



Registration of a Charge

Company name: **LUCAS HOLDINGS (BOWLAND) LIMITED**

Company number: **08084096**



X8HIRT2Y

Received for Electronic Filing: **04/11/2019**

Details of Charge

Date of creation: **24/10/2019**

Charge code: **0808 4096 0005**

Persons entitled: **THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

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

Certified by:

HERBERT SMITH FREEHILLS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8084096

Charge code: 0808 4096 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th October 2019 and created by LUCAS HOLDINGS (BOWLAND) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th November 2019 .

Given at Companies House, Cardiff on 5th November 2019

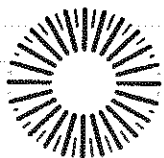
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



HERBERT
SMITH
FREEHILLS

EXECUTION VERSION

24 October 2019

LUCAS HOLDINGS (BOWLAND) LIMITED
as the Company

and

THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED HSF
as the Security Agent

SECURITY AGREEMENT

Herbert Smith Freehills LLP

We hereby certify that save for material redacted pursuant to section 859G Companies Act 2006 this is a true and accurate copy of the original.

Herbert Smith Freehills LLP

Herbert Smith Freehills LLP
Exchange House
Primrose Street
London EC2A 2EG

Date: *4 November* 2019

TABLE OF CONTENTS

Clause	Headings	Page
1.	DEFINITIONS, CONSTRUCTION AND THIRD PARTY RIGHTS	1
2.	COVENANTS TO PAY	5
3.	FIXED SECURITY	6
4.	FLOATING CHARGE	6
5.	FURTHER ASSURANCE	7
6.	GENERAL UNDERTAKINGS WITH RESPECT TO CHARGED ASSETS	8
7.	REAL PROPERTY UNDERTAKINGS	9
8.	UNDERTAKINGS AS TO INVESTMENTS AND SHARES	11
9.	UNDERTAKINGS AS TO CHARGE OVER BOOK AND OTHER DEBTS	13
10.	UNDERTAKINGS AS TO ACCOUNT PROCEEDS	13
11.	RIGHTS OF THE SECURITY AGENT	14
12.	EXONERATION	15
13.	APPOINTMENT OF RECEIVER OR ADMINISTRATOR	15
14.	RECEIVER'S POWERS	16
15.	PROTECTION OF PURCHASERS	17
16.	POWER OF ATTORNEY AND DELEGATION	17
17.	APPLICATION OF MONIES RECEIVED UNDER THIS DEED	17
18.	RELEASE OF SECURITY	18
19.	AMOUNTS PAYABLE	18
20.	POWER OF SEVERANCE	19
21.	REPRESENTATIONS AND WARRANTIES	19
22.	NEW ACCOUNTS	20
23.	MISCELLANEOUS	21
24.	CALCULATIONS AND CERTIFICATES	23
25.	NOTICES	23
26.	COUNTERPARTS	23
27.	LAW	23
28.	ENFORCEMENT	23
	SCHEDULE 1 FORM OF NOTICE	25

THIS DEED is made on 24 October 2019

BETWEEN:

- (1) **LUCAS HOLDINGS (BOWLAND) LIMITED**, (a company registered in England and Wales with registration number 8084096) whose registered office is c/o Peachey & Co LLP, 95 Aldwych, London WC2B 4JF (the "Company"); and
- (2) **THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED HSF** as trustee of the Security Trust (the "Security Agent").

IT IS AGREED as follows:

1. DEFINITIONS, CONSTRUCTION AND THIRD PARTY RIGHTS

1.1 Definitions

- 1.1.1 Terms defined in the Facility Agreement shall, unless otherwise defined in this Deed or unless a contrary intention appears, bear the same meaning when used in this Deed and the following terms shall have the following meanings:

"Account Proceeds" means all amounts (including interest) from time to time standing to the credit of any bank or other account of the Company with any bank, building society, financial institution or other person and the debts represented thereby.

"Administrator" means a person appointed under Schedule B1 to the Insolvency Act 1986 to manage the Company's affairs, business and property.

"Assigned Agreements" means any present or future agreement, contract, deed, lease, underlease, tenancy, licence, undertaking, guarantee or other contract to which the Company is now or may in the future become a party, including any letter of credit issued in favour of the Company from time to time and any bill of exchange or other negotiable instrument held by the Company from time to time.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London and Hong Kong.

"Charged Assets" means the assets mortgaged, charged or assigned pursuant to Clauses 3 (*Fixed Security*) and 4.1 (*Creation of Floating Charge*) of this Deed.

"Dangerous Substance" means any natural or artificial substance (whether in a solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any such other substance) capable of causing harm to the Environment or damaging the Environment or public health or welfare including any noxious, hazardous, toxic, dangerous, special or controlled waste or other polluting substance or matter.

"Debts" means all of the Company's present and future book and other debts, revenues and monetary claims, whether actual or contingent, and whether originally owing to the Company or purchased or acquired by it, and all things in action which may give rise to any debt, revenue or monetary claim and the benefit of any related Security, guarantee or other rights of any nature relating thereto and any proceeds of any of the above.

"Declared Default" means an Event of Default in respect of which a declaration has been made under clause 24.2 (*Acceleration*) of the Facility Agreement.

"Environment" means the natural and man-made environment and all or any of the following media namely air (including air within buildings and air within other natural or man-made structures above or below ground), water (including water under or within land or in drains or sewers and inland waters), land and any living organisms (including humans) or systems supported by those media.

"Environmental Claim" means any claim alleging liability whether civil or criminal and whether actual or potential arising out of or resulting from the presence at, on or under the Real Property or presence in or escape or release into the environment of any Dangerous Substance from the Real Property or in circumstances attributable to the operation of the Company's activities or any breach of any applicable Environmental Law or any applicable Environmental Licence.

"Environmental Law" means all statutes, instruments, regulations, orders and ordinances (including European Union legislation, regulations, directives, decisions and judgements applicable to the United Kingdom) being in force from time to time and directly enforceable in the United Kingdom relating to pollution, prevention thereof or protection of human health or the conditions of the Environment or the use, disposal, generation, storage, transportation, treatment, dumping, release, deposit, burial, emission or disposal of any Dangerous Substance.

"Environmental Licence" means any permit, licence, authorisation, consent or other approval required by any Environmental Law or the Planning (Hazardous Substances) Act 1990.

"Environmental Losses" means all losses, damages, liabilities, claims, costs and expenses (including fines, penalties, judgments and awards, financial responsibility for clean-up activities and obligations, statutory or other official contributions, legal fees, technical consultancy, engineer's and expert's fees and costs and expenses) of obtaining or retaining consents or licences or otherwise complying with Environmental Law.

"Facility Agreement" has the meaning given in the Security Trust Deed.

"Insurance Policies" means all present and future contracts or policies of insurance (including life policies) in which the Company has an interest or in which it may from time to time have an interest (whether solely, jointly, as loss payee or otherwise).

"Insurance Proceeds" means all monies from time to time payable to the Company under or pursuant to the Insurance Policies, including (without limitation) the refund of any premiums.

"Intellectual Property Rights" means all patents, patent applications, trade marks and service marks (whether registered or not), trade mark and/or service mark applications, trade names, registered designs, design rights, copyrights, database rights, domain names, computer software, know-how, trade secrets, inventions and other intellectual property rights and interests (which may now or in the future exist), whether registered or unregistered, and the benefit of all applications and the rights to use such assets (which may now or in the future exist) and all Related Property Rights.

"Investments" means all of the Company's right, title, benefit and interest in all stocks, shares, bonds, notes, warrants and other securities of any kind whatsoever whether in bearer or registered form, and all other interests in any person and all Related Investment Rights whether the same are held directly by or to the order of the Company or by any trustee, fiduciary, clearance system (including any depository for any clearance system and any other person whose business is or includes the provision of clearance services or the provision of security accounts or any nominees or depository for any such person), custody system, settlement system (including Euroclear UK & Ireland Limited for the London Stock Exchange plc and the Central Gilts Office Service for transactions in gilt edged stocks and any nominees thereof) or custodian on behalf of the Company or whether the same have been delivered to or to the order of the Security Agent or its nominee including all Related Investment Rights, all Related

Property Rights and all rights against any such trustee, fiduciary, clearance system or other person holding such to the order of the Company.

"LPA" means the Law of Property Act 1925.

"Occupational Lease" means any occupational lease or licence or other right of occupation to which the Real Property may be subject from time to time.

"Planning Acts" means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and any other enactment for the time being in force relating to the use, development and enjoyment of land and buildings (including section 96 of, and Schedules 13 and 14 to, the Environment Act 1995).

"Real Property" means:

- (a) all freehold and/or leasehold property or immovable property of the Company situate in England and Wales;
- (b) any buildings, fixtures (including trade fixtures), fittings, fixed plant or machinery from time to time on or forming part of the property referred to in paragraph (a) above; and
- (c) the Related Property Rights.

"Receiver" means any person appointed by the Security Agent to be a receiver or receiver and manager or administrative receiver of any property subject to the security created by this Deed.

"Related Investment Rights" means all allotments, rights, benefits and advantages (including all voting rights) at any time accruing, offered or arising in respect of or incidental to any Investment and all money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, dividend, distribution, interest or otherwise in respect of Investments.

"Related Property Rights" means, where used in relation to a particular property, asset (or class of assets) or right, the following:

- (a) the proceeds of sale and/or other realisation of that property, asset (or class of assets) or right (or any part thereof or interest therein);
- (b) all Security, options, agreements, rights, easements, benefits, indemnities, guarantees, warranties or covenants for title in respect of such property, asset (or class of assets) or right; and
- (c) all rights under any lease, licence or agreement for lease, sale or use in respect of such property or asset.

"Release" means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration of any Substance into the Environment.

"Secured Liabilities" means all monies, obligations and liabilities covenanted to be paid or discharged pursuant to Clause 2 (*Covenants to Pay*).

"Security" has the meaning given in the Security Trust Deed.

"Security Period" means the period from the date of this Deed until the date on which the Security Agent has determined that all of the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full.

"Security Trust" has the meaning given in the Security Trust Deed.

"Security Trust Deed" means the Security Trust Deed dated on or about the date of this Deed between, among others, the Company and the Security Agent.

"Shares" means:

- (a) the entire issued shares of (i) Lucas Bowland (UK) Limited (a company registered in England and Wales with registration number 8341601), (ii) Lucas Bowland (No. 2) Limited (a company registered in England and Wales with registration number 8347365) and (iii) Elswick Power Limited (a company registered in England and Wales with registration number 8542050), all of which are legally and beneficially owned by the Company; and
- (b) all Related Investment Rights and all Related Property Rights in respect thereof.

"Substance" means any solid, liquid, gas, noise and any other substance or thing which causes or is likely to cause harm to the Environment or harm to human health.

"VAT" means United Kingdom Value Added Tax together with all interest and penalties relating thereto.

- 1.1.2 Unless a contrary intention appears, words defined in the Companies Act 2006 have the same meanings in this Deed.

1.2 Construction and Third Party Rights

- 1.2.1 Unless a contrary indication appears, any reference in this Deed to:

- (A) the singular includes the plural and vice versa;
- (B) the **"Security Agent"**, any **"Lender"** or any **"Secured Party"** shall be construed so as to include their successors in title, permitted assigns and permitted transferees;
- (C) **"assets"** includes present and future properties, revenues and rights of every description;
- (D) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- (E) a **"regulation"** includes any regulation, rule, official directive, request or guideline (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;
- (F) a provision of law is a reference to that provision as amended or re-enacted;
- (G) a Clause or a Schedule is a reference to a clause of or schedule to this Deed;
- (H) this Deed shall be construed as references also to any separate or independent stipulation or agreement contained in it;
- (I) another agreement (including the Facility Agreement) shall be construed as a reference to such agreement as the same may have been modified, extended, amended, varied or supplemented or novated from time to time;
- (J) references to any form of property or asset (including a Charged Asset) shall include a reference to all or any part of that property or asset); and

(K) the word **"including"** is without limitation.

1.2.2 Clause and Schedule headings are for ease of reference only.

1.2.3 The words **"other"**, **"or otherwise"** and **"whatsoever"** shall not be construed eiusdem generis or be construed as any limitation upon the generality of any preceding words or matters specifically referred to.

1.2.4 The terms of this Deed may be enforced only by a party to it and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

1.3 **Implied Covenants for Title**

The obligations of the Company under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

1.4 **Effect as a deed**

This Deed is intended to take effect as a deed notwithstanding that the Security Agent may have executed it under hand only.

1.5 **Law of Property (Miscellaneous Provisions) Act 1989**

To the extent necessary for any agreement for the disposition of the Charged Assets in this Deed to be a valid agreement under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the other Finance Documents and of any side letters between the parties to this Deed are incorporated into this Deed.

1.6 **Security Trust Provisions**

1.6.1 The Security Agent holds the benefit of this Deed on trust for the Secured Parties in accordance with the Security Trust Deed.

1.6.2 Clause 3.14 (*Security Trustee limitation of liability to non-Beneficiaries*) of the Security Trust Deed applies to this Deed as if set out in full, as if each reference in that clause to Security Trustee were to the Security Agent, and otherwise mutatis mutandis.

2. **COVENANTS TO PAY**

2.1 **Covenant to Pay Secured Liabilities**

The Company covenants that it shall on demand pay to the Security Agent all monies and discharge all obligations and liabilities now or hereafter due, owing or incurred by it or any other Obligor to any Secured Party under or pursuant to the Finance Documents in each case when the same become due for payment or discharge whether by acceleration or otherwise, and whether such monies, obligations or liabilities are express or implied; present, future or contingent; joint or several; incurred as principal or surety; originally owing to a Secured Party or purchased (whether by assignment or otherwise) or acquired in any other way by it; denominated in sterling or any other currency; or incurred on any current or other banking account or in any other manner whatsoever.

2.2 **Potential Invalidity**

Neither the covenant to pay in Clause 2.1 (*Covenant to Pay Secured Liabilities*) nor the security created by this Deed shall extend to or include any liability or sum which would, but for this Clause 2.2, cause such covenant, obligation or security to be unlawful under any applicable law.

3. **FIXED SECURITY**

3.1 **Creation of Fixed Security**

The Company charges to the Security Agent by way of fixed charge (which so far as relates to freehold or leasehold property in England and Wales vested in the Company at the date of this Deed shall be a charge by way of legal mortgage) with full title guarantee and as a continuing security for the payment and discharge of the Secured Liabilities all of the Company's rights to and title and interest from time to time in any and each of the following:

- 3.1.1 all plant, machinery, vehicles, computers, office and other equipment and chattels (excluding stock-in-trade or work in progress) and all Related Property Rights;
- 3.1.2 (to the extent that the same are not the subject of a fixed charge under Clause 3.1.3) all Debts;
- 3.1.3 all Account Proceeds;
- 3.1.4 all of its Investments;
- 3.1.5 the Shares;
- 3.1.6 all goodwill and uncalled capital;
- 3.1.7 (to the extent not effectively assigned under Clause 3.2 (*Assignments*)), the Insurance Policies and the Insurance Proceeds; and
- 3.1.8 (to the extent not effectively assigned under Clause 3.2 (*Assignments*)), the Assigned Agreements and all Related Property Rights.

3.2 **Assignments**

The Company assigns to the Security Agent with full title guarantee as a continuing security for the payment and discharge of the Secured Liabilities all of the Company's rights to and title and interest from time to time in:

- 3.2.1 the Insurance Policies (subject to obtaining any necessary consent to such assignment from any third party) and the Insurance Proceeds; and
- 3.2.2 the Assigned Agreements and all Related Property Rights.

3.3 **Preservation of fixed charge**

Without prejudice to Clause 3.1.2 (*Creation of Fixed Security*) and Clause 3.2 (*Assignments*), if the Company is entitled to withdraw the proceeds of any book and other debts standing to the credit of an Account and, as a result, those proceeds are in any way released from the fixed charge created pursuant to Clauses 3.1.3 (*Creation of Fixed Security*) and 3.2 (*Assignments*), the release will in no way derogate from the subsistence and continuance of the fixed charge on all other outstanding book and other debts of the Company and the proceeds of those debts.

4. **FLOATING CHARGE**

4.1 **Creation of Floating Charge**

- 4.1.1 The Company charges to the Security Agent by way of first floating charge with full title guarantee and as a continuing security for the payment and discharge of the Secured Liabilities all of the Company's rights to and title and interest from time to time in the whole of its property, assets, rights and revenues, whatsoever and wheresoever, present and future, other than any property, assets, rights and

revenues validly and effectively charged or assigned (whether at law or in equity) pursuant to Clauses 3.1 (*Creation of Fixed Security*) or 3.2 (*Assignments*).

- 4.1.2 The floating charge hereby created is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.
- 4.1.3 Without prejudice to Clause 4.1.2 the Security Agent reserves its rights to appoint an administrative receiver on and following the occurrence of a Declared Default in accordance with sections 72B to H (inclusive) of the Insolvency Act 1986.

4.2 **Automatic Crystallisation of Floating Charge**

Notwithstanding anything express or implied in this Deed, and without prejudice to any law which may have similar effect, if:

- 4.2.1 the Company creates or attempts to create any Security over all or any of the Charged Assets without the prior consent of the Security Agent or save as expressly permitted under the Facility Agreement; or
- 4.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Assets; or
- 4.2.3 a resolution is passed or an order is made for the winding up, dissolution, administration or other reorganisation of the Company; or
- 4.2.4 an Administrator is appointed or any step intended to result in such appointment is taken,

then the floating charge created by Clause 4.1 (*Creation of Floating Charge*) will automatically (without notice) be converted into a fixed charge as regards all of the assets subject to the floating charge.

4.3 **Crystallisation on Notice of Floating Charge**

Notwithstanding anything express or implied in this Deed, the Security Agent may at any time:

- 4.3.1 following a Declared Default; or
- 4.3.2 if the Security Agent considers in good faith that any of the Charged Assets are in danger of being seized or sold as a result of any legal process, are otherwise in jeopardy or the Security Agent reasonably believes that steps are being taken or have been taken which are likely or intended to lead to the appointment of an Administrator or the presentation of a petition for the winding up of the Company,

by giving notice in writing to that effect to the Company convert the floating charge created by Clause 4.1 (*Creation of Floating Charge*) into a fixed charge as regards any assets specified in such notice. The conversion shall take effect immediately upon the giving of the notice.

5. **FURTHER ASSURANCE**

- 5.1 The Company must promptly upon request by the Security Agent execute (in such form as the Security Agent may reasonably require) such documents (including assignments, transfers, mortgages, charges, notices and instructions) in favour of the Security Agent or its nominees and do all such assurances and things as the Security Agent may reasonably require for:

- 5.1.1 perfecting and/or protecting (by registration or in any other way) the security created or intended to be created by this Deed;

- 5.1.2 conferring upon the Security Agent such security as it may require over the assets of the Company outside of England and Wales which if in England or Wales would form part of or be intended to form part of the Charged Assets;
- 5.1.3 facilitating, at any time on or after the occurrence of a Declared Default, the realisation of all or any part of the assets of the Company; and
- 5.1.4 exercising all powers, authorities and discretions conferred on the Security Agent or any Receiver pursuant to this Deed or by law,

including, obtaining any necessary consents (in form and content satisfactory to the Security Agent). Immediately upon obtaining any necessary consent the asset concerned shall become subject to the security created by this Deed. The Company shall promptly deliver a copy of each such consent to the Security Agent.

- 5.2 The Company shall, at any time, promptly upon request, execute over all or any of the Charged Assets, a charge by way of legal mortgage or legal sub-mortgage or legal assignment, as the case may be, in favour of the Security Agent in such form as the Security Agent shall require.

6. **GENERAL UNDERTAKINGS WITH RESPECT TO CHARGED ASSETS**

- 6.1 The Company undertakes to the Security Agent with respect to the Charged Assets that:

6.1.1 **Negative Pledge**

it shall not, create or attempt to create or permit to subsist or arise any Security on, over or affecting the Charged Assets or any part of them, other than as permitted by the Facility Agreement;

6.1.2 **Disposals**

it shall not without the prior written consent of the Security Agent dispose of the Charged Assets or any part of them or agree so to do except in the case of:

- (A) disposals which are permitted by the Facility Agreement;
- (B) stock-in-trade which (subject to the provisions of this Deed) may be sold by the Company at full market value on arm's length terms in the ordinary course of its business;
- (C) other assets which are the subject of the floating charge created by this Deed which may be disposed of by the Company in the ordinary course of its business,

and for these purposes the term "disposal" shall include any form of disposal of any interest in any asset including any conveyance, transfer, lease, assignment, sale, right to use or occupy, surrender, declaration of trust or the creation of any other form of legal or equitable interest in or over any asset or any option in respect of any of the foregoing;

6.1.3 **Compliance with Laws**

it shall at all times comply with all laws and regulations applicable to it and will obtain and maintain in full force and effect all consents, licences, approvals or authorisations of, exemptions by or registrations or declarations with, any governmental or other authority which may at any time be required with respect to any of the Charged Assets;

6.1.4 Subsequent Charges

subject to Clause 6.1.1 (*Negative Pledge*), it shall procure that any Security created by the Company after the date of this Deed (otherwise than in favour of the Security Agent) shall be expressed to be subject to this Deed;

6.1.5 Deposit of Title Documents

it shall deposit with the Security Agent or its nominee the deeds and documents of title relating to the Charged Assets provided that:

- (A) in the case of deeds or documents of title relating to Real Property, it shall ensure that such deeds and documents of title are held either by the Security Agent or to the order of the Security Agent by a firm of solicitors approved by the Security Agent for that purpose; and
- (B) it shall not be required to deposit any stock or share certificates relating to the Investments or the Shares to the extent that the relevant documents have been deposited with a clearance system, settlement system or custodian acceptable to the Security Agent);

6.1.6 Prejudicial Action

it shall not do or cause or permit to be done anything which would reduce, jeopardise or otherwise materially prejudice the value to the Security Agent of the Charged Assets; and

6.1.7 Repair and Condition

it shall keep the Charged Assets in a good and substantial state of repair and condition to the reasonable satisfaction of the Security Agent.

6.2 Notices of Charge and/or Assignment

6.2.1 The Company shall deliver to the Security Agent and serve on any debtor or other person as required by the Security Agent:

- (A) notices of assignment in respect of any of the assets assigned pursuant to this Deed (including any of the contracts referred to in Clause 3.2 (*Assignments*)) and procure that each notice is acknowledged by any debtor specified by the Security Agent; and
- (B) notices of charge in respect of any of the assets charged pursuant to this Deed and procure that each notice is acknowledged by any debtor specified by the Security Agent.

6.2.2 The notices of charge and/or assignment and/or acknowledgement referred to in Clause 6.2.1 shall be in a form substantially similar to that contained in Schedule 1 (*Form of Notice*) or such other form as the Security Agent may require.

6.3 Intellectual Property Rights

The Company shall, if requested by the Security Agent, execute all such documents and do all such acts as the Security Agent may reasonably require to record the interests of the Security Agent in any registers relating to registered Intellectual Property Rights.

7. REAL PROPERTY UNDERTAKINGS

7.1 Positive Undertakings

In relation to Real Property, the Company agrees that it shall:

- 7.1.1 comply with all obligations imposed under any present or future statute, regulation, order or instrument or under any bye-laws, regulations or requirements of any competent authority or planning permissions or other approvals, licences or consents relating to the same or its use or enjoyment;
- 7.1.2 comply or procure compliance with all covenants (including the obligation to pay rent in respect of leasehold property), stipulations and conditions relating to the same or its use or enjoyment and not do any act or thing whereby any lease or other document which gives any right to occupy the Real Property becomes or may become subject to determination or any right of re-entry or forfeiture prior to the expiration of its originally stated term (as extended from time to time);
- 7.1.3 duly and punctually pay or procure payment of all rates, outgoings and other similar sums payable on or in respect of the same; and
- 7.1.4 permit representatives of the Security Agent and its advisers on prior appointment to make inspections of the Real Property as the Security Agent may require, subject to the terms of any relevant Occupational Lease.

7.2 **Negative Undertakings**

In relation to Real Property, the Company agrees that, unless it has the prior written consent of the Security Agent (or the same is otherwise expressly permitted in accordance with the Facility Agreement), it shall not:

- 7.2.1 exercise the statutory power of leasing and/or accepting surrenders of leases conferred on mortgagors and further agrees that the Security Agent may grant or accept surrenders of leases without restriction;
- 7.2.2 part with the possession of the same or any part thereof (including any fixtures forming part of the Real Property) nor confer upon any person, any licence, right or interest to occupy the Real Property or any part of it or to grant any licence or permission to assign or underlet or to suffer or permit any variation or addition to any Occupational Lease nor waive or release any term of any such Occupational Lease;
- 7.2.3 carry out or permit to be carried out any structural alterations to or to demolish, pull down or remove any building or erection from time to time forming part of the same or make or suffer to be made any change in the state, nature or use of the same;
- 7.2.4 (save for any development permitted under the Town and Country Planning (General Permitted Development) Order 1995) carry out any development (as defined in the Planning Acts) on or of the Real Property;
- 7.2.5 make any application for planning permission or implement any planning permission obtained under any of the Planning Acts;
- 7.2.6 agree to any rent review in respect of any Occupational Lease;
- 7.2.7 commence any forfeiture proceedings in respect of any Occupational Lease;
- 7.2.8 exercise any option or right of election available at law that the supplies made in respect of any lease or tenancy of the same shall be taxable for VAT purposes at the standard or any other applicable rate (other than zero), including pursuant to paragraph 2 of Schedule 10 to the Value Added Tax Act 1994;
- 7.2.9 enter into any negotiations with any competent authority with regard to the compulsory acquisition of the same or consent to the compulsory acquisition of the same; or

- 7.2.10 convert any freehold estate of any Real Property to a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002.

7.3 Notifications

The Company shall promptly notify the Security Agent of any contract, conveyance, transfer or other disposition for the acquisition by the Company of the legal or beneficial interest in any Real Property.

7.4 Remedy

If the Company fails to comply with any undertaking or obligation contained in this Clause 7, the Security Agent shall be entitled (either itself, or through any agent, nominee or advisor) to do such things as it reasonably believes are required to remedy such failure. The Company shall reimburse to the Security Agent on demand all amounts expended by the Security Agent in remedying such failure together with interest in accordance with the Finance Documents from the date of payment by the Security Agent until reimbursed.

8. UNDERTAKINGS AS TO INVESTMENTS AND SHARES

8.1 Deposit of Title Documents

The Company shall deposit with the Security Agent or its nominee:

- 8.1.1 stock transfer forms or other instruments of transfer relating to the Investments and the Shares duly completed to the Security Agent's satisfaction; and
- 8.1.2 such other documents as the Security Agent may reasonably require from time to time for the purpose of perfecting its title to the Investments or the Shares or for the purpose of vesting the same in itself, its nominee or any purchaser or presenting the same for registration at any time.

8.2 Registration of transfers

Following a Declared Default, the Company shall procure that all Investments and Shares which are in registered form are duly registered in the name of the Security Agent or its nominee once a transfer relating to those Investments and Shares is presented for that purpose.

8.3 Clearance Systems etc.

The Company shall, when requested by the Security Agent, instruct any clearance system, settlement system, custodian or similar person to transfer any Investments then held by any such person for the account of the Company to the account of the Security Agent (or its nominee) with such clearance system (or as otherwise required by the Security Agent).

8.4 Calls

The Company:

- 8.4.1 shall not, without the consent in writing of the Security Agent, acquire any Investments or Shares unless they are fully paid;
- 8.4.2 shall duly and promptly pay all calls, instalments or other payments which may be due and payable in respect of any Investments or Shares and, for the avoidance of doubt, no Secured Party shall incur any liability in respect of any amounts due from the Company in respect of any Investments or Shares.

8.5 Dividends

Prior to the occurrence of a Declared Default which is continuing unwaived by the Security Agent, all dividends or other monies in respect of the Investments and the shares shall be

paid to the Company directly. In the event that such dividends or monies are received by the Security Agent (or its nominee), the Security Agent shall hold such dividends or monies received by it for the account of the Company and shall pay the same to an account of the Company as soon as practicable following receipt of a written request to do so.

8.6 Voting Rights and Other Matters

8.6.1 Prior to the occurrence of a Declared Default and save as otherwise provided in this Clause 8.6, the Company shall exercise (or where the voting rights are exercisable by the Security Agent, direct the Security Agent to exercise on its behalf) all voting rights in respect of the Investments and the Shares provided that the Company shall not exercise (or direct the exercise of) any voting rights in any manner which would have a Material Adverse Effect.

8.6.2 The Company shall not, without the prior written consent of the Security Agent, permit or agree to any variation of the rights attaching to or conferred by any of the Investments or the Shares, participate in any rights issue, elect to receive or vote in favour of receiving any dividends or other distributions other than in the form of cash or participate in any vote concerning a members voluntary winding-up or a compromise or arrangement pursuant to sections 895-901 of the Companies Act 2006.

8.6.3 At any time on or after a Declared Default, the Security Agent may in such manner and on such terms as it sees fit (in the name of the Company or otherwise and without the need for further consent from the Company):

- (A) exercise (or refrain from exercising) any voting rights in respect of the Investments and the Shares; and/or
- (B) apply all dividends and other monies arising from the Investments and the Shares in accordance with Clause 17 (*Application of Monies Received under this Deed*); and/or
- (C) without prejudice to any other provision of this Deed, transfer the Investments and the Shares into the name of a nominee or transferee of the Security Agent as the Security Agent may require; and/or
- (D) exercise (or refrain from exercising) all or any of the powers and rights conferred upon or exercisable by the legal or beneficial owner of the Investments and the Shares.

8.7 Liability of Security Agent

The Company agrees with the Security Agent that no Secured Party nor any nominee will have any liability for:

- 8.7.1 failing to present any coupon or other document relating to any of the Investments or the Shares;
- 8.7.2 accepting or failing to accept any offer relating to any of the Investments or the Shares;
- 8.7.3 failing to attend or vote at any meetings relating to any of the Investments or the Shares;
- 8.7.4 failing to notify the Company of any matters referred to in this Clause 8.7 or of any communication received by a Secured Party in relation to any of the Investments or the Shares; or

- 8.7.5 any loss arising out of or in connection with the exercise or non-exercise of any rights or powers attaching or accruing to the Investments or the Shares or which may be exercised by the Security Agent or any nominee of the Security Agent under this Deed (whether or not on sale or other realisation of the Investments or the Shares a better price could have or might have been obtained by either deferring or advancing the date of sale or realisation or otherwise).

8.8 Nominees

The Company represents and warrants that it has not and undertakes that it shall not appoint any nominee to exercise or enjoy all or any of its rights in relation to the Investments or the Shares.

8.9 Register of members

The Company shall procure that, during the Security Period, no company whose shares are subject to the Security purported to be created under this Deed keeps information in respect of its members on the central register kept by the Registrar at Companies House.

9. UNDERTAKINGS AS TO CHARGE OVER BOOK AND OTHER DEBTS

9.1 Value of Debts

The Company undertakes to provide to the Security Agent promptly upon its request (and in a form acceptable to the Security Agent acting reasonably) a certificate showing the aggregate value of the Debts due to the Company from any source.

9.2 Realisation of Debts

During the Security Period, the Company undertakes with reference to the Debts:

- 9.2.1 to collect the Debts in the ordinary course of its business and (prior to the payment into the account specified in Clause 9.2.3) to hold the proceeds of those Debts on trust for the Security Agent;
- 9.2.2 not, without the prior consent in writing of the Security Agent or as permitted by the Facility Agreement, to sell, factor, discount, charge, assign, declare a trust over or otherwise dispose of or release, exchange, compound, set off or grant time or indulgence or otherwise deal with all or any of the Debts in favour of any other person or purport to do so;
- 9.2.3 to pay into an account of the Company with the Security Agent or otherwise as the Security Agent may direct all monies which the Company may receive in respect of the Debts; and
- 9.2.4 save to the extent that the Security Agent otherwise agrees in writing not to withdraw any amounts (whether in the nature of principal or interest) standing to the credit of the account referred to in Clause 9.3.

9.3 Debts: Position after Declared Default

After the occurrence of a Declared Default the Company shall not, except with the consent of the Security Agent, withdraw or otherwise transfer the proceeds of realisation of any Debts standing to the credit of any account.

10. UNDERTAKINGS AS TO ACCOUNT PROCEEDS

10.1 Account Proceeds: Position before Declared Default

Before the occurrence of a Declared Default the Company shall (subject to any restrictions in the Facility Agreement preventing the withdrawal of the same) be entitled to withdraw any credit amount referred to in the definition of Account Proceeds from any relevant account.

10.2 **Account Proceeds: Position after Default**

After the occurrence of a Declared Default the Company shall not be entitled to be paid, withdraw or otherwise transfer any credit amount referred to in Clause 10.1 (*Account Proceeds: Position before Declared Default*) except with the prior written consent of the Security Agent.

11. **RIGHTS OF THE SECURITY AGENT**

11.1 **Enforcement**

At any time on or after the occurrence of a Declared Default, the security created pursuant to this Deed shall be immediately enforceable and the Security Agent may in its absolute discretion and without notice to the Company or the prior authorisation of any court:

11.1.1 enforce all or any part of the security created by this Deed and take possession of or dispose of all or any of the Charged Assets in each case at such times and upon such terms as it sees fit; and

11.1.2 whether or not it has appointed a Receiver, exercise all of the powers, authorities and discretions:

(A) conferred from time to time on mortgagees by the LPA (as varied or extended by this Deed) or by law; and

(B) granted to a Receiver by this Deed or from time to time by law.

11.2 **Restrictions on Consolidation of Mortgages**

Section 93 of the LPA shall not apply to this Deed or to any sale made under it. The Security Agent shall have the right to consolidate all or any of the security created by or pursuant to this Deed with any other security in existence at any time. Such power may be exercised by the Security Agent at any time on or after the occurrence of a Declared Default. The Company hereby consents to the Security Agent making an application to the Chief Land Registrar on Form CC for registration against the registered titles (if any) (and any unregistered properties subject to compulsory first registration at the date of this Deed and any other Real Property from time to time including a registered title) of the right to consolidate.

11.3 **Restrictions on Exercise of Power of Sale**

Section 103 of the LPA shall not apply to this Deed and the power of sale arising under the LPA shall arise on the date of this Deed (and the Secured Liabilities shall be deemed to have become due and payable for that purpose). The power of sale and other powers conferred by section 101 of the LPA as varied or extended by this Deed and those powers conferred (expressly or by reference) on a Receiver shall be immediately exercisable by the Security Agent at any time on or after the occurrence of a Declared Default.

11.4 **Leasing Powers**

The restrictions contained in sections 99 to 100 of the LPA shall not apply to restrict the rights of the Security Agent or any Receiver under this Deed. The statutory powers of leasing may be exercised by the Security Agent upon and following the occurrence of a Declared Default and the Security Agent and any Receiver may make any lease or agreement for lease and/or accept any surrenders of leases and/or grant options on such terms as it sees fit without the need to comply with the aforementioned restrictions.

11.5 **No Prior Notice Needed**

The powers of the Security Agent set out in Clauses 11.2(*Restrictions on Consolidation of Mortgages*) to 11.4 (*Leasing Powers*) may be exercised by the Security Agent without prior notice to the Company.

11.6 **Right of Appropriation**

- 11.6.1 Without prejudice to the other provisions of this Deed, to the extent that any of the Charged Assets constitute "financial collateral", and this Deed and the obligations of the Company hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003/3226) (the "**Regulations**")), the Security Agent shall have the right to appropriate all or any part of those Charged Assets in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of any such Charged Assets so appropriated shall be the market price of such Charged Assets at the time the right of appropriation is exercised as determined by the Security Agent by reference to such method or source of valuation as the Security Agent may select, including by independent valuation. The parties agree that the methods or sources of valuation provided for in this Clause or selected by the Security Agent in accordance with this Clause shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.
- 11.6.2 The Security Agent shall notify the Company as soon as reasonably practicable of the exercise of its right of appropriation as regards such of the Charged Assets as are specified in such notice.

12. **EXONERATION**

12.1 **Exoneration**

No Secured Party shall, nor shall any Receiver, by reason of it or the Receiver entering into possession of the Charged Assets or any part thereof, be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable; but every Receiver duly appointed by the Security Agent under this Deed shall for all purposes be deemed to be in the same position as a receiver duly appointed by a mortgagee under the LPA save to the extent that the provisions of that Act are varied by or are inconsistent with the provisions of this Deed when the provisions of this Deed shall prevail and every such Receiver and the Security Agent shall in any event be entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers duly appointed under the LPA.

12.2 **Indemnity**

The Security Agent and every Receiver, attorney, delegate, manager, agent or other person appointed by the Security Agent hereunder shall be entitled to be indemnified out of the Charged Assets or any part thereof in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets or any part of them. The Security Agent and any such Receiver may retain and pay all sums in respect of which it is indemnified out of any monies received by it under the powers conferred by this Deed.

13. **APPOINTMENT OF RECEIVER OR ADMINISTRATOR**

13.1 **Appointment**

- 13.1.1 At any time on or after the occurrence of a Declared Default, or at the request of the Company or its directors, the Security Agent may, without prior notice to the Company, in writing (under seal, by deed or otherwise under hand) appoint:
- (A) a Receiver in respect of the Charged Assets or any part thereof and may in like manner from time to time (and insofar as it is lawfully able to do) remove any Receiver and appoint another in his stead; or

- (B) one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act 1986.

13.1.2 Nothing in Clause 13.1.1 shall restrict the exercise by the Security Agent of any one or more of the rights of the Security Agent under Schedule B1 to the Insolvency Act 1986 and the rules thereunder or at common law.

13.2 More than one Receiver

Where more than one Receiver is appointed, each joint Receiver shall have the power to act severally, independently of any other joint Receiver, except to the extent that the Security Agent may specify to the contrary in the appointment.

13.3 Receiver as agent

A Receiver shall be the agent of the Company which shall be solely responsible for his acts or defaults and for his remuneration. No Receiver shall at any time act as agent of any Secured Party.

13.4 Receiver's Remuneration

A Receiver shall be entitled to remuneration for his services at a rate to be determined by the Security Agent from time to time (and without being limited to any maximum rate specified by any statute or statutory instrument).

13.5 Actions of the Administrator

Save as provided for in statute or as otherwise agreed in writing by that Secured Party, no Secured Party shall have any liability for the acts or omissions of an Administrator.

14. RECEIVER'S POWERS

14.1 Powers

A Receiver shall have (and be entitled to exercise) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Deed):

- 14.1.1 all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- 14.1.2 all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;
- 14.1.3 all the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which the Company itself could do or omit to do;
- 14.1.4 the power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Deed or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Company; the collection and/or realisation of Charged Assets in such manner and on such terms as the Receiver sees fit; and the execution of documents in the name of the Company (whether under hand, or by way of deed or by utilisation of the company seal of the Company).

14.2 Powers may be Restricted

The powers granted to a Receiver pursuant to this Deed may be restricted by the instrument (signed by the Security Agent) appointing him but they shall not be restricted by any winding-up or dissolution of the Company.

15. **PROTECTION OF PURCHASERS**

15.1 **Absence of Enquiry**

No person or persons dealing with the Security Agent or any Receiver appointed by it shall be concerned to enquire whether any event has happened upon which any of the powers in this Deed are or may be exercisable or otherwise as to the propriety or regularity of any exercise of such powers or of any act purporting or intended to be an exercise of such powers or whether any amount remains secured by this Deed. All the protections to purchasers and persons dealing with receivers contained in sections 104, 107 and 109(4) of the LPA shall apply to any person purchasing from or dealing with the Security Agent or any such Receiver.

15.2 **Receipt: Conclusive Discharge**

The receipt of the Security Agent or any Receiver shall be a conclusive discharge to any purchaser of the Charged Assets.

16. **POWER OF ATTORNEY AND DELEGATION**

16.1 **Power of Attorney: General**

The Company hereby irrevocably and by way of security appoints the Security Agent and any Receiver severally to be its attorney in its name and on its behalf and as its act and deed:

- 16.1.1 to execute and deliver any documents or instruments which the Security Agent or such Receiver may require for perfecting the title of the Security Agent to the Charged Assets or for vesting the same in the Security Agent, its nominee or any purchaser;
- 16.1.2 to sign, execute, seal and deliver and otherwise perfect any further security document which the Company is required to enter into pursuant to this Deed;
- 16.1.3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Security Agent or any Receiver under this Deed or which the Company is required to do pursuant to this Deed or which may be deemed expedient by the Security Agent or a Receiver in connection with any preservation, disposition, realisation or getting in by the Security Agent or such Receiver of the Charged Assets or in connection with any other exercise of any other power under this Deed.

16.2 **Power of Attorney: Ratification**

The Company ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in this Clause 16 (*Power of Attorney and Delegation*) does or purports to do in exercise of the powers granted by this Clause.

16.3 **General Delegation**

The Security Agent and any Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Deed (including the power of attorney) on such terms and conditions as it or he shall see fit which shall not preclude exercise of those powers, authorities or discretions by it or him or any revocation of the delegation or any subsequent delegation.

17. **APPLICATION OF MONIES RECEIVED UNDER THIS DEED**

Any monies received under the powers hereby conferred shall, subject to the repayment of any claims having priority to this Deed and to any applicable statutory requirement as to (i) the payment of preferential debts or (ii) the payment of unsecured creditors in accordance

with section 176A Insolvency Act 1986, be applied for the following purposes and in the following order of priority:

- 17.1.1 in satisfaction of all costs, charges and expenses and payments (including payments made in accordance with paragraphs (i), (ii) and (iii) of section 109(8) of the LPA) made or incurred by the Security Agent or the Receiver and of remuneration to the Receiver in such order as the Security Agent shall in its absolute discretion decide;
- 17.1.2 in or towards satisfaction of the Secured Liabilities in accordance with the order as set out in clause 33.6 (*Partial payments*) of the Facility Agreement; and
- 17.1.3 the surplus, if any, shall be paid to the Company or other person or persons entitled to it,

save that the Security Agent may credit any monies received under this Deed to a suspense account for so long and in such manner as the Security Agent may from time to time determine and the Security Agent may retain the same for such period as he considers appropriate.

18. RELEASE OF SECURITY

18.1 Release

At the end of the Security Period the Security Agent shall, at the request and cost of the Company, execute or procure the execution by its nominee (in each case in a form acceptable to the Security Agent) and do all such deeds, acts and things as are necessary to release and/or reassign the Charged Assets from the security created by or in accordance with this Deed.

18.2 Avoidance of Payments

- 18.2.1 No amount paid, repaid or credited to a Secured Party shall be deemed to have been irrevocably paid if the Security Agent considers that the payment or credit of such amount is capable of being avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws.
- 18.2.2 If any amount paid, repaid or credited to a Secured Party is avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws then any release, discharge or settlement between that Secured Party and the Company shall be deemed not to have occurred and the Security Agent shall be entitled to enforce this Deed subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

19. AMOUNTS PAYABLE

19.1 No Deduction

All payments to be made by the Company under this Deed shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If the Company is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to a Secured Party under this Deed or, if any such withholding or deduction is made in respect of any recovery under this Deed, the Company shall pay such additional amount so as to ensure that the net amount received by that Secured Party shall equal the full amount due to it under the provisions of this Deed (had no such withholding or deduction been made).

19.2 **Currency of Payment**

The obligation of the Company under this Deed to make payments in any currency shall not be discharged or satisfied by any tender, or recovery pursuant to any judgment or otherwise, expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by a Secured Party of the full amount of the currency expressed to be payable under this Deed.

19.3 **Currency Indemnity**

19.3.1 If any sum due from the Company under this Deed (a **"Sum"**), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the **"First Currency"**) in which that Sum is payable into another currency (the **"Second Currency"**) for the purpose of:

- (A) making or filing a claim or proof against the Company;
 - (B) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings; or
 - (C) applying the Sum in satisfaction of any of the Secured Liabilities,
- the Company shall, as an independent obligation, within three Business Days of demand, indemnify the relevant Secured Party against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that Secured Party at the time of its receipt of that Sum.

19.3.2 The Company waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency unit other than that in which it is payable.

20. **POWER OF SEVERANCE**

In the exercise of the powers conferred by this Deed, the Security Agent or any Receiver may sever and sell plant, machinery or other fixtures separately from the property to which they may be annexed and the Security Agent or any Receiver may apportion any rent or other amount without the consent of the Company.

21. **REPRESENTATIONS AND WARRANTIES**

21.1 **Representations**

The Company represents and warrants in favour of each of the Secured Parties:

21.1.1 **Status of Assets and Security**

It is the legal and beneficial owner of the Charged Assets free from Security (other than this Deed) and this Deed confers the security it purports to confer over the Charged Assets and the security created under or pursuant to this Deed is not subject to any prior or pari passu Security and is not liable to avoidance on liquidation or bankruptcy, composition or any other similar insolvency proceedings.

21.1.2 **Title to Assets**

The Company is the legal and beneficial owner of the Real Property with the right to transfer with full title guarantee all or any part of the Real Property and has good marketable title to all assets over which Security is, or is expressed to be created pursuant to this Deed.

21.1.3 **Real Property**

Save as disclosed in any report on title which has been delivered to the Security Agent in a form acceptable to it:

- (A) there subsists no breach of any law or regulation which would materially adversely affect the value of the Real Property;
- (B) there are no covenants, restrictions, agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever which materially adversely affect the Real Property;
- (C) nothing has arisen or has been created or is subsisting which would be an overriding interest over the Real Property;
- (D) no facility necessary for the enjoyment and use of the Real Property is enjoyed on terms entitling any person to terminate or curtail its use;
- (E) the Company has received no notice of any adverse claim by any person in respect of the ownership of the Real Property or any interest in it, nor has any acknowledgement been given to any person in respect of the Real Property; and
- (F) the Real Property is free from any Security or any tenancies or licence save as permitted by the Facility Agreement, this Deed or as otherwise permitted in writing by the Security Agent.

21.1.4 **Commonhold**

The Real Property is not:

- (A) registered; or
- (B) subject to any pending application for registration, as a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002.

21.1.5 **Transfer, registration and calls**

- (A) The Shares are free from any restrictions as to transfer or registration and are not subject to any calls or other liability to pay money.
- (B) No company whose shares are subject to the Security purported to be created under this Deed keeps information in respect of its members on the central register kept by the Registrar at Companies House.

21.2 **Times for Making Representations and Warranties**

The representations and warranties set out in this Clause are made on the date of this Deed and (prior to the expiry of the Security Period) are deemed to be repeated each day which representations and warranties are repeated under the Facility Agreement by reference to the facts and circumstances then existing.

22. **NEW ACCOUNTS**

If a Secured Party receives notice of any subsequent charge or other interest affecting any part of the Charged Assets (the date of receipt of such notice being the "Notice Date") it may, without prejudice to its rights under this Deed, open a fresh account or accounts with the Company and continue any existing account in the name of the Company and may appropriate to any such fresh account any monies paid in, received or realised for the credit of the Company after that time without being under any obligation to apply the same or any part of them in discharge of any of the Secured Liabilities. If a Secured Party fails to

open a fresh account it will be deemed to have done so and any monies received or realised after the Notice Date will not reduce the Secured Liabilities outstanding on the Notice Date.

23. **MISCELLANEOUS**

23.1 **The Company**

This Deed is binding on the successors and assigns of the Company.

23.2 **Assignment and Transfer**

The Company may not assign any of its rights or transfer any of its rights or obligations under this Deed. The Security Agent may assign and transfer all or any part of its rights and obligations under this Deed.

23.3 **Disclosure of Information**

A Secured Party may disclose any information about the Company or this Deed in accordance with Clause 43.2 (*Disclosure of Confidential Information*) of the Facility Agreement.

23.4 **Remedies and Waivers Cumulative**

Save as expressly provided in this Deed, no failure to exercise, or delay in exercising any right, power, privilege or remedy under this Deed, on the part of any Secured Party shall operate as a waiver, nor shall any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise, or the exercise of any other right, power, privilege or remedy. No waiver by a Secured Party shall be effective unless it is in writing. The rights and remedies of a Secured Party provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

23.5 **Set-Off**

If an Event of Default is subsisting, a Secured Party may set-off any matured obligation due from the Company to that Secured Party under this Deed, the Facility Agreement or any of the other Finance Documents against any matured obligation owed by that Secured Party to the Company, regardless of the place of payment, booking, branch or currency of either obligation and apply any credit balance to which the Company is entitled on any account with that Secured Party in accordance with Clause 17 (*Application of Monies Received under this Deed*). If the obligations are in different currencies, a Secured Party may, at the cost of the Company, convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

23.6 **Partial Invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, neither the legality, validity or enforceability of the remaining provisions, nor the legality, validity or enforceability of such provision under the law of any other jurisdiction, will in any way be affected or impaired.

23.7 **Property**

This Deed is and will remain the property of the Security Agent.

23.8 **Continuing Security**

This Deed shall be a continuing security and shall not be discharged by any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities.

23.9 **Additional Security**

This Deed shall be in addition to and not be affected by any other security or guarantee now or hereafter held by a Secured Party for all or any part of the Secured Liabilities nor

shall any such other security or guarantee of liability to a Secured Party of or by any person not a party to this Deed be in any way impaired or discharged by this Deed nor shall this Deed in any way impair or discharge such other security or guarantee.

23.10 Variation of Security

This Deed shall not in any way be affected or prejudiced by a Secured Party at any time dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any security or guarantee referred to in Clause 23.9 (*Additional Security*) or any rights which a Secured Party may at any time have or giving time for payment or granting any indulgence or compounding with any person whatsoever.

23.11 Enforcement of Other Security

No Secured Party shall be obliged to enforce any other Security it may hold for the Secured Liabilities before enforcing any of its rights under this Deed.

23.12 Redemption of Prior Incumbrances

The Security Agent may redeem or take a transfer of any prior Security over the Charged Assets and may agree the accounts of prior incumbrancers. An agreed account shall be conclusive and binding on the Company. Any amount paid in connection with such redemption or transfer (including expenses) shall be paid on demand by the Company to the Security Agent and until such payment shall form part of the Secured Liabilities.

23.13 Stamp Taxes

The Company covenants to pay to each Secured Party and any Receiver, attorney, manager, agent or other person appointed by the Security Agent under this Deed immediately on demand a sum equal to any liability which that Secured Party, Receiver, attorney, manager, agent or other person appointed by the Security Agent under this Deed incurs in respect of stamp duty, registration fees and other taxes which is or becomes payable in connection with the entry into, performance or enforcement of this Deed (including any interest, penalties, liabilities, costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax).

23.14 Costs and Expenses

The Company shall promptly on demand reimburse each Secured Party and any Receiver, attorney, manager, agent or other person appointed by the Security Agent under this Deed for all costs and expenses (including legal fees) incurred by that Secured Party, Receiver, attorney, manager, agent or other person (on a full indemnity basis together with any applicable VAT) in connection with the negotiation, preparation, printing and execution of this Deed, the completion of the transactions and perfection of the security contemplated by this Deed and the exercise, preservation and/or enforcement or attempted enforcement of the security created by or contemplated by this Deed.

23.15 Further advances

23.15.1 Each Lender must perform its obligations under the Facility Agreement (including any obligation to make available further advances).

23.15.2 The Company hereby consents to the Security Agent making an application to the Chief Land Registrar on Form CH2 for the registration against the registered titles (if any) (and any unregistered properties subject to compulsory first registration at the date of this Deed and any other Real Property from time to time including a registered title) of the obligation to make further advances.

24. **CALCULATIONS AND CERTIFICATES**

24.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Deed, the entries made in the accounts maintained by the Security Agent in connection with this Deed are *prima facie* evidence of the matters to which they relate.

24.2 **Certificates and Determinations**

Any certification or determination by the Security Agent of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

24.3 **Day Count Convention**

Any interest accruing under this Deed will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days.

25. **NOTICES**

Clause 26 (*Notices*) of the Security Trust Deed applies to this Deed as if set out in full, *mutatis mutandis*.

26. **COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the Deed.

27. **LAW**

This Deed and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

28. **ENFORCEMENT**

28.1 **Jurisdiction of English courts**

28.1.1 The courts of England have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual dispute or claim) (a "**Dispute**").

28.1.2 Subject to Clause 28.1.3 below, the parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly the Company will not:

- (A) argue to the contrary; or
- (B) initiate or pursue any proceedings relating to a Dispute in any jurisdiction other than England.

28.1.3 This Clause 28.1 is for the benefit of each of the Secured Parties only. As a result, a Secured Party shall not be prevented from initiating or pursuing proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, a Secured Party may initiate or pursue:

- (A) proceedings in any other court; and
- (B) concurrent proceedings in any number of jurisdictions,

irrespective of whether proceedings have already been initiated by any party in England. The Company irrevocably waives any right that it may have to claim that the action has been brought in an inconvenient forum.

IN WITNESS whereof this Deed has been duly executed and delivered as a deed on the date first above written.

SCHEDULE 1
FORM OF NOTICE

[On letterhead of the Company]

To: **[debtor (etc)]**

[Date]

Dear Sirs,

Security Agreement dated _____ 2019 between Lucas Holdings (Bowland) Limited and The Hongkong and Shanghai Banking Corporation (the "Security Agreement")

We hereby give you notice that under the Security Agreement we have [charged (by way of first fixed charge)]/[assigned] in favour of The Hongkong and Shanghai Banking Corporation (the "**Security Agent**") all of our rights to and title and interest from time to time in the property described in the Annexure to this Notice (the "**[Charged Property]/[Assigned Property]**").

We hereby irrevocably instruct and authorise you to:

- (a) disclose to the Security Agent such information regarding the [Assigned]/[Charged] Property as it may from time to time request;
- (b) send copies of all notices relating to the [Assigned]/[Charged] Property to the Security Agent;
- (c) comply with the terms of any written notice or instruction relating to the [Assigned]/[Charged] Property received by you from the Security Agent; and
- (d) make all payments due to us in respect of the [Assigned]/[Charged] Property to the Security Agent at [details] unless and until the Security Agent notifies you otherwise.

Your acknowledgement will be deemed to confirm in favour of the Security Agent that you:

- (1) have not received notice of the interest of any third party relating to the [Assigned]/[Charged] Property;
- (2) are not aware of any dispute between ourselves and yourselves relating to the [Assigned]/[Charged] Property; and
- (3) have neither claimed nor exercised, nor will claim or exercise, any security interest, set off, counter claim or other right in respect of the [Assigned]/[Charged] Property.

We acknowledge that you may comply with the instructions in this letter without any further permission from us.

The instructions in this letter may not be revoked or amended without the prior written consent of the Security Agent.

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

Please confirm your agreement to the above by sending the attached acknowledgement to the Security Agent at [insert address], Attention: [] with a copy to ourselves.

Yours faithfully,

.....

(Authorised signatory)
for and on behalf of
Lucas Holdings (Bowland) Limited

ANNEX

[On the letterhead of the debtor]

[On copy of Notice]

To: The Hongkong and Shanghai Banking Corporation
Attention:
Copy: Lucas Holdings (Bowland) Limited

[Date]

Dear Sirs,

**Security Agreement dated _____ 2019 between Lucas Holdings (Bowland) Limited
and The Hongkong and Shanghai Banking Corporation (the "Security Agreement")**

[Description of [Assigned]/Charged] Property]

We acknowledge receipt of the Notice of [Assignment]/[Charge] dated [] relating to the
Security Agreement, of which this is a copy.

Yours faithfully,

.....

duly authorised signatory for and on
behalf of **[debtor]**

The Company

EXECUTED AS A DEED

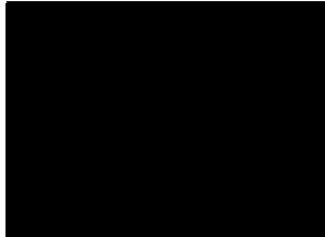
by Philip Arnall

as attorney for LUCUS HOLDINGS
(BOWLAND) LIMITED A Q

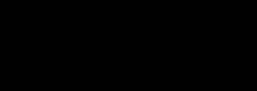
in the presence of

George Bishop

.....
(Name of witness)



(Address of witness)



.....
(Signature of witness)



(Signature of attorney for LUCUS HOLDINGS
(BOWLAND) LIMITED) A Q

The Security Agent

SIGNED, SEALED and DELIVERED
as a DEED for and on behalf of
THE HONGKONG AND SHANGHAI
BANKING CORPORATION LIMITED
by its duly appointed attorney

Linda Pang
Senior Transaction Manager

.....
pursuant to a Deed of Appointment of
Substitute Attorney dated 23 July 2019

