

# MR01

## Particulars of a charge

000027/12



Companies House

A fee is payable with this form  
Please see 'How to pay' on the  
last page

You can use the WebFiling service to file this form online  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR08

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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



You must enclose a certified copy of the instrument with this  
scanned and placed on the public record Do not send the original

COMPANIES HOUSE



A09

\*A4CIH5IB\*

27/07/2015

#309

al use

2

### 1 Company details

Company number 09070050

Company name in full THE POOL (UK) LIMITED

#### → Filing in this form

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 29/07/2015

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

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

Name FOURTEEN17 LLP

Name FIONA O'HARA

Name

Name

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

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

MR01

## Particulars of a charge

4

## Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

PRESENT AND FUTURE PATENTS, TRADE MARKS, SERVICE MARKS, TRADE NAMES, DESIGNS, COPYRIGHTS, INVENTIONS, TOPOGRAPHICAL OR SIMILAR RIGHTS, CONFIDENTIAL INFORMATION AND KNOW HOW AND ANY INTEREST IN THESE RIGHTS WHETHER OR NOT REGISTERED

Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

## Other charge or fixed security

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

☒ Yes

☐ No

6

## Floating charge

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

☒ Yes Continue

☐ No Go to **Section 7**

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

☒ Yes

7

## Negative Pledge

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

☒ Yes

☐ No

8

Trustee statement <sup>①</sup>

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

☐

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

9

## Signature

Please sign the form here

Signature

Signature

X  X

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

 **Presenter information**

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **NATHANIEL NORGREN**

Company name **NORGREN LEGAL**

Address **184 ST LEONARDS ROAD**

Post town **LONDON**

County/Region

Postcode **S W 1 4 7 N N**

Country **UK**

DX

Telephone **020 8487 1211**

 **Certificate**

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

 **Checklist**

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

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

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

 **Important information**

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

 **How to pay**

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

Make cheques or postal orders payable to 'Companies House'

 **Where to send**

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

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

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

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

 **Further information**

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

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



FILE COPY

## CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9070050

Charge code: 0907 0050 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st July 2015 and created by THE POOL (UK) LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th July 2015.

2

Given at Companies House, Cardiff on 31st July 2015



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

21<sup>st</sup> JULY 2015

**DEBENTURE**

amongst

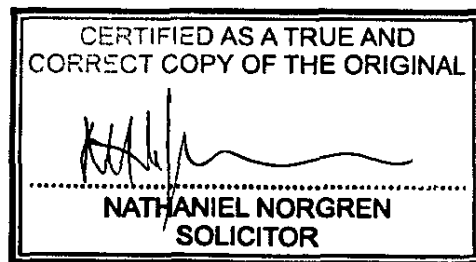
**THE POOL (UK) LIMITED**

and

**FOURTEEN17 LLP**

and

**FIONA O'HARA**



THIS DEED is dated 21<sup>st</sup> July 2015

#### PARTIES

- (1) **THE POOL (UK) LIMITED** incorporated and registered in England & Wales with company number 09070050 whose registered office is at 52-54 High Holborn House, High Holborn, London WC1V 6RB (the "**Borrower**"),
- (2) **FOURTEEN17 LLP**, a limited liability partnership incorporated in England and Wales with registered number OC381098 having its registered address at Park Farm, Downside Road, Downside, Cobham, Surrey, KT11 3LZ ("**F17**"),
- (3) **FIONA O'HARA** of Drakes Barn, Cherry Lane, Woodrow, Amersham, HP7 0QG ("**FOH**" and, together with F17, the "**Lenders**")

#### BACKGROUND

- (A) Under the terms of the Instrument, the Lenders have agreed to advance monies to the Borrower on condition, *inter alia*, that the Borrower will execute and deliver to the Lenders this Debenture to secure the payment of the Secured Liabilities.

#### AGREED TERMS

##### 1. DEFINITIONS AND INTERPRETATION

###### 1.1 The following definitions apply in this Deed

**Administrator:** an administrator appointed to manage the affairs, business and property of the Borrower pursuant to Clause 7.9

**Book Debts:** all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them

**Business Day:** means a day, except a Saturday or Sunday, on which banks are generally open for business in the City of London

**Confidentiality Undertaking.** a confidentiality undertaking in the form agreed by the Borrower and the Lenders.

**Delegate:** any person appointed by the Lenders or any Receiver pursuant to Clause 12 and any person appointed as attorney of the Lenders, Receiver or Delegate

**Designated Account:** any account of the Borrower nominated by the Lenders as a designated account for the purposes of this Deed

**Equipment:** all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions

**Event of Default:** means a failure by the Borrower to comply with any of its obligations under the Instrument or under this Debenture

**Financial Collateral:** shall have the meaning given to that expression in the Financial Collateral Regulations

**Financial Collateral Regulations:** the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*)

**Instrument** the convertible loan note instrument dated on or about the date hereof issued by the Borrower for the issue of up to £350,000 secured notes, as amended, restated, supplemented or replaced from time to time

**Insurance Policy:** each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any insurances relating to the Properties or the Equipment).

**Intellectual Property:** the Borrower's present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights,

whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights

**Investments:** all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments, and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise

**LPA 1925:** Law of Property Act 1925

**Properties:** all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest (including, but not limited to, the properties specified in Schedule 1), and **Property** means any of them

**Receiver:** a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lenders under Clause 10

**Secured Assets:** all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this Deed

**Secured Liabilities:** all present and future monies, obligations and liabilities owed by the Borrower to the Lenders, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Instrument or this Deed, together with all interest (including, without limitation, default interest) accruing in respect of those monies or liabilities.

**Security Financial Collateral Arrangement:** shall have the meaning given to that expression in the Financial Collateral Regulations

**Security:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect

**Security Period:** the period starting on the date of this Deed and ending on the date on which the Lenders are satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding

12 In this Deed

- (a) Clause and Schedule headings shall not affect the interpretation of this Deed;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees,
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular,
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees,
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;

- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision,
  - (h) a reference to **writing** or **written** includes fax but not e-mail,
  - (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done,
  - (j) a reference to **this Deed** (or any provision of it) or to any other agreement or document referred to in this Deed is a reference to this Deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Deed) from time to time;
  - (k) unless the context otherwise requires, a reference to a Clause or Schedule is to a clause of, or Schedule to, this Deed,
  - (l) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms,
  - (m) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly),
  - (n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description,
  - (o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution,
  - (p) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived,
  - (q) a reference to determines or determined means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it, and
  - (r) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation
- 1 3 If the Lenders consider that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed
- 1 4 A reference in this Deed to a charge or mortgage of or over any Property includes
- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time,
  - (b) the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property,
  - (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property, and any monies paid or payable in respect of those covenants, and
  - (d) all rights under any licence, agreement for sale or agreement for lease in respect of that Property
- 1 5 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Instrument and of any side letters between any parties in relation to the Instrument are incorporated into this Deed
- 1 6 If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

- 1 7 The Schedules form part of this Deed and shall have effect as if set out in full in the body of this Deed. Any reference to this Deed includes the Schedules
2. **COVENANT TO PAY**
- The Borrower shall, on demand, pay to the Lenders and discharge the Secured Liabilities when they become due
3. **GRANT OF SECURITY**
- 3 1 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lenders, by way of first legal mortgage, each Property specified in Schedule 1
- 3 2 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lenders by way of first fixed charge
- (a) all Properties acquired by the Borrower in the future,
  - (b) all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this Clause 3 in, or over, freehold or leasehold property,
  - (c) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;
  - (d) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them,
  - (e) all its present and future goodwill,
  - (f) all its uncalled capital,
  - (g) all the Equipment,
  - (h) all the Intellectual Property,
  - (i) all the Book Debts,
  - (j) all the Investments, and
  - (k) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account)
- 3.3 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Lenders absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy
- 3.4 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lenders, by way of first floating charge, all the undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to Clause 3 1 to Clause 3 3 inclusive
- 3.5 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3 4
- 3 6 The floating charge created by Clause 3 4 shall automatically and immediately (without notice) be converted into a fixed charge over the assets subject to that floating charge if
- (a) the Borrower
    - (i) creates, or attempts to create, without the prior written consent of the Lenders, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this Deed or the Instrument), or

- (ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised),
  - (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets, or
  - (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower
- 3 7 The Lenders may, in their sole discretion, at any time and by written notice to the Borrower, convert the floating charge created under this Deed into a fixed charge as regards any part of the Secured Assets specified by the Lenders in that notice if
  - (a) an Event of Default occurs and is continuing, or
  - (b) the Lenders consider those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy
- 3 8 Any asset acquired by the Borrower after any crystallisation of the floating charge created under this Deed that, but for that crystallisation, would be subject to a floating charge under this Deed, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lenders by way of first fixed charge
- 4 LIABILITY OF THE BORROWER**
- 4 1 The Borrower's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by
  - (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lenders that is, or becomes, wholly or partially illegal, void or unenforceable on any ground,
  - (b) the Lenders renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person, or
  - (c) any other act or omission that, but for this Clause 4 1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower
- 4 2 The Borrower waives any right it may have to require the Lenders to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Borrower
- 5. REPRESENTATIONS AND WARRANTIES**
- 5 1 The Borrower makes the representations and warranties set out in this Clause 5 to the Lenders
- 5 2 The Borrower is the legal and beneficial owner of the Secured Assets
- 5 3 The Secured Assets are free from any Security other than the Security created by this Deed
- 5 4 The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them
- 5 5 So far as the Borrower is aware, there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.
- 5 6 So far as the Borrower is aware, there is no breach of any law or regulation that materially and adversely affects the Secured Assets
- 5 7 So far as the Borrower is aware, no facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use

- 5.8 So far as the Borrower is aware, nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Property
- 5.9 So far as the Borrower is aware, no Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise
- 5.10 This Deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower, and is and will continue to be effective security over all and every part of the Secured Assets in accordance with its terms
- 5.11 The Investments are fully paid and are not subject to any option to purchase or similar rights. No constitutional document of an issuer of an Investment, nor any other agreement restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this Deed, or contains any rights of pre-emption in relation to the Investments
- 5.12 The representations and warranties set out in Clause 5.2 to Clause 5.11 are made by the Borrower on the date of this Deed and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition
- 6. COVENANTS**
- 6.1 The Borrower shall not at any time, except with the prior written consent of the Lenders
- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this Deed,
  - (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge), or
  - (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.
- 6.2 The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lenders, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this Deed
- 6.3 The Borrower shall not, without the Lenders' prior written consent, use or permit the Secured Assets to be used in any way materially contrary to law. The Borrower shall
- (a) in all material respects comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them,
  - (b) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
  - (c) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets
- 6.4 The Borrower shall use its reasonable endeavours to
- (a) procure the prompt observance and performance of the covenants and other material obligations imposed on the Borrower's counterparties (including each insurer in respect of an Insurance Policy), and
  - (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Lenders may reasonably require from time to time

- 6 5 The Borrower shall, promptly on becoming aware of any of the same, give the Lenders notice in writing of
- (a) any representation or warranty set out in this Deed that is incorrect or misleading in any material respect when made or deemed to be repeated, and
  - (b) any breach of any covenant set out in this Deed
- 6 6 The Borrower shall, as so required by the Lenders, deposit with the Lenders and the Lenders shall, for the duration of this Deed be entitled to hold
- (a) all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Borrower (and if these are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title),
  - (b) all Insurance Policies, and
  - (c) all deeds and documents of title (if any) relating to the Book Debts as the Lenders may specify from time to time
- 6 7 The Borrower shall insure and keep insured the Secured Assets against
- (a) loss or damage by fire or terrorist acts,
  - (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower, and
  - (c) any other risk, perils and contingencies as the Lenders may reasonably require
- Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lenders, and must be for not less than the replacement value of the Secured Assets. The Borrower shall, if requested by the Lenders, procure that a note of the Lenders' interest is endorsed upon each insurance policy maintained by it or any person on its behalf and that the terms of each insurance policy require the insurer not to invalidate the policy as against the Lenders by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Lenders
- 6 8 The Borrower shall
- (a) promptly pay all premiums in respect of each insurance policy maintained by it and do all other things necessary to keep that policy in full force and effect, and
  - (b) (if the Lenders so require) produce to, or deposit with, the Lenders the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with this Deed
- 6 9 The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with this Deed
- 6 10 All monies received or receivable by the Borrower under any insurance policy maintained by it in accordance with this Deed (including all monies received or receivable by it under any Insurance Policy) at any time (whether or not the security constituted by this Deed has become enforceable) shall.
- (a) immediately be paid to the Lenders,
  - (b) if they are not paid directly to the Lenders by the insurers, be held by the Borrower as trustee of the same for the benefit of the Lenders (and the Borrower shall account for them to the Lenders), and

- (c) at the option of the Lenders, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities
- 6 11 The Borrower shall
  - (a) give the Lenders such information concerning the location, condition, use and operation of the Secured Assets as the Lenders may require,
  - (b) permit any persons designated by the Lenders and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice, and
  - (c) promptly notify the Lenders in writing of any action, claim or demand made by or against it in connection with any Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Lenders' prior approval, implement those proposals at its own expense
- 6 12 The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lenders
- 6 13 The Borrower shall at the request of the Lenders deposit with the Lenders any documents (in each case duly completed and executed by or on behalf of the Borrower) that the Lenders may request in order to enable them or any of their nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect their security interest in any of the relevant Investments.
- 6 14 After the security constituted by this Deed has become enforceable
  - (a) all dividends and other distributions paid in respect of the Investments and received by the Borrower shall be held by the Borrower on trust for the Lenders and immediately paid into a Designated Account or, if received by the Lenders, shall be retained by the Lenders; and
  - (b) all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Lenders and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Lenders may give, in their absolute discretion, concerning the exercise of those rights and powers
- 6.15 The Borrower shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings
- 7. POWERS OF THE LENDERS**
- 7 1 The Lenders shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this Deed and the Borrower irrevocably authorises the Lenders and their agents to do all things that are necessary or desirable for that purpose Any monies expended by the Lenders in remedying a breach by the Borrower of its obligations contained in this Deed shall be reimbursed by the Borrower to the Lenders on a full indemnity basis and shall carry interest in accordance with Clause 14 1
- 7 2 The rights of the Lenders under Clause 7 1 are without prejudice to any other rights of the Lenders under this Deed The exercise of any rights of the Lenders under this Deed shall not make the Lenders liable to account as mortgagees in possession
- 7 3 At any time after the security constituted by this Deed has become enforceable, the Lenders or any Receiver may, as agent for the Borrower, dispose of any chattels or

produce found on any Property Without prejudice to any obligation to account for the proceeds of any disposal made under this Clause 7 3, the Borrower shall indemnify the Lenders and any Receiver against any liability arising from any disposal made under this Clause 7 3

- 7 4 To the extent permitted by law, any right, power or discretion conferred by this Deed on a Receiver may, after the security constituted by this Deed has become enforceable, be exercised by the Lenders in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver
- 7 5 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lenders may convert any monies received, recovered or realised by them under this Deed (including the proceeds of any previous conversion under this Clause 7 5) from their existing currencies of denomination into any other currencies of denomination that the Lenders may think fit
- 7 6 If the Lenders receive, or are deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lenders may open a new account for the Borrower in the Lenders' books Without prejudice to the Lenders' right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities If the Lenders do not open a new account immediately on receipt of the notice, or deemed notice, then unless the Lenders give express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lenders shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lenders
- 7 7 If the Lenders have more than one account for the Borrower in their books, the Lenders may at any time after
- (a) the security constituted by this Deed has become enforceable, or
  - (b) the Lenders have received, or are deemed to have received, notice of any subsequent Security or other interest affecting all or any part of the Secured Assets,

transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account that may be in debit After making any such transfer, the Lenders shall notify the Borrower of that transfer.

- 7 8 The Lenders may, at their discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this Deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this Deed or to the liability of the Borrower for the Secured Liabilities
- 7 9 The Lenders may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Deed becomes enforceable Any appointment under this Clause 7 9 shall
- (a) be in writing signed by a duly authorised signatory of the Lenders, and
  - (b) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

The Lenders may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this Clause 7.9 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified

- 7 10 The Lenders covenant with the Borrower that they shall perform their obligations to make advances under the Instrument (including any obligation to make available further advances)

**8. WHEN SECURITY BECOMES ENFORCEABLE**

- 8 1 The security constituted by this Deed shall be immediately enforceable if an Event of Default occurs
- 8 2 After the security constituted by this Deed has become enforceable, the Lenders may, in their absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets

**9. ENFORCEMENT OF SECURITY**

- 9.1 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall, as between the Lenders and a purchaser from the Lenders, arise on and be exercisable at any time after the execution of this Deed, but the Lenders shall not exercise such power of sale or other powers until the security constituted by this Deed has become enforceable under Clause 8 1 Section 103 of the LPA 1925 does not apply to the security constituted by this Deed
- 9 2 The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Lenders and any Receiver, at any time after the security constituted by this Deed has become enforceable, whether in its own name or in that of the Borrower, to
- (a) grant a lease or agreement to lease,
  - (b) accept surrenders of leases, or
  - (c) grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lenders or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925

- 9 3 At any time after the Lenders have demanded payment of the Secured Liabilities or if an Event of Default occurs and is continuing, the Borrower will allow the Lenders or a Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lenders or a Receiver reasonably believe a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry. At all times, the Borrower must use its best endeavours to allow the Lenders or its Receiver access to any premises for the purpose of this Clause 9 3 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same
- 9 4 At any time after the security constituted by this Deed has become enforceable, or after any powers conferred by any Security having priority to this Deed shall have become exercisable, the Lenders may
- (a) redeem that or any other prior Security;
  - (b) procure the transfer of that Security to them, and
  - (c) settle and pass any account of the holder of any prior Security

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower. All monies paid by the Lenders to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lenders, be due from the Borrower to the Lenders on current account and shall

- bear interest at the default rate of interest specified in the Instrument and be secured as part of the Secured Liabilities
- 9 5 No purchaser, mortgagee or other person dealing with the Lenders, any Receiver or Delegate shall be concerned to enquire
- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged,
  - (b) whether any power the Lenders, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable, or
  - (c) how any money paid to the Lenders, any Receiver or any Delegate is to be applied
- 9 6 Each Receiver and the Lenders are entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers
- 9 7 Neither the Lenders, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such
- 9 8 The receipt of the Lenders or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lenders, every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit
- 9 9 To the extent that the Secured Assets constitute Financial Collateral and this Deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement, the Lenders shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lenders may, in their absolute discretion, determine. The value of any Secured Assets appropriated in accordance with this Clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by any other method that the Lenders may select (including independent valuation), and the Borrower agrees that the methods of valuation provided for in this Clause are commercially reasonable for the purposes of the Financial Collateral Regulations
- 10. RECEIVER**
- 10 1 At any time after the security constituted by this Deed has become enforceable, or at the request of the Borrower, the Lenders may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets
- 10 2 The Lenders may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated
- 10 3 The Lenders may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately on its being paid by the Lenders
- 10 4 The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Lenders under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise

- 10.5 The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be, and remain, exercisable by the Lenders despite any prior appointment in respect of all or any part of the Secured Assets
- 10.6 Any Receiver appointed by the Lenders under this Deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lenders
- 11 POWERS OF RECEIVER**
- 11.1 Any Receiver appointed by the Lenders under this Deed shall, in addition to the powers conferred on him by statute, have the powers set out in this Clause 11. If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver. Any exercise by a Receiver of any of the powers given by this Clause 11 may be on behalf of the Borrower or the directors of the Borrower
- 11.2 A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same
- 11.3 A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit
- 11.4 A Receiver may provide services and employ, or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower
- 11.5 A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit
- 11.6 A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Lenders may prescribe or agree with him
- 11.7 A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights
- 11.8 A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower
- 11.9 A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold
- 11.10 A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Borrower
- 11.11 A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit
- 11.12 A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets

- 11.13 A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that he may think expedient
- 11.14 A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit
- 11.15 A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient
- 11.16 A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them
- 11.17 A Receiver may, if he thinks fit, but without prejudice to the indemnity in Clause 14, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this Deed
- 11.18 A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986
- 11.19 A Receiver may, for any of the purposes authorised by this Clause 11, raise money by borrowing from the Lenders (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lenders consent, terms under which that security ranks in priority to this Deed)
- 11.20 A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver
- 11.21 A Receiver may delegate his powers in accordance with this Deed
- 11.22 A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets
- 11.23 A Receiver may do any other acts and things
  - (a) that he may consider desirable or necessary for realising any of the Secured Assets,
  - (b) that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law, or
  - (c) that he lawfully may or can do as agent for the Borrower.

## **12. DELEGATION**

- 12.1 The Lenders or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under Clause 16)
- 12.2 The Lenders and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit
- 12.3 Neither the Lenders nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate

## **13. APPLICATION OF PROCEEDS**

- 13.1 All monies received by the Lenders, a Receiver or a Delegate pursuant to this Deed, after the security constituted by this Deed has become enforceable, shall (subject to

the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority

- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lenders (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Deed, and of all remuneration due to any Receiver under or in connection with this Deed,
  - (b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lenders determine, and
  - (c) in payment of the surplus (if any) to the Borrower or other person entitled to it
- 13 2 Neither the Lenders, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities
- 13 3 All monies received by the Lenders, a Receiver or a Delegate under this Deed
- (a) may, at the discretion of the Lenders, Receiver or Delegate, be credited to any suspense or securities realised account,
  - (b) shall bear interest, if any, at the rate agreed in writing between the Lenders and the Borrower, and
  - (c) may be held in that account for so long as the Lenders, Receiver or Delegate thinks fit

#### **14. COSTS AND INDEMNITY**

- 14 1 The Borrower shall, within five Business Days of demand, pay to, or reimburse, the Lenders and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lenders, any Receiver or any Delegate in connection with

- (a) this Deed or the Secured Assets,
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lenders', a Receiver's or a Delegate's rights under this Deed, or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate and in the manner specified in the Instrument

- 14 2 The Borrower shall indemnify the Lenders, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Deed or by law in respect of the Secured Assets,
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Deed, or
- (c) any default or delay by the Borrower in performing any of its obligations under this Deed

Any past or present employee or agent may enforce the terms of this Clause subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

**15 FURTHER ASSURANCE**

15 1 The Borrower shall, at its own expense, take whatever action the Lenders or any Receiver may reasonably require for

- (a) creating, perfecting or protecting the security intended to be created by this Deed;
- (b) facilitating the realisation of any Secured Asset, or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lenders or any Receiver in respect of any Secured Asset,

including, without limitation (if the Lenders or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lenders or to their nominees) and the giving of any notice, order or direction and the making of any registration

**16 POWER OF ATTORNEY**

16 1 By way of security, the Borrower irrevocably appoints the Lenders, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that

- (a) the Borrower is required to execute and do under this Deed, or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Lenders, any Receiver or any Delegate

16 2 The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in Clause 16 1

**17. RELEASE**

Subject to Clause 24 3, on the expiry of the Security Period (but not otherwise), the Lenders shall, at the request and cost of the Borrower, take whatever action is necessary to

- (a) release the Secured Assets from the security constituted by this Deed, and
- (b) reassign the Secured Assets to the Borrower

**18. ASSIGNMENT AND TRANSFER**

18 1 At any time, without the consent of the Borrower, the Lenders may assign or transfer any or all of its rights and obligations under this Deed. The Lenders may disclose to any actual or proposed assignee or transferee any information in their possession that relates to the Borrower, the Secured Assets and this Deed that the Lenders consider appropriate if the person to whom the information is given has entered into a Confidentiality Undertaking

18 2 The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this Deed

**19. SET-OFF**

19 1 The Lenders may at any time set off any liability of the Borrower to the Lenders against any liability of the Lenders to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Deed. If the liabilities to be set off are expressed in different currencies, the

Lenders may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lenders of their rights under this Clause shall not limit or affect any other rights or remedies available to it under this Deed or otherwise.

- 19 2 The Lenders are not obliged to exercise their rights under Clause 19 1. If, however, they do exercise those rights they must promptly notify the Borrower of the set-off that has been made.

## **20. AMENDMENTS, WAIVERS AND CONSENTS**

- 20 1 No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

- 20 2 A waiver of any right or remedy under this Deed or by law, or any consent given under this Deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision. A failure or delay by a party to exercise any right or remedy provided under this Deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Deed. No single or partial exercise of any right or remedy provided under this Deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Deed by the Lenders shall be effective unless it is in writing.

- 20 3 The rights and remedies provided under this Deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

## **21. SEVERANCE**

- 21 1 If any provision (or part of a provision) of this Deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this Clause shall not affect the legality, validity and enforceability of the rest of this Deed.

## **22. COUNTERPARTS**

- 22 1 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

## **23. THIRD PARTY RIGHTS**

- 23 1 Except as expressly provided elsewhere in this Deed, a person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

## **24. FURTHER PROVISIONS**

- 24 1 This Deed shall be in addition to, and independent of, any other security or guarantee that the Lenders may hold for any of the Secured Liabilities at any time. No prior security held by the Lenders over the whole or any part of the Secured Assets shall merge in the security created by this Deed.

- 24 2 This Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lenders discharge this Deed in writing.

- 24 3 Any release, discharge or settlement between the Borrower and the Lenders shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement.

- (a) the Lenders or their nominees may retain this Deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lenders deem necessary to provide the Lenders with security against any such avoidance, reduction or order for refund, and
  - (b) the Lenders may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.
- 24 4 A certificate or determination by the Lenders as to any amount for the time being due to it from the Borrower under this Deed and the Instrument shall be, in the absence of any manifest error, conclusive evidence of the amount due
- 24 5 The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this Deed
- 25. NOTICES**
- 25 1 Any notice or other communication required to be given to a party under or in connection with this Deed shall be
  - (a) in writing,
  - (b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax, and
  - (c) sent to
    - (i) the Borrower at, the address specified at the head of this Agreement
    - (ii) to the Lenders, at the address specified for each of them at the head of this Agreement marked for the attention of (in the case of F17) Richard Hill & Louisa Prebble or Fiona O'Hara,

or to any other address or fax number as is notified in writing by one party to the other from time to time
- 25 2 Any notice or other communication that the Lenders give to the Borrower shall be deemed to have been received
  - (a) if delivered by hand, at the time it is left at the relevant address,
  - (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting, and
  - (c) if sent by fax, when received in legible form

A notice or other communication given as described in Clause 25.2(a) or Clause 25 2(c) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.
- 25 3 Any notice or other communication given to the Lenders shall be deemed to have been received only on actual receipt
- 25 4 This Clause 25 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution
- 25 5 A notice or other communication given under or in connection with this Deed is not valid if sent by e-mail
- 26. SHARING AMONG THE LENDERS**
- 26 1 The Lenders agree to share any amounts owed to them by the Borrower hereunder on a pro-rata basis to the amounts actually advanced by each Lender under the Instrument. If one Lender receives or recovers monies from the Borrower in excess of its pro-rata share, it will hold such excess amount on trust for the other Lender.

**27. GOVERNING LAW AND JURISDICTION**

- 27 1 This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales
- 27 2 Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims) Nothing in this Clause shall limit the right of the Lenders to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.
- 27 3 The Borrower irrevocably consents to any process in any legal action or proceedings under Clause 27 2 being served on it in accordance with the provisions of this Deed relating to service of notices Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**SCHEDULE 1**

**PROPERTY**

Part 1 – Registered Property

None

Part 2 – Unregistered Property

None

Executed as a deed by THE POOL (UK)  
LIMITED acting by



Director

In front of



Witness Signature

Witness name, address and  
occupation


BRITISE GAYMER  
89 RUTH STREET (SOLICITOR).  
LONDON W1D 3TB

Executed as a deed by FOURTEEN17 LLP  
acting by

LOUISA PREBBLE



In front of

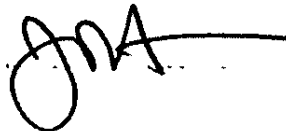


Witness Signature

Witness name, address and  
occupation

RICHARD HILL  
PARK FARM  
DOWNSIDE ROAD  
COBHAM, SURREY KT11 3LZ

Executed as a deed by FIONA O'HARA



In front of



Witness Signature

Witness name, address and  
occupation

CLAUDIA FISHER  
MODEL FARM  
CHERRY LANE  
WOODROW  
AMERSHAM  
BUCKS. HP7 0QG