



**Registration of a Charge**

Company Name: **AUDLEY GROUP LIMITED**

Company Number: **09906780**



XCI94AZV

Received for filing in Electronic Format on the: **12/12/2023**

**Details of Charge**

Date of creation: **08/12/2023**

Charge code: **0990 6780 0007**

Persons entitled: **SILBURY SPECIALTY FINANCE LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **WITHERS LLP**



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

Company number: 9906780

Charge code: 0990 6780 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th December 2023 and created by AUDLEY GROUP LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th December 2023 .

Given at Companies House, Cardiff on 15th December 2023

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



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

DATED 8 December 2023

- (1) **THE SUBORDINATED CREDITORS LISTED IN  
SCHEDULE 1**  
(as Chargors)
- and
- (2) **SILBURY SPECIALTY FINANCE LIMITED**  
(as Security Agent)

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**SUBORDINATED CREDITORS' SECURITY AGREEMENT**

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I certify that save for material redacted pursuant to section 859G of the Companies Act 2006, this copy is a correct copy of the electronic original instrument.

Signed: *Withers LLP*

Dated: 12 December 2023

**withers** LLP

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**THIS DEED** is made on 8 December 2023

**BETWEEN:**

- (1) **THE PARTIES LISTED AT SCHEDULE 1** (each a '**Chargor**', and together the '**Chargors**'); and
- (2) **SILBURY SPECIALTY FINANCE LIMITED**, a company incorporated in England with company number 12736777, whose registered office is at Verde, 10 Bressenden Place, London, United Kingdom SW1E 5DH (the '**Security Agent**').

**WHEREAS**

- (A) The Original Lenders (as defined in the Facility Agreement (as defined below)) have agreed to make available to the Borrower (as defined below) certain loan facilities.
- (B) It is a condition precedent to those loan facilities being made available that the Chargors enter into this Deed.

**IT IS AGREED** as follows:

1. **DEFINITIONS**

In this Deed:

**Borrower** means Headley Court Trustees I Limited a company incorporated and registered in Jersey with registration number 144390 whose registered office is at 2<sup>nd</sup> Floor, Gaspé House 66-72 Esplanade St Helier Jersey JE1 1GH and Headley Court Trustees II Limited a company incorporated and registered in Jersey with registration number 144391 whose registered office is at 2<sup>nd</sup> Floor, Gaspé House 66-72 Esplanade St Helier Jersey JE1 1GH, acting in their capacity as joint trustees of the Headley Court Unit Trust;

**Default Rate** means the rate specified in Clause 8.3 of the Facility Agreement;

**Delegate** means any delegate, agent, attorney or co-trustee appointed by the Security Agent and/or any Receiver and/or any Delegate (as appropriate);

**Discharge Date** means the date on which the Security Agent is satisfied that all the Secured Liabilities have been irrevocably discharged in full and no further Secured Liabilities are capable of arising;

**Facility Agreement** means the term loan facility agreement dated on or about the date of this Deed between, amongst others, the Borrower and the Security Agent;

**Insolvency Act** means the Insolvency Act 1986;

**Junior Debt** means all Liabilities (whether documented or otherwise) owing or payable to any Chargor by the Borrower pursuant to the Junior Debt Documents or otherwise, including but not limited to the benefit of any judgment or order to pay a sum of money and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to the same;

**Junior Debt Document** means any agreement evidencing Liabilities owed by the Borrower to a Chargor;

**Liabilities** means all present or future monies, obligations or liabilities, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity;

**LLP 1** means SLIP Audley I LLP (a limited liability partnership incorporated in England Wales with registration number OC447323) whose registered address is at 65 High Street, Egham, Surrey, TW20 9EY;

**LLP 2** means SLIP Audley II LLP (a limited liability partnership incorporated in England Wales with registration number OC447470) whose registered address is at 65 High Street, Egham, Surrey, TW20 9EY;

**LPA** means the Law of Property Act 1925;

**Original Jurisdiction** means, in relation to a person, the jurisdiction under whose laws that person is incorporated as at the date of this Deed or its jurisdiction of domicile (as appropriate);

**Party** means a party to this Deed;

**Permitted Payment** has the meaning in the Facility Agreement;

**Receiver** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets;

**Regulations** means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226);

**Related Rights** means, as regards any asset, all present and future:

- (a) money and proceeds of any nature paid or payable in relation to the asset, including sale proceeds and money paid by way of damages, award or judgment made in connection with that asset; and
- (b) all rights and assets of any nature attaching to, deriving from or exercisable as a result of a Chargor's interest in or ownership or operation of the asset;

**Relevant Currency** means in relation to each of the Secured Liabilities, the currency in which it is from time to time denominated;

**Relevant Jurisdiction** means in relation to a person:

- (a) its Original Jurisdiction; and
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it;

**Secured Liabilities** means all present and future monies, obligations and liabilities (whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under any Finance Document or otherwise (including, without limitation, those arising under Clause 17.1 (*Reinstatement*)), together with all interest (including, without limitation, default interest) accruing in respect of any of such monies, obligations and liabilities;

**Secured Party** means a Finance Party, a Receiver or a Delegate;

**Security Assets** means all of the assets which from time to time are, or are expressed to be, subject to the Security created by this Deed;

**SLIP** means Senior Living Investment Partners Limited Partnership (a limited partnership registered in England with registration number LP022672) acting by its general partner Senior Living Investment Partners (General Partner) Limited (a company incorporated in England with registration number 14180400); and

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

## 2. **CONSTRUCTION**

2.1 Unless otherwise defined in this Deed, a term defined in the Facility Agreement has the same meaning in this Deed and in any notice given under or in connection with this Deed.

2.2 Unless a contrary indication appears, a reference in this Deed to:

2.2.1 this Deed, a '**Finance Document**' or any other agreement or instrument is a reference to this Deed or that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, replaced or restated (in each case, other than in breach of this Deed or any other Finance Document) from time to time;

2.2.2 references to '**indebtedness**' include:

- (a) any obligation (whether incurred jointly or severally or as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (b) any obligation (such as post-insolvency interest) which would be included in (a) above but for the fact that it is invalid or unenforceable;
- (c) any liability for damages or in respect of a restitutionary claim; and
- (d) any liability flowing from any recovery of a payment or discharge in respect of any obligation referred to in (a) above on the grounds of a preference or otherwise;

2.2.3 a '**person**' includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);

2.2.4 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 of any regulatory, self-regulatory or other authority or organisation;

2.2.5 '**asset**' or '**assets**' includes present and future properties, revenues, interests and rights of every description;

2.2.6 '**disposal**' includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and '**dispose**' will be construed accordingly;

2.2.7 a '**Security Asset**' and '**Junior Debt**' includes:

- (a) any part of that asset;
- (b) any present and future assets of that type; and
- (c) all Related Rights relating to assets of that type;

2.2.8 '**this Security**' means any Security created by or pursuant to this Deed;

2.2.9 '**Secured Liabilities**' is deemed to include a reference to any part of them;

2.2.10 the '**Security Agent**', the '**Borrower**' the '**Chargor**', any '**Secured Party**', or any '**Party**' or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time



being appointed as Security Agent or Security Agents in accordance with the Finance Documents;

- 2.2.11 a provision of law is a reference to that provision as amended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that provision of law;
- 2.2.12 the singular is deemed to include the plural and vice versa;
- 2.2.13 one gender is a reference to all other genders; and
- 2.2.14 a time of day is a reference to London time.
- 2.3 The term '**Lender**' includes any subsidiary or group company or assignee of the Lenders granting or continuing to grant facilities or accommodation to the Borrower.
- 2.4 A reference to a '**receiver**' is a reference to a receiver of whatsoever nature including, without limitation, a receiver, a manager and an administrative receiver.
- 2.5 Clause and Schedule headings are for ease of reference only.
- 2.6 A '**Default**' (other than an Event of Default) is '**continuing**' if it has not been remedied or waived and an Event of Default is '**continuing**' if it has not been waived.
- 2.7 Any undertaking given by a Chargor under this Deed remains in force until the Discharge Date and is given for the benefit of each Secured Party.
- 2.8 The absence of or incomplete details of any Security Asset in any Schedule does not affect the validity or enforceability of any Security under this Deed.
- 2.9 It is intended that this Deed takes effect as a deed notwithstanding the fact that the Security Agent may only execute this Deed under hand.
- 2.10 If the Security Agent considers that an amount paid to a Secured Party under any Finance Document or in relation to any Secured Liability is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 2.11 In the event of a conflict between the terms of this Deed and the terms of the Facility Agreement, the terms of the Facility Agreement will prevail.
- 2.12 For the avoidance of doubt the parties agree and acknowledge that the Trustees (as defined in the Facility Agreement) are entering into this Deed only in their capacity as joint trustees of the Headley Court Unit Trust (and as joint bare trustees of Trust Income) and, as such clause the liability of the Trustees shall be limited in accordance with Clause 1.6 (*Recourse to the Trustees*) of the Facility Agreement.
- 2.13 Where more than one person is named as a Chargor in this Deed:
  - 2.13.1 the liabilities and obligations of such persons under this Deed shall be joint and several; and
  - 2.13.2 references to a 'Chargor' in this Deed shall be construed as references to all such persons or any of them, as the context admits.
- 2.14 This Deed is a Finance Document for the purposes of the Facility Agreement.

### 3. **UNDERTAKING TO PAY**

#### 3.1 **Payment**

Each Chargor covenants with the Security Agent, on demand, to pay, discharge and satisfy all the Secured Liabilities when due and to indemnify the Secured Parties against any losses, costs, charges, expenses and liabilities arising from any breach or failure to pay, discharge and satisfy the Secured Liabilities in accordance with their respective terms.

#### 3.2 **Limited recourse**

3.2.1 Notwithstanding Clause 3.1 (*Payment*) and subject to Clause 3.2.2, the liability of each Chargor to the Security Agent under Clause 3.1 (*Payment*) shall be:

- (a) limited to an amount equal to that recovered by the Security Agent as a result of the enforcement of this Deed with respect to the Security Assets and other amounts payable by that Chargor under this Deed; and
- (b) satisfied only from the proceeds of sale or other disposal or realisation of the Security Assets pursuant to this Deed.

3.2.2 Clause 3.2.1 above does not apply to the liabilities of a Chargor under any other Finance Documents.

3.2.3 Nothing in Clause 3.2.1 above shall limit the recourse of the Security Agent to any Chargor in respect of a breach of any provision of Clause 5 (*Representations and Warranties*), or any costs, loss or liability arising pursuant to 14.4 (*Indemnity to the Security Agent*) of the Facility Agreement or Clause 30 (*Costs and expenses*), or in the case of claims arising as a result of fraud or wilful deceit.

#### 3.3 **Default Interest**

3.3.1 If any Chargor fails to pay any amount under this Deed when it is due then such amount shall bear interest (after as well as before judgment and payable on demand) at the Default Rate from the due date until the date such amount is irrevocably and unconditionally paid in full to the Security Agent.

3.3.2 Default interest will accrue from day to day and will be compounded at such intervals as the Security Agent states are appropriate.

### 4. **SECURITY**

#### 4.1 **Nature of Security**

4.1.1 All the Security created under this Deed:

- (a) is created in favour of the Security Agent;
- (b) is a continuing security for the payment, discharge and performance of all the Secured Liabilities except for any Secured Liabilities which, if secured by this Deed, would cause such Security to be unlawful or prohibited by any applicable law; and
- (c) is granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4.1.2 The Security Agent holds the benefit of this Deed and this Security on trust for the Secured Parties.

## 4.2 Creation of Security

4.2.1 As continuing security for the discharge of the Secured Liabilities, each Chargor:

- (a) assigns to the Security Agent absolutely, subject to reassignment by the Security Agent in accordance with Clause **Error! Reference source not found.** (*Release of Security*), all its present and future rights, title, benefit and interest under or in connection with the Junior Debt Documents and the Related Rights; and
- (b) assigns to the Security Agent absolutely, subject to reassignment by the Security Agent in accordance with Clause **Error! Reference source not found.** (*Release of Security*), all its present and future rights, title, benefit and interest under or in connection with the Junior Debt and the Related Rights.

4.2.2 To the extent not effectively assigned under Clauses 4.2.1(a) and 4.2.1(b) above, each Chargor charges by way of first fixed charge all of its rights, title, benefit and interest under or in connection with the Junior Debt Documents, the Junior Debt and their Related Rights.

## 5. REPRESENTATIONS AND WARRANTIES

### 5.1 Representations

The representations and warranties set out in this Clause 5 (*Representations and warranties*) are made by each Chargor (to the extent applicable to it) to the Security Agent on the dates set out in Clause 5.19 (*Times for making representations*).

### 5.2 Status

- 5.2.1 Each Chargor (other than LLP 1, LLP 2 and SLIP) is a limited liability company, duly incorporated and validly existing under the law of its Original Jurisdiction.
- 5.2.2 Each Unitholder is a limited liability partnership, duly incorporated and validly existing under the law of its Original Jurisdiction.
- 5.2.3 SLIP is a limited partnership, duly established and validly existing under the laws of England with a general partner who is a limited liability company, duly incorporated and validly existing under the law of its Original Jurisdiction.
- 5.2.4 Each Chargor has the power to own its assets and carry on its business as it is being conducted.

### 5.3 Security Assets

- 5.3.1 The Chargers are the sole, absolute, legal and beneficial owner of the Security Assets.
- 5.3.2 The Security Assets are within the Chargers' disposition and control and all approvals to grant the Security contained within this deed have been obtained and are in full force and effect.
- 5.3.3 No person save for the relevant Chargor has any right or interest of any sort whatsoever in or to the Security Assets.
- 5.3.4 There are no agreements or arrangements (including any restrictions on transfer or rights of pre-emption) affecting the Security Assets in any way or which would or might in any way fetter or otherwise prejudice the rights of it or any mortgagee or chargee of the Security Assets.

5.3.5 The Chargors will not take any action whereby the rights attaching to, or the Security over, the Security Assets are altered, diluted or otherwise adversely affected except with the prior written consent of the Security Agent.

5.3.6 No Chargor has sold or agreed to sell or otherwise disposed of or agreed to dispose of the benefit of all or any of its rights, title, interests or benefits in, to or in respect of all or any of the Security Assets.

#### 5.4 **Binding obligations**

5.4.1 The obligations expressed to be assumed by each Chargor under this Deed are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations.

5.4.2 Without limiting the generality of Clause 5.4.1 above, this Deed creates the Security which it purports to create and that Security is valid, effective and not liable to be avoided or set aside on a Chargor's insolvency or otherwise.

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

The entry into and performance by each Chargor of, and the transactions contemplated by, this Deed do not and will not conflict with:

5.5.1 any law or regulation applicable to it;

5.5.2 its constitutional documents;

5.5.3 any agreement or instrument binding upon it or any of its assets (or constitute a default or termination event (howsoever described) under any such agreement or instrument).

#### 5.6 **Power and authority**

5.6.1 Each Chargor has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, this Deed and the transactions contemplated by this Deed.

5.6.2 No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by this Deed.

#### 5.7 **Validity and admissibility in evidence**

5.7.1 All Authorisations required or desirable:

(a) to enable each Chargor lawfully to enter into, exercise its rights and comply with its obligations in this Deed; and

(b) to make this Deed admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect.

5.7.2 All Authorisations necessary for the conduct of the business, trade and ordinary activities of each Chargor have been obtained or effected and are in full force and effect.

#### 5.8 **Governing law and enforcement**

5.8.1 Subject to the Legal Reservations, the choice of the governing law of this Deed will be recognised and enforced in its Relevant Jurisdictions.

5.8.2 Subject to the Legal Reservations, any judgement obtained in relation to this Deed in the jurisdiction of the governing law of this Deed will be recognised and enforced in its Relevant Jurisdictions.

**5.9 No tax deductions**

No Chargor is required under the law of its Relevant Jurisdiction to make any deduction for, or on account of, Tax from any payment it may make under this Deed.

**5.10 No filing or stamp taxes**

Under the laws of its Relevant Jurisdiction it is not necessary that this Deed be registered, filed, recorded, notarised or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to this Deed or the transactions contemplated by this Deed except registration of particulars of this Deed at Companies House under the Companies Act 2006 and payment of associated fees which registration, filing and fees will be made and paid promptly after the date of this Deed.

**5.11 No default**

No event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or a termination event (however described) under any other agreement or instrument which is binding on it or to which any of its assets are subject which has or is reasonably likely to have a Material Adverse Effect.

**5.12 Pari passu ranking**

Each Chargor's payment obligations under this Deed rank at least pari passu with the claims of all that Chargor's other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law.

**5.13 No misleading information**

5.13.1 All information supplied by it or on its behalf to any Secured Party in connection with this Deed was true and accurate as at the date it was stated to be given.

5.13.2 It has not omitted to supply any information which, if disclosed, would make the information referred to in Clause 5.13.1 above untrue or misleading in any respect.

5.13.3 As at the first Utilisation Date, nothing has occurred since the date of the information referred to in Clause 5.13.1 above which, if disclosed, would make that information untrue or misleading in any material respect.

**5.14 No proceeding pending or threatened**

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, are reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiries)) been started or threatened against a Chargor (including but not limited to any winding-up proceedings or any other insolvency procedure).

**5.15 Ranking of Security**

Subject to the Legal Reservations and Perfection Requirements, the Security created by this Deed constitutes a first priority security interest of the type described, over the assets referred to in this Deed and the Security Assets are not subject to any prior or pari passu Security.

**5.16 Assets not immune to action**

In any proceedings taken in any Relevant Jurisdiction in relation to this Deed, the relevant Chargor will not be entitled to claim for itself or any of its assets any immunity on any grounds from any legal

action or proceeding (including, without limitation, suit, attachment prior to judgment, execution or other enforcement).

#### 5.17 **No Security Interest**

No Chargor has created or purported to create nor permitted to subsist any Security (other than in favour of the Security Agent) on or over any Security Asset.

#### 5.18 **Centre of main interest and establishments**

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the 'Regulation'), the relevant Chargor's centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its Original Jurisdiction and it has no 'establishment' (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

#### 5.19 **Junior Debt Documents**

5.19.1 The counterparts and instruments comprising the Junior Debt Documents, as provided to the Security Agent before the date of this Deed, evidence all terms of the relevant Security Assets, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of any Security Assets.

5.19.2 No Junior Debt Document is void, voidable or otherwise unenforceable.

5.19.3 The Chargors are not in breach of its obligations under any Junior Debt Document and nothing has occurred:

- (a) which is, or would constitute (with the giving of notice or passage of time or both), an event of default or termination event as defined under any Junior Debt Document; or
- (b) which would entitle a person to terminate or rescind a Junior Debt Document.

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

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

The representations and warranties set out in this Deed are made on the date of this Deed and each representation and warranty is deemed to be repeated by it on each day the Repeating Representations are to be repeated up to the Discharge Date by reference to the circumstances existing at the time of repetition.

### 6. **NEGATIVE UNDERTAKINGS**

#### 6.1 **Negative Pledge**

6.1.1 No Chargor shall at any time:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Security Asset other than any Security created by this Deed; or
- (b) create or grant (or purport to create or grant) any interest in any Security Asset in favour of a third party.

6.1.2 Clause 6.1.1 above does not apply to the Transaction Security.

## 6.2 Disposals

6.2.1 No Chargor shall sell, transfer, lease or otherwise dispose or purport or agree to dispose of all or any part of the Security Assets unless otherwise expressly permitted by the Facility Agreement.

6.2.2 Clause 6.2.1 above does not apply to any disposal which is a Permitted Payment.

## 7. DELIVERY OF CORPORATE DOCUMENTATION

Each Chargor shall, on the date on which it executes this Deed, deliver to the Security Agent the corporate documents of such Chargor required to authorise the execution and performance by it of this Deed.

## 8. GENERAL UNDERTAKINGS

### 8.1 Information: miscellaneous

Each Chargor shall supply to the Security Agent:

- 8.1.1 at the same time as they are dispatched, copies of all documents dispatched by it to its members generally (or any class of them) or its creditors generally (or any class of them) at the same time as they are dispatched;
- 8.1.2 on request, such information relating to the Security Assets as the Security Agent may from time to time require;
- 8.1.3 promptly on receipt, a copy of any notice, certificate or other communication received by that Chargor in relation to the Security Assets;
- 8.1.4 promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings or investigations which are current, threatened or pending against it, and which, if adversely determined, are reasonably likely to have a Material Adverse Effect; and
- 8.1.5 promptly such further information regarding the financial condition, business and operations of it as the Security Agent may reasonably request.

### 8.2 'Know your customer' checks

If:

- 8.2.1 the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this Deed;
- 8.2.2 any change in the status of Chargor, or the composition of the members of such Chargor, after the date of this Deed; or
- 8.2.3 a proposed assignment or transfer by the Security Agent of any of its rights and/or obligations under this Deed to a party that is not a Security Agent prior to such assignment or transfer,

obliges the Security Agent (or, in the case of Clause 8.2.3 above, any prospective new Security Agent) to comply with 'know your customer' or similar identification procedures in circumstances where the necessary information is not already available to it, each Chargor shall promptly upon the request of the Security Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Security Agent (for itself or, in the case of the event described in Clause 8.2.3 above, on behalf of any prospective new Security Agent) in order for the Security Agent or, in the case of the event described in Clause 8.2.3 above, any prospective new

Security Agent to carry out and be satisfied it has complied with all necessary 'know your customer' or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

### 8.3 **Authorisations**

Each Chargor shall promptly:

8.3.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and

8.3.2 supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction to:

- (a) enable it to perform its obligations under this Deed and to ensure the legality, validity, enforceability or admissibility in evidence of this Deed; or
- (b) own its assets and carry on its business as it is being conducted.

### 8.4 **Compliance with laws**

Each Chargor shall comply with the requirements of any law or regulation relating to or affecting the Security Assets or the use of them or any part of them.

### 8.5 **Taxes**

8.5.1 Each Chargor must pay all Taxes due and payable by it prior to the accrual of any fine or penalty for late payment, unless (and only to the extent that):

- (a) payment of those Taxes is being contested in good faith;
- (b) adequate reserves are being maintained for those Taxes and the costs required to contest them; and
- (c) failure to pay those Taxes is not reasonably likely to have a Material Adverse Effect.

8.5.2 Each Chargor must ensure that its residence for Tax purposes is in its Original Jurisdiction.

### 8.6 **Merger**

No Chargor shall enter into any amalgamation, demerger, merger or corporate reconstruction without the prior written consent of the Security Agent (such consent not to be unreasonably withheld by the Security Agent in the case of a solvent reconstruction of such Chargor).

### 8.7 **Enforcement of rights**

Each Chargor shall use its best endeavours to enforce any rights and institute, continue or defend any proceedings relating to any of the Security Assets which the Security Agent may require.

### 8.8 **Junior Debt Documents**

8.8.1 Each Chargor shall, unless the Security Agent agrees otherwise in writing, comply with the terms of any Junior Debt Document.

8.8.2 No Chargor shall, unless the Security Agent 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 the Borrower or other person in connection with,

any Junior Debt Document.

## 8.9 Further restrictions

No Chargor shall:

- 8.9.1 assign or permit to be assigned the Junior Debt or any Junior Debt Document to any person (other than the Security Agent or any nominee on its behalf); or
- 8.9.2 do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the Security held by the Security Agent, or materially diminish the value of any of the Security Assets or the effectiveness of this Security.

## 8.10 Notice of assignment

Each Chargor shall:

- 8.10.1 on the execution of this Deed and as so requested by the Security Agent from time to time:
  - (a) give notice to the Borrower in the form specified Part 1 (*Form of notice to counterparty*) of SCHEDULE 3 that it has assigned to the Security Agent all its rights, title, benefit and interest under or in connection with the Junior Debt Documents, the Junior Debt and their Related Rights pursuant to Clause 4.2 (*Creation of Security*); and
  - (b) use reasonable endeavours to procure that the Borrower provides to the Security Agent promptly an acknowledgement of that notice in substantially the form specified in Part 2 (*Form of acknowledgement from counterparty*) of SCHEDULE 3 within 5 Business Days of that notice being given of the Security Agent's interest;
- 8.10.2 in the case of each Junior Debt Document entered into after the date of this Deed, each Chargor shall give the relevant notices and procure each relevant acknowledgement referred to in Clause 8.10.1 above on the date of that Junior Debt Document coming into existence.

## 8.11 Notice of breach

Each Chargor shall, promptly on becoming aware of any of the same, notify the Security Agent in writing of:

- 8.11.1 any representation or warranty set out in this Deed which is incorrect or misleading in any material respect when made or deemed to be made or repeated; and
- 8.11.2 any provision of this Deed which is not complied with.

## 9. POWERS, PROTECTION AND DISCRETIONS OF THE SECURITY AGENT

### 9.1 Rights and powers etc

To the fullest extent allowed by law (and without prejudice to, all statutory and other powers of the Security Agent), all the rights, powers, authorities and discretions which are expressly or impliedly conferred by this deed or by law on a Receiver may, after this Security has become enforceable, be exercised by the Security Agent (whether as attorney of the Chargors or otherwise) in respect of any Security Asset whether or not a Receiver has been or is later appointed.

## 9.2 **Protections**

All the protections and immunities which this Deed provides for a Receiver shall be available to the Security Agent when the Security Agent is exercising the rights, powers, authorities and discretions conferred on the Security Agent by this Deed.

## 9.3 **Curing of breaches and covenants**

Without prejudice to any other rights of the Security Agent under this deed, if the Chargors fail to comply with any provision of this deed, the Security Agent shall be entitled (but not obliged) to remedy such breach and accordingly the Chargors shall allow and hereby authorises the Security Agent or its nominee to do all such acts and things and take such action on behalf of the Chargors as may be necessary to secure compliance with that provision without becoming liable as a mortgagee in possession.

## 9.4 **Indemnity**

The Chargors shall indemnify the Security Agent against all losses, costs, charges, expenses and liabilities incurred by the Security Agent as a result of the breach or failure by the Chargors to comply with any provision of this Deed and in connection with the exercise by the Security Agent or its nominee of their respective rights contained in Clause 9.3 (*Curing of breaches and covenants*).

## 9.5 **Expenses so incurred**

All monies expended and all costs incurred by the Security Agent or its nominee in carrying out any of their respective powers and discretions referred to in Clause 9.3 (*Curing of breaches and covenants*) shall be considered to have been properly incurred by the Security Agent or its nominee, shall be secured by this Security and shall be payable on demand by the Chargors to the Security Agent.

## 10. **ENFORCEMENT OF SECURITY**

### 10.1 **Timing**

This Security will be immediately enforceable on the occurrence of:

10.1.1 an Event of Default which is continuing; or

10.1.2 a request being made by a Chargor to the Security Agent that it exercise any of its powers under this Deed.

### 10.2 **Enforcement**

At any time after this Security has become enforceable, the Security Agent may, without notice to the Chargors or prior authorisation from any court, in its absolute discretion:

10.2.1 enforce all or any part of that Security (at the times, and in any manner and on such terms, as it sees fit);

10.2.2 appoint a Receiver to all or any part of the Security Assets;

10.2.3 take possession of and hold or dispose of all or any part of the Security Assets including, without limitation, all of the powers conferred on a mortgagee under the LPA (as varied or extended by this Deed) or any of the powers conferred on a holder of a qualifying floating charge holder (as defined in the Insolvency Act);

10.2.4 secure and perfect its title to all or any part of a Security Asset and / or transfer any asset into its name or the name of its nominee or, as applicable, into an account in its own name or the name of its nominee;

- 10.2.5 exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute legal and beneficial owner of that Security Asset;
- 10.2.6 to the extent permitted by law, whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorisations and discretions (and be entitled to all the privileges and immunities) conferred by the LPA (as varied and extended by this Deed) on mortgagees, by this Deed on any Receiver, or conferred by the Insolvency Act or any other law on mortgagees and Receivers; and/or
- 10.2.7 exercise the statutory power of sale and any other powers conferred by section 101 of the LPA and the statutory powers of leasing as amended and varied in the forgoing clauses and all other statutory powers in respect of the whole or any part of the Security Assets.

### 10.3 **Statutory powers**

- 10.3.1 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.
- 10.3.2 The statutory power of sale or other right of disposal conferred on the Security Agent and on any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under section 101 of the LPA and such power shall arise and be exercisable on execution of this Deed, but the Security Agent shall not exercise such powers until this Security has become enforceable.
- 10.3.3 For the purposes of sections 99 and 100 of the LPA, the expression 'mortgagor' will include any incumbrancer deriving title under a Chargor and neither sub-section (18) of section 99 nor sub-section (12) of section 100 of the LPA will apply.
- 10.3.4 The restriction on the right of consolidation contained in section 93 of the LPA shall not apply to this Security.
- 10.3.5 Section 103 of the LPA shall not apply to this Security.

### 10.4 **Access on enforcement**

- 10.4.1 At any time after this Security has become enforceable, each Chargor will allow any of the Secured Parties, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Security Asset and for that purpose to enter on any premises where a Security Asset is situated (or where any Secured Party reasonably believes a Security Asset to be situated) without incurring any liability to such Chargor for, or by any reason of, that entry.
- 10.4.2 At all times, each Chargor must use its best endeavours to allow any Secured Party access to any premises for the purpose of Clause 10.4.1 (obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

## 11. **RECEIVER**

### 11.1 **Appointment of Receiver**

- 11.1.1 At any time after this Security has become enforceable, the Security Agent may without prior notice appoint:
  - (a) any one or more persons to be a Receiver of all or any part of the Security Assets; or
  - (b) two or more Receivers of separate parts of the Security Assets; or
  - (c) another person(s) as an additional Receiver(s).

- 11.1.2 Any appointment under Clause 11.1.1 above may be by deed, under seal or in writing under its hand.
- 11.1.3 Except as provided in Clause 11.1.4, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA) does not apply to this Deed.
- 11.1.4 The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act.
- 11.1.5 At any time, if so requested by a Chargor, without further notice, the Security Agent may appoint a Receiver to all or any part of the Security Assets.

## 11.2 **Statutory powers of appointment**

- 11.2.1 The powers of appointment of a Receiver pursuant to Clause 11.1 (*Appointment of Receiver*) above shall be in addition to all statutory and other powers of appointment of the Security Agent under the LPA (as extended by this Deed), the Insolvency Act or otherwise and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA or otherwise.
- 11.2.2 Such powers of appointment of a Receiver shall remain exercisable from time to time by the Security Agent in respect of any part of the Security Assets, despite any prior appointment in respect of all or any part of the Security Assets.

## 11.3 **Removal**

The Security Agent may from time to time by writing under its hand (subject to the requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver who has been removed for any reason.

## 11.4 **Remuneration**

The Security Agent may from time to time fix the remuneration of any Receiver appointed by it and any restrictions imposed by any law (including under section 109 of the LPA) will not apply. Any remuneration of any Receiver will form part of the Secured Liabilities.

## 11.5 **Agent of the Chargor**

- 11.5.1 A Receiver will be deemed to be the agent of a Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA. Each Chargor is solely responsible for the remuneration, expenses, contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver. The agency of each Receiver shall continue until a Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Security Agent.
- 11.5.2 No Secured Party will incur any liability (either to a Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.
- 11.5.3 No Receiver shall at any time act as agent for any other Secured Party.

## 12. **POWERS OF RECEIVER**

### 12.1 **Statutory powers**

12.1.1 A Receiver (subject to any restrictions in the instrument appointing him but notwithstanding any winding up or dissolution of a Chargor) has (to the extent permitted by law):

- (a) all of the rights, powers, remedies and discretions of an administrative receiver under Schedule 1 of the Insolvency Act, as if such Schedule and all relevant definitions set out in the Insolvency Act were set out in this Deed; and
- (b) otherwise, all the rights, powers, remedies and discretions conferred on a mortgagor, a mortgagee in possession and on a Receiver appointed under the LPA or the Insolvency Act.

12.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually (and to the exclusion of any other Receiver) or together with any other person appointed or substituted as a Receiver.

12.1.3 Any exercise by a Receiver of any of the powers given by this Clause 12 (*Powers of Receiver*) and SCHEDULE 1 (*Additional Powers of Receiver*) may be on behalf of a Chargor, the directors of such Chargor or himself.

### 12.2 **Additional powers**

In addition to those powers, rights and discretions set out in Clauses 12.1.1(a) and 12.1.1(b) above, a Receiver shall have the rights, powers and discretions set out in SCHEDULE 2 (*Additional Powers of Receiver*).

### 12.3 **Powers to be additional**

The powers conferred by this Deed in relation to the Security Assets on the Receiver shall be in addition to, and not in substitution for, the powers conferred on receivers under the LPA and the Insolvency Act.

### 12.4 **Powers to be exercisable by the Security Agent**

12.4.1 The Security Agent may exercise all powers granted to the Receiver by this Deed whether as attorney of a Chargor or otherwise.

12.4.2 The powers of the Receiver set out above are in addition to, and without prejudice to, all statutory and other powers of the Security Agent as provided in Clause 10.3 (*Statutory powers*) or otherwise and so that, inter alia, such powers are and remain exercisable by the Security Agent in respect of that part of the Security Assets in respect of which no appointment of a Receiver by the Security Agent is from time to time subsisting.

### 12.5 **Conflict**

If and to the extent that there is any ambiguity or conflict between:

12.5.1 the powers conferred on the Receiver by the LPA and those powers listed in Schedule 1 of the Insolvency Act; and

12.5.2 the powers conferred by this Clause 12 (*Powers of Receiver*),

the powers conferred by this Clause 12 (*Powers of Receiver*) shall prevail.

### 13. APPLICATION OF PROCEEDS

#### 13.1 Order of application

All amounts from time to time received or recovered by a Secured Party pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or any part of this Security (for the purposes of this Clause 13, the '**Recoveries**') shall be held by the Security Agent on trust to apply them at any time as that Secured Party (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 13 (*Recoveries*)), in the following order:

13.1.1 **first**, in payment of all charges, costs and expenses incurred by or on behalf of any Secured Party under or in connection with any realisation or enforcement of the Security taken in accordance with the terms of this Deed and all remuneration due to any Receiver under or in connection with this Deed;

13.1.2 **secondly**, in or towards payment of or provision for the Secured Liabilities; and

13.1.3 **thirdly**, the balance (if any) will be applied as required by law.

#### 13.2 Appropriation

Neither the Security Agent, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

#### 13.3 Permitted Deductions

The Security Agent shall be entitled, in its discretion to pay all Taxes which may be assessed against it in respect of any of the Security Assets, or as a consequence of performing its duties, or by virtue of its capacity as Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Deed).

### 14. PROTECTION OF PURCHASERS

14.1 No purchaser or other person dealing with any Secured Party shall be concerned to enquire:

14.1.1 whether any of the Secured Liabilities have become due and/or payable;

14.1.2 whether any of the powers conferred on a Secured Party by this Deed or by law has arisen or become exercisable or is being properly exercised;

14.1.3 whether any of the Secured Liabilities remains due; or

14.1.4 how any money paid to that Secured Party is to be applied.

14.2 No purchaser dealing with any Secured Party or this Security is to be concerned to enquire as to the propriety or regularity of any sale by, or other dealing with, the Secured Parties. Any such sale or dealing is deemed to be within the powers conferred by this Deed and to be valid and effective accordingly. All the protection to purchasers contained in section 104 and section 107 of the LPA and section 42(3) of the Insolvency Act apply to any purchaser.

14.3 The receipt of any Secured Party shall be a conclusive discharge to any purchaser and, in making any sale or other disposal of any of the Security Assets or making any acquisition, any Secured Party may do so for such consideration, in such manner and on such terms as it thinks fit.

## 15. **LIABILITY OF SECURITY AGENT AND RECEIVER**

### 15.1 **Liability**

None of the Security Agent, any Receiver or any Delegate, (whether as mortgagee in possession or otherwise) shall either by reason of:

15.1.1 taking possession of or realising all or any part of the Security Assets; or

15.1.2 taking any action permitted by this Deed,

be liable to a Chargor or any other person for any costs, losses or liabilities relating to any of the Security Assets or for any act, neglect, default, omission or misconduct of the Security Agent, any Receiver or any Delegate in relation to the Security Assets or otherwise.

### 15.2 **Exoneration**

15.2.1 None of the Security Agent, any Receiver or any Delegate shall have any duty:

- (a) to perform any Chargor's obligations or exercise any rights in relation to any Security Asset;
- (b) to take up any offer in relation to any Security Asset;
- (c) to investigate, appraise or report on the status, propriety or validity of the acts of the Receiver or Security Agent;
- (d) to give any notification to anyone in relation to any Security Asset;
- (e) to take any action to enforce any other person's obligations as regards any Security Asset; or
- (f) to take any action to preserve any rights relating to any of the Security Assets.

15.2.2 None of the Security Agent, any Receiver or any Delegate shall:

- (a) be liable to comply with the obligations assumed by any Chargor in respect of any of the Security Assets;
- (b) be under any obligation or liability by reason of, or arising out of, this Deed; or
- (c) be required to make any enquiry as the nature or sufficiency of any payment received by a Secured Party or to present or file any claim or take any other action to collect or enforce the payment of any amount or to enforce any other right to which the Security Agent may be entitled.

### 15.3 **Protection of the Receiver and the Security Agent**

Each Receiver and the Security Agent shall be entitled to all the rights, powers, privileges and immunities which the LPA and/or the Insolvency Act confers on mortgagees and Receivers.

### 15.4 **Reimbursement and Indemnity**

The Security Agent and every Receiver and Delegate may, in priority to any payment to the other Secured Parties, indemnify itself out of the Security Assets in respect of and pay and retain all sums necessary to give effect to, the indemnity in Clause 14.4 (*Indemnity to the Security Agent*) of the Facility Agreement.

## 16. **POWER OF ATTORNEY**

16.1 By way of security for the performance of its obligations under this Deed, each Chargor irrevocably and severally appoints the Security Agent, each Receiver and each Delegate to be its attorney (with full power of substitution and delegation) and in its name, on its behalf and as its act and deed to:

16.1.1 execute, deliver and perfect all deeds, instruments and other documents and do (or cause to be done) all such acts and things which the attorney may consider to be required for or desirable for:

- (a) carrying out any obligation imposed on the Chargors by this Deed or any agreement binding on the Chargors to which the Security Agent is a party (including, but not limited to, the execution and delivery of any charges, assignments or other security and any transfers of the Security Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Security Assets); and/or
- (b) enabling the Security Agent and any Receiver (and any Delegate) to exercise any of the rights, powers, authorities and discretions conferred on them pursuant to this Deed or by law (including, after this Security has become enforceable as provided in this Deed, the exercise of any right of a legal or beneficial owner of the Security Assets or any part of the Security Assets).

16.2 Each Chargor ratifies and confirms all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of its rights, powers, authorities and discretions referred to in Clause 16.1.

16.3 Each Chargor covenants (for the purpose of the irrevocable nature of the power of attorney granted in this Clause 16 (*Power of Attorney*)) with each Receiver appointed pursuant to this Deed, to join in and concur with the exercise by such Receiver of any powers of such Receiver to act on behalf of such Chargor.

16.4 The power of attorney granted by this Clause 16 (*Power of Attorney*) shall be exercisable:

16.4.1 when a Chargor has failed to do something that it is obliged to do under any Finance Document to which it is a party; or

16.4.2 on the occurrence of an Event of Default, which is continuing.

## 17. **PROTECTIVE PROVISIONS**

### 17.1 **Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Transaction Obligor or any Security for those obligations or otherwise) is made by the Security Agent in whole or in part on the basis of any payment, Security, or other discretion which is avoided or must be restored in insolvency, liquidation, administration, receivership or otherwise, without limitation, then the liability of a Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### 17.2 **Waiver of defences**

The obligations of, and the Security created by, a Chargor under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause 17.2, would reduce, release or prejudice any of its obligations under, or the Security created by, this Deed (without limitation and whether or not known to such Chargor or the Security Agent), including:

17.2.1 any time, waiver or consent granted or agreed to be granted to, or composition with, any Transaction Obligor or other person;



- 17.2.2 the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor or any member of the Group;
- 17.2.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or Security over assets of, any Transaction Obligor or any 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;
- 17.2.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Transaction Obligor or any other person;
- 17.2.5 any amendment, determination, novation, supplement, extension (whether at maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of any Finance Document or any other document or Security or of the Secured Liabilities (including, without limitation, any change in the purpose of, any extension of, or any variation or increase in any facility or amount made available under any facility or the addition of any new facility under any Finance Document or other document or Security); and
- 17.2.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security or of the Secured Liabilities; or
- 17.2.7 any insolvency or similar proceedings.

Without prejudice to the generality of this Clause 17.2, each Chargor expressly confirms that it intends that the Security created by it under this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

### 17.3 **Immediate recourse**

Each Chargor waives any right it may have of first requiring the Security Agent to proceed against or enforce any other rights or Security or claim payment from any person before claiming from, or otherwise proceeding against, a Chargor under this Deed. This waiver applies irrespective of any law or provision of this Deed to the contrary.

### 17.4 **Appropriations**

Until all amounts which may be or become payable by the Transaction Obligors under or in connection with the Finance Documents have been irrevocably paid in full, the Security Agent may:

- 17.4.1 refrain from applying or enforcing any other moneys, Security or rights held or received by the Security Agent in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Transaction Obligor shall be entitled to the benefit of the same; and
- 17.4.2 hold in an interest-bearing suspense account any moneys received from a Chargor or on account of any liability arising under this Deed.

## 17.5 **Non-competition**

Until the occurrence of the Discharge Date or unless the prior written consent of the Security Agent is obtained, no Chargor shall exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:

- 17.5.1 to be indemnified by any person, including a Transaction Obligor;
- 17.5.2 to claim any contribution from any other provider of Security or any guarantor of the Secured Liabilities;
- 17.5.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Agent under the Finance Documents or of any other guarantee, indemnity or Security taken pursuant to, or in connection with, the Secured Liabilities by the Security Agent;
- 17.5.4 to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which any Transaction Obligor has given a guarantee, undertaking or indemnity under any Finance Document;
- 17.5.5 to exercise any right of set-off against any Transaction Obligor; and/or
- 17.5.6 to claim rank, prove or vote as a creditor of any Transaction Obligor in competition with the Security.

If any Chargor receives any benefit, payment or distribution in relation to such rights, it shall hold that benefit, payment or distribution (to the extent necessary to enable all amounts which may be or become payable to the Security Agent in connection with the Secured Liabilities to be repaid in full) on trust for the Security Agent and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 13 (*Application of proceeds*).

## 18. **DELEGATION AND DISCRETION**

### 18.1 **Delegation**

- 18.1.1 The Security Agent and/or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner all or any of the rights, powers, authorities and discretions which are conferred and are exercisable by it under this Deed (including the power of attorney granted under Clause 16 (*Power of Attorney*)) to any person or persons on such terms and conditions (including the power to sub-delegate) as it sees fit.
- 18.1.2 No such delegation pursuant to this Clause 18 (*Delegation and discretion*) shall preclude either the subsequent exercise of any such right, power, authority or discretion by the Security Agent or a Receiver itself or any subsequent delegation or revocation of any such right, power, authority or discretion.
- 18.1.3 Neither the Security Agent nor any Receiver will be bound to supervise any such Delegate or have any liability to a Chargor or any other person for any loss or liability arising from any act, default, omission or misconduct by any Delegate.

### 18.2 **Discretion**

Any right or power which may be exercised or any determination which may be made under this Deed by the Security Agent or any Receiver may be exercised by it in its absolute and unfettered discretion, without any obligation to give reasons.

## 19. **EFFECTIVENESS OF SECURITY**

### 19.1 **Continuing Security**

This Security shall remain in full force and effect as continuing security for the Secured Liabilities until the Discharge Date and shall not be released before then by any settlement of account, intermediate payment, discharge or satisfaction of all or any of the Secured Liabilities or for any other reason.

### 19.2 **Cumulative rights**

This Security and the rights, powers and remedies of the Security Agent under this Deed shall be cumulative and shall be in addition to and independent of every other Security, guarantee, right, power or remedy which the Security Agent may at any time have in connection with the Secured Liabilities, including the rights, powers and remedies provided by law, and accordingly, the Security Agent shall not be obliged before exercising any such rights, powers or remedies:

19.2.1 to make any demand of, or take any action or obtain any judgment in any court against, a Chargor;

19.2.2 to make or file any claim or proof in winding-up or dissolution of a Chargor; or

19.2.3 to enforce or seek to enforce any other Security held by it in respect of the Secured Liabilities.

### 19.3 **No merger of Security**

This Security is in addition to, and independent of, and is not in any way prejudiced by, any other Security or guarantee that the Security Agent or any other Secured Party may hold in any capacity for any of the Secured Liabilities at any time. No prior Security held in any capacity by the Security Agent or any other Secured Party over the whole or any part of the Security Assets shall merge with this Security.

### 19.4 **No prejudice**

This Security shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to a Chargor or any other person, or by any variation of any trust on which this Security is held, or by any other thing which might otherwise prejudice that Security.

### 19.5 **Remedies and waivers**

19.5.1 No waiver of any right or remedy, nor any consent given under this Deed, shall be effective unless it is made in writing by the waiving or consenting party. A waiver shall not be deemed a waiver of any other breach or default and a consent shall not be deemed to apply in any other circumstance other than the one for which it was given. No waiver or consent shall prevent the party giving it from subsequently relying on the relevant provision.

19.5.2 No failure to exercise, nor any delay in exercising, on the part of a Secured Party, any right or remedy under a Finance Document or by law shall operate as 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 any of the Finance Documents. No election to affirm any Finance Document on the part of any Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent or restrict any further or other exercise of that right or remedy or the exercise of any other right or remedy. The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

## 19.6 **Partial invalidity**

19.6.1 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired.

19.6.2 If any part of the Security created or intended to be created by or pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security constituted under this Deed.

## 19.7 **Further assurance**

19.7.1 Each Chargor shall promptly, at its own cost, do whatever the Security Agent requires:

- (a) to create, perfect and/or protect the Security created or intended be created by this Deed;
- (b) to create, perfect and/or protect the priority of the Security created or intended be created by this Deed;
- (c) to facilitate the exercise of any rights, powers, discretions and remedies vested in the Security Agent or any Receiver (or any Delegate) by this Deed and/or by the law; and/or
- (d) to facilitate the realisation of the Security Assets.

19.7.2 In order to satisfy its obligations under Clause 19.7.1 above, each Chargor shall immediately, upon the request of the Security Agent, execute any transfer, conveyance, mortgage, charge, assignment or assurance over all or any of the assets intended to constitute the Security Assets (whether in favour of the Security Agent or its nominee or otherwise) and make any filing, registration or notarisation and give any notice, instructions, order or direction in respect of the Security Assets.

## 20. **PRIOR SECURITY INTERESTS**

20.1 At any time after this Security has become enforceable, or after any powers conferred by any prior ranking Security shall have become exercisable, the Security Agent may redeem that or any other prior Security and/or procure the transfer of any such Security to itself.

20.2 The Security Agent may settle and agree the accounts of the holder of any prior Security and any accounts so settled and agreed will, in the absence of manifest error, be conclusive and binding on a Chargor.

20.3 All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargors to the Security Agent on demand together with accrued interest on such sums (after as well as before judgment) at the Default Rate from the time or respective times of the same having been paid or incurred until payment of such sums (both before and after judgment), and such sums will form part of the Secured Liabilities.

## 21. **SUBSEQUENT SECURITY INTERESTS**

If a Secured Party receives, or is deemed to be affected by, notice whether actual or constructive of any subsequent Security or other interest affecting all or part of the Security Assets, it may open a new account for the Chargors in its books. If a Secured Party does not open a new account, it shall nevertheless be treated as if it had done so at the time it received or was deemed to be affected by such notice. Unless a Secured Party gives express written notice to the contrary to the Chargors, all payments made by a Chargor to a Secured Party will, as from the time of receipt or deemed

receipt of the relevant notice by a Secured Party, be treated as having been credited to a new account of that Chargor and not as having been applied in reduction of the Secured Liabilities.

## 22. **SUSPENSE ACCOUNT**

### 22.1 **Contingencies**

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, a Secured Party may pay the proceeds of any recoveries effected by it into a suspense account, in which event Clause 22.2 (*Suspense account*) shall apply to such proceeds.

### 22.2 **Suspense account**

All monies received, recovered or realised by a Secured Party under this Deed (including the proceeds of any conversion of currency and any proceeds referred to in Clause 22.1 above) may in the absolute discretion of that Secured Party be credited to any interest bearing suspense or impersonal account(s) maintained with a bank, building society or financial institution for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Secured Party's absolute discretion, in or towards the discharge of any of the Secured Liabilities.

## 23. **RELEASE OF SECURITY**

23.1 Upon the occurrence of the Discharge Date and subject always to Clause 18.6 (*Reinstatement*) of the Facility Agreement and Clause 23.2 below, the Security Agent shall, at the request and cost of the Chargors, release and cancel this Security and procure the reassignment to the Chargors of the assets assigned to the Security Agent pursuant to this Deed, in each case without recourse to, or any representation or warranty by, the Security Agent or any of its Delegates.

23.2 Following any discharge of the Chargors made by the Security Agent in reliance on any payment or Security the Security Agent may retain this Security (and all documents of title or other documents necessary to protect such Security) until the expiry of the maximum period within which such payment or security can be avoided, reduced or invalidated for any reason. If the person other than the Chargors making such payment or giving such security goes into liquidation or administration or equivalent proceedings in any foreign jurisdiction within that period the Security Agent may retain this Security for as long as it sees fit.

## 24. **SET-OFF**

The Security Agent may at any time set off any obligation due from the Chargors (to the extent beneficially owned by the Security Agent) against any obligation owed by the Security Agent to the Chargors, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## 25. **FINANCIAL COLLATERAL**

25.1 To the extent that any of the Security Assets constitute 'financial collateral' and this Deed constitutes a 'security financial collateral arrangement' (as those terms are defined in the Regulations), the Security Agent shall, upon this Security becoming enforceable and to the extent permitted by the Regulations, have the right to appropriate all or any part of that financial collateral in or towards the payment or discharge of the Secured Liabilities without obtaining any court authorisation and in such order as the Security Agent may in its absolute discretion determine.

25.2 The Parties agree that the value of any Security Asset appropriated in accordance with Clause 25.1 above shall be, in the case of cash, the amount of such cash plus any accrued but unposted interest attributable to such cash on the date of appropriation; and

- 25.3 The Parties agree that the method of valuation provided for in this Clause 25 (*Financial collateral*) is commercially reasonable for the purposes of the Regulations.

26. **CURRENCY**

26.1 **Relevant Currency**

Each Chargor is obliged under this Deed to discharge the Secured Liabilities in the Relevant Currency.

26.2 **Receipt in wrong currency**

If at any time the Security Agent receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than the Relevant Currency, then that payment will take effect as a payment to the Security Agent of the amount in the Relevant Currency which the Security Agent is able to purchase (after deduction of any relevant costs) with the amount of the payment so received at the spot rate of exchange available to the Security Agent for such purchase for such purchase in the Relevant Market at or about 11am on that date.

27. **PAYMENTS TO BE MADE WITHOUT DEDUCTION**

27.1 **No deductions**

All sums payable by each Chargor under this Deed shall be paid in the Relevant Currency in immediately available funds and shall be paid to the credit of such account as the Security Agent may designate. All such payments shall be made in full without set-off of any sum owing by the Security Agent to a Chargor or counterclaim and free and clear of any deductions of or withholding for or on account of any Tax or for any other reason, except to the extent that any such deduction or withholding is required by law.

27.2 **Grossing-up**

If at any time a Chargor is required by law to make any deduction or withholding from any payment due from that Chargor to the Security Agent, that Chargor shall simultaneously pay to the Security Agent whatever additional amount is necessary to ensure that the Security Agent receives a net sum equal to the payment it would have received had no deduction or withholding been made.

28. **CERTIFICATES AND DETERMINATIONS**

A certificate or determination by the Security Agent or a Receiver of a rate or an amount for the time being due under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

29. **ASSIGNMENT AND TRANSFER**

29.1 **Chargors' consents to assignment/transfer by Security Agent**

Each Chargor consents to the assignment and/or transfer by the Security Agent of any one or more of its rights and/or obligations under this Deed. The Security Agent may, without consulting with or obtaining consent from a Chargor at any time charge, assign or otherwise create Security in or over its rights, benefits and interests under this Deed to secure any obligations of any Secured Party in accordance with the terms of the Facility Agreement.

29.2 **No assignment/transfer by Chargor**

No Chargor may assign or transfer any one or more of its rights and/or obligations under this Deed.

### 29.3 **Confidentiality**

The Security Agent shall be entitled to disclose any information concerning any Chargor, the Security Assets and this Deed in accordance with Clause 40 (*Confidential Information*) of the Facility Agreement.

## 30. **COSTS AND EXPENSES**

### **Enforcement and preservation costs**

Each Chargor shall, within three Business Days of demand, pay to each Secured Party on a full indemnity basis 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 this Deed and any proceedings instituted by or against any Secured Party as a consequence of taking or holding this Security or enforcing these rights.

## 31. **MISCELLANEOUS**

### 31.1 **Variations**

No variation of the terms of this Deed shall be valid unless such variation is in writing and signed by the Chargors and the Security Agent.

### 31.2 **Third party rights**

31.2.1 Other than the Secured Parties a person who is not a Party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 (the '**Third Parties Act**') to enforce, or enjoy the benefit of, any term of this Deed.

31.2.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

31.2.3 Any Receiver may enforce and enjoy the benefit of any clause which expressly confers rights on it, subject to Clause 31.2.2 above and the provisions of the Third Parties Act.

### 31.3 **Perpetuity period**

The trusts created by this Deed have a perpetuity period of 125 years.

### 31.4 **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.

### 31.5 **Illegality and compliance with law**

No provision of this Deed shall oblige the Security Agent to take any steps which:

31.5.1 may be illegal or contrary to applicable law or regulation; or

31.5.2 it expects will result in any expense or liability accruing to it, the payment of which is not, in its sole opinion, assured to it or it is not indemnified and/or secured and/or prefunded to its satisfaction against such liability.

The Security Agent shall be entitled to take any action or to refuse to take any action which the Security Agent regards as necessary for the Security Agent to comply with any applicable law, regulation or fiscal requirement.

## 32. **NOTICES**

### 32.1 **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 letter.

### 32.2 **Addresses**

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

32.2.1 in the case of a Chargor, that identified with its name below;

32.2.2 in the case of the Security Agent, that identified with its name below,

or any substitute address or department or officer as the Party may notify to the Security Agent (or the Security Agent may notify to the other Parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

### 32.3 **Delivery**

32.3.1 Any communication or document made or delivered by one person to another under or in connection with this Deed shall only be effective:

- (a) if by way of electronic email, when received in legible form; or
- (b) 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 32.2 (*Addresses*), if addressed to that department or officer.

32.3.2 Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with Security Agent's signature in the Facility Agreement (or any substitute department or officer as the Security Agent shall specify for this purpose).

32.3.3 Any communication or document which becomes effective, in accordance with (a) and (b) above, after 5 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### 32.4 **Notification of address**

Promptly upon receipt of notification of an address or change of address pursuant to Clause 32.2 (*Addresses*) or changing its own address, the Security Agent shall notify the other Parties.

### 32.5 **Electronic communication**

32.5.1 Any communication to be made between any two Parties under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that those two



Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

32.5.2 Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

32.5.3 Any electronic communication which becomes effective, in accordance with Clause 32.5.2 above, after 5 p.m. in the place of receipt shall be deemed only to become effective on the following day.

## 32.6 **English language**

32.6.1 Any notice given under or in connection with this Deed must be in English.

32.6.2 All other documents provided under or in connection with this Deed must be:

- (a) in English; or
- (b) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## 33. **GOVERNING LAW AND JURISDICTION**

### 33.1 **Governing law**

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

### 33.2 **Jurisdiction of English courts**

33.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a '**Dispute**').

33.2.2 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.

33.2.3 Notwithstanding Clause 33.2.1 above, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

## 34. **SERVICE OF PROCESS**

34.1.1 Without prejudice to any other mode of service allowed under any relevant law, each Chargor which is not incorporated in England and Wales:

- (a) irrevocably appoints SLIP Audley I LLP as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and

- (b) agrees that failure by a process agent to notify the relevant Chargor of the process will not invalidate the proceedings concerned.

34.1.2 If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the relevant Chargor must immediately (and in any event within seven days of such event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this the Security Agent may appoint another agent for this purpose.

**THIS DEED IS EXECUTED AS A DEED BY THE CHARGORS AND THE SECURITY AGENT AND IS DELIVERED AND TAKES EFFECT ON THE DATE AT THE BEGINNING OF THIS DEED.**

**SCHEDULE 1**  
**SUBORDINATED CREDITORS**

- 1 **AUDLEY INVESTMENTS NO 3 LIMITED**, a company incorporated in England with company number 12362979, whose registered office is at 65 High Street, Egham, Surrey, United Kingdom, TW20 9EY;
- 2 **SENIOR LIVING INVESTMENT PARTNERS LIMITED PARTNERSHIP** (a limited partnership registered in England with registration number LP022672) acting by its general partner **SENIOR LIVING INVESTMENT PARTNERS (GENERAL PARTNER) LIMITED** (a company incorporated in England with registration number 14180400);
- 3 **AUDLEY GROUP LIMITED**, a company incorporated in England and Wales with registration number 09906780, whose registered office is at 65 High Street, Egham, England, TW20 9EY;
- 4 **SLIP AUDLEY I LLP** a limited liability partnership incorporated in England Wales with registration number OC447323, whose registered address is at 65 High Street, Egham, Surrey, TW20 9EY;
- 5 **SLIP AUDLEY II LLP** a limited liability partnership incorporated in England Wales with registration number OC447470, whose registered address is at 65 High Street, Egham, Surrey, TW20 9EY;
- 6 **AUDLEY HEADLEY COURT RENT COMPANY LIMITED**, a company incorporated in England and Wales with registration number 14923864, whose registered office is at 65 High Street, Egham, United Kingdom, TW20 9EY;
- 7 **AUDLEY HEADLEY COURT MANAGEMENT LIMITED**, a company incorporated in England and Wales with registration number 14922785, whose registered office is at 65 High Street, Egham, United Kingdom, TW20 9EY; and
- 8 **AUDLEY COURT LIMITED**, a company incorporated in England and Wales with registration number 05160167 whose registered office is at 65 High Street, Egham, United Kingdom, TW20 9EY.

## **SCHEDULE 2**

### **ADDITIONAL POWERS OF RECEIVER**

A Receiver shall have the following additional rights, powers and discretions:

#### **9 POSSESSION**

A Receiver may take immediate possession of, get in and collect the Security Assets or any part thereof.

#### **10 EMPLOYEES**

A Receiver may:

- 10.1 appoint and discharge any managers, officers, agents, accountants, servants, contractors, workmen and other personnel and professional advisers for the purposes of this Deed upon such terms and conditions as to remuneration or otherwise as he thinks fit; and/or
- 10.2 discharge any person appointed by a Chargor.

#### **11 SALE OF ASSETS**

A Receiver may sell, assign, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit. The consideration for the sale of any Security Asset may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which the Receiver thinks fit.

#### **12 REGISTRATION**

A Receiver may use a Chargor's name to effect any registration or election for tax or other purposes.

#### **13 BORROWING**

A Receiver may, for any purpose, raise and borrow money or incur any other liability either unsecured or secured on the Security Assets, either in priority to this Security or otherwise, and generally on such terms as he in his discretion may think fit. No person lending such money is to be concerned to enquire as to the propriety or purpose of the exercise of such power or as to the application of money so raised or borrowed.

#### **14 COMPROMISE, LEGAL ACTION AND MEDIATION**

A Receiver may:

- 14.1 settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of a Chargor or relating in any way to any Security Asset;
- 14.2 bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit; and/or
- 14.3 refer to mediation any question in relation to any Security Asset that he thinks fit.

#### **15 COMPANIES**

A Receiver may form, or promote the formation of, any subsidiary of a Chargor or other company with a view to such company purchasing or otherwise acquiring an interest in the Security Assets.

## 16 **RECEIPTS**

A Receiver may give valid receipts for any monies and execute any assurances and things which he in his discretion may think proper or desirable for realising any of the Security Assets.

## 17 **DELEGATION**

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

## 18 **LENDING**

A Receiver may lend money or advance credit to any person.

## 19 **REDEEM PRIOR SECURITY**

A Receiver may redeem any prior Security and settle and pass the accounts to which that prior Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on a Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

## 20 **OTHER POWERS**

A Receiver may:

- 20.1 do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers, remedies or discretions conferred on the Security Agent or any Receiver under or by virtue of this Deed or by law;
- 20.2 exercise every power which the Receiver in its absolute discretion considers desirable for maintaining or enhancing the value of the Security Assets or in connection with the enforcement of this Security or the realisation of any Security Asset;
- 20.3 exercise in relation to any Security Asset all the powers, authorities and rights which he would be capable of exercising, and do all those acts and things he would be able to do, if he were the absolute legal and beneficial owner of that Security Asset;
- 20.4 any other acts and things it lawfully may do as agent for a Chargor; and/or
- 20.5 use the name of Chargor for any of the purposes set out in Clause 12 (*Powers of Receiver*) or this SCHEDULE 2.

**SCHEDULE 3**  
**NOTICE AND ACKNOWLEDGEMENT FROM COUNTERPARTY**

**Part 1**  
**Form of notice to counterparty**

To: [Borrower]

Copy to: Silbury Specialty Finance Limited

Verde, 10 Bressenden Place, London, United Kingdom SW1E 5DH

Date: [       ]

Dear Sirs

**Subordinated creditors' security agreement dated [       ] between, the chargors listed therein (the 'Chargors') and Silbury Specialty Finance Limited (the 'Security Agent') (the 'Subordinated Creditors' Security Agreement')**

This letter constitutes notice to you that pursuant to the Subordinated Creditors' Security Agreement we have assigned to the Security Agent by way of security all our present and future rights under or in connection with:

- (a) a loan agreement evidencing liabilities owed by you (the '**Borrower**') to us (the '**Junior Debt Document**'); and
- (b) all present and future monies, obligations or liabilities, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity which are or may become payable or owing by you to us (the '**Junior Debt**').

and all Related Rights.

In this notice, '**Related Rights**' means, in respect of the Junior Debt Documents and the Junior Debt, all present and future:

- (a) money and proceeds of any nature paid or payable in relation to the Junior Debt Documents and the Junior Debt including sale proceeds and money paid by way of damages, award or judgment made in connection with the Junior Debt Documents and the Junior Debt; and
- (b) all rights and assets of any nature attaching to, deriving from or exercisable as a result of an interest in or ownership or operation of any interest under the Junior Debt Documents and the Junior Debt.

We irrevocably authorise and instruct you to:

- 1 disclose to the Security Agent without any reference to or further authority from us (and without any enquiry by you as to the justification for such disclosure), such information relating to the Junior Debt Documents as the Security Agent may at any time request;
- 2 deal only with us in relation to the Junior Debt Documents unless you receive written instructions from the Security Agent to the contrary;
- 3 pay to us all sums from time to time due and payable by you under the Junior Debt Documents or in relation to the Junior Debt, until such time as you receive notice from the Security Agent instructing you otherwise (the '**Instruction Notice**') following which you shall comply with all instructions contained in such Instruction Notice or in any subsequent notice or instructions relating

to the Junior Debt Documents and the Junior Debt or the debts represented by the Junior Debt Documents which you receive from the Security Agent without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction; and

- 4 send copies of all notices and communications relating to the Junior Debt Documents and the Junior Debt to the Security Agent as well as to us.

We further instruct you that upon receipt of notice from the Security Agent that an Event of Default has occurred and is continuing:

- 1 all remedies available at law or in equity are exercisable by the Security Agent (provided that the Security Agent shall have no greater rights under this notice than we have pursuant to the Junior Debt Documents);
- 2 all rights to compel performance of the Junior Debt Documents are exercisable by the Security Agent although we shall remain liable to perform all of the obligations assumed by it under the Junior Debt Documents; and
- 3 all rights, interests and benefits whatsoever accruing to or for the benefit of the Chargors arising from the Junior Debt Documents and the Subordinated Debt belong to the Security Agent to the exclusion of the Chargors.

Please note that we are and will remain liable to perform all the obligations assumed by us under the Junior Debt Documents and the Junior Debt and that neither the Security Agent, any Receiver nor any of their agents will at any time have any liability to you under the Junior Debt Documents and the Junior Debt.

The instructions in this notice may not be revoked or amended without the prior written consent of the Security Agent.

This notice is governed by English law.

Please confirm your agreement to the above by sending the attached acknowledgement to the Security Agent at Silbury Specialty Finance Limited, Verde, 10 Bressenden Place, London, United Kingdom SW1E 5DH with a copy to us.

Yours faithfully

.....

For and on behalf of

**[CHARGOR]**

## Part 2

**Form of acknowledgement from counterparty**

To: Silbury Specialty Finance Limited

Verde, 10 Bressenden Place, London, United Kingdom SW1E 5DH

Copy: [Chargors]

Date: [ ]

Dear Sirs

**Subordinated creditors' security agreement dated [ ] between, the chargors listed therein (the 'Chargors') and Silbury Specialty Finance Limited (the 'Security Agent') (the 'Subordinated Creditors' Security Agreement')**

We confirm receipt from the Chargors of a notice dated [ ] (the '**Notice**') of an assignment, pursuant to the terms of the Subordinated Creditors' Security Agreement, of all the Chargors' present and future rights under or in connection with the Junior Debt Documents, the Junior Debt and all Related Rights (each as defined in the Notice).

We confirm that:

- 1 we accept the instructions and authorisations contained in the Notice and we undertake to act in accordance with and comply with the terms of the Notice;
- 2 we have not received notice of the creation of any other assignment of or security over rights or proceeds arising in relation to the Junior Debt Documents and the Junior Debt in favour of any third party or the creation of any other third party interest in those rights or proceeds and we will notify you promptly should we receive any such notice;
- 3 we have not claimed or exercised nor do we have any outstanding right to claim or exercise against the Chargors any right of set-off, counter claim or other right relating to the Junior Debt Documents and the Junior Debt;
- 4 we agree that no term of the Junior Debt Documents may be amended, supplemented or waived without your prior written consent; and
- 5 we agree that the Junior Debt Documents may not be terminated or allowed to lapse other than where the Junior Debt Documents expires in accordance with its terms and not by reason of default without your prior written consent.

This acknowledgment is governed by English law.

Yours faithfully

.....

**[BORROWER]**



**EXECUTION PAGE TO THE SUBORDINATED CREDITORS' SECURITY AGREEMENT**

**CHARGORS**

EXECUTED as a DEED by SENIOR LIVING )  
INVESTMENT PARTNERS LIMITED )  
PARTNERSHIP, acting by its general partner )  
SENIOR LIVING INVESTMENT PARTNERS )  
(GENERAL PARTNER) LIMITED acting by )  
Domas Karsokas, a director, in the  
presence of:

[Redacted Signature]

Director

Signature of Witness:

[Redacted Signature]

Name:

Mathilde Guittard

Address

[Redacted Address]

Occupation:

[Redacted Occupation]

**Address for notices**

Address: 33 Holborn, London EC1N 2HT

Email:

[Redacted Email]

Attention Kevin Beirne  
of:

EXECUTED as a DEED by AUDLEY)  
INVESTMENTS NO 3 LIMITED acting by)  
Gary Burton  
\_\_\_\_\_, a director and)  
Nick Sanderson, a director: )

  
\_\_\_\_\_  
Director

  
\_\_\_\_\_  
Director

**Address for notices**

Address: 65 High Street, Egham, Surrey, United Kingdom, TW20 9EY

Email: 

Attention of: Gary Burton

**EXECUTED** as a **DEED** by **AUDLEY GROUP** )  
**LIMITED** acting by )  
Gary Burton, a director )  
and Charles Ferguson-Davie )

[Redacted Signature]

Director

[Redacted Signature]

Director

**Address for notices**

Address: 65 High Street, Egham, Surrey,  
United Kingdom, TW20 9EY

Email: [Redacted Email Address]

Attention of: Gary Burton

**EXECUTED** as a **DEED** by **AUDLEY HEADLEY** )  
**COURT MANAGEMENT LIMITED** acting by )  
Gary Burton )  
\_\_\_\_\_, a director and )  
Nick Sanderson, a director: ) \_\_\_\_\_  
Director

\_\_\_\_\_  
Director

**Address for notices**

Address: 65 High Street, Egham, Surrey,  
United Kingdom, TW20 9EY

Email: \_\_\_\_\_

Attention of: Gary Burton

EXECUTED as a DEED by AUDLEY HEADLEY )  
COURT RENT COMPANY LIMITED acting by )  
Gary Burton, a director and )  
Nick Sanderson, a director: )

)

)

[Redacted Signature]

Director

[Redacted Signature]

Director

**Address for notices**

Address: 65 High Street, Egham, Surrey,  
United Kingdom, TW20 9EY

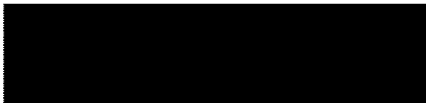
Email:

[Redacted Email Address]

Attention of:

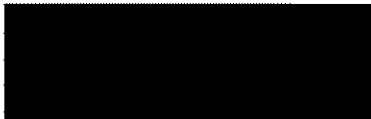
Gary Burton

EXECUTED as a DEED by SLIP )  
AUDLEY I LLP acting by )  
Domas Karsokas duly )  
authorised by SENIOR LIVING )  
INVESTMENT PARTNERSHIP )  
(GENERAL PARTNER) LIMITED )  
in its capacity as the general partner )  
of SENIOR LIVING INVESTMENT )  
PARTNERS LIMITED )  
PARTNERSHIP to sign on its behalf )  
as a member of SLIP AUDLEY I )  
LLP, in the presence of:



Authorised signatory on behalf of Member

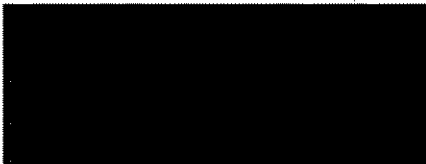
Witness signature:



Mathilde Guittard

Witness name:

Witness address:



Witness occupation:

**Address for notices**

Address:

33 Holborn, London EC1N 2HT

Email:



Attention of:

Kevin Beirne

EXECUTED as a DEED by SLIP )  
AUDLEY II LLP acting by )  
Domas Karsokas duly )  
authorised by SENIOR LIVING )  
INVESTMENT PARTNERS )  
(GENERAL PARTNER) LIMITED )  
in its capacity as the general partner )  
of SENIOR LIVING INVESTMENT )  
PARTNERS LIMITED )  
PARTNERSHIP to sign on its behalf )  
as a member of SLIP AUDLEY II )  
LLP, in the presence of: )



Authorised signatory on behalf of Member

Witness signature:



Witness name:

Mathilde Guittard

Witness address:



Witness occupation:

Address for notices

Address:

33 Holborn, London EC1N 2HT

Email:



Attention of:

Kevin Beirne

**EXECUTED** as a **DEED** by **AUDLEY COURT** )  
**LIMITED** acting by )  
Gary Burton a director and Nick Sanderson a )  
director:

[Redacted Signature]

Director

[Redacted Signature]

Director

**Address for notices**

Address: 65 High Street, Egham, Surrey, United Kingdom, TW20 9EY

Email: [Redacted Email Address]

Attention of: Gary Burton



SECURITY AGENT

EXECUTED as a DEED by SILBURY )  
SPECIALTY FINANCE LIMITED acting by )  
Gavin Eustace, a director and )  
Matt Taylor, a director )

Director

Director

Address for notices

Address: Verde, 10 Bressenden Place, London SW1E 5DH

Email:

Attention: Gavin Eustace