Default.

**10.4 Dividends and voting rights post enforcement**

After the security constituted by this Deed has become enforceable in accordance with Clause 14:

- 10.4.1 all dividends and other distributions paid in respect of the Securities and received by any Charging Company shall be held on trust for the Security Agent (as trustee for the Beneficiaries) and forthwith paid into an account specified by the Security Agent or, if received by the Security Agent, shall be applied by the Security Agent towards satisfaction of the Secured Liabilities; and

- 10.4.2 the Security Agent may exercise, or direct the exercise of, all voting and other rights and powers attaching to the Securities as the Security Agent may in its absolute discretion think fit and each Charging Company shall, and shall procure that its nominees shall, comply with any directions from the Security Agent concerning the exercise of such rights and powers.

**11 Covenants relating to the Securities**

Each Charging Company further covenants with the Security Agent that, except where permitted under the terms of the Senior Facilities Agreement:

**11.1 Calls on Securities**

it shall duly and promptly pay all calls, instalments and other moneys which may be payable from time to time in respect of the Securities, it being acknowledged by the Charging Companies that the Security Agent shall be under no liability whatsoever in respect of any such calls, instalments or other moneys;

**11.2 No alteration of Securities**

it shall not without the Security Agent's prior written consent (such consent not to be unreasonably withheld or delayed) amend, or agree to the amendment of, the memorandum or articles of association of any Securities Issuer or the rights or liabilities attaching to any of the Securities save as permitted under the Senior Facilities Agreement;

**11.3            Preservation of Securities**

it shall ensure (insofar as it is able by the exercise of all voting rights, powers of control and other means available to it to do so) that no Securities Issuer will save as permitted by the Senior Facilities Agreement:

11.3.1           consolidate or sub-divide any of its Securities or reduce or re-organise its share capital in any way;

11.3.2           issue any new shares or stock; or

11.3.3           refuse to register any transfer of any of its Securities which may be lodged for registration by or on behalf of the Security Agent or a Charging Company in accordance with this Deed;

**11.4            Securities information**

it shall promptly following receipt send to the Security Agent copies of all notices, circulars, reports, accounts and other documents which are sent generally to holders of any Securities or any class of such holders;

**11.5            Preservation of charged property**

save as expressly permitted under the Finance Documents, it shall not do, or to the extent reasonably within its control permit to be done, any act or thing which will or might materially diminish the value of any of the Charged Property or, subject to the Legal Reservations, the effectiveness of the security created by this Deed;

**12             Power to remedy**

If a Charging Company is at any time in breach of any of its obligations contained in this Deed, the Security Agent shall be entitled (but shall not be bound) to remedy such breach and each Charging Company hereby irrevocably authorises the Security Agent and its agents to do all such things necessary or desirable in connection therewith. The Charging Companies shall be liable to the Security Agent for the expenses of the Security Agent in so doing together with interest at the rate of interest applicable to the Facility under the Senior Facilities Agreement from the date of payment by the Security Agent until the date of repayment and the Security Agent shall as soon as reasonably practicable after exercising its rights under this Clause 12 notify the relevant Charging Companies of the action it has taken together with details of the costs incurred. The rights of the Security Agent contained in this Clause 12 are without prejudice to any other rights of the Security Agent hereunder. The exercise by the Security Agent of its rights under this Clause shall not make the Security Agent liable to account as a mortgagee in possession.



- 13           **Representations and warranties**
- 13.1          **Representations and warranties**
- Each Charging Company represents and warrants to the Security Agent as follows:
- 13.1.1       it is the legal and beneficial owner of the Charged Property;
- 13.1.2       the Charged Property is free from any Security other than Permitted Security and the Security created by this Deed;
- 13.1.3       there are no covenants, undertakings, agreements, stipulations, reservations, conditions, interests, rights or other matters whatever which materially adversely affect the Charged Property which could reasonably be expected to have a Material Adverse Effect;
- 13.1.4       nothing has arisen or has been created or is subsisting which would be an overriding interest in any of the Charged Property which could reasonably be expected to have a Material Adverse Effect;
- 13.1.5       it has received no notice of any adverse claims by any person in respect of the ownership of the Charged Property or any interest therein which could reasonably be expected to have a Material Adverse Effect; and
- 13.1.6       subject to any legal opinion delivered in connection with this Deed on or about the date of this Deed, this Deed creates the Security it purports to create and is not liable to be amended or otherwise set aside on its liquidation or otherwise.
- 13.2          **Repetition**
- The representations and warranties set out in Clause 13.1 (*Representations and warranties*) will be deemed to be repeated by each Charging Company on each day any of the representations in the Senior Facilities Agreement are deemed to be repeated by reference to the facts and circumstances then existing.
- 13.3          **Notice of breach**
- Each Charging Company will promptly upon becoming aware of the same give the Security Agent notice in writing of any breach of any representation or warranty set out in Clause 13.1 (*Representations and warranties*).
- 14           **Enforcement**
- 14.1          **Enforcement events**

The security constituted by this Deed shall become enforceable if an Event of Default (as defined in the Senior Facilities Agreement) occurs and is continuing, and thereupon and at any time thereafter (whether or not any of the above events is continuing), without prejudice to any other rights of the Security Agent, the powers of sale under the Law of Property Act 1925 and all other powers of the Security Agent shall immediately be exercisable and the Security Agent may in its absolute discretion enforce all or any part of the security created by this Deed as it sees fit.

**14.2 Statutory power of sale**

The statutory power of sale shall, as between the Security Agent and a purchaser from the Security Agent, arise on and be exercisable at any time after the execution of this Deed, provided that the Security Agent shall not exercise such power of sale until the Security constituted by this Deed has become enforceable pursuant to Clause 14.1 (*Enforcement events*).

**14.3 Extension of statutory powers**

The statutory powers of sale, leasing and accepting surrenders exercisable by the Security Agent under this Deed are extended so as to authorise the Security Agent, whether in its own name or in that of a Charging Company, to grant a lease or leases of the whole or any part or parts of the freehold and leasehold property of a Charging Company with whatever rights relating to other parts of it and containing whatever covenants on the part of such Charging Company and generally on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Security Agent thinks fit.

**14.4 No obligation to enquire**

No person dealing with the Security Agent or any Receiver appointed hereunder, or its agents or brokers, shall be concerned to enquire whether the security constituted by this Deed has become enforceable, or whether any power exercised or purported to be exercised has become exercisable, or whether any money remains due upon this Deed, or as to the necessity or expediency of the stipulations and conditions subject to which any sale of any Charged Property shall be made, or otherwise as to the propriety or regularity of any sale of any of the Charged Property, or to see to the application of any money paid to the Security Agent or such Receiver, or its agents or brokers, and such dealing shall be deemed to be within the powers hereby conferred and to be valid and effectual accordingly.

**14.5 No liability as mortgagee in possession**

Neither the Security Agent nor the Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Charged Property nor shall either of them be liable for any loss upon realisation of, or for any neglect or default of any nature whatsoever in connection with, all or any of the Charged Property for which a mortgagee in possession might as such be liable.

**15 Administrator or Receiver**

**15.1 Appointment of Administrator or Receiver**

At any time after the security constituted by this Deed becomes enforceable, or at the request of the relevant Charging Company, the Security Agent may without further notice, under seal or by writing under hand of a duly authorised officer of the Security Agent:

15.1.1 appoint any person or persons to be an administrator of any Charging Company pursuant to the Insolvency Act 1986 (the “**Administrator**”, which expression shall, where the context so admits, include any person substituted as administrator under the power herein contained); or

15.1.2 appoint any person or persons to be a receiver or a receiver and manager or (if permitted by law) an administrative receiver of all or any part of the Charged Property of any Charging Company (the “**Receiver**”, which expression shall, where the context so admits, include any person substituted as receiver or receiver and manager or administrative receiver under the power herein contained); and

15.1.3 (subject to Section 45 of the Insolvency Act 1986) from time to time remove any person appointed to be Receiver and appoint another in his place.

**15.2 More than one appointment**

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

**15.3 Additional powers**

15.3.1 The powers of sale and appointing an Administrator or a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986 and the Law of Property Act 1925 or otherwise and shall be exercisable without the restrictions contained in Sections 103 and 109 of that Act or otherwise.

15.3.2 The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be and remain exercisable by the Security Agent

notwithstanding any prior appointment in respect of all or any part of the Charged Property.

**15.4 Agent of the Company**

Any Receiver shall be the agent of the relevant Charging Company and the relevant Charging Company shall be solely responsible for his acts and remuneration as well as for any defaults committed by him.

**16 Powers of Receiver**

Any Receiver shall in addition to the powers conferred on him by the Law of Property Act 1925 and (if applicable) the Insolvency Act 1986 have power to do all such acts and things as an absolute owner could do in the management of such of the Charged Property over which he is appointed and in particular:

**16.1 Power to repair and develop Properties**

to undertake or complete any works of repair, building or development on the Properties;

**16.2 Power to surrender leases**

to grant or to accept surrenders of any leases or tenancies affecting the Properties upon such terms and subject to such conditions as he thinks fit;

**16.3 Power to employ**

to provide services and employ or engage such managers, contractors and other personnel and professional advisors on such terms as he deems expedient;

**16.4 Power to make VAT elections**

to make such elections for value added tax purposes as he thinks fit;

**16.5 Power to charge for remuneration**

to charge and receive such sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) as the Security Agent may prescribe or agree with him;

**16.6 Power to realise Charged Property**

to collect and get in the Charged Property in respect of which he is appointed or any part thereof and for that purpose to make such

demands and take any proceedings as may seem expedient and to take possession of the Charged Property with like rights;

**16.7 Power to manage**

to carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Charging Company concerned;

**16.8 Power to dispose of Charged Property**

to grant options and licences over all or any part of the Charged Property, sell or concur in selling, assign or concur in assigning, lease or concur in leasing and accept or concur in accepting surrenders of leases, of all or any of the Charged Property in such manner and generally on such terms and conditions as he thinks fit (fixtures and plant and machinery may be severed and sold separately from the premises in which they are contained without the consent of any Charging Company) and to carry any such sale, assignment, leasing or surrender into effect. Any such sale may be for such consideration as he shall think fit and he may promote or concur in promoting a company to purchase the property to be sold;

**16.9 Power to make settlements**

to make any arrangement, settlement or compromise between the Charging Company concerned and any other person which he may think expedient;

**16.10 Power to improve Equipment**

to make and effect such improvements to the Equipment as he may think expedient;

**16.11 Power to make calls on company members**

to make calls conditionally or unconditionally on the members of the Charging Company concerned in respect of the uncalled capital with such and the same powers for that purpose and for the purpose of enforcing payments of any calls so made as are conferred by the Articles of Association of the Charging Company concerned on its directors in respect of calls authorised to be made by them;

**16.12 Power to appoint**

to appoint managers, officers, servants, workmen and agents for the aforesaid purposes at such salaries and for such periods and on such terms as he may determine;

**16.13 Power to insure**

if he thinks fit, but without prejudice to the indemnity contained in Clause 18 (*Indemnity*), to effect with any insurer any policy or policies of insurance either in lieu or satisfaction of or in addition to such indemnity;

**16.14 Powers under statute**

to exercise all powers provided for in the Law of Property Act 1925 in the same way as if he had been duly appointed thereunder and to exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986;

**16.15 Power to borrow**

for any of the purposes authorised by this Clause to raise money by borrowing from the Security Agent or from any other person on the security of all or any of the Charged Property in respect of which he is appointed upon such terms (including, if the Security Agent shall consent, terms under which such security ranks in priority to this Deed) as he shall think fit;

**16.16 Power to redeem prior Security**

to redeem any prior Security and to settle and pass the accounts to which the Security relates and any accounts so settled and passed will be conclusive and binding on the Charging Companies and the moneys so paid will be deemed to be an expense properly incurred by him;

**16.17 Incidental powers**

to do all such other acts and things as he may consider to be incidental or conducive to any of the matters or powers aforesaid or which he lawfully may or can do as agent for the Charging Company concerned; and

**16.18 Scope of powers**

to exercise any of the above powers on behalf of the Charging Company concerned or on his own behalf or in the case of the power contained in Clause 16.11 (*Power to make calls on company members*) on behalf of the Directors of the Charging Company concerned.

- 17 Application of proceeds**
- 17.1 Order of application**
- The Receiver shall apply all monies received by him (other than insurance monies):
- 17.1.1** first in paying all rents, taxes, rates and outgoings whatsoever affecting any Charged Property;
- 17.1.2** secondly in paying all costs, charges and expenses of and incidental to his appointment and the exercise of his powers and all outgoings paid by him;
- 17.1.3** thirdly in paying his remuneration (as agreed between him and the Security Agent);
- 17.1.4** fourthly in or towards discharge of the Secured Liabilities in such order and manner as provided for in the Intercreditor Agreement; and
- 17.1.5** finally in paying any surplus to the Charging Companies or any other person entitled to it.
- 17.2 Section 109(8) Law of Property Act 1925**
- Neither the Security Agent nor any Receiver shall be bound (whether by virtue of Section 109(8) of the Law of Property Act 1925, which is hereby varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order as between any of the Secured Liabilities.
- 18 Indemnity**
- Each Charging Company hereby agrees to indemnify and hold harmless the Security Agent and any Receiver from and against all actions, claims, expenses, demands and liabilities whether arising out of contract or in tort or in any other way incurred or which may at any time be incurred by him or by any manager, agent, officer, servant or workman for whose debt, default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers under the provisions of this Deed or pursuant hereto, provided that neither the Security Agent nor any Receiver shall be entitled to be indemnified in respect of any part of the foregoing which results from such party's gross negligence or wilful default or breach of contract.
- 19 Powers of the Security Agent**

**19.1 Power to dispose of chattels**

At any time after the Security constituted by this Deed shall have become enforceable the Security Agent or any Receiver may dispose of any chattels or produce found on any Property as agent for the relevant Charging Company and, without prejudice to any obligation to account for the proceeds of any sale of such chattels or produce the Security Agent or the Receiver shall be indemnified by such Charging Company against any liability arising from such disposal.

**19.2 Prior Security**

At any time after the security constituted by this Deed shall have become enforceable or after any powers conferred by any Security having priority to this Deed shall have become exercisable the Security Agent may redeem such or any other prior Security or procure the transfer thereof to itself and may settle and pass the accounts of the encumbrancer and any account so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the relevant Charging Company and all monies paid by the Security Agent to the encumbrancer in accordance with such accounts shall as from such payment be due from such Charging Company to the Security Agent and shall bear interest and be secured as part of the Secured Liabilities.

**19.3 Currencies of denomination**

For the purpose of or pending the discharge of any of the Secured Liabilities the Security Agent may convert any monies received, recovered or realised by the Security Agent under this Deed (including the proceeds of any previous conversion under this Clause) from their existing currencies of denomination into such other currencies of denomination as the Security Agent may think fit and any such conversion shall be effected at the Security Agent's then prevailing spot selling rate of exchange for such other currency against the existing currency. Each previous reference in this Clause to a currency extends to funds of that currency and for the avoidance of doubt funds of one currency may be converted into different funds of the same currency.

**19.4 Suspense account**

All monies received recovered or realised by the Security Agent under this Deed (including the proceeds of any conversion pursuant to Clause 19.3 (*Currencies of denomination*)) may at the discretion of the Security Agent, acting reasonably, be credited to any suspense or impersonal account and shall bear interest at such rate, if any, as may be agreed in writing between the Security Agent and the relevant Charging Company and may be held in such account for so long as the Security Agent thinks fit pending the application from time to time (as the Security Agent



shall be entitled to do as it may think fit) of such monies and accrued interest thereon (if any) in or towards the discharge of any of the Secured Liabilities.

**20 Power of attorney; confirmation**

**20.1 Power of attorney**

Each Charging Company hereby irrevocably appoints the Security Agent and (jointly and severally) each and every Receiver appointed by the Security Agent under the provisions of this Deed to be the attorney of such Charging Company and in its name and on its behalf and as its act and deed or otherwise to sign, execute, seal, deliver, complete any blanks in and otherwise perfect any deed, assurance, agreement, instrument or act which such Receiver or the Security Agent may consider expedient in the exercise of any of his or its powers or in respect of such Charging Company's obligations under this Deed. The power of attorney hereby granted is to secure the performance of obligations owed to the donees within the meaning of the Powers of Attorney Act 1971.

**20.2 Confirmation**

Each Charging Company covenants with the Security Agent and with any Receiver that if required to do so it shall ratify and confirm:

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

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

**21 Independent and continuing security**

**21.1 Independent security**

This Deed shall be in addition to and independent of every other security or guarantee which the Security Agent may at any time hold for any of the Secured Liabilities and it is hereby declared that no prior security held by the Security Agent over the whole or any part of the Charged Property shall merge in the security created by this Deed.

**21.2 Continuing security**

This Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or

intermediate payment or other matter or thing whatsoever, unless and until the Security Agent discharges this Deed in writing.

**21.3 Discharge conditional**

Any release, discharge or settlement between any Charging Company and the Security Agent shall be deemed conditional upon no payment or security received by the Security Agent in respect of the Secured Liabilities being avoided or reduced or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership and, notwithstanding any such release, discharge or settlement the Security Agent shall be entitled to recover the value or amount of such security or payment from the Charging Company concerned subsequently as if such settlement, discharge or release had not occurred and each Charging Company agrees with the Security Agent accordingly and charges the Charged Property and the proceeds of sale thereof with any liability under this Clause, whether actual or contingent.

**22 Further assurance**

As and when required by the Security Agent (acting reasonably) each Charging Company, at its own cost, shall execute such further legal or other mortgages, charges or transfers in favour of the Security Agent as the Security Agent shall from time to time require over all or any part of the Charged Property, further to secure the payment of the Secured Liabilities, such further mortgages, charges or transfers to be prepared at the cost of the Charging Companies and to contain a power of sale and such other clauses for the benefit of the Security Agent as the Security Agent may reasonably require.

**23 Indulgence**

The Security Agent may in its discretion grant time or other indulgence or make any other arrangement, variation or release with any person or persons not party hereto (whether or not such person or persons are jointly liable with any of the Principal Debtors) in respect of any of the Secured Liabilities or of any other security therefor without prejudice either to this Deed or to the liability of the Charging Companies for the Secured Liabilities.

**24 Costs**

Each Charging Company shall pay or reimburse to the Security Agent and any Receiver, within 3 Business Days of demand, on a full indemnity basis, all reasonable costs, charges and expenses (including legal fees) properly incurred by the Security Agent and/or the Receiver in relation to the operation (but not the negotiation) of this Deed or the Charged Property or in protecting, perfecting preserving or enforcing (or

attempting to do so) any of the Security Agent's rights under this Deed or in suing for or recovering any of the Secured Liabilities (including the costs of any proceedings in relation to this Deed or the Secured Liabilities).

**25 New accounts; set-off**

**25.1 New accounts**

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

**25.2 Security Agent set-off rights**

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

**26 Miscellaneous**

A certificate by the Security Agent as to any amount for the time being due to it from any Charging Company shall be conclusive evidence of the amount so due in the absence of any manifest error.

**27 Demands and notices**

**27.1 Mode of service**

Any demand for payment and any other demand, notice, consent or communication made or given on or to a Charging Company or the Security Agent under or in connection with this Deed may be left at the relevant address for such Charging Company or the Security Agent referred to in clause 32 of the Senior Facilities Agreement or sent there by first class post or facsimile. Any demand on a Charging Company shall be validly made whether or not it contains an accurate statement of the amount of the Secured Liabilities.

**27.2 Delivery**

Any demand for payment and any other demand, notice, consent or communication made by or given on or to a Charging Company or the Security Agent shall be effective when delivered or deemed delivered in accordance with clause 32 of the Senior Facilities Agreement.

**28 Rights cumulative**

The rights and powers which this Deed confers on the Security Agent are cumulative, may be exercised as often as the Security Agent considers appropriate, and are in addition to its rights and powers under the general law. The rights of the Security Agent (whether arising under this Deed or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing; and, in particular, any failure to exercise or any delay in exercising any such right shall not operate as a variation or waiver of that or any other such right; any defective or partial exercise of any such right shall not preclude any other or further exercise of that or any other such right; and no act or course of conduct or negotiation on its part or on its behalf shall in any way preclude the Security Agent from exercising any such right or constitute a suspension or variation of any such right.

**29 Consolidation**

The restriction on the right of consolidating mortgages contained in Section 93 of the Law of Property Act 1925 shall not apply to this Deed.

**30 No set-off**

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

**31 Assignment and transfer**

**31.1 Assignment by Security Agent**

The Security Agent may at any time without the consent of any Charging Company, assign or transfer the whole or any part of its rights under this Deed in accordance with the terms of the Senior Facilities Agreement.

**31.2 Assignment by Charging Company**

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

**32 Disclosure**

Each Charging Company hereby consents to the disclosure by the Security Agent of any information about it, this Deed, the Charged Property and the Secured Liabilities as follows, subject to clause 37 of the Senior Facilities Agreement which shall be deemed incorporated herein, mutatis mutandis:

**32.1 Disclosure to Security Agent's assignee**

to any person to whom the Security Agent has assigned or transferred or proposes or may propose to assign or transfer all or any of its rights and benefits under this Deed or the Secured Liabilities; or

**32.2 Disclosure to contracting parties**

to any person with whom the Security Agent has entered or proposes or may propose to enter into any contractual arrangements in connection with this Deed or the Secured Liabilities; or

**32.3 Disclosure to agent**

to any subsidiary or agent of the Security Agent; or

**32.4 Other disclosure**

to any other person if required or permitted by law to do so.

**33 Severability**

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

**34 Release**

Subject to Clause 21.3 (*Discharge conditional*), upon the expiry of the Security Period (but not otherwise) the Security Agent shall at the request and cost of the Charging Companies, take whatever action is necessary to release the Charged Property from the security constituted by this Deed.

**35            Prevailing clause**

If there is any direct conflict between the obligations and/or provisions of this Deed and the Senior Facilities Agreement, the obligations and/or provisions of the Senior Facilities Agreement will prevail.

**36            Governing law and Jurisdiction**

This Deed is governed by, and shall be construed in accordance with, English law. The parties to this Deed irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

**37            Counterparts**

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

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

## **SCHEDULE 1**

### **Charging Companies**

<b>Name</b>	<b>Registered Number</b>
Clinigen Group plc	06771928
Clinigen CTS Limited	05016103
Clinigen Healthcare Limited	06252720
Clinigen Pharma Limited	07248508
Clinigen Clinical Trials Limited	04813750

## **SCHEDULE 2**

### **Properties**



### **SCHEDULE 3**

#### **Assigned Documents**

## SCHEDULE 4

### Part I

#### Form of notice to counterparties of Assigned Documents

From: [relevant Charging Company]

To: [counterparty]

[ ] 200[ ]

Dear Sirs

We refer to the [*describe relevant Assigned Document*] (the “**Agreement**”)

We hereby notify you that pursuant to a Security Agreement dated [ ] we have assigned to The Royal Bank of Scotland plc (the “**Security Agent**”) by way of security all our right, title, interest and benefit in and to the Agreement.

We further notify you that:

- (a) we may not agree to amend, modify or terminate the Agreement without the prior written consent of the Security Agent except where such amendment, modification or termination could not reasonably be expected materially and adversely to affect the interests of the Beneficiaries;
- (b) subject to paragraph (a) above you may continue to deal with us in relation to the Agreement until you receive written notice to the contrary from the Security Agent. Thereafter we will cease to have any right to deal with you in relation to the Agreement and therefore from that time you should deal only with the Security Agent;
- (c) you are authorised to disclose information in relation to the Agreement to the Security Agent on request;
- (d) you must pay all monies to which we are entitled under the Agreement direct to the Security Agent (and not to us) if the Security Agent so instructs in writing; and
- (e) the provisions of this notice may only be revoked with the written consent of the Security Agent.

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

- (i) you agree to the terms set out in this notice and to act in accordance with its provisions; and

- (ii) you have not received notice that we have assigned our rights under the Agreement to a third party or created any other interest (whether by way of security or otherwise) in the Agreement in favour of a third party.

The provisions of this notice are governed by English law.

Yours faithfully

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

## Part II

### Form of acknowledgement from counterparties of Assigned Documents

From: [counterparty]

To: The Royal Bank of Scotland plc

Copy to: [relevant Charging Company]

[ ] 200[ ]

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

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

THE CHARGING COMPANIES

EXECUTED as a DEED and  
DELIVERED by  
CLINIGEN GROUP PLC

acting by

)  
)  
)  
)  
)

Director

.....

Director / Secretary

.....

EXECUTED as a DEED and  
DELIVERED by  
CLINIGEN CTS LIMITED

acting by

)  
)  
)  
)  
)

Director

.....

Director / Secretary

.....

EXECUTED as a DEED and  
DELIVERED by  
CLINIGEN HEALTHCARE LIMITED

acting by

)  
)  
)  
)  
)

Director

.....

Director / Secretary

.....

EXECUTED as a DEED and  
DELIVERED by  
CLINIGEN PHARMA LIMITED

acting by

)  
)  
)  
)  
)

Director

.....

Director / Secretary

.....

EXECUTED as a DEED and  
DELIVERED by  
CLINIGEN CLINICAL TRIALS LIMITED

acting by

)  
)  
)  
)  
)

Director

.....

Director / Secretary

.....

THE SECURITY AGENT

SIGNED by  
for and on behalf of THE ROYAL BANK OF  
SCOTLAND PLC

)  
)  
)

By:

Address:

Fax Number:

Attention:

EXECUTED as a DEED and )  
DELIVERED by )  
CLINIGEN PHARMA LIMITED )  
acting by )

Director  
.....

Director / Secretary  
.....

EXECUTED as a DEED and )  
DELIVERED by )  
CLINIGEN CLINICAL TRIALS LIMITED )  
acting by )

Director  
.....

Director / Secretary  
.....

THE SECURITY AGENT

SIGNED by )  
for and on behalf of THE ROYAL BANK OF )  
SCOTLAND PLC )

By: 

Address: 10 Box 7895, 6TH FLOOR  
CUMBERLAND PLACE, NOTTINGHAM NG1 7ZS

Fax Number: 0115 908 1997

Attention: