



Registration of a Charge

Company name: **WAYPOINTS CARE (SERVICES) LIMITED**

Company number: **09060032**



X892FYP7

Received for Electronic Filing: **05/07/2019**

Details of Charge

Date of creation: **28/06/2019**

Charge code: **0906 0032 0002**

Persons entitled: **A.I.B. GROUP (UK) P.L.C.**

Brief description: **N/A**

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:

ADDLESHAW GODDARD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9060032

Charge code: 0906 0032 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th June 2019 and created by WAYPOINTS CARE (SERVICES) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th July 2019 .

Given at Companies House, Cardiff on 8th July 2019

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



Dated 28 June 2019

WAYPOINTS CARE (SERVICES) LIMITED

A.I.B. GROUP (UK) P.L.C.

DEBENTURE

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This Debenture is made on

28 June

2019

Between

- (1) **Waypoints Care (Services) Limited**, a company incorporated under the laws of England and Wales with registered number 9060032 and having its registered office at Unit 1, Pullman Business Park, Pullman Way, Ringwood BH24 1HD (**Chargor**); and
- (2) **A.I.B. Group (UK) p.l.c.** (registered in Northern Ireland with number NI018800) (**Lender**).

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

Account has the meaning given to it in clause 3.4(j) (First fixed charges)

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, or any other similar permission

Blocked Account means each account designated as a blocked account as the Chargor and the Lender shall specify in writing

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

CA2006 means the Companies Act 2006

Chattels has the meaning given to it in clause 3.4(d) (First fixed charges)

Debts has the meaning given to it in clause 3.4(h) (First fixed charges)

Default means an Event of Default or any event or circumstance specified in clause 24 (Events of Default) of the Facilities Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default

Direction has the meaning given to it in clause 11.1(d) (Planning directions)

Event of Default means any event or circumstance specified as such in clause 24 (Events of Default) of the Facilities Agreement save for clause 24.18 (Acceleration)

Environmental Law means any applicable law or regulation which relates to:

- (a) the pollution or protection of the environment
- (b) harm to or the protection of human health
- (c) the conditions of the workplace or

- (d) any emission or substance capable of causing harm to any living organism or the environment

Facilities Agreement means the facilities agreement between Patron Avon S.À.R.L and the Lender dated on or about the date of this Deed and acceded to by the Chargor under which the Lender agrees to make available a term loan facility

Finance Document has the meaning given to it in the Facilities Agreement

Financial Indebtedness means any indebtedness for or in respect of:

- (a) monies borrowed
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the generally accepted accounting principles in the United Kingdom, be treated as a finance or capital lease
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis)
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value as at the relevant date on which Financial Indebtedness is calculated (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account)
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution
- (h) any amount of any liability under an advance or deferred purchase agreement if (a) one of the primary reasons behind entering into the agreement is to raise finance or (b) the agreement is in respect of the supply of assets or services and payment is due more than 60 Business Days after the date of supply
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement and any sale and leaseback arrangement) having the commercial or economic effect of a borrowing and
- (j) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (i)

Fixtures means in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery of the Chargor now or at any time after the date of this Deed on that Secured Property

Floating Charge Assets means all the assets and undertaking from time to time subject to the floating charge created under clause 3.5 (Floating charge)

Headlease means a lease under which the Chargor holds title to all or any part of a Property

Insurance Policies means all policies of insurance present and future in which the Chargor has an interest

Intellectual Property means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, topography rights, domain names, moral rights, inventions, confidential information, knowhow and any other associated or similar intellectual property rights and interests anywhere in the world (which may now or in the future subsist), and in each case whether registered or unregistered and
- (b) the benefit of all applications, rights to apply for and rights to use such assets (including, without limitation, any licences and sub-licences of the same granted by it or to it) of the Chargor (which may now or in the future subsist)

Investments means any shares, stocks, debenture security, securities, bonds and investments of any type (other than the Subsidiary Shares) whatever, including but not limited to, negotiable instruments, certificates of deposit, eligible debt securities, interests in collective investment schemes, or other investments referred to in section 22 of, and as defined in Part II of schedule 2 to, the Financial Services and Markets Act 2000 and Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, whether certificated or uncertificated, physical or dematerialised, registered or unregistered, held by the Chargor or by a trustee or clearance system or nominee

Occupational Lease means a lease of a Secured Property in respect of which the Chargor is landlord

Participating Member State means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union

Party means a party to this Deed

Planning Acts means the Town and Country Planning Acts 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 and any regulations or subordinate legislation made under any of the foregoing and any other statute or regulation governing or controlling the use or development of land and buildings

Premises means any building on a Secured Property

Properties mean the properties listed in Schedule 1 (Properties)

Receiver means any receiver, manager or administrative receiver appointed by the Lender in respect of the Chargor or any of the Secured Assets

Related Rights means, in respect of any Investment or Subsidiary Share:

- (a) all monies paid or payable in respect of that Investment or Subsidiary Share (whether as income, capital or otherwise)
- (b) all shares, investments or other assets derived from that Investment or Subsidiary Share and

(c) all rights derived from or incidental to that Investment or Subsidiary Share

Relevant Agreement means each agreement designated as a Relevant Agreement by the Lender and the Chargor in writing

Relevant Policies means all Insurance Policies (other than policies in respect of third party liability) together with all monies payable in respect of those policies

Secured Assets means all of the assets and undertaking of the Chargor the subject of any Security created by, under or supplemental to, this Deed in favour of the Lender

Secured Obligations means all monies and liabilities now or after the date of this Deed due, owing or incurred by the Chargor to the Lender whatsoever, in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by the Lender and payable by the Chargor in accordance with the terms of the Facilities Agreement, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

Secured Property means at any time the Properties and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to, this Deed

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

Security Period means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied (acting reasonably) that the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by the Lender to the Chargor have been cancelled

Subsidiary means a subsidiary undertaking within the meaning of section 1162 of the CA2006 and any company which would be a subsidiary undertaking within the meaning of section 1162 of the CA2006 but for any Security subsisting over the shares in that company from time to time

Subsidiary Shares means all shares present and future held by the Chargor in its Subsidiaries (including those listed in Schedule 2 (Subsidiary Shares))

Treasury Transaction means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price

Unpaid Sum means any sum due and payable to the Lender but unpaid by the Chargor

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

1.2 Interpretation

Clause 1.2 (Construction) of the Facilities Agreement is incorporated in this Deed as if set out here in full but so that each reference in that clause to this Agreement shall be read as a reference to this Deed.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it.
- (b) Unless expressly provided to the contrary in any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

1.4 Administration

- (a) Any reference in this Deed, or any other Finance Document entered into under or in connection with it, to the making of an administration order shall be treated as including a reference to the appointment of an administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of the Chargor's assets) or 22 (by the Chargor or the directors of the Chargor) of Schedule B1 to the Insolvency Act 1986 or any steps taken toward such order or appointment.
- (b) Any reference in this Deed or any other Finance Document entered into under or in connection with it, to making an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an administrator under paragraph 14 or 22 of that Schedule, or giving notice under paragraph 15 or 26 of that Schedule of intention to appoint an administrator or any steps taken towards such application or notice.

1.5 Incorporated terms

The terms of the Finance Documents and of any side letters relating to the Finance Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Secured Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2 Covenant to pay

The Chargor covenants with the Lender to pay and discharge the Secured Obligations when they become due for payment and discharge.

3 Charging provisions

3.1 General

All Security created by the Chargor under clauses 3.2 to 3.5 inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;
- (c) granted in respect of all the right, title and interest (if any), present and future, of the Chargor in and to the relevant Secured Asset; and
- (d) granted in favour of the Lender.

3.2 First legal mortgages

The Chargor charges by way of first legal mortgage the Properties and all Premises and Fixtures on each of the Properties.

3.3 Assignments

- (a) The Chargor assigns:
 - (i) the Relevant Agreements to which it is a party; and
 - (ii) the Relevant Policies to which is a party.
- (b) The Chargor shall remain liable to perform all its obligations under the Relevant Agreements and the Relevant Policies.
- (c) Notwithstanding the other terms of this clause 3.3, prior to the occurrence of an Event of Default which is continuing, the Chargor may, subject to the other terms of the Finance Documents, continue to exercise all and any of its rights under and in connection with the Relevant Agreements.

3.4 First fixed charges

The Chargor charges by way of first fixed charge:

- (a) all interests and estates in any freehold, leasehold or commonhold property now or subsequently owned by it (other than any freehold, leasehold or commonhold property effectively charged by way of legal mortgage under clause 3.2) and, in each case, the Premises and Fixtures on each such property;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (d) all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, (together **Chattels**) present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them;
- (e) the Subsidiary Shares together with all Related Rights;
- (f) the Investments together with all Related Rights;
- (g) the Relevant Policies and any other insurance policies from time to time and all proceeds of them;
- (h) all book and other debts due to the Chargor and their proceeds (both collected and uncollected) (together **Debts**) and all rights, guarantees, security or other collateral in respect of the Debts (or any of them) and the benefit of any judgment or order to pay a sum of money and all rights to enforce the Debts (or any of them);
- (i) all monies from time to time standing to the credit of each Blocked Account;

- (j) all monies from time to time standing to the credit of each account held by the Chargor with any bank, building society, financial institution or other person other than any Blocked Account (each an **Account**);
- (k) all its Intellectual Property;
- (l) all its goodwill and uncalled capital;
- (m) the benefit of all Authorisations held or utilised by it in connection with its business or the use of any of its assets and the right to recover and receive compensation payable in respect of any of them;
- (n) its rights under any hedging agreement or any other Treasury Transaction; and
- (o) to the extent that any assignment in clause 3.3 is ineffective as an assignment, the assets referred to in that clause.

3.5 Floating charge

The Chargor charges by way of first floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under clauses 3.2, 3.3 or 3.4 including (without limitation and whether or not so effectively charged) any of the property or assets of the Chargor located in Scotland or governed by Scots law.

3.6 Qualifying floating charge

This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 of the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

3.7 Conversion of floating charge to a fixed charge

The Lender may at any time by notice in writing to the Chargor convert the floating charge created under clause 3.5 into a fixed charge as regards any Floating Charge Asset as it shall specify in the notice if:

- (a) an Event of Default is continuing; or
- (b) in the opinion of the Lender (acting in good faith) that Floating Charge Asset is in danger of being seized or any legal process or execution is being enforced against that Floating Charge Asset.

3.8 Automatic conversion of floating charge to a fixed charge

If (unless permitted in writing by the Lender or expressly permitted under the terms of any Finance Document):

- (a) the Chargor creates or attempts to create any Security over any of its Floating Charge Assets;
- (b) any person levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset; or
- (c) any corporate action, legal proceedings or other procedures or steps are taken for the winding up, dissolution, administration or reorganisation of the Chargor,

the floating charge created by this Deed will automatically and immediately without notice be converted into a fixed charge over the relevant assets or, in the circumstances described in clause 3.8(c), over all of the Floating Charge Assets.

3.9 Small company moratorium

Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986, then the obtaining of a moratorium, including any preliminary decision, or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986 shall not cause the floating charge created by this Deed to crystallise into a fixed charge, nor cause restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by the Chargor.

4 Continuing security

4.1 The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by the Chargor or any other person of the whole or any part of the Secured Obligations.

4.2 Recourse

The Security constituted by this Deed:

- (a) is in addition to any other Security which the Lender may hold at any time for the Secured Obligations (or any of them); and
- (b) may be enforced without first having recourse to any other rights of the Lender.

5 Negative pledge

5.1 The Chargor shall not create or permit to subsist any Security over any of its assets.

5.2 The Chargor shall not:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by it;
- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

5.3 Clauses 5.1 and 5.2 do not apply to any Security or arrangement which is permitted by the Lender in writing or expressly permitted under the terms of any Finance Document.

6 Restrictions on disposals

6.1 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets.

- 6.2 Clause 6.1 does not apply to any disposal which is permitted by the Lender in writing or expressly permitted under the terms of any Finance Document.

7 Further assurance

- 7.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require) in favour of the Lender or its nominee(s):

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law;
- (b) to confer on the Lender Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
- (c) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.

- 7.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Lender by or pursuant to this Deed.

- 7.3 Any document required to be executed by the Chargor under this clause 7 will be prepared at the cost of the Chargor.

8 Land Registry

8.1 Application for restriction

- (a) In relation to land and buildings situated in England and Wales title to which is registered or is to be registered at the Land Registry, the Chargor consents to an application being made to the Chief Land Registrar for registration of a restriction on the register of title of all present and future registered freehold, leasehold or commonhold property of the Chargor (and any unregistered properties subject to compulsory first registration at the date of this Deed).
- (b) The Chargor confirms that so far as any of the Secured Property is unregistered, such land is not affected by any disclosable overriding interests within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003.

9 Future property

If the Chargor acquires (or intends to acquire) any freehold or leasehold or other interest in property after the date of this Deed it must:

- (a) notify the Lender immediately of such acquisition or promptly of its intention to acquire such property;

- (b) promptly on request by the Lender and at the cost of the Chargor, execute and deliver to the Lender, a legal mortgage in favour of the Lender of such property in such form as the Lender may require (on terms similar to those in this Deed);
- (c) obtain such consents as are required for the Security referred to in this clause 9;
- (d) if the title to such freehold or leasehold property is registered at the Land registry or required to be so registered, on request by the Lender, to give the Land Registry written notice of the Security; and
- (e) if applicable, ensure that the Security is correctly noted in the register of title against that title at the Land Registry.

10 Notices of assignments and charges

10.1 Relevant Agreements

- (a) The Chargor shall give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 3 to the other parties to each Relevant Agreement that the Chargor has assigned to the Lender all its right, title and interest in that Relevant Agreement.
- (b) The Chargor shall give the notices referred to in clause 10.1(a):
 - (i) in the of case of each Relevant Agreement in existence as at the date of this Deed, promptly following the date of this Deed; and
 - (ii) in the case of each Relevant Agreement coming into existence or being designated as such after the date of this Deed, promptly following the later of that agreement coming into existence or being designated a Relevant Agreement.
- (c) The Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 3 within 5 Business Days of that notice being given.

10.2 Insurance Policies

- (a) The Chargor shall give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 4 to each insurer under each Relevant Policy that the Chargor has assigned to the Lender all its right, title and interest in that Relevant Policy.
- (b) The Chargor shall give the notices referred to in clause 10.2(a):
 - (i) in the case of each Relevant Policy subsisting at the date of this Deed, promptly following the date of this Deed; and
 - (ii) in the case of each Relevant Policy coming into existence after the date of this Deed, promptly following that Relevant Policy being put on risk.
- (c) The Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 4 within 5 Business Days of that notice being given.

10.3 Blocked Accounts

- (a) The Chargor shall give notice in the form specified in Part 1 (Form of notice of charge) of Schedule 5 to the financial institution at which each Blocked Account is held (if such financial institution is not the Lender) that the Chargor has created a fixed charge over the balance standing to the credit of that Blocked Account.
- (b) The Chargor shall give the notices referred to in clause 10.3(a):
 - (i) in the case of a Blocked Account held by the Chargor at the date of this Deed, promptly following the date of this Deed; and
 - (ii) in the case of a Blocked Account opened after the date of this Deed, promptly following that Blocked Account being opened.
- (c) The Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 5 within 5 Business Days of that notice being given.

10.4 Charge over accounts

- (a) The Chargor shall give notice in the form specified in Part 1 (Form of notice of charge) of Schedule 6 to the financial institution at which each Account is held (if such financial institution is not the Lender) that the Chargor has created a fixed charge over the balance standing to the credit of that Account.
- (b) The Chargor will give the notices referred to in clause 10.4(a):
 - (i) in the case of an Account held by the Chargor at the date of this Deed, promptly following the date of this Deed; and
 - (ii) in the case of an Account opened after the date of this Deed, promptly following that Account being opened.
- (c) The Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice substantially in the form specified in Part 2 (Form of acknowledgement) of Schedule 6 within 5 Business Days of that notice being given.

10.5 Register of Trade Marks

The Chargor as registered proprietor hereby appoints the Lender as its agent to apply for the particulars of this Deed and the Lender's interest in the Intellectual Property and any other or future trade marks or trade mark applications registered or to be registered in the United Kingdom in the name of the Chargor, to be made on the Register of Trade Marks under section 25(1) of the Trade Marks Act 1994. The Chargor hereby agrees to execute all documents and forms required to enable such particulars to be entered on the Register of Trade Marks.

11 Undertakings

The Chargor undertakes to the Lender in accordance with this clause 11. The undertakings in this clause 11 shall remain in force during the Security Period.

11.1 Real property

(a) Access

It will permit the Lender and such person or persons as the Lender shall nominate at all reasonable times and on reasonable notice to enter on any part of its Secured Property provided that where the Secured Property is subject to an Occupational Lease, it shall only be required to provide access to the extent permitted under the terms of that Occupational Lease.

(b) Repair

Save to the extent that it is a tenant under a Headlease and it is not required to do so under such Headlease:

- (i) it shall keep its Secured Property in good and substantial repair and condition and decorative order; and
- (ii) to the extent commercially prudent to do so, it shall repair any material defect or damage to any of its Secured Property promptly and if it fails to do so the Lender may, but shall not be obliged to, do so.

(c) Planning

- (i) Save for any infringement or contravention disclosed in a Report and in respect of which the Chargor has obtained suitable insurance against any costs arising as a consequence of such infringement or contravention, it shall not do or allow or omit to be done anything which may infringe or contravene the Planning Acts affecting its Secured Property.
- (ii) It shall not make any application for the grant of planning permission within the meaning of the Planning Acts without the prior written consent of the Lender unless it relates to changes to the Secured Property that could reasonably be deemed as non-material.

(d) Planning directions

- (i) Within 5 Business Days of receipt by it of any notice or order (**Direction**) served on or issued to it by any local or other authority (whether under the Planning Acts or otherwise) in respect of any part of its Secured Property, it shall give full particulars of the Direction to the Lender and, if so requested by the Lender, produce the Direction or a copy of it to the Lender.
- (ii) It shall advise the Lender of all steps taken or proposed to be taken by it from time to time to comply with the terms of the Direction.
- (iii) Subject to paragraph (iv) below, it shall take all necessary steps to comply with the Direction.
- (iv) It shall at the request of the Lender (but at the cost of the Chargor) make or join with the Lender in making such objections, representations against, appealing against or in respect of any proposal contained in the Direction as the Lender (acting reasonably) shall deem expedient in order to protect the Lender's interests.

(e) Development

- (i) It shall not carry out any development (as defined in the Planning Acts) on any part of its Secured Property without the prior written consent of the Lender (not to be unreasonably withheld or delayed).
- (ii) It shall not change the use of any part of its Secured Property without the prior written consent of the Lender.
- (iii) Paragraph (i) shall not apply to:
 - (A) the maintenance of the buildings, plant, machinery, fixtures and fittings;
 - (B) any alterations or improvements which a tenant is entitled to undertake in accordance with the terms of an Occupational Lease and in respect of which a Chargor in its capacity as landlord is required to give its consent pursuant to the terms of that Occupational Lease;
 - (C) the carrying out of non-structural improvements or alterations which affect only the interior of any building on a Secured Property; or
 - (D) any other actions carried out in accordance with the principles of good estate management.

(f) Deposit of title deeds

Save to the extent that the same are held to the Lender's order, it shall deposit with the Lender copies or originals of all deeds and documents to title relating to its Secured Property.

(g) Outgoings

It will punctually pay and indemnify the Lender and any Receiver against all present and future rents, rates, taxes, assessments and outgoings of whatsoever nature imposed on or payable in respect of its Secured Property or any part of it or payable by the owner or occupier of it.

(h) Investigation of title

On a reasonable request by the Lender, it shall grant the Lender or its advisers (at the cost of the Chargor) all facilities within its power to enable the Lender or its advisers or delegates to carry out such investigations of title to and enquiries into its Secured Property or other Secured Assets as may be carried out by a prudent mortgagee or chargee.

11.2 Leases

(a) Lease and covenant compliance

It shall:

- (i) perform in all material respects the terms on its part contained in any lease or agreement for lease under which it holds an interest in a Secured Property or to which any of its Secured Property is subject;

- (ii) properly perform (and indemnify the Lender and each Receiver for any breach of) any covenants and stipulations of whatsoever nature affecting any of its Secured Property, provided that the obligation to properly perform shall not extend to breaches of covenants and stipulations set out in a Report, for the avoidance of doubt the Chargor shall be required to indemnify the Lender and each Receiver in respect of any such breaches;
- (iii) not make any election or take any other action so as to alter the treatment of any Occupational Lease for the purposes of value added tax;
- (iv) not, without the prior written consent of the Lender, serve notice on any former tenant under any Occupational Lease under section 17(2) of the Landlord and Tenant (Covenants) Act 1995 or on any guarantor of any such former tenant under section 17(3) of that act; and
- (v) promptly notify the Lender of any notice received by it under section 146 of the Law of Property Act 1925 or any proceedings commenced or steps taken against it for the forfeiture of any lease under which it holds an interest in a Secured Property.

(b) Landlord's consent

If under the terms of any lease under which it holds an interest in any Secured Property, the Chargor is not permitted to charge its interest in such Secured Property without the consent of the landlord;

- (i) it undertakes promptly to make an application for landlord's consent to the creation of the fixed charge contained in clause 3.4 (First fixed charges) and any charge to be created under clause 7 (Further assurance), shall use all reasonable endeavours to obtain such consent as soon as possible and shall keep the Lender informed of the progress of its negotiations with such landlord;
- (ii) subject to clause 11.2(b)(iii):
 - (A) no breach of any representation in the Finance Documents shall occur by virtue of the Chargor's failure to have obtained such landlord's consent; and
 - (B) if the landlord indicates in writing that it proposes to commence, or commences an action of forfeiture of the lease, the Lender shall release from such fixed charge, the Chargor's interest in the lease;
- (iii) clause 11.2(b)(ii) shall only apply where the Chargor has complied with its obligations under clause 11.2(b)(i), but the landlord has not given the consent requested of it;
- (iv) upon receipt by the Lender of evidence in writing of the consent of the landlord to the creation and existence of the fixed charge over the Chargor's interest in such lease, clause 11.2(b)(ii) shall cease to apply in respect of the relevant Secured Property.

(c) **No variation to lease**

It shall not without the prior written consent of the Lender (not to be unreasonably withheld or delayed) or unless permitted under the terms of any Finance Document alter or vary or agree to alter or vary the terms of any lease under which it holds any Secured Property or any lease to which any Secured Property is subject save for a lease, licence or other occupational right granted to a resident at any Security Property in the ordinary course of business.

(d) **No surrender or termination**

It shall not without the prior written consent of the Lender (not to be unreasonably withheld or delayed) or unless permitted under the terms of any Finance Document surrender or otherwise terminate any lease under which it holds a Secured Property or terminate, forfeit or accept a surrender of any lease to which any Secured Property is subject save for a lease, licence or other occupational right granted to a resident at any Security Property in the ordinary course of business.

(e) **Compliance by tenants**

It shall use reasonable endeavours to procure that, where commercially prudent to do so, each tenant under an Occupational Lease complies with the terms of that Occupational Lease.

(f) **Lease or right to occupy**

It will not without the prior written consent of the Lender (not to be unreasonably withheld or delayed) or unless permitted under the terms of any Finance Document:

- (i) grant any lease or tenancy or exercise any other power of leasing of the whole or part of any Secured Property; or
- (ii) grant any person any contractual licence or the right to occupy any Secured Property or part with possession of it,

save for a lease, licence or other occupational right granted to a resident at any Security Property in the ordinary course of business.

(g) **Forfeiture**

It shall not without the prior written consent of the Lender or unless permitted under the terms of any Finance Document do or permit anything which may render any lease or agreement for lease under which it holds an interest in a Secured Property, or to which the Secured Property is subject, liable to forfeiture or otherwise determinable, save for a lease, licence or other occupational right granted to a resident at any Security Property in the ordinary course of business.

11.3 **Chattels**

Where commercially prudent to do so:

- (a) it will keep all Chattels comprised in its Secured Assets in good and substantial repair and in good working order and condition; and

- (b) it shall repair any defect or damage to any of its Chattels promptly and if it fails to do so the Lender may, but shall not be obliged to, do so.

11.4 **Subsidiary Shares and Investments**

- (a) As soon as reasonably practicable and in any event not later than 5 Business Days from the later of:

- (i) the date of this Deed; and
- (ii) the date of acquisition of those Subsidiary Shares, Investments or Related Rights

it shall:

- (A) deliver to the Lender all certificates of title and other documents of title or evidence of ownership in respect of its Subsidiary Shares or Investments and the Related Rights; and
 - (B) deliver to the Lender such transfer documents (with the transferee left blank) or any other documents as the Lender may reasonably require or otherwise request in respect of those Subsidiary Shares, Investments and Related Rights.
- (b) Until any steps are taken to enforce the Security created by or under this Deed, it shall be entitled to receive and retain all dividends, distributions and other monies receivable in respect of its Subsidiary Shares, Investments and Related Rights.
 - (c) It shall not exercise its voting and other rights in respect of its Subsidiary Shares, Investments and Related Rights in a manner which is likely to be prejudicial to the interests of the Lender.
 - (d) It shall make all payments which may become due and payable in respect of any of its Subsidiary Shares, Investments and Related Rights. If it fails to make any such payments, the Lender may but shall not be obliged to make such payment on behalf of the Chargor. Any sums so paid by the Lender shall be repayable by the Chargor to the Lender on demand and pending such repayment shall constitute part of the Secured Obligations.
 - (e) It shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of its Subsidiary Shares, Investments and Related Rights and the Lender shall not be required to perform or fulfil any obligation of the Chargor in respect of any Subsidiary Shares, Investments or Related Rights.
 - (f) It shall comply with any notice served on it under CA 2006 or pursuant to the articles of association or any other constitutional document of any relevant entity in respect of or in connection with the Subsidiary Shares, Investments or Related Rights and will promptly provide to the Lender a copy of that notice.
 - (g) It shall ensure that none of its Subsidiary Shares are converted into uncertificated form without the prior written consent of the Lender.
 - (h) Immediately on conversion of any of its Subsidiary Shares, Investment or Related Rights from a certificated to an uncertificated form, and on the acquisition by it of any

Subsidiary Shares, Investments or Related Rights in an uncertificated form, it shall give such instructions or directions and take such other steps and enter into such documentation as the Lender may reasonably require in order to protect or preserve the Security intended to be created by this Deed.

11.5 Book and other debts

It shall, where commercially prudent to do so, collect and realise the Debts in the ordinary course of trading as agent for the Lender and pay their proceeds into an Account promptly on receipt. It shall hold all such proceeds on trust for the Lender pending payment of them into an Account.

11.6 General

It shall not do or cause or, to the extent it is within its control, permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Lender of the Security created by or under this Deed.

12 Power to remedy

12.1 If the Chargor fails to comply with any of the undertakings set out in clause 11 (Undertakings), it shall allow and irrevocably authorises the Lender and/or such persons as it shall nominate to take such action on its behalf as shall be necessary to ensure that it complies with those undertakings.

12.2 If the Chargor fails to perform any obligation or other covenant affecting the Secured Property or other Secured Asset, the Chargor shall permit the Lender or its agents and contractors:

- (a) to enter on the Secured Property;
- (b) to comply with or object to any notice served on the Chargor relating to the Secured Property or other Secured Asset; and
- (c) to take any action the Lender may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.

12.3 The Chargor shall within 3 Business Days of demand indemnify the Lender against any cost, loss or liability incurred by it in taking any of the steps referred to in this clause 12.

13 Security power of attorney

The Chargor, by way of security, irrevocably and severally appoints the Lender, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed and which it has failed to take following not less than 5 Business Days' prior notice from the Lender. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 13.

14 Enforcement of security

14.1 When security is enforceable

On the occurrence of any Event of Default which is continuing, the Security created by and under this Deed is immediately enforceable.

14.2 Acts of enforcement

The Lender may, at its absolute discretion, at any time when the Security created by or under this Deed is enforceable:

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets;
- (d) appoint an administrator in respect of the Chargor and take any steps to do so;
- (e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or
- (f) if permitted by law, appoint an administrative receiver in respect of the Chargor.

14.3 Right of appropriation

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Secured Assets constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 (**Regulations**), the Lender shall have the right on giving prior notice to the Chargor, at any time after the Security becomes enforceable, to appropriate all or any part of those Secured Assets in or towards discharge of the Secured Obligations. The Parties agree that the value of the appropriated Secured Assets shall be, in the case of cash, the amount of cash appropriated and, in the case of Subsidiary Shares and Investments, determined by the Lender by reference to any publicly available market price and, in the absence of which, by such other means as the Lender (acting reasonably) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Regulations, the Chargor agrees that any such determination by the Lender will constitute a valuation "in a commercially reasonable manner".

14.4 Statutory powers - general

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on the Lender are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Lender is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

14.5 Contingencies

If the Lender enforces the Security constituted by or under this Deed at a time when no amounts are due to the Lender but at a time when amounts may or will become so due, the Lender (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

14.6 Mortgagee in possession - no liability

Neither the Lender nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

14.7 Redemption of prior mortgages

At any time when the Security created by or under this Deed is enforceable, the Lender may, at the sole cost of the Chargor (payable to the Lender on demand):

- (a) redeem any prior form of Security over any Secured Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor.

14.8 Subsidiary Shares and Investments – following an Event of Default

- (a) If an Event of Default is continuing, the Chargor shall on request by the Lender:
 - (i) deliver to the Lender such stock transfer forms or other transfer documents as the Lender may require to enable the Lender or its nominee or nominees to be registered as the owner of, and to obtain legal and beneficial title to, the Subsidiary Shares, the Investments and/or Related Rights referred to in such request;
 - (ii) provide to the Lender certified copies of all resolutions and authorisations approving the execution of such transfer forms and registration of such transfers as the Lender may reasonably require;
 - (iii) procure that each such transfer is promptly registered by the relevant company or other entity;
 - (iv) procure that, immediately on their issue, all share certificates or other documents of title in the appropriate form, in respect of the relevant Subsidiary Shares, Investments and/or Related Rights, are delivered to the Lender in each case showing the registered holder as the Lender or its nominee or nominees (as applicable); and
 - (v) exercise all voting rights in respect of its Subsidiary Shares, Investments and Related Rights only in accordance with the instructions of the Lender.
- (b) At any time while an Event of Default is continuing, the Lender may complete any transfer documents held by it in respect of the Subsidiary Shares, the Investments and/or the Related Rights in favour of itself or such other person or nominee as it shall select.

- (c) At any time when the Security created by or under this Deed is enforceable, the Lender and its nominee or nominees may sell all or any of the Subsidiary Shares, Investments or Related Rights of the Chargor in any manner permitted by law and on such terms as the Lender shall in its absolute discretion determine.
- (d) If the Chargor receives any dividends, distributions or other monies in respect of its Subsidiary Shares, Investments and Related Rights at a time when the Lender has made a request under clause 14.8(a) or taken any steps to enforce the Security created by or under this Deed under clause 14.2, the Chargor shall immediately pay such sums received directly to the Lender for application in accordance with clause 17 (Application of monies) and shall hold all such sums on trust for the Lender pending payment of them to such account as the Lender shall direct.

15 Receiver

15.1 Appointment of Receiver

- (a)
 - (i) At any time when any Security created by or under this Deed is enforceable, the Lender may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 14.2(c) (Acts of enforcement).
 - (ii) At any time, if so requested in writing by the Chargor, without further notice, the Lender may appoint a Receiver to all or any part of the Secured Assets as if the Lender had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.
- (b) Any Receiver appointed under this Deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Lender be in any way responsible for any misconduct, negligence or default of the Receiver.
- (c) Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:
 - (i) obtaining a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

15.2 Removal

The Lender may by written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receiver) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

15.3 Powers of Receiver

(a) General

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 15.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver of the Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.
- (iv) A Receiver may, in the name of the Chargor:
 - (A) do all other acts and things which he may consider expedient for realising any Secured Asset; and
 - (B) exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

(b) Borrow money

A Receiver may raise and borrow money (either unsecured or on the security of any Secured Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

(c) Carry on business

A Receiver may carry on the business of the Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

(d) Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Secured Asset.

(e) Delegation

A Receiver may delegate his powers in accordance with clause 16 (Delegation).

(f) Employees

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Chargor or for itself as Receiver, may:

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and
- (ii) discharge any such persons appointed by the Chargor.

(g) **Leases**

A Receiver may let any Secured Asset for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Secured Assets on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

(h) **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Chargor in relation to any Secured Asset as he considers expedient.

(i) **Possession**

A Receiver may take immediate possession of, get in and collect any Secured Asset.

(j) **Protection of assets**

A Receiver may, in each case as he may think fit:

- (i) make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets;
- (ii) commence and/or complete any building operations on the Secured Property or other Secured Asset; and
- (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

(k) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset.

(l) **Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the Chargor.

(m) **Subsidiaries**

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Secured Asset.

(n) **Deal with Secured Assets**

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

(o) **Voting rights**

A Receiver may exercise all voting and other rights attaching to the Investments, Subsidiary Shares, Related Rights, and stocks, shares and other securities owned by the Chargor and comprised in the Secured Assets in such manner as he may think fit.

(p) **Security**

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

(q) **Acquire land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

(r) **Development**

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

(s) **Landlord's obligations**

A Receiver may on behalf of the Chargor and without consent of or notice to the Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.

(t) **Uncalled capital**

A Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital.

(u) Incidental matters

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the Chargor for all the purposes set out in this clause 15.

15.4 Remuneration

The Lender may from time to time fix the remuneration of any Receiver appointed by it.

16 Delegation

16.1 The Lender and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Lender and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Lender and Receiver (as appropriate) may think fit.

16.2 The Lender and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

17 Application of monies

17.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

17.2 All monies received by the Lender or any Receiver under this Deed and applied in discharge of the Secured Obligations shall be applied to the Secured Obligations in such order as the Lender may determine.

17.3 The Lender and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and, until such time as the Lender is satisfied (acting reasonably) that it (or any Receiver on its behalf) has received sufficient sums to discharge the Secured Obligations in full, it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

18 Remedies and waivers

18.1 No failure to exercise, nor any delay in exercising, on the part of the Lender or any Receiver, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

18.2 A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

19 Protection of third parties

19.1 No person (including a purchaser) dealing with the Lender or a Receiver or its or his agents has an obligation to enquire of the Lender, Receiver or others:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power purported to be exercised has become exercisable;
- (c) whether any Secured Obligations or other monies remain outstanding;
- (d) how any monies paid to the Lender or to the Receiver shall be applied; or
- (e) the status, propriety or validity of the acts of the Receiver or Lender.

19.2 The receipt by the Lender or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Lender or any Receiver.

19.3 In clauses 19.1 and 19.2, **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

20 Additional security

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by the Lender.

21 Settlements conditional

21.1 If the Lender (acting reasonably) believes that any amount paid by the Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.

21.2 Any settlement, discharge or release between the Chargor and the Lender shall be conditional upon no Security or payment to or for the Lender by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

22 Subsequent Security

If the Lender receives notice of any other subsequent Security or other interest affecting all or any of the Secured Assets it may open a new account or accounts for the Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the Chargor, as from the time of receipt of such notice by the Lender, all payments made by the Chargor to the Lender shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

23 Set-off

The Lender may, set off any matured obligation due from the Chargor (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the

obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

24 Notices

Clause 31 (Notices) of the Facilities Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed.

25 Invalidity

Clause 33 (Partial invalidity) of the Facilities Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it.

26 Assignment

To the extent permitted under clause 25 (Changes to the Lender) of the Facilities Agreement, the Lender may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it.

27 Releases

Upon the expiry of the Security Period, the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to release and reassign to the Chargor:

- (a) its rights arising under this Deed;
- (b) the Secured Assets from the Security created by and under this Deed,

and return all documents or deeds of title delivered to it under this Deed.

28 Currency clauses

28.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

- (a) any reference in this Deed to, and any obligations arising under this Deed in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Lender (after consultation with the Chargor); and
- (b) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Lender (acting reasonably).

28.2 If a change in any currency of a country occurs, this Deed will, to the extent the Lender (acting reasonably and after consultation with the Chargor) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

28.3 If a payment is made to the Lender under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Lender may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the

payment falls short of the amount due and payable the Chargor will remain liable for such shortfall.

29 Certificates and determinations

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

30 Indemnity

Chargor's indemnity

- (a) The Chargor shall promptly indemnify the Lender and every Receiver and Delegate (each an **Indemnified Person**) against any cost, loss or liability together with any associated VAT incurred by any of them as a result of:
 - (i) the taking, holding, protection or enforcement of this Deed;
 - (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Lender and each Receiver and Delegate by this Deed or by law; and
 - (iii) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed.
- (b) The Chargor shall indemnify the Lender against any and all costs, losses, liabilities or expenses together with any associated VAT incurred by the Lender arising (directly or indirectly) out of or in connection with:
 - (i) any breach or potential breach of or liability (whether civil and/or criminal) under any Environmental Law;
 - (ii) any responsibility on the part of the Lender in respect of any clean-up, repair or other corrective action; or
 - (iii) the business or any real property of the Chargor.
- (c) The Lender may indemnify itself out in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause and shall have a lien on this Deed and the proceeds of the enforcement of this Deed for all monies payable to it.

31 Exclusion of liability

31.1 No liability

Neither the Lender nor any Receiver shall be liable in respect of all or any part of the Secured Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.

31.2 Officers and agents

The Chargor may not take proceedings against any officer, employee or agent of the Lender in respect of any claim it might have against the Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Deed and any officer, employee or agent of the Lender may rely on this clause.

32 Counterparts

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

33 Governing law

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

34 Enforcement

34.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (**Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This clause 34 is for the benefit of the Lender. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

34.2 Service of process

- (a) The Civil Procedure Rules regarding service and deemed service will not apply to any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed, which shall instead be served in accordance with this clause 34.2.
- (b) Any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed may not be made by way of fax and must be made pursuant to clause 24 (Notices).

This Deed has been entered into as a deed on the date given at the beginning of this Deed.

Schedule 1

Properties

Registered Land

Chargor	Country and district (or address or description and London borough)	Title number
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Unregistered Land

Schedule 2

Subsidiary Shares

Chargor	Name and registered number of Subsidiary	Number and class of shares
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Schedule 3

Relevant Agreements

Part 1 - Form of notice of assignment

To: ♦

Dated: ♦

Dear Sirs

The agreement described in the attached schedule (Agreement)

We hereby notify you that we have assigned to ♦ (Lender) all our right, title and interest in and to the Agreement.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 without notice or reference to, or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Lender relating to the Agreement and any rights under or in connection with the Agreement; and
- 2 following receipt of a written notice from the Lender of the same, to pay all sums payable by you under the Agreement directly to the Lender at:

Bank: ♦
Account number: ♦
Sort code: ♦

or such other account as the Lender may specify from time to time.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of
♦ Limited

Schedule

Date	Parties	Description
◆	◆	◆

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: [name of Lender]
[address]

To: [name of Chargor] (**Chargor**)
[address]

Dated: ♦

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- (a) there has been no amendment, waiver or release of any rights or interests in the Agreement since the date of the Agreement;
- (b) we will not agree to any amendment, waiver or release of any provision of the Agreement without the prior written consent of the Lender;
- (c) we shall act in accordance with the Notice;
- (d) as at the date of this acknowledgement we have not received any notice of assignment or charge of the Chargor's interest in the Agreement in favour of any other person;
- (e) as at the date of this acknowledgement, we are not aware of any breach by the Chargor of the terms of the Agreement; and
- (f) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to the Agreement.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of

♦

Schedule 4

Relevant Policies

Part 1 - Form of notice of assignment

To: [insurer]

Dated: ♦

Dear Sirs

The insurance policies described in the attached schedule (Relevant Policies)

We hereby notify you that we have assigned to ♦ (Lender) all our right, title and interest in and to the Relevant Policies.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 without notice or reference to or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Lender relating to the Relevant Policies (or any of them); and
- 2 to pay Excluded Insurance Proceeds payable by you under the Relevant Policies (or any of them) directly to the Lender at:

Bank: ♦
Account number: ♦
Sort code: ♦

or such other account as the Lender may specify from time to time; and

- 3 to pay all sums payable by you under the Relevant Policies (or any of them) other than Excluded Insurance Proceeds directly to the Lender at:

Bank: ♦
Account number: ♦
Sort code: ♦

or such other account as the Lender may specify from time to time;

For the purpose of paragraph 2, **Excluded Insurance Proceeds** means any proceeds of an insurance claim which are, or are to be, applied:

- i. to meet a third party claim
- ii. to cover operating losses in respect of which the relevant insurance claim was made or
- iii. in the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of
◆ **Limited**

Schedule

Date of policy	Insured	Policy type	Policy number
◆	◆	◆	◆

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: [name of Lender]
[address]

To: [name of Chargor] (**Chargor**)
[address]

Dated: ♦

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- (a) there has been no amendment, waiver or release of any rights or interests in any Relevant Policy since the date of such policy;
- (b) we have noted the Lender's interest as mortgagee and first loss payee on each Relevant Policy;
- (c) we will not agree to any amendment, waiver or release of any provision of any Relevant Policy without the prior written consent of the Lender;
- (d) we shall act in accordance with the Notice;
- (e) as at the date of this acknowledgement we have not received any notice of assignment or charge of the Chargor's interest in any Relevant Policy or the proceeds of any Relevant Policy in favour of any other person; and
- (f) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to any Relevant Policy.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of
[insurance company]

Schedule 5

Blocked Accounts

Part 1 - Form of notice of charge

To: [insert name and address of account holding institution]

Dated: ♦

Dear Sirs

Account number: ♦ (Blocked Account)

Sort code: ♦

Account holder: ♦ Limited

We hereby notify you that we have charged by way of first fixed charge to ♦ (Lender) all our right, title and interest in and to the monies from time to time standing to the credit of the Blocked Account.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 to hold all monies from time to time standing to the credit of the Blocked Account to the order of the Lender and accordingly to pay all or any part of those monies to the Lender (or as it may direct) promptly following receipt of written instructions from the Lender to that effect; and
- 2 to disclose to the Lender such information relating to us and the Blocked Account as the Lender may from time to time request you to provide.

We also advise you that:

- (a) we may not withdraw any monies from the Blocked Account without first having obtained the prior written consent of the Lender; and
- (b) the provisions of this notice may only be revoked or varied with the prior written consent of the Lender.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of
♦ Limited

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: [name of Lender]
[address]

To: [name of Chargor] (Chargor)
[address]

Dated: ♦

We acknowledge receipt of the notice of charge (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- (a) we shall act in accordance with the Notice;
- (b) as at the date of this acknowledgement we have not received any notice of assignment or charge over the Chargor's interest in the Blocked Account in favour of any other person; and
- (c) we will not exercise any right of combination of accounts, set-off or lien over any monies standing to the credit of the Blocked Account.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.]

For and on behalf of
[account holding institution]

Schedule 6

Accounts

Part 1 - Form of notice of charge

To: *[insert name and address of account holding institution]*

Account number: ♦ (Account)

Sort code: ♦

Account holder: ♦ **Limited**

We hereby notify you that we have charged by way of first fixed charge to ♦ (**Lender**) all our right, title and interest in and to the monies from time to time standing to the credit of the Account.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 to hold all monies from time to time standing to the credit of the Account to the order of the Lender and accordingly to pay all or any part of those monies to the Lender (or as it may direct) promptly following receipt of written instructions from the Lender to that effect; and
- 2 to disclose to the Lender such information relating to us and the Account as the Lender may from time to time request you to provide.

By countersigning this notice, the Lender authorises you to permit us to withdraw and otherwise deal with funds standing to the credit of the Account until:

- (a) you receive a notice in writing to the contrary from the Lender;
- (b) a petition is presented for a winding up order in respect of us or an application is made for an administration order in respect of us,

(whichever occurs first).

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of ♦ Limited

Countersigned for and on behalf of
the Lender:

.....]

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: [name of Lender]
[address]

To: [name of Chargor] (**Chargor**)
[address]

Dated: ♦

We acknowledge receipt of the notice of charge (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- (a) we shall act in accordance with the Notice;
- (b) as at the date of this acknowledgement we have not received any notice of assignment or charge or other security over the Chargor's interest in the Account in favour of any other person; and
- (c) we will not exercise any right of combination of accounts, set-off or lien over any monies standing to the credit of the Account.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.]

For and on behalf of
[account holding institution]

SIGNATURES TO THE DEBENTURE

Chargor

Executed as a deed by

Waypoints Care (Services) Limited acting

by a director, in the presence of

)

) Director

)

) TIMOTHY WILLIAM STREET

) Print Name

Witness

Signature

Name

Address

TIM SALISBURY

Address:

Facsimile:

Attention: Duncan McAleer, Tim Salisbury and Farhad Moghadam

Lender

Executed as a deed) Signature
by its duly authorised attorneys)
for and on behalf of A.I.B. Group (UK) p.l.c.) Name
) Signature
Name

Address:

Facsimile:

Attention:

Executed as a deed by AIB Group (UK)
Acting by its lawful Attorneys

Name **Theresa Connelly**

Name **Julie Deans**

As Attorneys for AIB Group (UK) p.l.c.

Witness

202 Finchley Road NW3 6BX

Bank Official

Lesley French