



**Registration of a Charge**

Company Name: **SIMPLY AUTOMOTIVE LTD**

Company Number: **09410693**



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Received for filing in Electronic Format on the: **18/02/2022**

**Details of Charge**

Date of creation: **18/02/2022**

Charge code: **0941 0693 0001**

Persons entitled: **ALLICA BANK LIMITED (CRN: 07706156)**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **FREETHS LLP**



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

Company number: 9410693

Charge code: 0941 0693 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th February 2022 and created by SIMPLY AUTOMOTIVE LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th February 2022 .

Given at Companies House, Cardiff on 21st February 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**



Debenture – Limited Company

THIS DOCUMENT CONTAINS IMPORTANT LEGAL OBLIGATIONS. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE FROM A SOLICITOR TO ENSURE THAT YOU FULLY UNDERSTAND THE NATURE AND EFFECT OF THE OBLIGATIONS CONTAINED IN IT. IF YOU DEFAULT IN YOUR OBLIGATIONS TO THE BANK, THE BANK MAY ENFORCE AGAINST ANY SECURITY PROVIDED FOR UNDER THIS DOCUMENT IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO IT.

This deed is made on 18<sup>th</sup> February 2022

**BETWEEN:**

- (1) **Chargor** : SIMPLY AUTOMOTIVE LTD incorporated and registered in England and Wales with registered number 09410693 whose registered office is at 27 Balena Close, Poole, England, BH17 7EB
- (2) **Bank** : ALLICA BANK LIMITED incorporated and registered in England and Wales with company number 07706156 whose registered office is at Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS

**BACKGROUND**

- 0.1 Under this deed, the Chargor provides security to the Bank for all its present and future obligations and liabilities to the Bank.

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions and Interpretation**

The definitions and rules of interpretation under Schedule 1 hereto apply in this deed.

**2. COVENANT TO PAY**

**2.1 Covenant to pay**

The Chargor shall, on demand, pay to the Bank and discharge the Secured Liabilities when they become due.

**2.2 Interest**

The Chargor covenants with the Bank to pay interest on any amounts due under clause 2.1 from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the Default Rate, provided that, in the case of any cost or expense, such interest shall accrue and be payable as from the date on which the relevant cost or expense arose without the necessity for any demand being made for payment.

**3. GRANT OF SECURITY**

**3.1 Legal mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Bank, by way of first legal mortgage, all Charged Property now vested in it or charged to the Chargor.

**3.2 Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Bank by way of first fixed charge:

- 3.2.1 all Charged Property in England and Wales now vested in it and not registered at the Land Registry;
- 3.2.2 all Charged Property in England and Wales now vested in it and registered at the Land Registry;

- 3.2.3 all other Charged Property which is now, or in the future becomes, its property;
- 3.2.4 all present and future interests of the Chargor not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;
- 3.2.5 all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to all of its Charged Property which is now, or in the future becomes, its property;
- 3.2.6 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Chargor's business or the use of any Secured Asset, and all rights in connection with them;
- 3.2.7 all its present and future goodwill;
- 3.2.8 all its uncalled capital;
- 3.2.9 all the Equipment and the benefit of all contracts, licences and warranties relating to it;
- 3.2.10 all the Intellectual Property;
- 3.2.11 all the Book Debts;
- 3.2.12 all the Investments;
- 3.2.13 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), together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 3.2.14 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3;
- 3.2.15 all its agreements, instruments and rights relating to the Secured Assets, to the extent not effectively assigned under clause 3.3; and
- 3.2.16 the benefit of all instruments, guarantees, charges, pledges and other rights now or in the future available to it as security in respect of any Secured Asset itself subject to a fixed charge in favour of the Bank.

### 3.3 **Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee assigns to the Bank absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- 3.3.1 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; and
- 3.3.2 the benefit of all agreements, instruments and rights relating to the Secured Assets,

provided that nothing in this clause 3.3 shall constitute the Bank as mortgagee in possession.

### 3.4 **Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Bank, by way of first floating charge, all the undertaking, property, assets and rights of the Chargor at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.3 inclusive.

### 3.5 **Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.4.

### **3.6 Automatic crystallisation of floating charge**

The floating charge created by clause 3.4 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

#### **3.6.1 the Chargor:**

- a. creates, or attempts to create, without the prior written consent of the Bank, 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
- b. 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);

3.6.2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or

3.6.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor.

### **3.7 Crystallisation of floating charge by notice**

The Bank may, in its sole discretion, at any time and by written notice to the Chargor, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Bank in that notice.

### **3.8 Assets acquired after any floating charge has crystallised**

Any asset acquired by the Chargor 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 Bank confirms otherwise to the Chargor in writing) be charged to the Bank by way of first fixed charge.

## **4. LIABILITY OF THE CHARGOR**

### **4.1 Liability not discharged**

The Chargor's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Bank that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Bank renewing, determining, varying or increasing any Loan 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
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Chargor.

### **4.2 Immediate recourse**

The Chargor waives any right it may have to require the Bank 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 Chargor.

## **5. REPRESENTATIONS AND WARRANTIES**

### **5.1 Times for making representations and warranties**

The Chargor makes the representations and warranties set out in this clause 5 to the Bank on the date of this deed and the representations and warranties contained in this

clause 5 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.

**5.2 Ownership of Secured Assets**

The Chargor is the sole legal and beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

**5.3 No Security**

The Secured Assets are free from any Security other than Permitted Security.

**5.4 No adverse claims**

The Chargor 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 No adverse covenants**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.

**5.6 No breach of laws**

There is no breach of any law or regulation that materially and adversely affects the Secured Assets.

**5.7 No interference in enjoyment**

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 No overriding interests**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Charged Property.

**5.9 Avoidance of security**

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 Chargor or otherwise.

**5.10 No prohibitions or breaches**

There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Chargor does not, and will not, constitute a breach of any Insurance Policy or any other policy, agreement, document, instrument or obligation binding on the Chargor or its assets.

**5.11 Environmental compliance**

The Chargor has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

**5.12 Enforceable security**

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargor, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

**5.13 Investments**

5.13.1 The Investments are fully paid and are not subject to any option to purchase or similar rights.

5.13.2 No constitutional document of an issuer of an Investment, nor any other agreement:

- a. restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this deed; or
- b. contains any rights of pre-emption in relation to the Investments.

5.13.3 The Chargor has complied with all notices relating to all or any of the Investments received by it pursuant to sections 790D and 790E of the Companies Act 2006.

5.13.4 No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under

paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Investments.

**6. GENERAL COVENANTS**

**6.1 Negative pledge and disposal restrictions**

The Chargor shall not at any time, save in respect of any Permitted Security:

- 6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset;
- 6.1.2 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
- 6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

**6.2 Preservation of Secured Assets**

The Chargor 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 Bank, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

**6.3 Compliance with laws and regulations**

6.3.1 The Chargor shall not, without the Bank's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

6.3.2 The Chargor shall:

- a. 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 Enforcement of rights**

The Chargor shall use its best endeavours to:

- 6.4.1 procure the prompt observance and performance of the covenants and other obligations imposed on the Chargor's counterparties (including each insurer in respect of an Insurance Policy); and
- 6.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Bank may require from time to time.

**6.5 Notice of misrepresentation and breaches**

The Chargor shall, promptly on becoming aware of any of the same, notify the Bank in writing of:

- 6.5.1 any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 6.5.2 any breach of any covenant set out in this deed.

**6.6 Title documents**

The Chargor shall, as so required by the Bank, deposit with the Bank and the Bank shall, for the duration of this deed be entitled to hold:

- 6.6.1 all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Chargor (and if these are not within the possession or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title);
  - 6.6.2 all Insurance Policies; and
  - 6.6.3 all deeds and documents of title (if any) relating to the Book Debts as the Bank may specify from time to time.
- 6.7 **Notices to be given by the Chargor**
- 6.7.1 The Chargor shall as requested by the Bank from time to time:
    - a. give notice to the relevant insurers of the assignment of the Chargor's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3.3.1 and use all reasonable endeavours to procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Bank; and
    - b. give notice the relevant bank, building society, financial institution or other person with whom the Chargor holds any accounts of the fixed charge over such account(s) under clause 3.2.13 and use all reasonable endeavours to procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Bank.
  - 6.7.2 The Chargor shall obtain the Bank's prior written approval of the form of any notice or acknowledgement to be used under this clause 6.7.
- 6.8 **Insurance**
- 6.8.1 The Chargor shall, unless it has a prior written waiver from the Bank, effect and maintain sufficient and appropriate policies of insurance of its business and assets as would be maintained by reasonably prudent persons carrying on the same class of business as the Chargor and shall supply copies of them to the Bank on written demand by the Bank and in any event within 30 days of the end of each calendar year. In the event that the Chargor fails to provide copies of its Insurance Policies to the Bank within 30 days of the end of each calendar year then the Bank may put in place such insurance policies as it sees fit in respect of the Charged Assets, the costs of which may be debited by the Bank to the Chargor's loan account. The Chargor must immediately on request by the Bank pay the costs and expenses of the Bank or its agents incurred in connection with any action taken by the Bank under this clause 6.8.1.
  - 6.8.2 In addition to the obligation on the Chargor to maintain insurance generally in relation to its business and assets under clause 6.8.1 above, the Chargor shall, at all times, ensure that, in relation to any Charged Property of which it is the owner, it maintains in full force and effect, insurance which:
    - a. insures its interest in any such Charged Property and the plant and machinery thereon (including fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed) as stated in the most recent valuation for the relevant Charged Property addressed to and satisfactory to the Bank plus VAT (where applicable);
    - b. provides cover on (i) an index linked basis, in line with the then current insurance industry practice and (ii) such other terms acceptable to the Bank, acting reasonably; and



- c. provides cover against loss or damage by fire, storm, tempest, flood, earthquake, landslip, heave, subsidence, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage;
- d. is with an insurer of good repute in the insurance market;
- e. includes cover for loss of rent and for all rents payable in respect of any Charged Property for a period of two years;
- f. contains a note of the Bank's interest duly noted by the insurer against the policy (but, for the avoidance of doubt, without the Bank having any liability for any premium in relation to those Insurance Policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy).

6.8.3 The Chargor shall ensure that, at all times, it:

- a. complies with the terms of the Insurance Policies;
- b. does not do or permit anything to be done which may make void or voidable any of the Insurance Policies;
- c. pays each premium for the Insurance Policies promptly and in any event prior to the commencement of the period of insurance for which that premium is payable; and
- d. does all other things necessary as to keep each of the Insurance Policies in force;
- e. promptly pays all premiums in respect of such Insurance Policies and provides such evidence of the same as the Bank may require.

6.8.4 The Chargor shall promptly notify the Bank of:

- a. any termination, avoidance or cancellation of any of the Insurance Policies made or, to its knowledge, threatened or pending;
- b. any claim, and any actual or threatened refusal of any claim, under any of the Insurance Policies; and
- c. any event or circumstance which has led or may lead to a breach by the Chargor of any provision of this clause 6.7 of this deed.

6.8.5 All monies payable under any Insurance Policies shall:

- a. be paid into a Designated Account;
- b. if they are not paid into a Designated Account, be held, pending such payment, by the Chargor as trustee of the same for the benefit of the Bank; and
- c. at the option of the Bank, 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.

## 6.9 Information

The Chargor shall:

- 6.9.1 give the Bank such information concerning the location, condition, use and operation of the Secured Assets as the Bank may require;
- 6.9.2 permit any persons designated by the Bank 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

- 6.9.3 promptly notify the Bank in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Bank's prior approval, implement those proposals at its own expense.
- 6.10 **Payment of outgoings**  
The Chargor 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 Bank.
- 6.11 **Appointment of accountants**  
6.11.1 The Chargor shall:  
a. at its own cost, if at any time so required by the Bank, appoint an accountant or firm of accountants nominated by the Bank to investigate the financial affairs of the Chargor and those of its subsidiaries and report to the Bank; and  
b. co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.
- 6.11.2 The Chargor authorises the Bank to make an appointment as it shall think fit at any time, without further authority from the Chargor. In every case, the Chargor shall pay, or reimburse the Bank for, the fees and expenses of those accountants.
7. **PROPERTY COVENANTS**
- 7.1 **Repair and maintenance**  
The Chargor shall keep all premises and fixtures and fittings on each Charged Property in:  
7.1.1 good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings which have become worn out or otherwise unfit for use with others of a like nature and equal value; and  
7.1.2 such repair and condition as to enable each Charged Property to be let in accordance with all applicable laws and regulations.
- 7.2 **No alterations**  
The Chargor shall not, without the prior written consent of the Bank:  
7.2.1 pull down or remove the whole, or any part of, any building forming part of any Charged Property or permit the same to occur;  
7.2.2 make or permit to be made any material alterations to any Charged Property, or sever or remove or permit to be severed or removed, any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 7.1); or  
7.2.3 remove or make any material alterations to any of the Equipment belonging to, or in use by, the Chargor on any Charged Property (except to effect necessary repairs or replace them with new or improved models or substitutes).
- 7.3 **Conduct of business on Charged Properties**  
The Chargor shall carry on its trade and business on those parts (if any) of the Charged Properties as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business.

#### **7.4 Notices or claims relating to the property**

##### **7.4.1 The Chargor shall:**

- a. give full particulars to the Bank of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a **Notice**) that specifically applies to any Charged Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Notice; and
- b. (if the Bank so requires) immediately, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Bank in making, any objections or representations in respect of that Notice that the Bank thinks fit.

##### **7.4.2 The Chargor shall give full particulars to the Bank of any claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to any Charged Property.**

#### **7.5 Compliance with and enforcement of covenants**

##### **The Chargor shall:**

- 7.5.1 observe and perform all covenants, stipulations and conditions to which each Charged Property, or the use of it, is or may be subject, and (if the Bank so requires) produce to the Bank evidence sufficient to satisfy the Bank that those covenants, stipulations and conditions have been observed and performed; and
- 7.5.2 diligently enforce all covenants, stipulations and conditions benefiting each Charged Property and shall not (and shall not agree to) waive, release or vary any of the same.

#### **7.6 Payment of rent and outgoings**

##### **The Chargor shall:**

- 7.6.1 where a Charged Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and
- 7.6.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Charged Property or on its occupier.

#### **7.7 Leases and licences affecting the Charged Properties**

##### **The Chargor shall not, without the prior written consent of the Bank:**

- 7.7.1 grant any licence or tenancy affecting the whole or any part of any Charged Property, or exercise the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925);
- 7.7.2 in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of any Charged Property (or agree to dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Charged Property);
- 7.7.3 let any person into occupation of or share occupation of the whole or any part of any Charged Property; or
- 7.7.4 grant any consent or licence under any lease or licence affecting any Charged Property.

**7.8 Registration restrictions and cautions against first registration and notices**

7.8.1 If the title to any Charged Property is not registered at the Land Registry, the Chargor shall procure that no person (other than itself) shall be registered under the Land Registration Act 2002 as proprietor of all or any part of any Charged Property, without the prior written consent of the Bank.

7.8.2 Whether or not title to any Charged Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Chargor's title to any Charged Property, the Chargor shall immediately provide the Bank with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Chargor shall immediately, and at its own expense, take such steps as the Bank may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

7.8.3 The Chargor shall be liable for the costs and expenses of the Bank in lodging cautions against the registration of the title to the whole or any part of any Charged Property from time to time.

**7.9 Development restrictions**

The Chargor shall not, without the prior written consent of the Bank:

7.9.1 make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of any Charged Property; or

7.9.2 carry out or permit or suffer to be carried out on any Charged Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit or suffer to be changed the use of any Charged Property.

**7.10 Environment**

The Chargor shall in respect of each Charged Property:

7.10.1 comply with all the requirements of Environmental Law; and

7.10.2 obtain and comply with all Environmental Licences.

**7.11 No restrictive obligations**

The Chargor shall not, without the prior written consent of the Bank, enter into any onerous or restrictive obligations affecting the whole or any part of any Charged Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Charged Property.

**7.12 Proprietary rights**

The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Charged Property without the prior written consent of the Bank.

**7.13 Inspection**

The Chargor shall permit the Bank, any Receiver and any person appointed by either of them to enter on and inspect any Charged Property on reasonable prior notice.

**7.14 Property information**

The Chargor shall inform the Bank promptly of any acquisition by the Chargor of, or contract made by the Chargor to acquire, any freehold, leasehold or other interest in any property.

**7.15 VAT option to tax**

The Chargor shall not, without the prior written consent of the Bank:

7.15.1 exercise any VAT option to tax in relation to any Charged Property; or

7.15.2 revoke any VAT option to tax exercised, and disclosed to the Bank, before the date of this deed.

**7.16 Registration of legal mortgage at the Land Registry**

The Chargor consents to an application being made by the Bank to the Land Registrar for the following restriction in Form P to be registered against its title to each Charged Property over which the Bank has a legal mortgage:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of Allica Bank Limited referred to in the charges register."

**8. INVESTMENTS COVENANTS**

**8.1 Deposit of title documents**

**8.1.1 The Chargor shall:**

- a. on the execution of this deed, deliver to the Bank, or as the Bank may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Chargor at that time; and
- b. on the purchase or acquisition by it of Investments after the date of this deed, deposit with the Bank, or as the Bank may direct, all stock or share certificates and other documents of title or evidence of ownership relating to those Investments.

**8.1.2 At the same time as depositing documents with the Bank, or as the Bank may direct, in accordance with clause 8.1.1, the Chargor shall also deposit with the Bank, or as the Bank may direct:**

- a. all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Chargor, but with the name of the transferee, the consideration and the date left blank; and
- b. any other documents (in each case duly completed and executed by or on behalf of the Chargor) that the Bank may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments,

so that the Bank may, at any time and without notice to the Chargor, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

**8.2 Nominations**

**8.2.1 The Chargor shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:**

- a. does not exercise any rights in respect of any Investments without the prior written approval of the Bank; and
- b. immediately on receipt by it, forward to the Bank all communications or other information received by it in respect of any Investments for which it has been so nominated.

**8.2.2 The Chargor shall not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person in respect of any of the Investments.**

**8.3 Pre-emption rights and restrictions on transfer**

The Chargor shall:

- 8.3.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Investments, for the transfer of the Investments to the Bank or its nominee, or to a purchaser on enforcement of the security constituted by this deed; and
  - 8.3.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that the Bank may require in order to permit the transfer of the Investments to the Bank or its nominee, or to a purchaser on enforcement of the security constituted by this deed.
- 8.4 **Dividends and voting rights before enforcement**
- 8.4.1 Before the security constituted by this deed becomes enforceable, the Chargor may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Bank or any of its nominees, the Bank will hold all those dividends, interest and other monies received by it for the Chargor and will pay them to the Chargor promptly on request.
  - 8.4.2 Before the security constituted by this deed becomes enforceable, the Chargor may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Bank of any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
    - a. it shall not do so in any way that would breach any provision of this deed or for any purpose inconsistent with this deed; and
    - b. the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Bank's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Bank's security under this deed.
  - 8.4.3 The Chargor shall indemnify the Bank against any loss or liability incurred by the Bank (or its nominee) as a consequence of the Bank (or its nominee) acting in respect of the Investments at the direction of the Chargor.
  - 8.4.4 The Bank shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Bank considers prejudicial to, or impairing the value of, the security created by this deed.
- 8.5 **Dividends and voting rights after enforcement**
- After the security constituted by this deed has become enforceable:
- 8.5.1 all dividends and other distributions paid in respect of the Investments and received by the Chargor shall be held by the Chargor on trust for the Bank and immediately paid into a Designated Account or, if received by the Bank, shall be retained by the Bank; and
  - 8.5.2 all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Bank and the Chargor shall, and shall procure that its nominees shall, comply with any directions the Bank may give, in its absolute discretion, concerning the exercise of those rights and powers.

**8.6 Calls on Investments**

Notwithstanding the security created by this deed, the Chargor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Chargor acknowledges that the Bank shall not be under any liability in respect of any such calls, instalments or other payments.

**8.7 No alteration of constitutional documents or rights attaching to Investments**

The Chargor shall not, without the prior written consent of the Bank, amend, or agree to the amendment of:

8.7.1 the memorandum or articles of association, or any other constitutional documents, of any issuer of the Investments that is not a public company; or

8.7.2 the rights or liabilities attaching to, or conferred by, all or any of the Investments.

**8.8 Preservation of Investments**

The Chargor shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of the Investments that is not a public company shall not:

8.8.1 consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;

8.8.2 issue any new shares or stock; or

8.8.3 refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, the Bank or the Chargor in accordance with this deed.

**8.9 Investments information**

The Chargor shall, promptly following receipt, send to the Bank copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.

**8.10 Compliance with requests for information**

The Chargor shall promptly copy to the Bank and comply with all requests for information which are made under the Companies Act 2006 (including, without limitation, under sections 790D, 790E and 793 of the Companies Act 2006) relating to all or any part of the Secured Assets. If it fails to do so, the Bank may elect to provide such information as it may have on behalf of the Chargor.

**9. EQUIPMENT COVENANTS**

**9.1 Maintenance of Equipment**

The Chargor shall:

9.1.1 maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;

9.1.2 at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and

9.1.3 not permit any Equipment to be:

- a. used or handled other than by properly qualified and trained persons; or
- b. overloaded or used for any purpose for which it is not designed or reasonably suitable.

## **9.2 Payment of Equipment taxes**

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Bank.

## **9.3 Notice of charge**

9.3.1 The Chargor shall, if so requested by the Bank, affix to and maintain on each item of Equipment in a conspicuous place, a clearly legible identification plate containing the following wording:

"NOTICE OF CHARGE

This [DESCRIBE ITEM] and all additions to it [and ancillary equipment] are subject to a fixed charge dated [DATE] in favour of [BANK]."

9.3.2 The Chargor shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 9.3.1.

## **10. BOOK DEBTS COVENANTS**

### **10.1 Realising Book Debts**

10.1.1 The Chargor shall as an agent for the Bank, collect in and realise all Book Debts, pay the proceeds into a Designated Account immediately on receipt and, pending that payment, hold those proceeds in trust for the Bank;

10.1.2 The Chargor shall not, without the prior written consent of the Bank, withdraw any amounts standing to the credit of any Designated Account.

10.1.3 The Chargor shall, if called on to do so by the Bank, execute a legal assignment of the Book Debts to the Bank on such terms as the Bank may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

### **10.2 Preservation of Book Debts**

The Chargor shall not (except as provided by clause 10.1 or with the prior written consent of the Bank) release, exchange, compound, set off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.

## **11. RELEVANT AGREEMENTS COVENANTS**

### **11.1 Relevant Agreements**

11.1.1 The Chargor shall, unless the Bank agrees otherwise in writing, comply with the terms of any document, agreement or arrangement comprising the Secured Assets.

11.1.2 The Chargor shall not, unless the Bank agrees otherwise in writing:

- a. amend or vary or agree to any change in, or waive any requirement of or its rights under;
- b. settle, compromise, terminate, rescind or discharge (except by performance); or
- c. abandon, waive, dismiss, release or discharge any action, claim or proceedings against any counterparty to or other person in connection with, any document, agreement or arrangement comprising the Secured Assets.

## **12. INTELLECTUAL PROPERTY COVENANTS**

### **12.1 Preservation of rights**

The Chargor 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.



**12.2 Registration of Intellectual Property**

The Chargor shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Bank informed of all matters relating to each such registration.

**12.3 Maintenance of Intellectual Property**

The Chargor shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

**13. POWERS OF THE BANK**

**13.1 Power to remedy**

13.1.1 The Bank shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this deed.

13.1.2 The Chargor irrevocably authorises the Bank and its agents to do all things that are necessary or desirable for that purpose.

13.1.3 Any monies expended by the Bank in remedying a breach by the Chargor of its obligations contained in this deed shall be reimbursed by the Chargor to the Bank on a full indemnity basis and shall carry interest in accordance with clause 19.1.

**13.2 Exercise of rights**

13.2.1 The rights of the Bank under clause 13.1 are without prejudice to any other rights of the Bank under this deed.

13.2.2 The exercise of any rights of the Bank under this deed shall not make the Bank liable to account as a mortgagee in possession.

**13.3 Power to dispose of chattels**

13.3.1 At any time after the security constituted by this deed has become enforceable, the Bank or any Receiver may, as agent for the Chargor, dispose of any chattels or produce found on any Charged Property.

13.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 13.3.1, the Chargor shall indemnify the Bank and any Receiver against any liability arising from any disposal made under clause 13.3.1.

**13.4 Bank has Receiver's powers**

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 Bank 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.

**13.5 Conversion of currency**

13.5.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Bank may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 13.5) from their existing currencies of denomination into any other currencies of denomination that the Bank may think fit.

13.5.2 Any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange or such other bank's prevailing spot selling rate of exchange as the Bank in its sole discretion may select for such other currency against the existing currency.

- 13.5.3 Each reference in this clause 13.5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

**13.6 New accounts**

13.6.1 If the Bank receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Bank may open a new account for the Chargor in the Bank's books. Without prejudice to the Bank's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

13.6.2 If the Bank does not open a new account immediately on receipt of the notice, or deemed notice, under clause 13.6.1, then, unless the Bank gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Bank shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Bank.

**13.7 Indulgence**

The Bank may, at its 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 Chargor) 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 Chargor for the Secured Liabilities.

**13.8 Appointment of an Administrator**

13.8.1 The Bank may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.

13.8.2 Any appointment under this clause 13.8 shall:

- a. be in writing signed by a duly authorised signatory of the Bank; and
- b. take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

13.8.3 The Bank may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 13.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

**13.9 Further advances**

This deed secures further advances and re-advances but the Bank is not obliged to make further advances.

**14. ENFORCEMENT OF SECURITY**

**14.1 Enforcement**

14.1.1 The security constituted by this deed shall become immediately enforceable if:

- a. the Secured Liabilities, or any part of them, are not paid or discharged when due;
- b. the Chargor is in breach of any of its obligations under this deed;
- c. the Chargor enters into liquidation or any arrangement with creditors or a receiver, administrator or a trustee is appointed over a substantial part of the Chargor's assets or the Chargor is subject to similar proceedings in any jurisdiction;

- d. anyone seeks to, or takes possession of, or seeks to enforce, or enforces, any security affecting the Secured Assets or if anything else happens which might adversely affect the security given by this deed;
  - e. any other event occurs that makes the security constituted by this deed (or any other security for the Secured Liabilities) enforceable;
  - f. the Charged Property is compulsorily purchased or requisitioned;
  - g. an Event of Default (as defined under the Loan Agreement) under the Loan Agreement occurs; or
  - h. any act of default (howsoever described) occurs entitling the Bank to declare the Secured Liabilities or any part of them due and payable or the Secured Liabilities or any part of them otherwise becomes due and payable.
- 14.1.2 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
- 14.1.3 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 14.1.1.
- 14.1.4 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

#### **14.2 Extension of statutory powers of leasing**

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 Bank 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 Chargor, to:

- 14.2.1 grant a lease or agreement to lease;
- 14.2.2 accept surrenders of leases; or
- 14.2.3 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 Chargor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Bank or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

#### **14.3 Access on enforcement**

- 14.3.1 At any time after the Bank has demanded payment of the Secured Liabilities or if the Chargor defaults in the performance of its obligations under this deed, the Chargor will allow the Bank or its 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 Bank or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry.
- 14.3.2 At all times, the Chargor must use its best endeavours to allow the Bank or its Receiver access to any premises for the purpose of clause 14.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

#### **14.4 Prior Security**

14.4.1 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 Bank may:

- a. redeem that or any other prior Security;
- b. procure the transfer of that Security to it; and
- c. settle and pass any account of the holder of any prior Security.

14.4.2 The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Chargor. All monies paid by the Bank to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Bank, be due from the Chargor to the Bank on current account and shall bear interest at the Default Rate and be secured as part of the Secured Liabilities.

#### **14.5 Protection of third parties**

No purchaser, mortgagee or other person dealing with the Bank, any Receiver or Delegate shall be concerned to enquire:

- 14.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- 14.5.2 whether any power the Bank, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- 14.5.3 how any money paid to the Bank, any Receiver or any Delegate is to be applied.

#### **14.6 Privileges**

Each Receiver and the Bank is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

#### **14.7 No liability as mortgagee in possession**

Neither the Bank, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, 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 act, 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.

#### **14.8 Conclusive discharge to purchasers**

The receipt of the Bank, 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 Bank, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

#### **14.9 Right of appropriation**

14.9.1 To the extent that:

- a. the Secured Assets constitute Financial Collateral; and
- b. this deed and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

the Bank 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 Bank may, in its absolute discretion, determine.

14.9.2 The value of any Secured Assets appropriated in accordance with this clause shall be:

- a. in the case of cash, the amount standing to the credit of each of the Chargor's accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and
- b. in the case of Investments, the price of those Investments at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Bank may select (including independent valuation).

14.9.3 The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

## **15. RECEIVER**

### **15.1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of the Chargor, the Bank 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.

### **15.2 Removal**

The Bank may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), 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.

### **15.3 Remuneration**

The Bank 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, to the extent not otherwise discharged.

### **15.4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Bank 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.

### **15.5 Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Bank despite any prior appointment in respect of all or any part of the Secured Assets.

### **15.6 Agent of the Chargor**

Any Receiver appointed by the Bank under this deed shall be the agent of the Chargor and the Chargor 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 Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Bank.

## **16. POWERS OF RECEIVER**

### **16.1 General**

16.1.1 Any Receiver appointed by the Bank under this deed shall, in addition to the powers conferred on it by statute, have the powers set out in clause 16.2 to clause 16.23.

- 16.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- 16.1.3 Any exercise by a Receiver of any of the powers given by clause 16 may be on behalf of the Chargor, the directors of the Chargor (in the case of the power contained in clause 16.16) or itself.
- 16.2 Repair and develop Charged Property**  
A Receiver may undertake or complete any works of repair, building or development on the Charged Property 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.
- 16.3 Surrender leases**  
A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Charged Property and may grant any other interest or right over any Charged Property on any terms, and subject to any conditions, that it thinks fit.
- 16.4 Employ personnel and advisers**  
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 it thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor.
- 16.5 Make VAT elections**  
A Receiver may make, exercise or revoke any value added tax option to tax as it thinks fit.
- 16.6 Remuneration**  
A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Bank may prescribe or agree with it.
- 16.7 Realise Secured Assets**  
A Receiver may collect and get in the Secured Assets or any part of them in respect of which it 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.
- 16.8 Manage or reconstruct the Chargor 's business**  
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 Chargor.
- 16.9 Dispose of Secured Assets**  
A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it 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.
- 16.10 Sever fixtures and fittings**  
A Receiver may sever and sell separately any fixtures or fittings from any Charged Property without the consent of the Chargor.
- 16.11 Sell Book Debts**  
A Receiver may sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit.

**16.12 Valid receipts**

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.

**16.13 Make settlements**

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that it may think expedient.

**16.14 Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

**16.15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as it may think expedient.

**16.16 Make calls on Chargor members**

A Receiver may make calls conditionally or unconditionally on the members of the Chargor 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 Chargor on its directors in respect of calls authorised to be made by them.

**16.17 Insure**

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 19, 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 Chargor under this deed.

**16.18 Powers under the LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if it 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.

**16.19 Borrow**

A Receiver may, for any of the purposes authorised by this clause 16, raise money by borrowing from the Bank (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Bank consents, terms under which that security ranks in priority to this deed).

**16.20 Redeem prior Security**

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 Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

**16.21 Delegation**

A Receiver may delegate his powers in accordance with this deed.

**16.22 Absolute beneficial owner**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it 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.

**16.23 Incidental powers**

A Receiver may do any other acts and things that it:

16.23.1 may consider desirable or necessary for realising any of the Secured Assets;

- 16.23.2 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
- 16.23.3 lawfully may or can do as agent for the Chargor.

## **17. DELEGATION**

### **17.1 Delegation**

The Bank 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 21.1).

### **17.2 Terms**

The Bank and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

### **17.3 Liability**

Neither the Bank nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **18. APPLICATION OF PROCEEDS**

### **18.1 Order of application of proceeds**

All monies received by the Bank, 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:

- 18.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Bank (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;
- 18.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Bank determines; and
- 18.1.3 in payment of the surplus (if any) to the Chargor or other person entitled to it.

### **18.2 Appropriation**

Neither the Bank, 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.

### **18.3 Suspense account**

All monies received by the Bank, a Receiver or a Delegate under this deed:

- 18.3.1 may, at the discretion of the Bank, Receiver or Delegate, be credited to any suspense or securities realised account;
- 18.3.2 shall bear interest, if any, at the rate agreed in writing between the Bank and the Chargor; and
- 18.3.3 may be held in that account for so long as the Bank, Receiver or Delegate thinks fit.

## **19. COSTS AND INDEMNITY**

### **19.1 Costs**

The Chargor shall, promptly on demand, pay to, or reimburse, the Bank 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 Bank, any Receiver or any Delegate in connection with:

- 19.1.1 this deed or the Secured Assets;



- 19.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Bank's, a Receiver's or a Delegate's rights under this deed; or
- 19.1.3 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 Chargor) at the Default Rate.

## **19.2 Indemnity**

The Chargor shall indemnify the Bank, 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:

- 19.2.1 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;
- 19.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- 19.2.3 any default or delay by the Chargor in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 19.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **20. FURTHER ASSURANCE**

### **20.1 Further assurance**

The Chargor shall, at its own expense, take whatever action the Bank or any Receiver may reasonably require for:

- 20.1.1 creating, perfecting or protecting the security intended to be created by this deed;
- 20.1.2 facilitating the realisation of any Secured Asset; or
- 20.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Bank or any Receiver in respect of any Secured Asset, including, without limitation (if the Bank 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 Bank or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **21. POWER OF ATTORNEY**

### **21.1 Appointment of attorneys**

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

- 21.1.1 the Chargor is required to execute and do under this deed; or
- 21.1.2 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 Bank, any Receiver or any Delegate.

**21.2 Ratification of acts of attorneys**

The Chargor 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 21.1.

**22. RELEASE**

**22.1** Subject to clause 28.3, on the expiry of the Security Period (but not otherwise), the Bank shall, at the request and cost of the Chargor, take whatever action is necessary to:

**22.1.1** release the Secured Assets from the security constituted by this deed; and

**22.1.2** reassign the Secured Assets to the Chargor.

**23. ASSIGNMENT AND TRANSFER**

**23.1 Assignment by Bank**

**23.1.1** At any time, without the consent of the Chargor, the Bank may assign or transfer any or all of its rights and obligations under this deed.

**23.1.2** The Bank may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Chargor, the Secured Assets and this deed that the Bank considers appropriate.

**23.2 Assignment by Chargor**

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

**24. SET-OFF**

**24.1 Bank's right of set-off**

The Bank may at any time set off any liability of the Chargor to the Bank against any liability of the Bank to the Chargor, 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 Bank may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Bank of its rights under this clause 24 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

**24.2 No obligation to set off**

The Bank is not obliged to exercise its rights under clause 24.1. If, however, it does exercise those rights it must promptly notify the Chargor of the set-off that has been made.

**24.3 Exclusion of Chargor's right of set-off**

All payments made by the Chargor to the Bank under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

**25. AMENDMENTS, WAIVERS AND CONSENTS**

**25.1 Amendments**

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).

**25.2 Waivers and consents**

**25.2.1** 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.

**25.2.2** A failure to exercise, or a delay in exercising, 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 Bank shall be effective unless it is in writing.

**25.3 Rights and remedies**

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.

**26. SEVERANCE**

**26.1 Severance**

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.

**27. THIRD PARTY RIGHTS**

**27.1 Third party rights**

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.

**28. FURTHER PROVISIONS**

**28.1 Independent security**

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Bank may hold for any of the Secured Liabilities at any time. No prior security held by the Bank over the whole or any part of the Secured Assets shall merge in the security created by this deed.

**28.2 Continuing security**

The security constituted by 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 Bank discharges this deed in writing.

**28.3 Discharge conditional**

Any release, discharge or settlement between the Chargor and the Bank shall be deemed conditional on no payment or security received by the Bank 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:

28.3.1 the Bank or its nominee 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 Bank deems necessary to provide the Bank with security against any such avoidance, reduction or order for refund; and

28.3.2 the Bank may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

**28.4 Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

**28.5 Small company moratorium**

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by the Chargor under schedule A1 to the Insolvency Act 1986 nor the doing of anything by the Chargor with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

28.5.1 an event under this deed which causes any floating charge created by this deed to crystallise;

28.5.2 an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Chargor; or

28.5.3 a ground under this deed for the appointment of a Receiver.

**29. NOTICES**

**29.1 Notices**

29.1.1 Any communication to be made under or in connection with this deed shall be made in writing.

29.1.2 Any communication, demand or notice given by the Bank to the Chargor under this deed may be made:

a. by letter addressed to the Chargor or any officer of the Chargor sent by first class post to or left at the Chargor's address last known to the Bank or at the Chargor's registered office; or

b. by fax or other electronic means to the Chargor's fax number or electronic mail address last known to the Bank.

If sent by post, the demand or notice will be deemed to have been received at 10.00 a.m. on the second Business Day following the day the letter was posted. If delivered by hand, the demand or notice will be deemed to have been received at the time it is left at the relevant address. If sent by fax or other electronic means, the demand or notice will be deemed to have been received at the time of transmission (provided that if the date of transmission is not a Business Day it shall be deemed to have been received at 9 a.m. on the next Business Day).

29.1.3 Unless otherwise advised by the Bank any notices given by the Chargor to the Bank under this deed shall be by letter and sent by first class post or delivered by hand to: the Company Secretary, Allica Bank Limited, Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS.

29.1.4 All communications to the Bank shall be effective only on actual receipt by the Bank.

29.1.5 The Bank may rely upon any communication by telephone or email purporting to be on behalf of the Chargor by anyone notified to the Bank as being authorised to do so, without enquiry by the Bank as to authority or identity. The Chargor agrees to indemnify the Bank against any liability incurred or sustained by the Bank as a result.

**30. GOVERNING LAW AND JURISDICTION**

**30.1 Governing Law and Jurisdiction**

30.1.1 This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

- 30.1.2 Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Bank to take proceedings against the Chargor 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.

This debenture is executed by the Chargor as a deed and is delivered on the date stated at the beginning of this deed.

## SCHEDULE 1

### Definitions and Interpretation

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

The following definitions apply in this deed:

- Administrator:** an administrator appointed to manage the affairs, business and property of the Chargor pursuant to clause 13.8.
- Book Debts:** all present and future book and other debts, and monetary claims due or owing to the Chargor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Chargor in relation to any of them.
- Charged Property:** 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 Chargor, or in which the Chargor holds an interest, and references to "Charged Property" shall include references to the whole or any part of it.
- Default Rate:** means:
- the default interest rate set out in the document under which the relevant liability for the overdue amount initially arose; or
  - if no default rate is set out in such document, 2% per annum above the Bank of England's Base Rate from time to time.
- Delegate:** any person appointed by the Bank or any Receiver pursuant to clause 17 and any person appointed as attorney of the Bank, Receiver or Delegate.
- Designated Account:** any account of the Chargor nominated by the Bank as a designated account for the purposes of this deed.
- Environment:** the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
- Environmental Law:** all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.
- Environmental Licence:** any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets.
- 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 Chargor, including any part of it and all spare parts, replacements, modifications and additions.

<b>Financial Collateral:</b>	has the meaning given to that expression in the Financial Collateral Regulations.
<b>Financial Collateral Regulations:</b>	the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226).
<b>Insurance Policy:</b>	each contract and policy of insurance effected or maintained by the Chargor from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Charged Property or the Equipment).
<b>Intellectual Property:</b>	the Chargor's present and future patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>Investments:</b>	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 Chargor, including any: <ul style="list-style-type: none"> <li>a. dividend, interest or other distribution paid or payable in relation to any of the Investments; and</li> <li>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.</li> </ul>
<b>Loan Agreement:</b>	the loan agreement dated on or about the date of this deed entered into by the Chargor and the Bank, as amended or amended and restated from time to time.
<b>LPA 1925:</b>	the Law of Property Act 1925.
<b>Permitted Security:</b>	means:- <ul style="list-style-type: none"> <li>a. any liens arising by operation of law and in the ordinary course of the Chargor's business and not as a result of any default or omission by the Chargor;</li> <li>b. any normal title retention arrangements included in a supplier's standard conditions of supply of goods acquired by the Chargor in the ordinary course of trade;</li> <li>c. Security granted by the Chargor in favour of the Bank;</li> </ul>

	d. Security granted by the Chargor in favour of a third party in respect of which the Bank has given its prior written consent to the Chargor.
<b>Secured Assets:</b>	all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).
<b>Secured Liabilities:</b>	all present and future obligations and liabilities of the Chargor to the Bank, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity and whether or not the Bank was an original party to the relevant transaction and in whatever name or style, together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.
<b>Security Financial Collateral Arrangement:</b>	has the meaning given to that expression in the Financial Collateral Regulations.
<b>Security:</b>	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.
<b>Security Period:</b>	the period starting on the date of this deed and ending on the date on which the Bank is 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.

## 1.2 Interpretation

In this deed:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- 1.2.2 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);
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;



- 1.2.8 a reference to writing or written includes fax and email in respect of communications from the Bank to the Chargor but not in respect of communications from the Chargor to the Bank unless otherwise specified;
- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 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;
- 1.2.11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.2.12 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;
- 1.2.13 a reference to an amendment includes a novation, re-enactment, supplement or variation (and amend and amended shall be construed accordingly);
- 1.2.14 a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.15 a reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 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
- 1.2.17 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 **Clawback**

If the Bank considers that an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

### 1.4 **Nature of security over real property**

A reference in this deed to a charge or mortgage of or over any Charged Property includes:

- 1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Charged Property at any time;
- 1.4.2 the proceeds of the sale of any part of that Charged Property and any other monies paid or payable in respect of or in connection with that Charged Property;
- 1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of that Charged Property, and any monies paid or payable in respect of those covenants; and
- 1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property.

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

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Loan Agreement and of any side letters between any parties in relation to the Loan Agreement are incorporated into this deed.

**1.6 Perpetuity period**

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 Schedules**

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.

EXECUTED as a DEED by the  
Chargor acting by a director in the  
presence of

JAMES JOHN KIRLEY

Occupation of Witness:

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