



Registration of a Charge

Company Name: **CLONDALKIN UK NEWCO LIMITED**

Company Number: **09223369**



XB4F01BF

Received for filing in Electronic Format on the: **20/05/2022**

Details of Charge

Date of creation: **10/05/2022**

Charge code: **0922 3369 0009**

Persons entitled: **ING BANK N.V.**

Brief description: **N/A**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **CLIFFORD CHANCE LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9223369

Charge code: 0922 3369 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th May 2022 and created by CLONDALKIN UK NEWCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th May 2022 .

Given at Companies House, Cardiff on 23rd May 2022

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**

EXECUTION VERSION

DATED 10 MAY 2022

CLONDALKIN UK NEWCO LIMITED
AS THE CHARGOR

IN FAVOUR OF

ING BANK N.V.
AS THE SECURITY AGENT

SECURITY OVER SHARES AGREEMENT

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THIS AGREEMENT is made by way of deed on 10 May 2022

BY

- (1) **CLONDALKIN UK NEWCO LIMITED** a company incorporated in England and Wales (registered no. 09223369) whose registered office is at Villiers Street, Bury, Lancashire, BL9 6BS (the "**Chargor**"); in favour of
- (2) **ING BANK N.V.** as trustee for each of the Secured Parties on the terms and conditions set out in the Facility Agreement and this Agreement (the "**Security Agent**").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Acceleration Event**" means the Security Agent exercising any of its rights under clause 25.18 (*Acceleration*) of the Facility Agreement.

"**Administration Event**" means:

- (a) the presentation of an application to the court for the making of an administration order in relation to the Chargor; or
- (b) the giving of written notice by any person (who is entitled to do so) of its intention to appoint an administrator of the Chargor or the filing of such a notice with the court.

"**Charged Portfolio**" means the Shares and all dividends, interest and other monies at any time payable in respect of the Shares and all other rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, Security, guarantees, indemnities, covenants for title, proceeds of sale and other monies and proceeds in respect of or derived from the Shares (whether by way of redemption, bonus, preference, option, substitution, conversion, compensation or otherwise) held by, to the order of, or on behalf of the Chargor at any time.

"**Collateral Rights**" means subject always to the provisions of Clause 6 in relation to the exercise of voting rights all rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law.

"**Declared Default**" means any Event of Default which is continuing provided it is also an Acceleration Event.

"**Facility Agreement**" means the EUR 33,000,000 term and revolving facilities agreement dated on or about the date of this Agreement between, among others, the Parent and the Security Agent (as amended, varied, novated or supplemented from time to time).

"Receiver" means a receiver, receiver and manager or, where permitted by law, an administrative receiver and that term will include any appointee made under a joint or several appointment.

"Secured Obligations" means all present and future obligations and liabilities at any time due, owing or incurred by the Chargor to the Security Agent (whether for its own account or as trustee for the Secured Parties) or any other Secured Party under or pursuant to the Finance Documents, whether actual or contingent, whether originally incurred by the Chargor or by any other person and whether incurred solely or jointly and as principal or surety or in any other capacity, including any liability in respect of any further advances made under the Finance Documents, except for any obligation or liability which, if it were included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful, prohibited or invalid by or under any applicable law.

"Security Period" means the period beginning on the date of this Agreement and ending on the date on which the Security Agent is satisfied that the Secured Obligations have been irrevocably and unconditionally paid or discharged in full and no Secured Party is under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor or any other person under any of the Finance Documents.

"Shares" means all of the shares from time to time in the capital of Chadwicks of Bury Limited (registered in England and Wales with number 03218778).

1.2 Terms defined in other Finance Documents

Unless defined in this Agreement or the context otherwise requires, a term defined in the Facility Agreement or in any other Finance Document has the same meaning in this Agreement or any notice given under or in connection with this Agreement.

1.3 Construction

In this Agreement:

- (a) the rules of interpretation contained in clauses 1.2 (*Construction*) and 1.3 (*Currency symbols and definitions*) of the Facility Agreement shall apply to the construction of this Agreement, or in any notice given under or in connection with this Agreement;
- (b) any reference to the **"Security Agent"**, the **"Secured Parties"**, the **"Finance Parties"**, the **"Chargor"** or any **"Obligor"** shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Facility Agreement and this Agreement;
- (c) any reference to **"including"** and **"include"** shall mean including and include **"without limitation"** and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms; and

- (d) references in this Agreement to any Clause or Schedule shall be to a Clause or Schedule contained in this Agreement.

1.4 Incorporation of provisions from Facility Agreement

The provisions of clauses 1.4 (*Third party rights*), 15 (*Tax gross-up and indemnities*), 17 (*Other indemnities*), 35.1 (*Accounts*), 35.2 (*Certificates and determinations*) and 38 (*Amendments and waivers*) of the Facility Agreement are incorporated into this Agreement as if expressly set out in full in this Agreement, but so that references in those clauses to the Facility Agreement are references to this Agreement.

1.5 Designation

This Agreement is a Transaction Security Document and a Finance Document.

1.6 Present and future assets

A reference in this Agreement to any Shares or other asset includes, unless the contrary intention appears, present and future Shares and other assets.

2. COVENANT TO PAY

2.1 Covenant to pay

The Chargor covenants with the Security Agent that it shall, on demand of the Security Agent pay, discharge and satisfy the Secured Obligations in accordance with their respective terms.

2.2 Default interest

If the Chargor fails to pay any amount payable by it under this Agreement on its due date, interest shall accrue on the overdue amount (both before and after judgment) from the date of demand until the date of payment calculated on a daily basis at the rate determined in accordance with, and on the terms set out in, clause 11.3 (*Default interest*) of the Facility Agreement.

3. CHARGE

The Chargor charges, with full title guarantee and by way of first fixed charge in favour of the Security Agent as trustee for the Secured Parties, as continuing security for the payment and discharge of all of the Secured Obligations, all of its rights, title and interest from time to time in and to the Charged Portfolio.

4. PROVISIONS AS TO SECURITY AND PERFECTION

4.1 Negative pledge and restriction on dealings

Except as permitted under the Facility Agreement the Chargor shall not at any time during the Security Period create or permit to subsist any Security over all or any part of the Charged Portfolio or dispose of or otherwise deal with any part of the Charged Portfolio.

4.2 Implied covenants for title

- (a) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 3 (*Charge*).
- (b) It shall be implied in respect of Clause 3 (*Charge*) that the Chargor is disposing of the Charged Portfolio free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

4.3 Deposit of share certificates

The Chargor shall, within five Business Days of the date of this Agreement (and within five Business Days of its coming into possession thereof at any time) deposit with the Security Agent (or procure the deposit of) all certificates and other documents of title to the Shares, and stock transfer forms (executed in blank by it or on its behalf) in respect of the Shares.

4.4 Deposit of related assets

The Chargor shall, promptly upon the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Charged Portfolio (or upon acquiring any interest therein) notify the Security Agent of that occurrence and deposit with the Security Agent (or procure the deposit of) (i) all certificates and other documents of title representing such assets and (ii) such stock transfer forms or other instruments of transfer (executed in blank by it or on its behalf) in respect thereof as the Security Agent may require.

4.5 Further advances

Subject to the terms of the Facility Agreement, each Lender is under an obligation to make further advances to the Chargor and that obligation will be deemed to be incorporated in this Agreement as if set out in this Agreement.

4.6 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to all or any part of the Charged Portfolio as the Security Agent may determine and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any such person or be bound to supervise the proceedings or acts of any such person.

5. FURTHER ASSURANCE

5.1 Extension of implied covenant

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 5.2 (*Further assurance*) below.

5.2 Further assurance

The Chargor shall promptly, at its own cost, take all such action (including making all filings, registrations and notarisations) and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may specify (and in such form as the Security Agent may require) in favour of the Security Agent or its nominee(s):

- (a) to create, perfect, protect and/or maintain the Security created or intended to be created in respect of the Charged Portfolio (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Charged Portfolio) or for the exercise of the Collateral Rights; and/or
- (b) to facilitate the realisation of the Charged Portfolio.

6. VOTING RIGHTS AND DIVIDENDS

6.1 Dividends prior to a Declared Default

Prior to the occurrence of a Declared Default, the Chargor shall be entitled to receive all dividends, interest and other monies arising from the Charged Portfolio.

6.2 Dividends after a Declared Default

Upon the occurrence of a Declared Default, the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) apply all dividends, interest and other monies arising from the Charged Portfolio as though they were the proceeds of sale under this Agreement.

6.3 Voting rights prior to Security Agent Notice

Prior to the giving of notice pursuant to Clause 6.4 (*Voting rights after Security Agent Notice*), the Chargor shall be entitled to exercise all voting rights in relation to the Charged Portfolio.

6.4 Voting rights after Security Agent Notice

- (a) Subject to paragraph (b) below and Clause 6.6 (*Waiver of voting rights by Security Agent*), upon the occurrence of an Acceleration Event the Security Agent may (but without having any obligation to do so) give notice to the Chargor (with a copy to the Agent) that this Clause 6.4 will apply. With effect from the giving of that notice the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) or instruct the Chargor to:
 - (i) exercise (or refrain from exercising) any voting rights in respect of the Charged Portfolio;
 - (ii) transfer the Charged Portfolio into the name of such nominee(s) of the Security Agent as it shall require; and

(iii) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Portfolio including the right, in relation to any company whose shares or other securities are included in the Charged Portfolio, to concur or participate in:

- (A) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
- (B) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
- (C) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Security Agent thinks fit, and the proceeds of any such action shall form part of the Charged Portfolio.

- (b) Where the mandatory notification procedure under the National Security and Investment Act 2021 (the "NSIA") applies to the acquisition of voting rights by the Security Agent in respect of the Shares, the Security Agent shall not acquire voting rights until clearance has been obtained under the NSIA.

6.5 National Security and Investment Act 2021 – notifications

Where paragraph (b) of Clause 6.4 (*Voting rights after Security Agent Notice*) applies, the Security Agent may give a mandatory notice to the Secretary of State in accordance with the NSIA notifying of the proposed acquisition of voting rights by the Security Agent.

6.6 Waiver of voting rights by Security Agent

- (a) The Security Agent may, in its absolute discretion and without any consent or authority from the other Secured Parties or the Chargor, at any time, by notice to the Chargor (which notice shall be irrevocable), with a copy to the Agent, elect to give up the right to exercise (or refrain from exercising) all voting rights and powers in respect of the Charged Portfolio conferred or to be conferred on the Security Agent pursuant to Clause 6.4 (*Voting rights after Security Agent Notice*) and the other Secured Parties unconditionally waive any rights they may otherwise have to require the Security Agent not to make such election or to require the Security Agent to indemnify, compensate or otherwise make them good for any losses, costs or liabilities incurred by any of them in relation to or as a consequence of the Security Agent making such election.
- (b) Once a notice has been issued by the Security Agent under paragraph (a) of this Clause 6.6, on and from the date of such notice the Security Agent shall cease to have the rights to exercise or refrain from exercising voting rights and powers in respect of the Charged Portfolio conferred or to be conferred on it pursuant

to Clause 6.4 (*Voting rights after Security Agent Notice*) or any other provision of this Agreement and all such rights will be exercisable by the Chargor. The Chargor shall be entitled on and from the date of such notice, to exercise all voting rights and powers in relation to the Charged Portfolio subject only to the proviso contained in Clause 6.7 (*Voting rights generally*).

6.7 Voting rights generally

The Chargor shall not exercise (and shall procure that any nominee acting on its behalf does not exercise) its voting rights and powers in relation to the Charged Portfolio in any manner which would materially adversely affect the validity or enforceability of this Security or cause an Event of Default to occur.

7. CHARGOR'S REPRESENTATIONS AND UNDERTAKINGS

7.1 Representations

The Chargor makes the representations and warranties set out in this Clause 7.1 to the Security Agent on the date of this agreement.

(a) *Ranking*

The Security created by this Agreement has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* Security.

(b) *Transaction Security*

This Agreement validly creates the Security which is expressed to be created pursuant to Clause 3 (*Charge*) and evidences the Security it is expressed to evidence.

7.2 Undertakings

(a) *Payment of calls*

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any part of the Charged Portfolio, and in any case of default by it in such payment, the Security Agent may, if it thinks fit, make such payment on behalf of the Chargor. Any sums so paid by the Security Agent shall be reimbursed by the Chargor to the Security Agent on demand and shall carry interest from the date of payment by the Security Agent until reimbursed, such interest to be calculated in accordance with Clause 2.2 (*Default interest*).

(b) *Preservation of assets*

Except as permitted by the Facility Agreement, the Chargor shall not do or permit to be done any act or thing which might jeopardise the rights of the Security Agent in the Charged Portfolio or which would have a material adverse effect on or materially diminish the value of the Charged Portfolio.

8. ENFORCEMENT OF SECURITY

8.1 Timing of enforcement

Any time after the occurrence of:

- (a) a Declared Default; or
- (b) a request from the Chargor to the Security Agent that it exercise any of its powers under this Agreement,

the Security created by or pursuant to this Agreement is immediately enforceable and the Security Agent may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- (i) secure and perfect its title to all or any part of the Charged Portfolio (including transferring the Charged Portfolio into the name of the Security Agent or its nominees);
- (ii) enforce all or any part of the 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 Charged Portfolio (and any assets of the Chargor which, when got in, would be part of the Charged Portfolio) at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration); and
- (iii) whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Agreement) on mortgagees and by this Agreement on any Receiver or otherwise conferred by law on mortgagees or Receivers.

8.2 Release of claims

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 8.1 (*Timing of enforcement*), the Security Agent is irrevocably authorised (on behalf of and at the cost of the Chargor and without any further consent, sanction, authority or confirmation from it) to release any claim which the Chargor may have against any company whose shares are comprised in the Charged Portfolio and to execute and deliver any such release(s) on behalf of the Chargor which may, in the discretion of the Security Agent, be considered necessary or desirable.

9. EXTENSION OF POWERS AND RIGHT OF APPROPRIATION

9.1 Extension of power of sale

The power of sale or other disposal conferred on the Security Agent and on any Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on the date of this Agreement.

9.2 Restrictions

The restrictions contained in sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Security Agent without notice to the Chargor on or at any time after the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 8 (*Enforcement of Security*).

9.3 Right of appropriation

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 8 (*Enforcement of Security*), to the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended, (the "**Regulations**") apply to the Charged Portfolio, the Security Agent shall have the right to appropriate all or any part of that Charged Portfolio in or towards the payment or discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of the Charged Portfolio shall be the market value of the Charged Portfolio determined by the Security Agent by reference to a public index or independent valuation, or by such other process as the Security Agent may select, including independent valuation. The parties further agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

9.4 Statutory powers

The powers conferred by this Agreement on the Security Agent are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law (as extended by this Agreement) and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Charged Portfolio. In the case of any conflict between the statutory powers contained in any such Acts and those conferred by this Agreement, the terms of this Agreement shall prevail.

10. APPOINTMENT OF RECEIVER

10.1 Appointment and removal

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 8 (*Enforcement of Security*), the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent without prior notice to the Chargor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Charged Portfolio;
- (b) appoint two or more Receivers of separate parts of the Charged Portfolio;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and

- (d) appoint another person(s) as an additional or replacement Receiver(s).

10.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 10.1 (*Appointment and removal*) shall be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) the agent of the Chargor which shall be solely responsible for the Receiver's acts, defaults and liabilities and for the payment of the Receiver's remuneration and no Receiver shall at any time act as agent for the Security Agent; and
- (c) entitled to be remunerated at a rate to be fixed by the Security Agent from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

10.3 Statutory powers of appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Agent under the Law of Property Act 1925 (as extended by this Agreement) or otherwise and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Charged Portfolio.

11. POWERS OF RECEIVERS

Every Receiver shall (subject to any restrictions in the Receiver's instrument of appointment but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Portfolio (and any assets of the Chargor which, when got in, would be part of the Charged Portfolio) in respect of which the Receiver was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Chargor or in the Receiver's own name and, in each case, at the cost of the Chargor):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- (d) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to:
 - (i) any of the functions, powers, authorities or discretions which are conferred on or vested in the Receiver;

- (ii) the exercise of the Collateral Rights (including realisation of all or any part of the Charged Portfolio); or
- (iii) bringing to the Receiver's hands any assets of the Chargor forming part of, or which when got in would be, Charged Portfolio.

12. APPLICATION OF PROCEEDS

All monies received or recovered and any non-cash recoveries made or received by the Security Agent or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied by the Security Agent (notwithstanding any purported appropriation by the Chargor) in accordance with the terms of the Intercreditor Agreement.

13. PROTECTION OF PURCHASERS

13.1 Consideration

A written receipt from the Security Agent or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Portfolio or making any acquisition, the Security Agent or any Receiver may do so for such consideration (whether cash or non-cash), in such manner and on such terms as it thinks fit.

13.2 Protection of purchasers

No purchaser or other person dealing with the Security Agent or any Receiver shall be bound to inquire whether the right of the Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned to inquire whether that power has been properly or regularly exercised by the Security Agent or such Receiver in such dealings.

14. POWER OF ATTORNEY

14.1 Appointment and powers

Upon the earlier of:

- (a) the occurrence of a Declared Default; and
- (b) any failure by a Chargor to perform any of its obligations under this Agreement within ten Business Days of being notified of that failure and being requested by the Security Agent to comply with the relevant obligation under this Agreement,

the Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (i) carrying out any obligation imposed on the Chargor by this Agreement or any other agreement binding on the Chargor to which the Security Agent is a party (including the execution and delivery of any deeds, charges, assignments or other Security and any transfers of the Charged Portfolio and perfecting and/or releasing the Security created or intended to be created in respect of the Charged Portfolio); and
- (ii) enabling the Security Agent and any Receiver to exercise (subject to Clause 6.6 (*Waiver of voting rights by Security Agent*)), or delegate the exercise of, any of the Collateral Rights (including, after the occurrence of an Event of Default, the exercise of any right of a legal or beneficial owner of the Charged Portfolio).

14.2 Ratification

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

15. EFFECTIVENESS OF SECURITY

15.1 Continuing security

- (a) The Security created by or pursuant to this Agreement shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Security Agent in writing.
- (b) No part of the Security from time to time intended to be created by this Agreement will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

15.2 Cumulative rights

The Security created by or pursuant to this Agreement, and the Collateral Rights, shall be cumulative, in addition to and independent of every other Security which the Security Agent or any other Secured Party may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law and shall operate as an independent Security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security. No prior Security held by the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties over the whole or any part of the Charged Portfolio shall merge into the Security created by this Agreement.

15.3 No prejudice

The Security created by or pursuant to this Agreement, and the Collateral Rights, shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person by the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties or by any variation of the terms of the trust upon which the Security Agent holds the Security or by any other thing which might otherwise prejudice that Security or any Collateral Right.

15.4 Remedies and waivers

No failure on the part of the Security Agent to exercise, nor any delay on its part in exercising, any Collateral Right, shall operate as a waiver of that Collateral Right or constitute an election to affirm this Agreement. No election to affirm this Agreement on the part of the Security Agent shall be effective unless it is in writing. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

15.5 No liability

None of the Security Agent, its nominee(s) or any Receiver shall be liable:

- (a) to account as a mortgagee or mortgagee in possession; or
- (b) for any loss arising by reason of taking any action permitted by this Agreement or any neglect or default in connection with the Charged Portfolio or taking possession of or realising all or any part of the Charged Portfolio,

except in the case of gross negligence or wilful default upon its part.

15.6 Partial invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security intended to be created by or pursuant to this Agreement is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security.

15.7 Waiver of defences

The obligations assumed, and the Security created, by the Chargor under this Agreement, and the Collateral Rights, will not be affected by any act, omission, matter or thing which, but for this Clause 15.7 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under, or the Security created by, this Agreement (whether or not known to the Chargor or the Security Agent or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, any Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (in each case, however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or Security or of the Secured Obligations including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Documents or other document or Security or of the Secured Obligations; and
- (g) any insolvency or similar proceedings.

15.8 Chargor intent

Without prejudice to the generality of Clause 15.7 (*Waiver of defences*), the Chargor expressly confirms that it intends that the Security created under this Agreement, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

15.9 Immediate recourse

The Chargor waives any right it may have of first requiring the any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any other person before claiming from the Chargor under this Agreement or enforcing the Security created by this Agreement. This waiver applies irrespective of any law or any provision of this Agreement to the contrary.

15.10 Deferral of rights

Until the end of the Security Period, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Agreement:

- (a) to be indemnified by an Obligor or any other person;
- (b) to claim any contribution from any guarantor or other person in respect of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under the Finance Documents or

of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;

- (d) to bring legal or other proceedings for an order requiring any Obligor or other person to make any payment, or perform any obligation, in respect of which any Obligor or other person has given a guarantee, undertaking or indemnity under any Finance Document;
- (e) to exercise any right of set-off against any Obligor or other person; and/or
- (f) to claim or prove as a creditor of any Obligor or other person in competition with any Secured Party.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to any Secured Party by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 12 (*Application of proceeds*).

15.11 Additional Security

The Security created by the Chargor under this Agreement and the Collateral Rights are in addition to and are not in any way prejudiced by any other guarantee or Security now or subsequently held by any Secured Party.

16. PRIOR SECURITY INTERESTS

16.1 Redemption or transfer

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security against any part of the Charged Portfolio or in case of exercise by the Security Agent or any Receiver of any power of sale or right of appropriation or application under this Agreement, the Security Agent may redeem such prior security or procure the transfer thereof to itself.

16.2 Accounts

The Security Agent may settle and agree the accounts of the prior Security and any accounts so settled and agreed will be conclusive and binding on the Chargor.

16.3 Costs of redemption or transfer

All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargor to the Security Agent on demand together with accrued interest thereon calculated in accordance with Clause 2.2 (*Default interest*).

17. SUBSEQUENT SECURITY INTERESTS

If the Security Agent (acting in its capacity as trustee or otherwise) or any of the other Secured Parties at any time receives or is deemed to have received notice of any subsequent Security, assignment or transfer affecting all or any part of the Charged Portfolio which is prohibited by the terms of any Finance Document, all payments thereafter made by or on behalf of the Chargor to the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties will (in the absence of any express contrary appropriation by the Chargor) 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 at the time that notice was received.

18. SUSPENSE ACCOUNTS

All monies received, recovered or realised by the Security Agent under this Agreement (including the proceeds of any conversion of currency) may in the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account(s) maintained with any bank, building society, financial institution or other person which the Security Agent considers appropriate (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Security Agent's discretion, in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

19. RELEASE OF SECURITY

19.1 Release

Without prejudice to clause 11 (*Non-Distressed Disposals*) of the Intercreditor Agreement, upon the expiry of the Security Period, the Security Agent shall, at the request and cost of the Chargor, release and cancel the Security created by this Agreement subject to Clause 19.2 (*Clawback*) and without recourse to, or any representation or warranty by, the Security Agent or any of its nominees.

19.2 Clawback

If the Security Agent considers that any amount paid or credited to any Secured Party is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under this Agreement and the Security created by this Agreement shall continue and that amount will not be considered to have been irrevocably paid or credited.

20. ASSIGNMENT

20.1 No assignments or transfers by Chargor

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Agreement.

20.2 Assignments by the Security Agent

The Security Agent may assign all or any of its rights under this Agreement. The Security Agent shall be entitled to disclose such information concerning the Chargor and this Agreement as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

20.3 Successors

This Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Security Agent. References to the Security Agent shall include (i) any assignee or successor in title of the Security Agent, (ii) any entity into which the Security Agent is merged or converted or with which it may be consolidated, (iii) any legal entity resulting from any merger, conversion or consolidation to which such Security Agent is a party and (iv) any other person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Security Agent under this Agreement or to which, under such laws, those rights and obligations have been transferred (such person described in (i) to (iv) being a successor to the Security Agent for all purposes under the Finance Documents).

21. DISCRETION AND DELEGATION

21.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Security Agent or any Receiver may, subject to the terms and conditions of the Intercreditor Agreement be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

21.2 Delegation

Each of the Security Agent and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by the Security Agent or the Receiver itself.

22. TRUST FOR THE SECURED PARTIES

22.1 Declaration of trust

The Security Agent declares that it holds the Security created or expressed to be created pursuant to this Agreement on trust for the Secured Parties on the terms contained in this Agreement.

22.2 Powers supplemental to Trustee Acts

The rights, powers, authorities and discretions given to the Security Agent under or in connection with the Finance Documents shall be supplemental to the Trustee Act 1925

and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by law or regulation or otherwise.

22.3 Disapplication of Trustee Acts

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

22.4 Winding up of trust

If the Security Agent, with the approval of the Majority Lenders, determines that:

- (a) all of the Secured Obligations and all other obligations secured by this Agreement have been fully and finally discharged; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents,

then:

- (i) the trusts set out in this Agreement shall be wound up;
- (ii) the Security Agent shall release, without recourse or warranty, all of the Security and the rights of the Security Agent under this Agreement; and
- (iii) any Security Agent which has resigned pursuant to clause 18.14 (*Resignation of the Security Agent*) of the Intercreditor Agreement shall release, without recourse or warranty, all of its rights under this Agreement.

23. COUNTERPARTS

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

24. GOVERNING LAW

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

25. ENFORCEMENT

25.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the

existence, validity or termination of this Agreement or the consequences of its nullity) or any non-contractual obligations arising out of or in connection with this Agreement (a "**Dispute**").

- (b) The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- (c) Notwithstanding paragraph (a) of this Clause 25.1 (*Jurisdiction*), the Security Agent may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

THIS AGREEMENT has been signed by the Security Agent and executed as a deed by the Chargor and is delivered by it as a deed on the date stated at the beginning of this Agreement.

EXECUTION PAGES

The Chargor

EXECUTED AS A DEED by
CLONDALKIN UK NEWCO LIMITED
acting by a director
in the presence of:

)
)
)
)
)

Signature of witness:

[Redacted]

Name (in BLOCK CAPITALS):

~~MANUEL TALEW~~ ESTHER TAMERIS

Address:

[Redacted]

The Security Agent

For and on behalf of
ING BANK N.V.

By:

Name: Bas Buskermolen
Associate Director
Title: ING Bank N.V.

Chr.L.N.A. van der Meer
Director