

# MR01

## Particulars of a charge



Companies House

100358/52

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

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

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is  
an instrument. Use form MR08

MONDAY



LD2

"L4HVD9W1"

12/10/2015

#77

COMPANIES HOUSE

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

☒ You must enclose a certified copy of the instrument with this form. This will be  
scanned and placed on the public record. Do not send the original.

### 1 Company details

Company number 0 9 6 2 3 8 0 9

Company name in full EPHIOS HOLDCO LIMITED

For official use

→ **Filing in this form**  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 0 1 1 0 2 0 1 5

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

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

Name U S Bank Trustees Limited

Name

Name

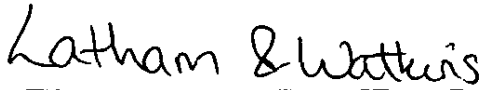
Name

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

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

MR01

## Particulars of a charge

<b>4</b>	<b>Brief description</b>	
Brief description	Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument	Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"  Please limit the description to the available space
	N/A	
<b>5</b>	<b>Other charge or fixed security</b>	
	Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box  <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>6</b>	<b>Floating charge</b>	
	Is the instrument expressed to contain a floating charge? Please tick the appropriate box  <input type="checkbox"/> <b>Yes</b> Continue <input checked="" type="checkbox"/> <b>No</b> Go to <b>Section 7</b>  Is the floating charge expressed to cover all the property and undertaking of the company? <input type="checkbox"/> <b>Yes</b>	
<b>7</b>	<b>Negative Pledge</b>	
	Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box  <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>8</b>	<b>Trustee statement<sup>①</sup></b>	
	You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge  <input type="checkbox"/>	<sup>①</sup> This statement may be filed after the registration of the charge (use form MR06)
<b>9</b>	<b>Signature</b>	
Signature	Please sign the form here  <div style="border: 1px solid black; padding: 5px;"> <small>Signature</small>  <div style="display: flex; justify-content: space-between;"> <span>X</span> <span>X</span> </div>  </div> This form must be signed by a person with an interest in the charge	

# MR01

## Particulars of a charge



### Presenter information

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

Contact name **Malika Sajdik**

Company name **Latham & Watkins (London) LLP**

Address **99 Bishopsgate**

Post town **London**

County/Region

Postcode **E C 2 M 3 X F**

Country **England**

DX **C/M 030385-0256**

Telephone **0207 710 1171**



### Certificate

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



### Checklist

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

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

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



### Important information

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



### How to pay

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

Make cheques or postal orders payable to 'Companies House'.



### Where to send

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

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

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

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



### Further information

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

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



**FILE COPY**

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

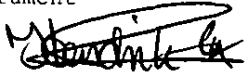
Company number. 9623809

Charge code: 0962 3809 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st October 2015 and created by EPHIOS HOLDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th October 2015.

Given at Companies House, Cardiff on 16th October 2015

I certify that, save for material redacted pursuant to section 859G of the Companies Act 2006, the enclosed copy of the security instrument delivered as part of this application for registration under section 859A of the Companies Act 2006 is a correct copy of the original security instrument

Signature   
Date 12/10/2015

EXECUTION VERSION

1 October 2015

**EPHIOS HOLDCO LIMITED**

(as Chargor)

and

**U.S. Bank Trustees Limited**

(as Senior Notes Trustee)

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**SHARE CHARGE**

---

**LATHAM & WATKINS**

99 Bishopsgate  
London EC2M 3XF  
United Kingdom  
Tel +44 20 7710 1000  
[www.lw.com](http://www.lw.com)

## CONTENTS

Clause	Page
1. INTERPRETATION .....	3
2. COVENANT TO PAY.. .....	8
3. LIMITED RECOURSE.. . . . .	8
4. FURTHER ASSURANCE..... . . . .	9
5. CHARGING PROVISION..... . . . .	9
6. NEGATIVE PLEDGE..... . . . .	9
7. REPRESENTATIONS AND WARRANTIES .....	10
8. PROTECTION OF SECURITY..... . . . .	11
9. VOTING AND DISTRIBUTION RIGHTS.....	11
10. INDEMNITY..... . . . .	12
11. IMPLIED COVENANTS FOR TITLE .....	12
12. SENIOR NOTES TRUSTEE'S POWER TO REMEDY .....	12
13. CONTINUING SECURITY..... . . . .	12
14. ENFORCEMENT OF SECURITY.. .....	13
15. RECEIVERS .....	14
16. APPLICATION OF PROCEEDS .....	15
17. PROTECTION OF SENIOR NOTES TRUSTEE AND RECEIVER .....	16
18. POWER OF ATTORNEY .....	18
19. PROTECTION FOR THIRD PARTIES.....	18
20. COSTS AND EXPENSES .....	19
21. REINSTATEMENT AND RELEASE ... ..	19
22. CURRENCY CLAUSES .....	20
23. SET OFF..... . . . .	20
24. RULING OFF..... . . . .	21
25. REDEMPTION OF PRIOR CHARGES.....	21
26. ASSIGNMENT BY THE SENIOR NOTES TRUSTEE .....	21
27. NOTICES ... ..	21
28. COUNTERPARTS..... . . . .	22
29. INVALIDITY OF ANY PROVISION . . . . .	22
30. GOVERNING LAW AND JURISDICTION .....	22
SCHEDULE 1.....	23
SHARES	

**THIS DEED** is made on 1 October 2015

**BETWEEN**

- (1) **Ephios Holdco Limited**, a limited liability company incorporated in England and Wales with registered number 9623809 (the "**Chargor**"), and
- (2) **U.S Bank Trustees Limited**, a limited liability company incorporated under the laws of England and Wales, with its registered office at 125 Old Bond Street, Fifth Floor, London EC2N 1AR, United Kingdom as senior notes trustee for itself and the other Secured Parties (the "**Senior Notes Trustee**")

**IT IS AGREED AS FOLLOWS**

**1. INTERPRETATION**

**1.1 Definitions**

In this Deed

"**Agreed Security Principles**" has the meaning given to it in the Facilities Agreement,

"**Acceleration Event**" means the Senior Notes Trustee or any of the Noteholders exercising any acceleration rights under the Senior Notes Documents (howsoever described) or any acceleration provisions being automatically invoked under the Senior Notes Indenture,

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration,

"**Charged Property**" means all the assets and undertakings of the Chargor which from time to time are subject of the security created or expressed to be created in favour of the Senior Notes Trustee by or pursuant to this Deed,

"**Company**" means Ephios Holdco II PLC, a public limited company incorporated under the laws of England and Wales with registered number 9624069, and having its registered office at 5<sup>th</sup> Floor, 6 St Andrew Street, London, EC4A 3AE,

"**Default Rate**" means the rate which is one per cent per annum over the rate at which the Senior Notes Trustee was being offered, by leading banks in the London interbank market, on deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Senior Notes Trustee may from time to time select provided that if any such rate offered is below zero, that rate will be deemed to be zero,

"**Event of Default**" means an event of default under (and as defined in) the Senior Notes Indenture,

"**Facilities Agreement**" means the revolving facility agreement dated 17 June 2015 between, amongst others, the Original Lenders, the Agent and the Security Agent (each as defined therein), as amended and restated from time to time, including pursuant to an amendment agreement dated 23 July 2015

"**Group**" means the Chargor, the Company and each of the Restricted Subsidiaries,

"**Legal Reservations**" means

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors,
- (b) the time barring of claims under the Limitation Acts,
- (c) the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void,
- (d) defences of set-off or counterclaim,
- (e) similar principles, rights and defences under the laws of England and Wales, and
- (f) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinions delivered to the Senior Notes Trustee pursuant to the Senior Notes Indenture,

**"Limitation Acts"** means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984,

**"Material Adverse Effect"** means any event or series of events which (taking into account all the circumstances)

- (a) is materially adverse to the business, assets or financial condition of the Group, taken as a whole; or
- (b) is materially adverse to the ability of the Group (taken as a whole) to perform its payment obligations under any of the Senior Notes Documents (taking into account the financial resources available to the Group), or
- (c) subject to the Legal Reservations and any Perfection Requirements, affects the validity or the enforceability of the Security (taken as a whole) granted pursuant to the Transaction Security Documents in a way which is materially adverse to the interests of the Secured Parties under the Senior Notes Documents and if capable of remedy, is not remedied within 20 Business Days of the Chargor becoming aware of the issue or being given notice of the issue by the Senior Notes Trustee;

**"Noteholders"** means the holders, from time to time, of the Senior Notes, as determined in accordance with the Senior Notes Indenture,

**"Parties"** means each of the parties to this Deed from time to time,

**"Perfection Requirements"** means any and all registrations, filings, notices and other actions and steps required to be made in any jurisdiction (including with a court or another official authority in that jurisdiction) in order to perfect security created by the Transaction Security Documents or in order to achieve the relevant priority for such Security,

**"Quasi-Security"** means a transaction in which the Chargor

- (a) sells, transfers or otherwise disposes of any of its assets on terms whereby they are or may be leased to or re-acquired by the Chargor or any other member of its Group,
- (b) sells, transfers or otherwise disposes of any of its receivables on recourse terms,
- (c) enters into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts, or



(d) enters into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising financial indebtedness or of financing the acquisition of an asset,

**“Receivables Pledge”** means the receivables pledge dated on or about the date of this Deed and made between the Chargor and the Senior Notes Trustee,

**“Receiver”** means an administrator, a receiver and manager, or an administrative receiver or other similar officer of the whole or any part of the Charged Property,

**“Related Rights”** means all dividends, distributions and other income paid or payable on a Share, together with all shares or other property derived from any Share and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Share (whether by way of conversion, redemption, bonus, preference, option or otherwise),

**“Secured Obligations”** means all present and future monies, debts, liabilities and obligations due at any time due, owing or incurred by any member of the Group to any Secured Party (both actual and contingent and whether incurred solely or jointly and as principal or surety or with any other person or in any other capacity), including without limitation any amounts (such as post-insolvency interest) that would be included in any thereof but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings, under the Senior Notes Documents,

**“Secured Parties”** means the Senior Notes Trustee, acting on behalf of itself and the Noteholders, and any Receiver or Delegate,

**“Security”** means a mortgage, standard security charge, pledge, assignment, assignation, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having the effect of giving security or preferential ranking on enforcement to a creditor or any other agreement having a similar effect,

**“Senior Notes”** means collectively (a) €375,000,000 8 25% senior notes due 2023 issued pursuant to the Senior Notes Indenture, and (b) any additional notes issued from time to time under the Senior Notes Indenture,

**“Senior Notes Documents”** means

- (a) the Senior Notes Indenture and the Senior Notes,
- (b) each “Guarantee” as defined in the Senior Notes Indenture, and
- (c) the Transaction Security Documents,

**“Senior Notes Indenture”** means the senior notes indenture dated 6 August 2015 between, among others, the Senior Notes Issuer and the Senior Notes Trustee,

**“Shares”** means all shares owned by the Chargor in the Company including but not limited to the shares, if any, specified in Schedule 1 (*Shares*),

**“Taxes”** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty, interest or other additional amount payable in connection with any failure to pay or any delay in paying any of the same),

**“Transaction Security”** means the Security created or expressed to be created in favour of the Senior Notes Trustee under or pursuant to the Transaction Security Documents,

**“Transaction Security Documents”** means the Receivables Pledge, this Deed and any other document entered into at any time by the Chargor creating any guarantee, indemnity, Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations, and

**“Trust Property”** means

- (a) the Security and all other powers, rights and guarantees (both present and future) granted to the Senior Notes Trustee under or pursuant to the Senior Notes Documents including, without limitation, all representations and warranties, obligations, covenants and other contractual provisions therein given in favour of the Senior Notes Trustee as trustee for the Secured Parties (other than any given solely for its own benefit in its capacity as Senior Notes Trustee),
- (b) all assets of the Chargor from time to time the subject of the Security created under this Deed,
- (c) all monies received or recovered by the Senior Notes Trustee from time to time as trustee for the Secured Parties under, pursuant to or in connection with any Senior Notes Document, and
- (d) all investments, property, money and other assets at any time representing or deriving from any of the foregoing, including all interest, income and other sums at any time received or receivable by the Senior Notes Trustee (or any delegate or sub-delegate of the Senior Notes Trustee) in respect of the same (or any part thereof)

## 1 2 **Construction**

In this Deed, unless a contrary intention appears, a reference to

- (a) an **“agreement”** includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written),
- (b) an **“amendment”** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **“amend”**, **“amending”** and **“amended”** shall be construed accordingly,
- (c) **“assets”** includes present and future properties, revenues and rights of every description,
- (d) **“including”** means including without limitation and **“includes”** and **“included”** shall be construed accordingly,
- (e) **“losses”** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **“loss”** shall be construed accordingly,
- (f) a **“person”** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality) or any two or more of the foregoing, and
- (g) a **“regulation”** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation

### **1 3 Other References**

- (a) In this Deed, unless a contrary intention appears, a reference to
  - (i) any Secured Party, the Chargor or any other person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's successors in title, permitted assignees and transferees and in the case of the Senior Notes Trustee, any person for the time being appointed as Senior Notes Trustee or Senior Notes Trustee in accordance with the Senior Notes Documents,
  - (ii) any Senior Notes Document or any other agreement or instrument is to be construed as a reference to that relevant Senior Notes Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced (from time to time) and includes any increase in, extension of or change to any monies made available or other obligations under that Senior Notes Document or other agreement or instrument but excluding any amendment or novation made contrary to any provision of any Senior Notes Documents,
  - (iii) any clause or schedule is a reference to, respectively, a clause of and schedule to this Deed and any reference to this Deed includes its schedules,
  - (iv) a provision of law is a reference to that provision as amended or re-enacted, and
  - (v) any matter being "permitted" shall include reference to such matters not being prohibited.
- (b) The index to and the headings in this Deed are inserted for convenience only and are to be ignored in construing this Deed
- (c) Words importing the plural shall include the singular and vice versa

### **1 4 Incorporation by reference**

- (a) Unless the context otherwise requires or unless otherwise defined in this Deed, words and expressions defined in the Senior Notes Indenture have the same meanings when used in this Deed
- (b) This Deed is subject to the terms of the Senior Notes Indenture.

### **1 5 Miscellaneous**

- (a) Notwithstanding any other provision of this Deed, the obtaining of a moratorium under section 1A of the Insolvency Act 1986, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any floating charge created by this Deed to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by the Chargor or a ground for the appointment of a Receiver
- (b) The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no rights or benefits expressly or impliedly conferred by this Deed shall be enforceable under that Act against the Parties by any other person

- (c) The Parties hereto intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand

**1 6 Conflict with the Senior Notes Indenture**

In the event of any conflict or inconsistency between the terms of this Deed and the terms of the Senior Notes Indenture, the terms of the Senior Notes Indenture shall prevail

**1 7 Declaration of trust**

- (a) The Senior Notes Trustee hereby accepts its appointment as agent and trustee by the Secured Parties and declares (and the Chargor hereby acknowledges) that the Trust Property is held by the Senior Notes Trustee as a trustee for and on behalf of the Secured Parties on the basis of the duties, obligations and responsibilities set out in the Senior Notes Documents (including, for the avoidance of doubt, applying all payments, recoveries or receipts in respect of the Security received after taking any enforcement action in accordance with the Senior Notes Indenture)
- (b) Section 1 of the Trustee Act 2000 shall not apply to the duties of the Senior Notes Trustee in relation to the trusts created by this Deed or any other Senior Notes Document. In performing its duties, obligations and responsibilities, the Senior Notes Trustee shall be considered to be acting only in a mechanical and administrative capacity or as expressly provided in this Deed and the other Senior Notes Documents
- (c) In acting as trustee for the Secured Parties under this Deed, the Senior Notes Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments. Any information received by some other division or department of the Senior Notes Trustee may be treated as confidential and shall not be regarded as having been given to the Senior Notes Trustee's trustee division

**2. COVENANT TO PAY**

Subject to Clause 3 (*Limited Recourse*), the Chargor, as primary obligor, covenants with the Senior Notes Trustee (for the benefit of itself and the other Secured Parties) that it will on demand pay the Secured Obligations when they fall due for payment.

**3. LIMITED RECOURSE**

Notwithstanding Clause 2 (*Covenant to Pay*) and any other terms of this Deed, the Senior Notes Trustee agrees with and acknowledges to the Chargor that all obligations of the Chargor to the Senior Notes Trustee under and pursuant to this Deed, including any amount in respect of the Secured Obligations, are limited in recourse as set out below

- (a) the Senior Notes Trustee agrees that it will have a claim only in respect of the Charged Property and will not have any claim, by operation of law or otherwise, against, or recourse to any of the Chargor's other assets,
- (b) sums payable to the Senior Notes Trustee in respect of the Chargor's obligations to the Senior Notes Trustee shall be limited to the aggregate amounts received, realised or otherwise recovered by or for the account of the Senior Notes Trustee in respect of the Charged Property pursuant to the enforcement of the Transaction Security, and
- (c) once the Senior Notes Trustee has enforced the Transaction Security over the Charged Property pursuant to Clause 14 (*Enforcement of Security*), the Senior Notes Trustee

shall have no further claim against the Chargor in respect of any such Secured Obligations and such Secured Obligations shall be discharged in full

#### **4. FURTHER ASSURANCE**

- (a) The covenants set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in sub-clause 4 (b) and (c) below
- (b) Subject to the Agreed Security Principles, the Chargor shall promptly (and at its own expense) do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Senior Notes Trustee may reasonably specify (and in such form as the Senior Notes Trustee may reasonably require in favour of the Senior Notes Trustee or its nominee(s))
  - (i) to perfect the Security created or intended to be created under or evidenced by this Deed (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Deed) or for the exercise of any rights, powers and remedies of the Senior Notes Trustee, any Receiver or the other Secured Parties provided by or pursuant to this Deed or by law, and/or
  - (ii) once the Transaction Security has become enforceable, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created under this Deed
- (c) Subject to the Agreed Security Principles, the Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Senior Notes Trustee or the Secured Parties by or pursuant to this Deed

#### **5. CHARGING PROVISION**

The Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Senior Notes Trustee by way of first fixed charge and with full title guarantee all of the Shares, both present and future, from time to time, owned by it or in which it has an interest, and all corresponding Related Rights

#### **6. NEGATIVE PLEDGE**

The Chargor shall not

- (a) create or agree to create or permit to subsist any Security or Quasi-Security over all or any part of the Charged Property,
- (b) sell, transfer, lend or otherwise dispose of all or any part of the Charged Property or the right to receive or to be paid the proceeds arising on the disposal of the same, or agree or attempt to do so, or
- (c) dispose of the equity of redemption in respect of all or any part of the Charged Property,

except as permitted by the Senior Notes Documents or with the prior consent of the Senior Notes Trustee

## **7. REPRESENTATIONS AND WARRANTIES**

### **7.1 General**

The Chargor makes the following representations and warranties on the date of this Deed to the Senior Notes Trustee and acknowledges that the Senior Notes Trustee has become a party to this Deed in reliance on these representations and warranties

### **7.2 Status**

It is a limited liability company, duly incorporated and validly existing under the laws of England and Wales

### **7.3 Binding Obligations**

Subject to the Legal Reservations and the Perfection Requirements:

- (a) the obligations expressed to be assumed by it under this Deed are legal, valid, binding and enforceable obligations, and
- (b) (without limiting the generality of paragraph (a) above) this Deed creates the security interests which it purports to create and such security is valid and effective

### **7.4 Non-conflict with other obligations**

The execution and delivery by it of this Deed, and its performance of the transactions contemplated thereby, will not conflict with

- (a) any law or regulation applicable to it in any material respect,
- (b) its constitutional documents in any material respect, or
- (c) any agreement or instrument binding upon it or constitute a default or termination event (however described) under any such agreement or instrument in each case in a manner which has or is reasonably likely to have a Material Adverse Effect

### **7.5 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed

### **7.6 Validity and admissibility in evidence**

- (a) Subject to the Legal Reservations and the Perfection Requirements, all Authorisations required
  - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed, and
  - (ii) to make this Deed admissible in evidence,have been obtained or effected and are in full force and effect
- (b) All Authorisations reasonably necessary for the conduct of the business, trade and ordinary activities of the Chargor have been obtained or effected and are in full force

and effect if failure to obtain or effect those Authorisations has or is reasonably likely to have a Material Adverse Effect

**7 7 Governing law and enforcement**

Subject to the Legal Reservations

- (a) the choice of English law as the governing law of this Deed will be recognised and enforced in England, and
- (b) any judgment obtained in England in relation to this Deed will be recognised and enforced in England

**7 8 Shares**

- (a) It is the legal and beneficial owner of the Shares identified against its name in Schedule 1 (*Shares*) which represent the entire issued share capital of the Company
- (b) All of the Shares held by the Chargor are fully paid

**8. PROTECTION OF SECURITY**

- 8 1 The Chargor shall as soon as reasonably practicable after, and in any event within 5 Business Days, of signing this Deed for any currently owned Shares and within 20 Business Days for any Shares acquired after the date of this Deed, provide to the Senior Notes Trustee (or as it shall direct), share certificates relating to the Shares together with stock transfer forms executed in blank and left undated on the basis that the Senior Notes Trustee shall be able to hold such documents of title and stock transfer forms until the Secured Obligations have been irrevocably and unconditionally discharged in full and shall be entitled, at any time following the occurrence of an Acceleration Event which is continuing to complete, under its power of attorney given in this Deed, the stock transfer forms on behalf of the Chargor in favour of itself or such other person as it shall select
- 8 2 The Senior Notes Trustee may retain any document delivered to it under this Clause 8 or otherwise until the Secured Obligations have been irrevocably and unconditionally discharged in full and, if for any reason it ceases to hold any such document before that time, it may by notice to the Chargor require that the document be redelivered to it and the Chargor shall promptly comply (or procure compliance) with that notice
- 8 3 Any document required to be delivered to the Senior Notes Trustee under Clause 8 1 which is for any reason not so delivered or which is released by the Senior Notes Trustee to the Chargor shall be held on trust by the Chargor for the Senior Notes Trustee

**9. VOTING AND DISTRIBUTION RIGHTS**

**9 1 Prior to the occurrence of an Acceleration Event**

- (a) the Chargor shall be entitled to receive and retain all dividends, distributions and other moneys paid on or derived from its Shares, and
- (b) the Chargor shall be entitled to exercise all voting and other rights and powers attaching to its Shares provided that it shall not exercise any such voting rights or powers in a manner which would prejudice the interests of the Secured Parties under this Deed, or adversely affect the validity, enforceability or existence of the Charged Property or the Security created under this Deed, or cause an Event of Default to occur

- 9 2 At any time after the occurrence of an Acceleration Event which is continuing
- (a) all voting rights in respect of the Shares shall be exercised by the Chargor as directed by the Senior Notes Trustee, unless the Senior Notes Trustee has notified the Chargor in writing that it wishes to give up this right, and
  - (b) the Chargor shall hold any dividends, distributions and other monies paid on or derived from the Shares on trust for the Secured Parties and pay the same to, or as directed by, the Senior Notes Trustee
- 9 3 If, at any time, any Shares are registered in the name of the Senior Notes Trustee or its nominee, the Senior Notes Trustee will not be under any duty or obligation to ensure that any dividends, distributions or other moneys payable in respect of those Shares are duly and promptly paid or received by it or its nominee, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Shares

## **10. INDEMNITY**

- 10 1 The Chargor shall indemnify the Senior Notes Trustee against all losses incurred by the Senior Notes Trustee as a result of a breach by the Chargor of its obligations under this Deed and in connection with the exercise by the Senior Notes Trustee of its rights hereunder (including rights contained in Clause 18 (*Power of attorney*)) save for any losses arising as a result of the gross negligence or wilful misconduct of the Senior Notes Trustee. All sums the subject of this indemnity will be payable by the Chargor to the Senior Notes Trustee within ten (10) Business Days of demand and if not so paid will bear interest at the Default Rate

## **11. IMPLIED COVENANTS FOR TITLE**

- 11 1 The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 5 (*Charging Provision*)
- 11 2 It shall be implied in respect of Clause 5 (*Charging Provision*) that the Chargor is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment)

## **12. SENIOR NOTES TRUSTEE'S POWER TO REMEDY**

If the Chargor fails to comply with any obligation set out in Clause 8 (*Protection of Security*) or Clause 9 (*Voting and Distribution Rights*) and that failure is not remedied to the satisfaction of the Senior Notes Trustee within 14 days of the Senior Notes Trustee giving notice to the Chargor or the Chargor becoming aware of the failure to comply, it will allow (and irrevocably authorises) the Senior Notes Trustee or any person which the Senior Notes Trustee nominates to take any action on behalf of the Chargor which is necessary to remedy such failure

## **13. CONTINUING SECURITY**

### **13 1 Continuing Security**

The Security constituted by this Deed shall be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other act, matter or thing



### **13 2 Other Security**

The Security constituted by this Deed is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other Security or other right which the Senior Notes Trustee and/or any other Secured Party may now or after the date of this Deed hold for any of the Secured Obligations, and this Security may be enforced against the Chargor without first having recourse to any other rights of the Senior Notes Trustee or any other Secured Party

## **14. ENFORCEMENT OF SECURITY**

### **14 1 Enforcement Powers**

For the purpose of all rights and powers implied or granted by statute, the Secured Obligations are deemed to have fallen due on the date of this Deed. The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 and all other enforcement powers conferred by this Deed shall, irrespective of any effect of insolvency proceedings opened in respect of the Chargor or the Company on the validity, enforceability, stay ("*suspension*"), effectiveness, inadmissibility ("*irrecevabilité*") or otherwise of any such notice, be immediately exercisable at any time after an Acceleration Event has occurred which is continuing

### **14 2 Statutory Powers**

The powers conferred on mortgagees, receivers or administrative receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (as the case may be) shall apply to the Security created under this Deed, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers contained in those Acts and those contained in this Deed, those contained in this Deed shall prevail

### **14 3 Exercise of Powers**

All or any of the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Deed, and all or any of the rights and powers conferred by this Deed on a Receiver (whether expressly or impliedly), may be exercised by the Senior Notes Trustee without further notice to the Chargor at any time after an Acceleration Event which is continuing, irrespective of whether the Senior Notes Trustee has taken possession or appointed a Receiver of the Charged Property

### **14 4 Disapplication of Statutory Restrictions**

The restriction on the consolidation of mortgages and on power of sale imposed by sections 93 and 103 respectively of the Law of Property Act 1925 shall not apply to the security constituted by this Deed

### **14 5 Appropriation under the Financial Collateral Regulations**

- (a) At any time after the occurrence of an Acceleration Event which is continuing, to the extent that any of the Charged Property constitutes "financial collateral" and this Deed and the obligations of a Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003, No 3226), (as amended) (the "**Regulations**")), the Senior Notes Trustee shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations

- (b) For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the market price of such publically traded securities determined by the Senior Notes Trustee or an agent or financial advisor appointed by the Senior Notes Trustee by reference to the relevant public index. In each case, the parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## **15. RECEIVERS**

### **15.1 Appointment of Receiver**

- (a) At any time after an Acceleration Event has occurred and is continuing, or if so requested by the Chargor, the Senior Notes Trustee may (save to the extent prohibited by section 72A Insolvency Act 1986) by writing under hand signed by any officer or manager of the Senior Notes Trustee, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this Deed.

### **15.2 Powers of Receiver**

Each Receiver appointed under this Deed shall have (subject to any limitations or restrictions which the Senior Notes Trustee may incorporate in the deed or instrument appointing it) all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this Deed), so that the powers set out in schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the Chargor, each Receiver shall have power to

- (a) exercise all voting and other rights attaching to the Shares owned by the Chargor and comprised in the Charged Property, but only following a written notification from either the Receiver or the Senior Notes Trustee to the Chargor stating that the Senior Notes Trustee shall exercise all voting rights in respect of the Shares owned by the Chargor and comprised in the Charged Property,
- (b) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver,
- (c) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating to any of the Charged Property, and
- (d) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 15.2, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the Chargor for all such purposes,

and in each case may use the name of the Chargor and exercise the relevant power in any manner which he may think fit.

**15 3 Receiver as Agent**

Each Receiver shall be the agent of the Chargor, which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Senior Notes Trustee will not be responsible for any misconduct, negligence or default of a Receiver.

**15 4 Removal of Receiver**

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

**15 5 Remuneration of Receiver**

The Senior Notes Trustee may from time to time fix the remuneration of any Receiver appointed by it.

**15 6 Several Receivers**

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Deed (unless the document appointing such Receiver states otherwise).

**16. APPLICATION OF PROCEEDS**

**16 1 Order of Application**

All monies received or recovered by the Senior Notes Trustee or any Receiver pursuant to this Deed shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified by Section 6.10 of the Senior Notes Indenture notwithstanding any purported appropriation by the Chargor.

**16 2 Section 109 Law of Property Act 1925**

Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

**16 3 Application against Secured Obligations**

Subject to Clause 16.1 above, any moneys or other value received or realised by the Senior Notes Trustee from the Chargor or a Receiver under this Deed may be applied by the Senior Notes Trustee to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Senior Notes Trustee may determine.

**16 4 Suspense Account**

Until the Secured Obligations are paid in full, the Senior Notes Trustee or the Receiver (as appropriate) may whilst an Acceleration Event is continuing place and keep (for such time as it shall determine) any money received, recovered or realised pursuant to this Deed or on account of the Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account (to the credit of either the Chargor or the Senior Notes Trustee or the Receiver as the Senior Notes Trustee or the Receiver shall think fit) and the Senior Notes Trustee or the Receiver may retain the same for the period which it considers expedient.

without having any obligation to apply all or any part of that money in or towards discharge of the Secured Obligations

## **17. PROTECTION OF SENIOR NOTES TRUSTEE AND RECEIVER**

### **17.1 No Liability**

Neither the Senior Notes Trustee nor any Receiver shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his gross negligence or wilful default under the Senior Notes Documents

### **17.2 Possession of Charged Property**

Without prejudice to Clause 17.1 above, if the Senior Notes Trustee or the Receiver enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession

### **17.3 Primary liability of Chargor**

The Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Secured Obligations and the Charged Property shall be deemed to be a principal security for the Secured Obligations. The liability of the Chargor under this Deed and the charges contained in this Deed shall not be impaired by any forbearance, neglect, indulgence, abandonment, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Senior Notes Trustee or any other Secured Party, or by any other act, event or matter whatsoever whereby the liability of the Chargor (as a surety only) or the charges contained in this Deed (as secondary or collateral charges only) would, but for this provision, have been discharged

### **17.4 Waiver of defences**

The obligations of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Deed, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or any Secured Party) including

- (a) any time, waiver or consent granted to, or composition with, the Company, or other person,
- (b) the release of the Company or any other person under the terms of any composition or arrangement with any creditor of any member of the Group,
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Company or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security,
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Company or any other person,
- (e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Senior Notes Document or any other document or security including, without limitation, any change in the purpose

of, any extension of or increase in any facility or the addition of any new facility under any Senior Notes Document or other document or security,

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Senior Notes Document or any other document or security, or
- (g) any insolvency or similar proceedings

**17.5 Senior Notes Trustee**

- (a) The provisions set out in the Senior Notes Indenture shall govern the rights, protections, indemnities, immunities, duties and obligations of the Senior Notes Trustee under this Deed
- (b) The Senior Notes Trustee is entering this Deed solely in its capacity as Senior Notes Trustee, and not in its individual capacity. The Senior Notes Trustee shall have all of the rights, benefits, protections, limits, immunities and indemnities as set forth in the Senior Notes Documents, all of which shall be deemed fully incorporated into this Deed *mutatis mutandis*. The Senior Notes Trustee shall be entitled to seek instructions from the Noteholders in accordance with the provisions of the Senior Notes Documents as to any actions to be taken by it under this Deed and where it acts on the basis of such instructions it shall not, subject to the terms of the Senior Notes Documents, incur any liability to any person for so acting
- (c) The Senior Notes Trustee undertakes to perform or to observe only such of its agreements and obligations as are specifically set forth in this Deed and pursuant to the Senior Notes Documents. The Senior Notes Trustee is not a fiduciary of and shall not owe or be deemed to owe any fiduciary duty to the Chargor or any of its respective affiliates
- (d) From time to time, the Chargor shall execute and deliver to the Senior Notes Trustee such additional documents, and take such other actions as the Senior Notes Trustee may deem reasonably necessary or desirable to carry out the purposes of this Deed or necessary to preserve and protect the Senior Notes Trustee's rights as contemplated herein
- (e) It is agreed as follows
  - (i) the rights and remedies of the Senior Notes Trustee in relation to any misrepresentations or breach of warranty on the part of the Chargor shall not be prejudiced by any investigation by or on behalf of the Senior Notes Trustee into the affairs of the Chargor, by the execution or the performance of this Deed or by any other act or thing which may be done by or on behalf of the Senior Notes Trustee in connection with this Deed and which might, apart from this Clause 17.5, prejudice such rights or remedies,
  - (ii) no failure by either the Senior Notes Trustee or its delegate to exercise, nor any delay by such party in exercising, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercises thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by applicable law, and
  - (iii) the rights and remedies provided in this Deed and the other Senior Notes Documents are cumulative and not exclusive of any other rights or remedies,

whether provided by the Senior Notes Documents, applicable law or otherwise

- (f) The Senior Notes Trustee shall be entitled to rely, and shall be fully protected in relying, upon any communication or document reasonably believed by it to be genuine and correct and to have been signed, sent or made by the proper person or persons and upon advice and statements of legal counsel, independent accountants and other experts selected by the Senior Notes Trustee. The Senior Notes Trustee shall have no obligation or duty to any person to act or refrain from acting or exercising any of its rights or powers under this Deed

#### **17.6 Delegation**

The Senior Notes Trustee may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Senior Notes Trustee will not be liable or responsible to the Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate

#### **17.7 Cumulative Powers**

The powers which this Deed confers on the Senior Notes Trustee, the other Secured Parties and any Receiver appointed under this Deed are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Senior Notes Trustee, the other Secured Parties or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Senior Notes Trustee, the other Secured Parties and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment

### **18. POWER OF ATTORNEY**

The Chargor, by way of security, irrevocably and severally appoints the Senior Notes Trustee, each Receiver and any person nominated for the purpose by the Senior Notes Trustee or any Receiver (in writing and signed by an officer of the Senior Notes Trustee or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of this Deed, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Senior Notes Trustee or any Receiver under this Deed or otherwise for any of the purposes of this Deed, and the Chargor covenants with the Senior Notes Trustee and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney. The power of attorney referred to in this Clause 18 may only be exercised following (i) the occurrence of an Acceleration Event that is continuing, or (ii) a failure by the Chargor to carry out any further assurance or perfection obligation under this Deed

### **19. PROTECTION FOR THIRD PARTIES**

#### **19.1 No Obligation to Enquire**

No purchaser from, or other person dealing with, the Senior Notes Trustee or any Receiver (or their agents) shall be obliged or concerned to enquire whether

- (a) the right of the Senior Notes Trustee or any Receiver to exercise any of the powers conferred by this Deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power, or
- (b) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters

**19 2 Receipt Conclusive**

The receipt of the Senior Notes Trustee or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Senior Notes Trustee or any Receiver

**20. COSTS AND EXPENSES**

**20 1 Initial Expenses**

The Chargor shall promptly on demand pay to each of the Senior Notes Trustee and any Receiver the amount of all costs and expenses (including legal fees) properly incurred by any of them in connection with

- (a) the negotiation, preparation, execution, completion and perfection of this Deed and any other documents or notices referred to in, or related or incidental to, this Deed, and
- (b) any amendment, waiver or consent relating to this Deed (and documents, matters or things referred to in this Deed) requested by any member of the Group

**20 2 Enforcement Expenses**

The Chargor shall, without double-counting, within three Business Days of demand, pay to each of the Senior Notes Trustee, any Receiver and each other Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under (and any documents referred to in) this Deed and any proceedings instituted by or against the Senior Notes Trustee and any Secured Party as a consequence of taking or holding the Security created under this Deed or enforcing these rights

**20 3 Stamp Duties, etc**

The Chargor shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this Deed

**20 4 Default Interest**

If not paid when due, the amounts payable under this Clause 20 shall carry interest compounded with monthly rests at the Default Rate (after as well as before judgment), from the date of demand and shall form part of the Secured Obligations

**21. REINSTATEMENT AND RELEASE**

**21 1 Amounts Avoided**

If any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the Chargor or otherwise, then for

the purposes of this Deed that amount shall not be considered to have been paid. No interest shall accrue on any such amount, unless and until such amount is so avoided or set aside.

**21.2 Discharge Conditional**

Any settlement or discharge between the Chargor and any Secured Party shall be conditional upon no security or payment to that Secured Party by the Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Secured Party under this Deed) that Secured Party shall be entitled to recover from the Chargor the value which that Secured Party has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

**21.3 Covenant To Release**

Upon the Senior Note Trustee being satisfied (acting reasonably) that all the Secured Obligations have been irrevocably paid in full and none of the Senior Notes Trustee nor any Secured Party has any actual or contingent liability to advance further moneys to, or incur liability on behalf of, the Chargor, the Senior Notes Trustee and each Secured Party shall, at the request and cost of the Chargor, execute any documents (or procure that its nominees execute any documents) or take any action which may be necessary to release (without representation, warranty or recourse by the Senior Notes Trustee) the Charged Property from the Security constituted by this Deed.

**22. CURRENCY CLAUSES**

**22.1 Conversion**

All monies received or held by the Senior Notes Trustee or any Receiver under this Deed may be converted into any other currency which the Senior Notes Trustee considers necessary to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Senior Notes Trustee's spot rate of exchange then prevailing for purchasing that other currency with the existing currency.

**22.2 No Discharge**

No payment to the Senior Notes Trustee (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Senior Notes Trustee has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Senior Notes Trustee shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security constituted by this Deed to recover the amount of the shortfall.

**23. SET OFF**

**23.1 Set-off Rights**

While an Event of Default is continuing, but without prejudice to the rights at law of the Secured Parties, a Secured Party may set off any matured obligation due from the Chargor under this Deed (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.



**23 2 Unliquidated Claims**

If, at any time after notice demanding payment of any sum which is then due but unpaid in respect of the Secured Obligations has been given by the Senior Notes Trustee or any other Secured Party to the Chargor, the relevant obligation or liability is unliquidated or unascertained, the Secured Party may set-off the amount which it estimates (in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained

**23 3 No Set-off**

The Chargor will pay all amounts payable under this Deed without any set-off, counterclaim or deduction whatsoever unless required by law, in which event the Chargor will pay an additional amount to ensure that the payment recipient receives the amount which would have been payable had no deduction been required to have been made

**24. RULING OFF**

If the Senior Notes Trustee or any other Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as permitted by the Senior Notes Documents) it may open a new account for the Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the Chargor), as from the time it receives that notice, all payments made by the Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations

**25. REDEMPTION OF PRIOR CHARGES**

The Senior Notes Trustee may, at any time after an Acceleration Event has occurred which is continuing, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Senior Notes Trustee all principal moneys and interest and all losses incidental to any such redemption or transfer

**26. ASSIGNMENT BY THE SENIOR NOTES TRUSTEE**

The Senior Notes Trustee may at any time assign or otherwise transfer all or any part of its rights under this Deed in accordance with the Senior Notes Documents

**27. NOTICES**

**27 1 Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter

**27 2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Deed for any communication or document to be made or delivered under or in connection with this Deed is as shown immediately after its name on the execution pages of this Deed (in the case of any person who is a party as at the date of this Deed), or any substitute address or fax number as the party may notify to the

Senior Notes Trustee (or the Senior Notes Trustee may notify to the other Parties, if a change is made by the Senior Notes Trustee) by not less than five Business Days' notice

**27.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective
  - (i) if by way of fax, when received in legible form, or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,and, if a particular department or officer is specified as part of its address details provided under Clause 27.2 (*Addresses*), if addressed to that department or officer
- (b) Any communication or document to be made or delivered to the Senior Notes Trustee will be effective only when actually received by the Senior Notes Trustee and then only if it is expressly marked for the attention of the department or officer identified with the Senior Notes Trustee's signature below (or any substitute department or officer as the Senior Notes Trustee shall specify for this purpose)

**28. COUNTERPARTS**

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

**29. INVALIDITY OF ANY PROVISION**

If any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way

**30. GOVERNING LAW AND JURISDICTION**

- (a) This Deed and any non-contractual claims arising out of or in connection with it shall be governed by and construed in accordance with English law
- (b) Subject to Clause (c) below, the Parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed, whether contractual or non-contractual (including a dispute regarding the existence, validity or termination of this Deed) (a "**Dispute**") The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary
- (c) The Parties agree that, for the benefit of the Secured Parties only, nothing in this Deed shall limit the right of the Secured Parties to bring any legal action against the Chargor in any other court of competent jurisdiction

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

## **SCHEDULE 1**

### **SHARES**

#### **Shares**

<b>Name in which the shares are held</b>	<b>Name of company issuing shares</b>	<b>Number and class of shares</b>
Ephios Holdco Limited	Ephios Holdco II PLC	1 Ordinary share

**SIGNATORIES TO SHARE CHARGE**

**THE CHARGOR**

**EXECUTED** as a **DEED** by  
**EPHIOS HOLDCO LIMITED** acting by.



**Director**

Witness:



Name

PEETRA ANDERSON - FIGUEROA

Address:

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Occupation

SOLICITOR

**THE SENIOR NOTES TRUSTEE**

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By: 

Name: **Hamyd Mazrae**  
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