



Registration of a Charge

Company Name: **RUTHERFORD DIAGNOSTICS LIMITED**

Company Number: **10844984**



Received for filing in Electronic Format on the: **22/12/2021**

XAJVEHCJ

Details of Charge

Date of creation: **15/12/2021**

Charge code: **1084 4984 0002**

Persons entitled: **EQUITIX PROTON CANCER CENTRE LLP**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **WE 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: **STEPHENSON HARWOOD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10844984

Charge code: 1084 4984 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th December 2021 and created by RUTHERFORD DIAGNOSTICS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd December 2021 .

Given at Companies House, Cardiff on 29th December 2021

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**

Security Agreement

Dated 15 December 2021

- (1) RUTHERFORD DIAGNOSTICS LIMITED
(the Chargor)**
- (2) EQUITIX PROTON CANCER CENTRE LLP
(the Landlord)**

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Security Agreement

Dated 15 December 2021

Between

- (1) **RUTHERFORD DIAGNOSTICS LIMITED**, a limited liability company established in England and Wales with company number 10844984, whose registered office is at Suite 4 Penn House, 9-10 Broad Street, Hereford, United Kingdom, HR4 9AP (the "**Chargor**"); and
- (2) **EQUITIX PROTON CANCER CENTRE LLP**, a limited liability partnership established in England and Wales with company number OC435951, whose registered office is at registered office is at 3rd Floor, South Building, 200 Aldersgate Street, London EC1A 4HD (the "**Landlord**").

This deed witnesses

1 Definitions and interpretation

1.1 Definitions

This Security Agreement is intended to be a deed between the parties to it and is referred to here as "**this Deed**". In this Deed, the following terms have the meanings set out in this Clause.

"Account Bank" means a person with whom a Chargor maintains an account;

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

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

"Default Rate" means four per cent above the base rate for the time being in force of National Westminster Bank plc (or any other UK clearing bank specified by the Landlord);

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Landlord or Receiver;

"Disruption Event" means either or both of:

- (a) a material disruption to those payment or communications systems or to those financial markets which are, in each case, required to operate in order for payments to be made in connection with the Lease which disruption is not caused by, and is beyond the control of, any Party; or
- (b) the occurrence of any other event which results in a disruption (of a technical or systems-related nature) to the treasury or payments operations of a Party preventing that, or any other Party:
 - (i) from performing its payment obligations under the Lease; or

- (ii) from communicating with other Parties in accordance with the terms of the Lease,
and which (in either such case) is not caused by, and is beyond the control of, the Party whose operations are disrupted;

"Dividend" means all dividends, interest and other distributions paid or payable or arising from time to time in respect of any Investment;

"Environment" means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media: air (including, without limitation, air within natural or man-made structures, whether above or below ground); water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and land (including, without limitation, land under water);

"Environmental Claim" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;

"Environmental Law" means any applicable law or regulation which relates to: the pollution or protection of the Environment; the conditions of the workplace; or the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste;

"Environmental Permits" means any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of the Chargor conducted on or from the properties owned or used by the Chargor;

"Equipment" means any equipment supplied to a Chargor (to include all replacements and renewals thereof and of any parts thereof and all additions and accessories which form an integral part of such equipment) and designated as "Equipment" by a Chargor and the Landlord;

"Excluded Insurance Proceeds" means any proceeds of an insurance claim which the Chargor notifies the Landlord are, or are to be, applied:

- (a) to meet a third party claim; or
- (b) to cover operating losses in respect of which the relevant insurance claim was made,

in each case as soon as possible (but in any event within 90 days, or such longer period as the Landlord may agree) after receipt;

"Event of Default" means each event of default as set out in paragraph 2 of Schedule 6 (*Landlord's right to assign the Lease*) the Lease unless the Chargor in question demonstrates to the reasonable satisfaction of the Landlord that:

- (c) its failure to pay is caused by:
 - (i) administrative or technical error; or
 - (ii) a Disruption Event; and

- (b) payment is made within 3 Business Days of its due date;

"Financial Collateral" shall have the same meaning as it has in the Regulations;

"Financial Indebtedness" means any indebtedness for or in respect of:

- (a) moneys borrowed and debit balances at banks or other financial institutions;
- (b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);
- (c) any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a balance sheet liability;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for de-recognition);
- (f) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price;
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution in respect of (i) an underlying liability of an entity which is not a Chargor which liability would fall within one of the other paragraphs of this definition or (ii) any liabilities of the Chargor relating to any post-retirement benefit scheme;
- (h) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 90 days after the date of supply;
- (i) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under the GAAP; and

the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (i) above amounting to not more than £50,000 per annum, calculated under pre-IFRS 16 rules applying to operating leases;

"GAAP" means generally accepted accounting principles in England and Wales;

"Insurances" means each contract or policy of insurance to which the Chargor is a party or in which it has an interest;

"Insurance Proceeds" means all amounts payable from time to time to under each of the Insurances (other than Excluded Insurance Proceeds) and all rights in connection with those amounts including any payment by way of refund;

"Insured Risks" means loss or damage by any of the following: aircraft and other aerial devices and articles dropped from them; apparatus or pipes, bursting or overflowing of water tanks; civil commotion; earthquake; explosion; fire; flood; impact; lightning; malicious damage; riot, storm and tempest; vehicular impact, subsidence; acts of terrorism; all other normally insurable risks of loss or damage, including any third party liability arising from such acts and insure such other risks as a prudent company in the same business as the Chargor would insure;

"Intellectual Property Rights" means:

- (a) any patents, petty patents, trademarks, service marks, trade names, designs, business names, domain names, moral rights, rights in designs, software rights, utility models, database rights, copyrights, rights in the nature of copyright, and all other forms of intellectual or industrial property and other intellectual property rights and interests;
- (b) any rights in or to inventions, formulae, confidential or secret processes and information, know-how and similar rights, topographical or similar rights, goodwill and any other rights and assets of a similar nature and other intellectual property rights and interests;
- (c) any other right to use, or application to register or protect, any of the rights listed in paragraphs (a) or (b),

arising or subsisting in any jurisdiction and whether registered or not;

"Investments" means all or any shares, debentures, stocks, bonds and securities of any kind negotiable instruments, warrants, other investments of whatever nature, any other financial instruments as defined in the Regulations, all equivalent financial collateral as defined in the Regulations; and the assets listed in Schedule 3 (*Investments*);

"LPA" means the Law of Property Act 1925;

"Lease" means the lease of the building known as land and buildings on the north side of Spooner Close, Newport between the Landlord and Rutherford Estates Limited;

"Lease Document" means an Occupational Lease, and any agreement to grant an Occupational Lease, and any other document so designated by the Landlord and the Chargor;

"Leasehold Documents" means the leasehold documents between the relevant landlord and the relevant Chargor in respect of the Leasehold Properties;

"Leasehold Properties" means any leasehold properties the Chargor has an interest in from time to time;

"Legal Mortgage" means a charge by way of legal mortgage in respect of any Real Property by the Chargor in favour of the Landlord substantially in the form set out in Schedule 8 (*Form of Legal Mortgage*);

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
- (c) similar principles, right and defences under the laws of England and Wales;

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984;

"Material Adverse Effect" means a material adverse effect on:

- (a) the business, operations, property, condition (financial or otherwise) or prospects of the Chargor taken as a whole; or
- (b) the ability of a Chargor to perform its obligations under this Deed or the Lease;
- (c) subject to any Legal Reservations or Perfection Requirements, the validity or enforceability of, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of, this Deed or the rights or remedies of the Landlord under this Deed; or
- (d) the rights and remedies of the Landlord under the Lease;

"Material Contracts" means the following:

- (a) a development framework agreement relating to the development of a network of diagnostic centres across various locations in the UK between the Chargor and Equitix Limited dated 22 June 2020;
- (b) a NHS Supply Chain Framework Agreement for the Supply of Mobile Strategic Clinical Solutions and Associated Goods between NHS Supply Chain operated by DHL Supply Chain Limited acting as agent of Supply Chain Coordination Ltd and the Chargor dated 9 May 2019;
- (c) a Contract for the Provision of Mobile and Strategic Clinical Solutions and Associated Good between Somerset NHS Foundation Trust and the Chargor dated 22 June 2020; and
- (d) a contract for clinical imaging and reporting between Somerset NHS Foundation Trust and the Chargor dated 22 June 2020;

"Occupational Lease" means any lease, licence, other right of occupation, or right to receive rent to which any of the Chargor's Real Property may be subject, including any guarantee of a tenant's obligations under such arrangements at any time;

"Operating Account" means each of the following accounts:

Account Name	Sort Code	Account Number
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Rutherford Diagnostics
Limited (GBP)

Rutherford Diagnostics
Limited (GBP)

"Party" means a party to this Deed;

"Perfection Requirements" means the making or procuring of appropriate registrations, filings, endorsements, notarisations, stampings and/or notifications of this Deed and/or the Lease and/or the Security expressed to be created under this Deed for the enforceability or production in evidence of this Deed;

"Permitted Acquisition" means:

- (a) the incorporation of any body corporate; or
- (b) any acquisition by the Chargor of:
 - (i) any shares or securities of any company; or
 - (ii) a business or undertaking,

(or in each case, any interest in any of them) conducting substantially the same or similar business to that of the Chargor, but only if such acquisition does not have a Material Adverse Effect on the Chargor;

"Permitted Disposal" means any sale, lease, licence, transfer or other disposal which, except in the case of paragraph (b), is on arm's length terms:

- (a) of trading stock or cash made by the Chargor in the ordinary course of trading of the disposing entity;
- (b) arising as a result of any Permitted Security;
- (c) of any assets by the Chargor (the **"Disposing Company"**) to another Chargor (the **"Acquiring Company"**) provided that if the Disposing Company had given Security over the relevant asset, the Acquiring Company must give equivalent Security over that asset;
- (d) of cash;
- (e) of cash equivalent investments for treasury management purposes for cash or in exchange for other cash equivalent investments;
- (f) of assets (other than shares, businesses or Real Property and other assets which are the subject of a fixed charge in favour of the Landlord) in exchange for other assets comparable or superior as to type, value and quality;
- (g) of obsolete or redundant vehicles, plant and equipment for cash;
- (h) of cash for assets, cash equivalent investments for cash or in exchange for other cash equivalent investments;

- (i) of fixed assets (other than shares, businesses or Real Property and other assets which are the subject of a fixed charge in favour of the Landlord) where the proceeds of disposal are used within two months of that disposal to purchase replacement fixed assets comparable or superior as to type, value and quality;
- (j) of assets (other than shares, businesses or Real Property and other assets which are the subject of a fixed charge in favour of the Landlord):
- (i) for cash; or
- (ii) by way of sale and leaseback,

where the net consideration receivable or the proceeds of all such disposals (when aggregated with the net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs or as a Permitted Transaction) does not exceed £250,000 in any given financial year;

"Permitted Financial Indebtedness" means Financial Indebtedness:

- (a) arising under any agreement between a Chargor and the Landlord;
- (b) arising under a Permitted Loan, Permitted Transaction or Permitted Disposal;
- (c) arising under spot and forward foreign exchange transactions entered into in order to settle foreign currency liabilities incurred in the ordinary course of trade;
- (d) arising under a loan provided by the Chargor to another Chargor;
- (e) arising under any cash pooling, netting or cash management arrangements with any bank or other financial institution, in the ordinary course of business of its banking arrangements for the purpose of netting debit and credit balances; or
- (f) not permitted by the preceding paragraphs or as a Permitted Transaction, or under any finance or capital leases of vehicles, plant, equipment or computers, save where the outstanding principal amount will not exceed £250,000 in aggregate;

"Permitted Loan" means:

- (a) any trade credit extended by the Chargor to its customers on normal commercial terms and in the ordinary course of its trading activities and any advance payment made in relation to capital expenditure in the ordinary course of business; or
- (b) any loan made by the Chargor to another Chargor;

"Permitted Security" means:

- (a) any Security constituted by this Deed;
- (b) any lien or right of set-off arising by operation of law or agreement of similar effect and in the ordinary course of trading and if arising as a result of any default or

omission by a Chargor, which does not subsist for a period of more than 20 Business Days;

- (c) any Security arising by operation of law or under any lien or any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a Chargor in the ordinary course of trading and on a supplier's standard or usual terms and not arising as a result of any default or omission of the Chargor;
- (d) any Security arising as a consequence of any finance or capital lease permitted pursuant to paragraph (e) of the definition of "Permitted Financial Indebtedness";
- (e) any Security over any rental deposits in respect of any property leased or licensed by a Chargor in respect of amounts representing not more than 12 months' rent for that property;
- (f) any Security over bank accounts or retention rights in favour of the account holding bank and granted as part of that financial institution's standard terms and conditions; or
- (g) any Security arising by operation of law in respect of taxes being contested in good faith or that are not yet due;

"Permitted Share Issue" means an issue of:

- (a) shares by the Chargor to its immediate holding company where, if the existing shares are the subject of Security, the newly-issued shares also become subject to Security on the same terms;

"Permitted Transaction" means:

- (a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security given, or other transaction arising, under or in connection with circumstances agreed in writing between the Landlord and the Chargor; or
- (b) transactions other than:
 - (i) any sale, lease, license, transfer or other disposal; and
 - (ii) the granting or creation of Security or the incurring or permitting to subsist of Financial Indebtedness,

conducted in the ordinary course of trading on arm's length terms;

"Real Property" means:

- (a) all right, title and interest in all interests in all freehold, leasehold and commonhold property of the Chargor, from time to time situated in England and Wales;
- (b) all buildings or parts of buildings on or part of any property referred to in paragraph (a);

- (c) all fixtures, fittings and fixed plant and machinery, including trade fixtures and fittings, from time to time, situated on or forming part of any property referred to in paragraph (a);

"Receiver" means a receiver, manager or where permitted an administrative receiver appointed, whether alone or jointly and whether appointed under this Deed, under the LPA or any other applicable law;

"Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements, as amended by the Financial Collateral Arrangements (No 2) Regulations 2003 (Amendment) Regulations 2009 (SI 2009/2462), and (ii) the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010 (SI 2010/2993);

"Rental Income" means the aggregate gross amounts paid to, or receivable by, the Chargor, now or at any time after the date of this Deed, in connection with any Lease Document relating to each of the Chargor's Real Properties, or any similar arrangements, including but not limited to: rent, licence fees, apportionment of rent of licence fees, other sum for occupation or usage, sums under insurance for loss of rent or interest in rent, any collateral or guarantee in support of a tenant's payment or other obligations, other sums arising and due to the Chargor as landlord or lessor under the Lease Documents or amendment waiver surrender or replacement of any of them, including interest, costs and expenses, and any damages or compensation or settlement, and any other amounts payable by each tenant in respect of the relevant Real Property in terms of the Lease Document applicable to it;

"Secured Liabilities" means all liabilities, moneys and obligations, now or after the date of this Deed, due or incurred by Rutherford Estates Limited to the Landlord under or in connection with the Lease, whether present or future obligations, whether actual or contingent, whether owed jointly or severally or in any other capacity whatsoever, in any manner and currency whatsoever, whether as principal or surety, together with all interest (including default interest) accruing on such liabilities, moneys, obligations, costs, charges and expenses incurred by the Landlord;

"Secured Property" means all of the Real Properties of the Chargor subject to (i) any Security created by or under this Deed, (ii) any supplemental Legal Mortgage dated on or after the date of this Deed, or (iii) any other Security;

"Security" means (i) a charge, including any fixed, floating, legal or equitable charge, (ii) a lien, (iii) a mortgage, including an assignment by way of security, (iv) a pledge, (v) any other security interest securing any obligation of any person, or (iv) any other agreement or arrangement having a similar effect;

"Security Assets" means all of the assets of whatever nature of the Chargor which are the subject of any Security created by or under this Deed or any supplemental Legal Mortgage or other Security in favour of the Landlord;

"Security Period" means the period starting on the date of this Deed and ending on the date on which all of the Secured Liabilities are irrevocably discharged in full and

the Landlord has no commitment or liability, whether present or future, actual or contingent, under the Lease;

"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);

"Valuation" means any valuation of the Chargor's Real Property on terms acceptable to the Landlord and the relevant Chargor by a reputable valuer acceptable to the Landlord;

"VAT" means:

- (a) any value added tax imposed by the Value Added Tax Act 1994;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in the United Kingdom or in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraphs (a) or (b) above, or imposed elsewhere.

1.2 Construction

In this Deed, unless a contrary indication appears:

- 1.2.1 any references to clauses and schedules shall be construed as a reference to the clauses and schedules of this Deed;
- 1.2.2 section, clause and schedule headings are for ease of reference only;
- 1.2.3 any reference to or any provisions of, **"this Deed"** or any other agreement, deed or instrument is a reference to this Deed or any other agreement, deed or instrument or provision as amended, novated, supplemented, extended or restated;
- 1.2.4 words importing the singular are to include the plural and vice versa;
- 1.2.5 any reference to a **"person"** shall be construed to include reference to any company, consortium or partnership, corporation, firm, government, individual, joint venture, other entity, state or agency of a state or any association, trust or unincorporated body of persons (whether or not a separate legal entity);
- 1.2.6 any reference to the Chargor, the **Landlord** or a **Receiver** or any other person includes any one or more of its assigns, transferees and successors in title (in the case of the Chargor, so far as any such is permitted);
- 1.2.7 the **Landlord** or a **Receiver** (except for the references in Clause 17 (*Power of attorney*)), includes its duly appointed nominees, attorneys, correspondents, trustees, advisers, agents, delegates and sub-delegates;

- 1.2.8 any reference to a provision of law or regulation is a reference to that provision as amended, supplemented, re-enacted or replaced from time to time;
- 1.2.9 a "**regulation**" includes any instrument, official directive, order, other subordinate regulation request or guideline (whether or not having the force of law) regulation, or rule of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- 1.2.10 any reference to "**assets**" includes present and future properties, revenues and rights and benefits of every description;
- 1.2.11 any reference to "**disposal**" includes an assignment, declaration of trust, grant, lease, licence, sale, transfer, or other disposal, whether voluntary or involuntary, and "**dispose**" will be construed accordingly;
- 1.2.12 any reference to a time of day is a reference to London time;
- 1.2.13 any reference to "£", "GBP" and "sterling" denotes the lawful currency of the United Kingdom;
- 1.2.14 any reference to a Event of Default which is "**continuing**", is a Event of Default which has not been remedied or waived;
- 1.2.15 each mortgage, fixed charge and assignment contained in Clauses 4.1 (*Real Property*) to 4.9 (*Other contractual rights*) over each category of assets specified in those Clauses shall be read and construed separately of each other; and
- 1.2.16 where this Deed creates Security over any Security Asset which constitutes Financial Collateral, this Deed is intended to be a "**security financial collateral arrangement**" as defined in the Regulations.

1.3 **Third party rights**

- 1.3.1 The Landlord, any Receiver or Delegate and their respective officers, employees and agents may enforce any term of this Deed which purports to confer a benefit on that person principally in relation to rights and indemnities in Clause 13 (*Protection of the Landlord and Receivers*), but no other person who is not a party to this Deed has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- 1.3.2 The Parties to this Deed and any Receiver or Delegate may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of any person who is not a Party to this Deed.

1.4 **Effect as a deed**

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Landlord.

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

The terms of the Lease are incorporated in this Deed, to the extent required to ensure that any purported disposition of an interest in Real Property contained in this Deed is a valid disposition in accordance with section 2 of the Law of Property (Miscellaneous Provisions) Act 1989.

1.6 **Conflict**

Each Legal Mortgage is supplemental to this Deed, and to the extent the provisions of this Deed conflict with those of any Legal Mortgage, the provisions of that Legal Mortgage shall prevail.

2 **Covenant to pay**

2.1 The Chargor covenants with the Landlord that they will on demand pay and discharge the Secured Liabilities when due in accordance with the terms of the Lease.

2.2 The Chargor shall pay interest at the Default Rate on the sums payable under this Deed from the date on which the liability was incurred to the date of actual payment, both before and after judgment.

3 **Nature of Security created**

All of the Security created under this Deed:

3.1 is created as a continuing security to secure the payment and discharge of all of the Secured Liabilities;

3.2 is created over all present and future assets of the description in Clause 4 (*Creation of Security*) owned by the Chargor, except in the case of assets which are the subject of a legal mortgage under this Deed, and over any right or interest which the Chargor may otherwise have in such assets; and

3.3 is created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4 **Creation of Security**

4.1 **Real Property**

The Chargor:

4.1.1 charges to the Landlord by way of first legal mortgage all Real Property including the Real Property listed in Schedule 2 (*Real Property charged by way of legal mortgage*);

4.1.2 charges to the Landlord, to the extent not subject to the charge by way of legal mortgage in Clause 4.1.1, by way of first fixed charge all of its Real Property which it has now or which it may subsequently acquire;

4.1.3 charges to the Landlord by first fixed charge the Rental Income and any guarantee or indemnity of the Rental Income relating to any Lease Document, to the extent not otherwise assigned under Clauses 4.9.2 and 4.9.3; and

4.1.4 assigns to the Landlord absolutely, not otherwise charged by way of legal mortgage under Clause 4.1.1, all of its rights and interests under or in respect of:

- (a) all present and future rights in each agreement, licence, contract, easement, option, guarantee, Security, warranty, covenant for title or other right or document relating to the use, disposal or acquisition of the property referred in this definition or other asset or right relating to all Real Property, including the Real Property listed in Schedule 2 (*Real Property charged by way of legal mortgage*);
- (b) all rights in relation to any Occupational Lease relating to the Real Property; and
- (c) any proceeds of sale of any Real Property, interest or right relating to them.

4.2 **Equipment**

The Chargor charges to the Landlord by way of first fixed charge all Equipment not otherwise charged by way of legal mortgage under Clause 4.1 (*Real Property*).

4.3 **Investments**

The Chargor charges to the Landlord by way of first fixed charge

- 4.3.1 all Investments owned by it from time to time including those held for it by any nominee;
- 4.3.2 all allotments, accretions, offers, options, rights, moneys, property, bonuses, benefits and advantages, whether by way of conversion, exchange, bonus, redemption, preference, option rights, substitution or otherwise which at any time accrue to or are offered or arising from any Investment;
- 4.3.3 all Dividends; and
- 4.3.4 any proceeds of sale of each Investment or any right relating to it.

4.4 **Intellectual Property Rights**

The Chargor charges to the Landlord by way of first fixed charge:

- 4.4.1 all Intellectual Property Rights.
- 4.4.2 any proceeds of sale or realisation of each Intellectual Property Right or any right relating to it;
- 4.4.3 any proceeds of any licence or right to use each Intellectual Property Right; and
- 4.4.4 all Security, guarantees, indemnities, options, agreements, rights, licences, warranties, agreement for use or other undertakings or covenants of title in respect of any Intellectual Property Right.

4.5 **Goodwill**

The Chargor charges to the Landlord by way of first fixed charge its goodwill.

4.6 **Uncalled capital**

The Chargor charges to the Landlord by way of first fixed charge its uncalled capital.

4.7 **Authorisations**

The Chargor charges to the Landlord by way of first fixed charge the benefit of all Authorisations relating to any Security Asset.

4.8 **Insurances**

The Chargor assigns to the Landlord absolutely all its rights and interests under the Insurances.

4.9 **Other contractual rights**

The Chargor assigns to the Landlord absolutely all its rights and interests under or in respect of:

- 4.9.1 each Lease Document;
- 4.9.2 all Rental Income;
- 4.9.3 any guarantee or indemnity of Rental Income contained in or relating to any Lease Document; and
- 4.9.4 any Material Contract to which it is a party which is not otherwise effectively assigned or charged by way of fixed charge pursuant to this Clause 4.

4.10 **Floating charge over other assets**

- 4.10.1 The Chargor charges to the Landlord by way of first floating charge all of its present and future business, undertaking, assets, rights and revenues which are not effectively charged by way of legal mortgage, charged by way of fixed charge or assigned under this Clause 4.
- 4.10.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created by this Deed to the extent that each floating charge shall be a 'qualifying floating charge' within the meaning of that paragraph.

4.11 **Conditions to granting Security**

- 4.11.1 Where granting any Security is prohibited over any asset of a Chargor until, a consent or waiver is obtained or a condition is satisfied, such Chargor shall (to the extent permitted by the Leasehold Document in question) hold such asset or any proceeds of such asset on trust for the Landlord.
- 4.11.2 The Chargor shall use its reasonable endeavours to obtain such consent or waiver or satisfy such condition within 60 Business Days of the date of this Deed or, if acquired after the date of this Deed, within 60 Business Days of the date of acquisition and shall in each case keep the Landlord informed of

the progress. In respect of the Leasehold Documents, such Chargor shall use its reasonable endeavours to obtain such consent or waiver or satisfy such condition within 6 months of the date of this Deed.

- 4.11.3 On the waiver or consent being obtained, or the condition being satisfied, the asset shall be charged by way of legal mortgage, charged by way of fixed charge, assigned, or charged by floating charge under this Clause 4, in each case to the Landlord and the trust referred to in Clause 4.11.1 shall terminate. Such asset shall be deemed a Security Asset.

5 Conversion of floating charge

5.1 Automatic conversion

The floating charge created by this Deed will convert automatically into a fixed charge over the Security Assets:

- 5.1.1 if the Landlord receives notice of an intention to appoint an administrator to the Chargor;
- 5.1.2 if any steps are taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint, or an appointment is made of, a liquidator, provisional liquidator, administrator or Receiver over all or any part of the Chargor's assets;
- 5.1.3 if the Chargor creates or attempts to create Security over all or any of the Security Assets;
- 5.1.4 on the crystallisation of any other floating charge over any of the Security Assets;
- 5.1.5 if any person seizes, attaches, charges, takes possession of or sells any Security Asset under any form of distress, sequestration, execution or other process, or attempts to do so; and
- 5.1.6 in any other circumstances prescribed by law.

5.2 Conversion on notice

The Landlord may, by notice to the Chargor at any time during the Security Period, convert the floating charge created by this Deed into a fixed charge in respect of any Security Asset specified in that notice if an Event of Default is continuing, or if the Landlord considers that Security Asset to be in danger of being seized, attached, charged, taken possession of or sold under any form of distress, sequestration, execution or other process or otherwise to be in jeopardy. This Clause shall not apply by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.

5.3 Part A1 moratorium

- 5.3.1 Subject to clause 5.3.1 below, the floating charge created by this deed may not be converted into a fixed charge solely by reason of obtaining a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986.

5.3.2 Clause 5.3.1 above does not apply to any floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

6 Representations and warranties

The Chargor makes the representations and warranties set out in this Clause to the Landlord (i) on the date of this Deed and (ii) on each Rent Day as defined in the Lease.

6.1 Status

It is a limited liability company, duly incorporated and validly existing under English law. It has the power to own and grant Security over the Security Assets, and to carry on its business.

6.2 Binding obligations

Its obligations in this Deed are, subject to the Legal Reservations, legal, valid, binding and enforceable.

6.3 Non-conflict with other obligations

Granting of the Security in and under this Deed, and execution of this Deed and any other document under or in connection with it, will not conflict with the Chargor's constitutional documents, any law or regulation applicable to it or any other agreement to which the Chargor is party, nor will it create a default or termination under such agreement.

6.4 Power and authority

It has the power to, and is authorised to, enter into, perform and deliver this Deed and the grant the Security under it.

There is no limit on its powers to borrow, grant Security or give guarantees or indemnities.

6.5 Authorisations

Subject to the Legal Reservations and Perfection Requirements, all Authorisations required for the Chargor to enter into this Deed and create and perfect the Security purported to be granted by the Chargor under it, and to make this Deed admissible in evidence have been obtained and are in full force and effect.

6.6 Deduction of Tax

It is not required to make any deduction or withholding on account of Tax from (i) any payment it may make under the Lease to the Landlord, or (ii) any Rental Income payable to the Chargor.

6.7 No filing or stamp taxes

It is not necessary that this Deed be registered, filed, recorded, notarised or enrolled with any court or other authority or that any Tax or fees be paid on or in relation to this Deed, except registration of particulars of this Deed and any supplemental Legal Mortgage at Companies House under the Companies Act 2006 and payment of

associated fees; and registration of this Deed at the Land Registry or Land Charges Registry in England and Wales and payment of associated fees, which registrations, filings, Tax and fees will be made and paid promptly after the date of this Deed. It has made any disclosure required to be made by it to any relevant taxing authority in relation to stamp duty land tax.

6.8 No default

No Event of Default is continuing or is reasonably likely to result from entering into, this Deed and granting the Security under it.

6.9 Information

All information supplied by the Chargor or on its behalf to the Landlord in connection with this Deed or any of the Real Property or any other Security Asset was true and accurate at the date provided.

6.10 Valuation

All information provided by it or on its behalf to any valuer for the purposes of each Valuation was true and accurate on the date provided. It has not omitted to provide any information to any valuer which, if disclosed, would adversely affect the Valuation.

6.11 Title to Property

6.11.1 The Chargor is the legal and beneficial owner of the relevant Real Properties, free from Security (other than those created by or pursuant to this Deed).

6.11.2 On and from the date of this Deed:

- (a) no breach of any law, regulation or covenant is outstanding which adversely affects or might reasonably be expected to adversely affect the use of any of the Chargor's Real Properties;
- (b) to the best of the Chargor's knowledge and belief and subject to matters as disclosed on the Land Registry title, there is no covenant, agreement, stipulation, reservation, condition, interest, right, easement or other matter whatsoever adversely affecting the Chargor's Real Properties;
- (c) to the best of the Chargor's knowledge and belief, nothing has arisen or has been created or is outstanding which would be an overriding interest, or an unregistered interest which overrides first registration or a registered disposition, over any of the Chargor's Real Properties;
- (d) all facilities necessary for the enjoyment and use of the Chargor's Real Property are available to it (including those necessary for the carrying on of its business);
- (e) the Chargor has not received any notice of any adverse claim by any person in respect of the ownership any of the Chargor's Real Properties or any interest in it which might reasonably be expected to be determined in favour of that person, nor has any acknowledgment been given to any such person in respect of any of the Chargor's Real Properties; and

- (f) to the best of the Chargor's knowledge and belief, each of the Chargor's Real Properties is held by such Chargor free from any lease or licence other than such interests disclosed to the Landlord (or its legal advisers) by such Chargor (or their legal advisers) on the date of this Deed in writing.

6.12 **Ranking of Security**

Subject to the Legal Reservations and any Permitted Security, the Security created or purported to be created by or under this Deed constitutes a first priority security interest of the type described, over the Security Assets in Clause 4 (*Creation of Security*). The Security Assets are not subject to any prior or *pari passu* Security.

6.13 **Ownership**

The shares in the capital of the Chargor are fully paid and are not subject to any option to purchase or similar rights. The constitutional documents of the Chargor do not restrict or inhibit any transfer of its shares on creation or enforcement of the Security created by or under this Deed.

7 **Undertakings relating to the Security Assets**

The undertakings in this Clause remain in force from the date of this Deed until the expiry of the Security Period.

7.1 **Disposals**

No Chargor shall enter into a single transaction or a series of transactions (whether related or not, and whether voluntary or involuntary), nor dispose of any Security Asset or part of any Security Asset, nor enter into an agreement to make any disposal, except, in each case, (i) a Permitted Disposal, (ii) a Permitted Transaction, (iii) a Permitted Acquisition, (iv) a Permitted Share Issue or (v) as permitted by the Landlord.

7.2 **Negative pledge**

No Chargor shall create, purport to create or permit any Security over any Security Asset (other than Permitted Security).

7.3 **Preservation of Assets**

The Chargor:

- 7.3.1 shall notify the Landlord of any action commenced by a third party to seize, attach, charge, take possession of or sell any Security Asset which (to the best of its knowledge and belief) has been started or threatened and at its own cost, defend such proceedings;
- 7.3.2 shall not enter into any onerous obligation or restriction affecting any Security Asset;
- 7.3.3 in relation to any Secured Property, shall not:
 - (a) exercise any of the powers conferred by sections 99 (*Lease of powers of mortgages and mortgage in possession*) and 100 (*Powers of mortgagor in possession to accept surrenders of leases*) of the LPA

of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases;

- (b) make an application, consent to or acquiesce in the application by any third party, to the Land Registry to enter any matter on the register of title; and

7.3.4 shall take any Security in connection with its liability under this Deed from any guarantor of, or provider of Security for, any of the Secured Liabilities.

7.4 Notices of assignment and charge

The Chargor shall, serve the following notices substantially in the forms set out in the relevant Schedule referred to in this Clause, and deliver to the Landlord a copy of each notice and (except in relation to the notices referred to in clause 7.4.3) shall use reasonable endeavours to procure that the recipient of such notice acknowledges that notice in writing substantially in the form set out in the relevant Schedule referred to in this Clause:

- 7.4.1 on the occurrence of an Event of Default, in respect of Occupational Leases, the notice of assignment, set out in Part 1 of Schedule 5 (*Forms of letter to and from Occupational Tenants*) on each tenant of each Secured Property, and the acknowledgment set out in Part 2 of Schedule 5 (*Forms of letter to and from Occupational Tenants*);
- 7.4.2 promptly after the execution of this Deed, in respect of each Operating Account, the notice to the Account Bank of the floating charge set out in Part 3 of Schedule 5 (*Forms of letter to and from Account Bank regarding the Operating Account*) and the acknowledgment set out in Part 4 of Schedule 5 (*Forms of letter to and from Account Bank regarding Operating Account*) as applicable;
- 7.4.3 promptly after the execution of this Deed, in respect of Insurances, notice of the assignment to each insurer set out in Schedule 6 (*Forms of letter and acknowledgment for Insurances*); and
- 7.4.4 on the occurrence of an Event of Default, in respect of assigned contracts, the notice of assignment to the counterparties as out in Schedule 7 (*Forms of letter and acknowledgment for agreements being assigned agreements*) and the acknowledgment set out in Schedule 7 (*Forms of letter and acknowledgment for agreements being assigned agreements*).

7.5 Exercise of rights

Subject to the terms of the Lease, and to the terms of any notice or acknowledgment given or received under Clause 7.4 (*Notices of assignment and charge*), while no Event of Default is continuing, the Chargor may exercise its rights in respect of the agreements assigned pursuant to Clauses 4.8 (*Insurances*) and 4.9 (*Other contractual rights*) and deal with the relevant counterparties in respect of those agreements.

8 Undertakings relating to Real Properties

8.1 Maintenance and repair

The Chargor shall keep all buildings, installations, structures, plant, machinery, fixtures and fittings or any other erections (whether fully built or in the course of construction) on its Real Properties in good and substantial repair and condition and, as to enable them to be let in accordance with all applicable laws and regulations.

8.2 Insurances

8.2.1 The Chargor must ensure that at all times insurances are maintained in full force and effect on and in relation to its business and assets which insure it with such insurance companies or underwriters and to such extent and for such risks as is usual for prudent companies carrying on the same or substantially similar business to the Chargor (or as otherwise notified by the Landlord from time to time), except where the relevant landlord is required to insure a relevant Leasehold Property under the terms of the relevant Leasehold Document.

8.2.2 The Chargor must procure that the Landlord is named as composite insured in respect of its own separate insurable interest under each of its insurance policies (other than public liability and third party liability insurances), except where the relevant landlord is required to insure a relevant Leasehold Property under the terms of the relevant Leasehold Document.

8.2.3 The Chargor must promptly notify the Landlord of:

- (a) the proposed terms of any future renewal of any of its insurance policies if such proposed terms are materially different to the terms of such insurances on the date of this Deed;
- (b) any amendment, supplement, extension, termination, avoidance or cancellation of any of its insurance policies made or, to its knowledge, threatened or pending;
- (c) any claim, and any actual or threatened refusal of any claim, under any of its insurance policies; or
- (d) any event or circumstance which has led or may lead to a breach by a Chargor of any terms of this Clause.

8.2.4 The Chargor must:

- (a) comply with the terms of its insurance policies;
- (b) not do or permit anything to be done which may make void or voidable any of its insurance policies; and
- (c) comply with all reasonable risk improvement requirements of its insurers.

8.2.5 The Chargor shall pay each premium or other monies for the Insurances promptly and in any event prior to the commencement of the period of insurance for which that premium is payable. The Chargor shall do, and shall procure to be done, all other

things necessary so as to keep each of the Insurances in force. The Landlord may, at the expense of such Chargor effect any insurance and generally do such things and take such other action as the Landlord may reasonably consider necessary or desirable to prevent or remedy any breach the Insurances as Clause 8.2 (*Insurances*).

- 8.2.6 The Chargor shall apply moneys received under any Insurances either in making good the loss or damage to the Leasehold Property by replacing, restoring or reinstating that Leasehold Property or those Leasehold Properties (and any deficiency being made good by such Chargor) or towards discharge of the Secured Liabilities and such monies received by the Manager shall be held on trust for the Landlord accordingly. The proceeds of any loss of rent insurance will be treated as Rental Income and applied in such manner as the Landlord requires as if it were Rental Income received over the period of the loss of rent. Moneys received under liability policies held by a Chargor which are required by such Chargor to satisfy established liabilities of such Chargor to third parties must be used to satisfy these liabilities.

8.3 **Outgoings**

The Chargor shall, in accordance with its relevant Leasehold Document where relevant, or otherwise pay all rents, rent charges, rates, Taxes, charges, assessments, impositions and other outgoings whatsoever charged, assessed, levied or imposed on any of such Chargor's Real Property or upon the owner or occupier of such Real Property as payable in respect of such Real Property.

8.4 **Covenants and stipulations**

The Chargor shall perform, observe its obligations and exercise its rights and comply in all respects with any covenant, restriction, stipulation, provision, regulation, condition and agreement, obligation (restrictive or otherwise) at any time affecting any of its Real Properties or the use or enjoyment of any of them. The Chargor shall not amend, supplement, waive, surrender or release any such term at any time affecting any of its Real Properties without the prior written consent of the Landlord. The Chargor shall register the Security created by this Deed and any supplemental Legal Mortgage at the Land Registry or the Land Charges Register for England and Wales as appropriate. The Chargor shall comply with all laws from time to time, and approvals, licences or consent relating to such Chargor's Real Properties and its use or enjoyment of them.

8.5 **Investigation of title**

The Chargor shall grant the Landlord and its advisers on request, all facilities within its power, to carry out investigations of title to any of its Real Properties and to make such enquiries in relation to any part of any of its Real Properties as a prudent mortgagee might carry out.

8.6 **Alterations**

Unless it has the prior written consent of the Landlord, the Chargor shall not, demolish, pull down, remove or permit or to be demolished, pulled down or removed any building, installation or structure for the time being or any of such Chargor's Leasehold Properties or parts of any of them or except where replacing or renewing the same any fixtures or erect or make or permit to be erected or made at any of such Chargor's

Leasehold Properties any building, installation, structure or material alteration or a change of use or otherwise commit any waste upon or destroy or injure in any manner or by any means reduce or permit to be reduced the value of such of any of such Chargor's Leasehold Properties.

8.7 Development

The Chargor shall not make or allow to be made any application for planning permission in respect of any part of its Real Property without the Landlord's consent. During the Security Period, where any part of such Chargor's Real Properties is intended to be developed or is being developed, such Chargor shall proceed diligently with such development in all respects to the satisfaction of the Landlord and any competent authority in compliance with the planning permissions, byelaws and consents and shall submit all plans and specifications for the development to the Landlord for approval. It shall not amend such plans and specifications without the Landlord's approval not to be unreasonably withheld or delayed.

8.8 Planning

The Chargor shall comply in all respects with all planning laws, permissions, agreements and conditions to which any of its Real Properties may be subject.

8.9 Right of entry and remedy

8.9.1 Subject to prior written notice from the Landlord to each relevant Chargor of no less than 10 Business Days (except in cases of emergency, where as much notice as practicable shall be given), the Chargor shall permit the Landlord, its agents, representatives, employees and contractors to enter any part of any of its Real Properties at all reasonable times to view to the state of repair and condition of each Real Property, and shall permit the Landlord to comply with or (only if the Landlord reasonably considers necessary) object to any notice served on the Chargor in respect of any of its Real Properties and take any action that the Landlord thinks fit to prevent or remedy any breach of any such term or to comply with or object to any such notice.

8.9.2 The Landlord shall not be obliged to account as mortgagee in possession as a result of any action taken under this Clause 8.

8.10 Notices

Within 10 Business Days of the receipt, the Chargor shall deliver a copy to the Landlord of any application, requirement, order, notice direction, designation, resolution or proposal served or given by any public, local, planning or any other authority or any landlord with respect to any of its Real Properties (or any part of them). The Chargor shall promptly comply with the terms specified in such document and in any event, the Chargor shall inform the Landlord of the steps it or any other person has taken or it or any other person proposes to take to comply with the specified requirements.

8.11 Leases

8.11.1 The Chargor shall promptly:

- (a) exercise its rights, comply with its obligations, perform and observe all covenants and conditions under each Leasehold Document;

- (b) use all reasonable endeavours to procure that each tenant performs its obligations under each Leasehold Document;
- (c) not amend, supplement, extend, waive, surrender or release any provision of any Leasehold Document not exercise any right to break, determine or extend any Leasehold Document, grant any licence or right to use or occupy any part of its Real Property nor enter into any Leasehold Document without the prior written consent of the Landlord which consent shall not be unreasonably withheld or delayed;
- (d) not commence any forfeiture proceedings in respect of any Leasehold Document (other than where the relevant Chargor's tenant has failed to pay an amount due or is insolvent);
- (e) collect or all Rental Income and deposit it in the relevant Operating Account;
- (f) not agree to any change of use or rent review under any Leasehold Document;
- (g) not consent to any sublease or assignment of any tenant's interest under any Leasehold Document;
- (h) not serve any notice on any former tenant under any Leasehold Document (or on any guarantor of that former tenant) which would entitle it to a new lease or tenancy.

8.11.2 The Chargor shall provide the Landlord with a copy of each Leasehold Document and any amendment, supplement, extension or variation or waiver of any of them and all the rent review documentation in respect of each Leasehold Document promptly upon execution of such documentation.

8.11.3 Headleases

- (a) Other than the Lease:
 - (i) The Chargor shall exercise its rights, comply with its obligations, perform and observe all covenants and conditions under each headlease to which it is a party; use all reasonable endeavours to procure that each landlord performs all of its obligations under such headlease; and if deemed necessary by the Landlord, apply for relief against forfeiture of any headlease over any of the Chargor's Real Property to which it is a party.
 - (ii) The Chargor shall not amend, supplement, extend, waive, surrender or release any provision of any headlease to which it is a party, exercise any right to break, determine or extend any headlease; agree to any rent review in respect of any headlease; and shall not do or allow to be done any act as a result of which any headlease may become liable to forfeiture or otherwise be terminated.

8.12 **Managing Agents**

The Chargor may only appoint a managing agent or terminate the appointment of a managing agent to any of its Real Properties with the prior consent of the Landlord and on terms acceptable to the Landlord. The Chargor shall procure that a managing agent of any of its Real Property acknowledges to the Landlord notice of the Security created by this Deed and pays all Rental Income received by it into the relevant Operating Account without any withholding, set-off or counterclaim.

8.13 **Environmental matters**

The Chargor shall during the Security Period, comply and procure that any third party complies with all Environmental Law in relation to each of its Real Properties and shall obtain, maintain and procure compliance with all Environmental Permits applicable to it or to any of its Real Properties. The Chargor shall implement procedures to monitor compliance with, and prevent liability arising under any Environmental Law applicable to it or any of its Real Properties.

The Chargor shall, promptly upon becoming aware of the same, notify the Landlord in writing of any Environmental Claim started or threatened against it or any of its Real Properties, any circumstances reasonably likely to result in an Environmental Claim being commenced or threatened against it or any of its Real Properties or any suspension, revocation or notification of any Environmental Permit in each case relating to any of its Real Properties.

The Chargor shall indemnify the Landlord, Receiver and any Delegate against any loss (including consequential loss) or liability, costs and expenses with VAT in addition, which

- 8.13.1 it incurs as a result of any actual or alleged breach of any Environmental Law by any person in respect of any of its Real Properties;
- 8.13.2 would not have arisen if neither this Deed nor the Lease had not been entered into;
- 8.13.3 may arise from any person making an Environmental Claim against such Chargor, Landlord, Receiver or any of such Chargor's Real Properties or any business operations or activities on any of them;
- 8.13.4 may arise from any liability or potential liability of the Landlord, any Receiver or Delegate to remedy, clean-up or make good any breach, contravention or violation of any Environmental law by such Chargor or any harm actual as potential, to the environment caused directly or indirectly by any release, emission or discharge of any harmful or hazardous material from, in or to or on any of such Chargor's Real Properties; and
- 8.13.5 may arise where such Chargor is in breach of this Clause 8.13 (*Environmental matters*),

unless it is caused by the Landlord's gross negligence or wilful misconduct.

9 Investments: Undertakings, Dividends and Voting rights etc

9.1.1 The Chargor shall:

- (a) promptly pay all calls, instalments and other payments which may be made or become due in respect of the Investment; and
- (b) promptly comply with any notice served on it, under the Companies Act 2006 or pursuant to its articles of association or any other constitutional document, in respect of or in connection with the Investments or any of them, and will promptly provide to the Landlord a copy of any material notice.

9.1.2 The Chargor shall promptly, on the request of the Landlord:

- (a) provide to the Landlord a copy of all other notices, reports, accounts and circulars in respect of or in connection with any of the Investments.

9.1.3 The Chargor shall, if any Investments are in, or are converted into, uncertificated form, promptly notify the Landlord, and act on any instructions given by the Landlord, and give such directions as it may require to protect and preserve the Landlord's Security in respect of those Investments; and transfer those Investments which are or become uncertificated to an escrow account, in respect of which it has named as escrow agent the Landlord or its any nominee or agent, notified to the Chargor or any other person approved in writing by the Landlord.

9.2 Before an Event of Default/Default

Until an Event of Default occurs, the Chargor having granted a charge over Investments under this Deed, may receive and retain Dividends and exercise all voting and other rights and powers attached to the Investments

but, only in a manner consistent with this Deed and not to prejudice the value of or the ability of the Landlord to enforce the Security or other rights created under this Deed.

9.3 After an Event of Default

After an Event of Default occurs:

- 9.3.1 the Chargor shall promptly pay over to the Landlord all Dividends which it may receive, and apply such moneys according to Clause 10.4 (*Application of moneys*), and exercise all voting and other rights and powers attached to the Investments in any manner which the Landlord may direct.
- 9.3.2 in respect of Investments of which the Landlord is the legal owner, the Landlord may receive and retain all Dividends and apply them in any manner permitted by this Deed, and may exercise all such voting and other rights and powers in such manner as it determines.

10 Enforcement

10.1 When Security becomes enforceable

The Security created by this Deed shall become immediately enforceable (i) on the occurrence of an Event of Default, and (ii) if the Chargor so requests.

10.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Landlord may (without prejudice to any other of its rights and remedies and without notice to the Chargor) do all or any of the following:

- 10.2.1 exercise all the powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 (*Regulation of exercise of power of sale*) or 109(1) (*Appointment, powers, remuneration and duties of receiver*) of the LPA;
- 10.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Security Asset, without the restrictions imposed by sections 99 (*Leasing powers of mortgagor and mortgagee in possession*) and 100 (*Powers of mortgagor and mortgagee in possession to accept surrenders of leases*) of the LPA;
- 10.2.3 to the extent that any Security Asset constitutes Financial Collateral, appropriate it and transfer the title to it to the Landlord where not already transferred, subject to paragraphs (1) and (2) of Regulation 18 (*Duty to value collateral and account for any difference in value on appropriation*) of the Regulations;
- 10.2.4 value any Security Asset which constitutes Financial Collateral, at the time of appropriation as referred to in the Regulations, as the market price of the relevant Security Asset, as determined by the Landlord by reference to such method or source, (including an independent valuation), as the Landlord may determine, and which shall constitute a 'commercially reasonable manner' for the purposes of the Regulations;
- 10.2.5 subject to Clause 11.1 (*Method of appointment and removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Security Assets; and
- 10.2.6 appoint an administrator to the Chargor.

10.3 Disposal of the Security Assets

In exercising the powers referred to in Clause 10.2 (*Powers on enforcement*), the Landlord or any Receiver may sell or dispose of all or any of the Security Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

10.4 Application of moneys

10.4.1 The Landlord or any Receiver shall apply moneys received by each of them under this Deed after the Security created under this Deed has become enforceable in the following order:

- (a) **first**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid costs and expenses of the Landlord and any Receiver under this Deed or which are incidental to any Receiver's appointment, together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;
- (b) **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Landlord and any Receiver;
- (c) **thirdly**, in or towards the discharge of all liabilities having priority to the Secured Liabilities;
- (d) **fourthly**, in or towards the discharge of the Secured Liabilities; and
- (e) **fifthly**, in the payment of any surplus to the Chargor or other person entitled to it,

and section 109(8) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

10.4.2 Clause 10.4.1 will override any appropriation made by the Chargor.

11 Appointment and powers of Receivers

11.1 Method of appointment and removal

11.1.1 The Landlord may not appoint a Receiver by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A (*Moratorium*) of the Insolvency Act 1986.

11.1.2 Every appointment or removal of a Receiver, of any Delegate or of any other person by the Landlord pursuant to this Deed may be made in writing under the hand of any officer of the Landlord (other than the requirement for a court order in the removal of an administrative receiver).

11.2 Powers of Receiver

Every Receiver shall have all the powers:

- 11.2.1 of the Landlord under this Deed;
- 11.2.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 11.2.3 which are specified in Schedule 1 (*Powers of Administrator or Administrative Receiver*) of the Insolvency Act 1986 in relation to, and to the extent

applicable to, the Security Assets or any of them (whether or not the Receiver is an administrative receiver within the meaning of the Insolvency Act 1986) together with the additional powers set out in Schedule 4 (*Additional powers of Receiver*);

11.2.4 in relation to any Security Asset, which a Receiver would have if the Receiver were its only absolute beneficial owner; and

11.2.5 to use the name of the Chargor in relation to any of its powers or actions under this Deed.

11.3 **Joint or several**

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on a Receiver by this Deed.

11.4 **Receiver as agent**

Every Receiver shall be the agent of the Chargor which shall be solely responsible for the Receiver's acts and defaults and for the payment of remuneration to the Receiver.

11.5 **Receiver's remuneration**

Every Receiver shall be entitled to remuneration for services at a rate to be fixed by agreement between the Receiver and the Landlord and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

12 **Protection of purchasers**

No purchaser or other person dealing with the Landlord or any Receiver shall be bound or concerned:

12.1.1 to see or enquire whether the right of the Landlord or any Receiver to exercise any of the powers conferred by this Deed has arisen or not;

12.1.2 with the propriety of the exercise or purported exercise of those powers; or

12.1.3 with the application of any moneys paid to the Landlord, to any Receiver or to any other person.

13 **Protection of the Landlord and Receivers**

13.1 **Exclusion of liability**

Neither the Landlord, any Receiver or Delegate, nor any of their respective officers or employees shall have any responsibility or liability:

13.1.1 for any action taken, or any failure to take any action, in relation to all or any of the Security Assets;

13.1.2 to account as mortgagee in possession or for any loss upon realisation of any Security Asset;

- 13.1.3 for any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies;
- 13.1.4 for the loss or destruction of, or damage to, any of the Security Assets, or to any documents of or evidencing title to them, which are in the possession or held to the order of any such person (and which will be held by such persons at the expense and risk of the Chargor); or
- 13.1.5 for any other default or omission in relation to all or any of the Security Assets for which a mortgagee in possession might be liable,

except in the case of gross negligence or wilful misconduct on the part of that person.

13.2 **General indemnity**

13.2.1 The Chargor shall indemnify the Landlord, any Receiver and any Delegate and their respective officers and employees against all actions, proceedings, demands, claims, costs, expenses, loss and other liabilities together with VAT in addition incurred by them in respect of all or any of the following:

- (a) any act or omission by any of them in relation to all or any of the Security Assets, including, but not limited to, any act or omission by any of them on the directions of the Chargor in relation to any Investment which is a Security Asset;
- (b) any payment relating to or in respect of all or any of the Security Assets which becomes payable at any time by any of them;
- (c) any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed or any Security created under it;
- (d) carrying out or purporting to carry out any of the rights, powers, authority and discretions conferred on them by, or permitted under, this Deed; and
- (e) any breach by the Chargor of any of its undertakings or other obligations to the Landlord, any Receiver or Delegate,

except in the case of gross negligence or wilful misconduct on the part of that person.

The Chargor shall pay interest at the Default Rate on the sums payable under this Clause from the date on which the liability was incurred to the date of actual payment, both before and after judgment.

13.3 **Indemnity out of the Security Assets**

The Landlord, any Receiver or Delegate, and their respective officers and employees shall be entitled to be indemnified out of the Security Assets or any part of them in respect of the indemnities referred to in Clause 13.2 (*General indemnity*) and may retain and use monies received by it under this Deed towards payment of any sums under those indemnities.

14 Costs, expenses and fees

14.1 Amendment costs

If the Chargor requests an amendment, waiver or consent under this Deed, it shall, within 20 Business Days of demand, reimburse the Landlord for the amount of all costs and expenses (including legal fees and VAT in addition) reasonably incurred by it, any Receiver or Delegate in responding to, dealing with such request and any documentation required, whether or not the Landlord agrees to such request.

14.2 Valuations

14.2.1 The Landlord may request a Valuation at any time.

14.2.2 The relevant Chargor shall promptly, and no later than 20 Business Days of demand, pay to the Landlord the costs of:

- (a) a Valuation obtained by the Landlord in connection with the compulsory purchase of all or part of any of such Chargor's Real Properties; and
- (b) a Valuation obtained by the Landlord at any time when an Event of Default is continuing.

14.2.3 The Chargor must supply to the Landlord a copy of any Valuation it obtains, promptly upon obtaining it.

14.2.4 Any Valuation not referred to in paragraph 14.3.2 above will be at the cost of the Landlord.

14.3 Enforcement and preservation costs

The Chargor shall, within three Business Days of demand, pay to the Landlord, Receiver and Delegate the amount of all costs and expenses (including legal fees and VAT in addition) incurred by it in connection with the enforcement of, or the preservation of any rights under the Lease and any Security created under them and with any proceedings instituted by or against it as a consequence of it entering into the Lease and Security created under it, or enforcing those rights.

15 Preservation of Security

15.1 Reinstatement

If any payment by the Chargor or discharge given by the Landlord (whether in respect of the obligations of the Chargor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:

- 15.1.1 the liabilities of the Chargor and the Security created by this Deed shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

- 15.1.2 the Landlord shall be entitled to recover the value or amount of that Security or payment from the Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

15.2 **Waiver of defences**

Neither the Security created by this Deed, nor the obligations of the Chargor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it, the Landlord) including:

- 15.2.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 15.2.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any person;
- 15.2.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 15.2.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 15.2.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any document or Security, including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under the Lease, any other document or Security;
- 15.2.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under the Lease or any other document; or
- 15.2.7 any insolvency, liquidation, administration or similar proceedings.

15.3 **Immediate recourse**

The Chargor waives any right it may have of first requiring any the Landlord, any Receiver or Delegate (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of the Lease to the contrary.

15.4 **Appropriations**

During the Security Period, the Landlord, Receiver or Delegate may refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, and shall hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Secured Liabilities. The Landlord may apply and enforce such moneys

Security or rights as it thinks fit, subject to Clause 10.4 (*Application of moneys*). The Chargor shall not be entitled to such moneys, Security or rights.

15.5 **Deferral of rights**

During the Security Period the Chargor shall exercise any right of set-off, nor take the benefit of any rights of the Landlord under the Lease, guarantee or other Security in its favour whether by subrogation or any other manner. If the Chargor receives any benefit or sum in relation to such rights it shall hold that benefit or sum on trust for the Landlord. It shall promptly pay or transfer such benefit or sum to the Landlord as it may direct for application in accordance with this Deed and the Lease.

15.6 **Additional Security**

This Deed is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security now or in the future held by or available to the Landlord, Receiver or Delegate.

15.7 **New accounts**

On receiving any notice or other information that a Chargor or any other party has granted Security or otherwise disposed of the Security Assets or any of them or part of, or interest in any of them, or on the date it is deemed to receive such notice or information, the Landlord may open a new account or accounts in the name of such Chargor, without adversely affecting any right of the Landlord to combine accounts. If the Landlord does not open any new account immediately on receipt of such notice or information, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to receive such notice or information. No monies paid into or credited to any such new account shall be appropriated to or discharge any sums due to the Landlord or any other account. From that time, all payments made by such Chargor to the Landlord shall be credited to such new account and shall not operate to reduce or discharge the Secured Liabilities.

16 **Further assurance**

16.1 **Application to Land Registrar**

The relevant Chargor shall apply to the Land Registry in Form RX1 and consent to the registration against the registered titles specified in Schedule 2 (*Real Property charged by way of legal mortgage*) of a restriction in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date of this Deed] in favour of [insert name of Landlord] referred to in the charges register or their conveyancer. (Form P)".

Where such legal mortgage is dependant on a consent or waiver is obtained or a condition is satisfied, such Chargor shall apply to the Land Registry promptly on receipt of the relevant condition or waiver, or satisfaction of such condition.

16.2 Further action

The Chargor shall, at its own expense, promptly take whatever action and sign or execute any further documents which the Landlord may require to:

- 16.2.1 give effect to the requirements of this Deed;
- 16.2.2 create, protect, preserve and perfect the Security intended to be created by or under this Deed;
- 16.2.3 protect and preserve the ranking of the Security intended to be created by or under this Deed; and
- 16.2.4 facilitate the realisation of all or any of the Security Assets, or the exercise of any rights, powers and discretions by the Landlord, any Receiver, any Delegate, any administrator or any, agent or employee in connection with all or any of the Security Assets, including but not limited to executing and delivering all documentation necessary to transfer legal title to any Security Asset to the Landlord, its nominee or any third party;,,

and any such document may disapply section 93 (*Restriction on consolidation of mortgages*) of the LPA.

16.3 Future Property

If a Chargor acquires any Real Property after the date of this Deed, it must:

- 16.3.1 notify the Landlord immediately in writing;
- 16.3.2 immediately on request by the Landlord and at its own expense, execute and deliver to the Landlord a legal mortgage substantially in the form set out in Schedule 8 (*Form of Legal Mortgage*);
- 16.3.3 if the title to that Real Property is registered at the Land Registry, or required to be so registered, make an application to the Land Registry for a restriction against the registered titles in the terms set out in Clause 16.1 (*Application to Land Registrar*); and
- 16.3.4 if applicable, ensure that this Deed is correctly noted in the Register of Title against that title at the Land Registry.

If the consent of the landlord in whom the reversion of a lease is vested is required for such Chargor to execute a legal mortgage over it, such Chargor will not be required to perform that obligation until it has obtained the landlord's consent. Such Chargor shall use its reasonable endeavours to obtain the landlord's consent. Clause 4.1.4 shall apply to such Real Property as if set out here in full.

16.4 Deposit of documents

The Chargor shall promptly, on the date of this Deed and during the Security Period, and if the Landlord so requests, deposit with the Landlord:

- 16.4.1 all deeds, certificates and other documents of or evidencing title for the Security Assets;

16.4.2 signed undated transfers of the Investments charged under Clause 4.3 (Investments), completed in blank pre-stamped; and

16.4.3 any other documents which the Landlord may from time to time require for perfecting its title, or the title of any purchaser,

or pending registration at the applicable Land Registry shall be held to the order of the Landlord either at the applicable Land Registry or by a firm of solicitors acceptable to the Landlord, and in respect of the documents as described in Clause 16.4.2 (Deposit of Documents), such documents shall be held to the order of the Landlord (or its legal advisers) pursuant to a solicitors' undertaking.

16.5 Law of Property (Miscellaneous Provisions) Act 1994

The covenant set out in section 2(1) (b) (*Right to dispose and further assurance*) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the provisions set out in this Clause.

17 Power of attorney

17.1 The Chargor by way of security, irrevocably and severally, appoints each of the Landlord, any Receiver, and any of its Delegates or sub-delegates, or other person nominated in writing by, an officer of the Landlord or Receiver jointly and severally as its attorney, in the name of such Chargor, on its behalf and in such manner as the attorney may in its or his absolute discretion think fit (after the Security created by this Deed has become enforceable) to take any action, sign or execute any documents which such Chargor is obliged to take, sign or execute under with this Deed.

17.2 The Chargor ratifies and confirms, and agrees to ratify and confirm, all such actions taken and documents signed or executed or purported to be done by any attorney under its appointment under this Deed.

18 Currency

Sterling is the currency of account and payment for any sum due from Rutherford Estates Limited under the Lease. For the purpose of, or pending the discharge of, any of the Secured Liabilities the Landlord may convert any moneys received or recovered by it from one currency to another, at a market rate of exchange. The obligations of the Chargor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

19 Set-off

19.1 The Landlord may, apply any credit balance, whether or not then due and in whatever currency, towards satisfaction of the Secured Liabilities or any part of them.

19.2 The Landlord may convert or translate all or any part of such credit balance to another currency applying a market rate of exchange in its usual course of business for the purpose of the set-off, when exercising rights under this Clause or under general law.

19.3 The Landlord is not obliged to exercise any of its rights under this Clause, which shall be without prejudice and in addition to any rights under general law. *Rights under*

general law means any right of set-off, combination or consolidation of accounts, lien, similar right which the Landlord may have under any applicable law.

20 Notices

- 20.1 Any communication to be made under or in connection with this Deed shall be made in writing by letter. 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:

20.1.1 in the case of the Chargor:

Address: Suite 4 Penn House, 9-10 Broad Street, Hereford, United Kingdom, HR4 9AP

FAO: The Directors; and

20.1.2 in the case of the Landlord:

Address: 3rd Floor, South Building, 200 Aldersgate Street, London EC1A 4HD

FAO: Seamus Crilly,

or any substitute address or department or officer as the Party may notify the other in writing by not less than five Business Days' notice. Promptly upon changing its address or fax number, each Party shall notify the other Party.

- 20.2 Any communication or document made or delivered by one Party to another under or in connection with this Deed will only be effective when it has been left at the relevant address or two 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 this Clause if addressed to that department or officer.
- 20.3 Any communication or document to be made or delivered to the Landlord will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer of the Landlord referred to in this Clause.
- 20.4 Any communication or document which becomes effective, in accordance with this Clause, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

21 Calculations and certificates

21.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Deed, the entries made in the accounts maintained by the Landlord are *prima facie* evidence of the matters to which they relate.

21.2 Certificates and Determinations

Any certification or determination by the Landlord of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

21.3 Day count convention

Any interest, commission or fee accruing under this Deed will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days.

22 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable neither the legality, validity or enforceability of the remaining provisions, nor the legality, validity or enforceability of such provision will in any way be affected or impaired.

23 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Landlord, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm any provision of this Deed. No election to affirm this Deed by the Landlord shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

24 Discharge of Security

At the end of the Security Period, the Landlord shall, or shall procure that its appointees will, at the request and cost of the Chargor:

24.1 release the Security Assets or any part of them from the Security created by or under this Deed; and

24.2 re-assign to the Chargor those Security Assets that have been assigned to the Landlord by or under this Deed,

and take whatever action is necessary to release the Security Assets from the Security created by or under this Deed, including returning all deeds and documents of title held by the Landlord in relation to this Deed and executing and delivering such further deeds and documents as the Chargor may reasonably require to give effect this Clause.

Section 93 (*Restriction on consolidation of mortgages*) of the LPA shall not apply to this Deed.

25 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.

26 Governing law and jurisdiction

- 26.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 26.2 The courts of England have exclusive jurisdiction to decide 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 the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Deed) (a "**Dispute**").
- 26.3 The Parties agree that the courts of England are the most appropriate and convenient courts to decide Disputes and accordingly no Party will argue to the contrary.

Executed as a deed and delivered on the date appearing at the beginning of this Deed.

Schedule 1

Not Used

Schedule 2

Real Property charged by way of legal mortgage

Registered Land

None as at the date of this deed

Schedule 3
Investments

None as at the date of this Deed

Schedule 4

Additional powers of Receiver

Any Receiver appointed to the Chargor or in relation to all or any of the Security Assets of the Chargor, shall have, (i) the powers conferred by the LPA on receivers and mortgagees in possession, (ii) the powers conferred by Clause 11.2 (*Powers of Receiver*), and (iii) the powers set out in this Schedule.

1 Collect Security Assets and moneys

To enter into, take immediate possession of, collect and get in the Security Assets. To take all such action and execute all such documentation as the Receiver may consider necessary or desirable for the management, operation or realisation of all or any part of the Security Assets. To collect and get in all moneys or proceeds in any way arising from the Security Assets or any document or right affecting the Security Assets whether directly or indirectly.

2 Sale and disposal of Security Assets

To sell, exchange, surrender, renounce, deal with, convert into money, dispose of and realise the Security Assets or any of them or part of the Security Assets, in any manner and subject to any exceptions, reservations, covenants and obligations; and with or without consideration, such consideration taking the form of cash, debentures, shares, securities, other assets or obligations or other valuable consideration, payable in a lump sum or instalments over a period of time, in each case as the Receiver may consider necessary or desirable.

3 Manage the business

To continue, commence, manage, develop, amalgamate, diversify or undertake any business of the Chargor.

4 Apportion payments

To apportion any Rental Income and any financial liabilities.

5 Real Property rights

5.1 To acquire, renew, extend, grant, vary or otherwise deal with such easements, servitudes, rights, privileges and/or licences as the Receiver considers necessary or desirable.

5.2 To construct or complete any building, development and repair to the Secured Property whether or not it is in accordance with the development planned or being carried on at any Secured Property, and any roads, access ways and services.

5.3 To carry out any work involving furnishing or fitting out or the installation or provision of any Equipment on any part of any of the Secured Property.

5.4 To dedicate any part or parts of the Secured Property as a highway where to do so is desirable in order that any Secured Property may more conveniently be developed.

- 5.5 To make any change or arrangement as to boundaries of any Secured Property with adjoining owners and neighbours so as to resolve any dispute or to facilitate development.
- 5.6 To make any application for, and maintain any planning consent, building regulations approval or similar consent or licence relating to any of the Secured Property.

Provided this does not result in a breach of the terms of any headlease under which the Chargor holds title to any part of the Chargor's Real Properties or any Occupational Lease, to effect and maintain Insurances, against the Insured Risks including but not limited to: fire and other physical risks; loss of rent; third party or public liability; structural or latent defect; indemnities of any kind; or other matters as the Receiver considers necessary or desirable, and to make, prove, negotiate, adjust or enforce any claim on any Insurances whether effected by the Chargor, Landlord or the Receiver.

6 Leases

- 6.1 To grant any lease or tenancy for any term, at any or no rent, with or without any premium on such terms as the Receiver considers necessary or desirable.
- 6.2 To accept the surrender or renunciation of any lease or tenancy, whether or not for the purpose of enabling a new lease to be granted on such terms as the Receiver considers necessary or desirable, including any payment to the tenant on such surrender or renunciation.
- 6.3 To give an effectual receipt for any premium payable on any grant, surrender or renunciation of any lease or tenancy.
- 6.4 To exercise, observe and perform any or all of the powers, obligations or duties conferred or imposed on any owner or occupier of any Secured Property, whether as landlord and/or tenant, at common law or by statute.
- 6.5 To initiate, oppose, negotiate, participate in, compromise or conclude any review or revision of any rent payable in respect of any lease or tenancy.

7 Equipment

To sever and sell or dispose of separately from any Secured Property containing it, any Equipment without the consent of the Chargor. To substitute, repair or improve the Equipment or any part of it.

8 VAT

To exercise any option or right of election available in law to the Chargor or the Receiver to waive exemption so that the supplies shall be supplies chargeable or taxable for VAT purposes at the standard or other applicable rate of tax.

9 Enter into, vary and execute documents

- 9.1 To sign, seal using the company seal of the Chargor, execute, deliver, complete and perfect all notices and documents, whether agreements or deeds for exercising, observing and performing any of the powers, obligations

or duties conferred or imposed on the relevant Chargor by this Deed or by any law in respect of the Security Assets, all as the Receiver considers necessary or desirable.

9.2 To agree any variation, modification or determination of any existing deeds or agreements and enter into, make or obtain any new agreement or deeds as the Receiver considers may be necessary or desirable.

10 **Receipts**

To give valid receipts for all moneys or realisation proceeds in respect of any Security Asset.

11 **Book debts**

To sell or assign or otherwise dispose of book debts in any manner and on the terms the Receiver considers necessary or desirable.

12 **Dealings with a company**

12.1 To promote, incorporate, manage or wind up, either alone or with others, any company, which may or may not be a subsidiary of the Chargor, either for the purposes of:

1.1.1 disposing of any Security Asset to that company;

1.1.2 undertaking works on or providing services to the occupiers of any Security Asset; and/or

1.1.3 realising any Security Asset,

as the Receiver considers necessary or desirable.

13 **Use of moneys**

To utilise any moneys received to finance any expenditure from time to time incurred in connection with, the powers set out in this Schedule in advance of any other payments.

14 **Borrow**

To borrow, raise or secure the payment of money which may be required for the exercise of any of the powers conferred by this Deed, to create Security over any of the Security Assets in whatever form, or provide collateral, which may be granted in priority to the Security created by this Deed, as the Receiver considers necessary or desirable.

15 **Lend**

To lend money and make available any facility to the Chargor, or to such other person as the Receiver considers necessary or desirable.

16 **Uncalled capital**

To make calls of whatever nature on the members of the Chargor for uncalled capital and to request payment of such uncalled capital and enforce such payment in accordance with the constitutional documents of the Chargor.

17 Voting rights

To exercise all voting rights which the Chargor may exercise as a member of a company, other corporate or legal entity.

18 Authorisations

To obtain, renew, extend, amend or otherwise deal with Authorisations relating to the Chargor's (i) Security Assets, (ii) business, (iii) trade and (iv) ordinary activities, as the Receiver considers necessary or desirable.

19 Employees and contractors

19.1 To employ or appoint staff, solicitors, accountants, architects, surveyors, quantity surveyors, estate agents, insurance brokers, contractors, builders, workmen, security staff, watchmen, building managers, managers, officers, agents and other personnel or professional advisers on the terms and at such remuneration as the Receiver considers necessary or desirable.

19.2 To discharge any such person or persons referred to in paragraph 20.1 appointed by the Chargor, officer or delegate of the Chargor.

20 Proceedings

To take, defend, appeal, enforce, abandon or otherwise join in any proceedings (including any arbitration or determination of any issue or dispute by an independent expert) concerning or incidental to the Security Assets, any claims in relation to the Chargor, or any of the powers set out in this Schedule.

21 Compromise

To make any arrangement, settlement, compromise, or enter into any contract, or refer to arbitration any claim or dispute by any person who is a creditor or the Chargor or in relation to any of the Security Assets which the Receiver considers necessary or desirable.

22 Redeem prior Security

To redeem any prior Security and settle any liabilities outstanding for which that Security had been granted.

23 Delegation

To delegate all or any power or action of a Receiver under this Deed.

24 Incidental powers

To take any other actions which the Receiver:

24.1 considers necessary or desirable to realise, protect, exploit, maintain or increase the value of the Security Assets or any of them;

- 24.2 considers incidental or conducive to any right, power, function, discretion or authority of the Receiver under this Deed or by law; and
- 24.3 may undertake as agent of the Chargor.

Schedule 5

Forms of letter to and from Occupational Tenants

Part 1

Notice to Occupational Tenant

To: [Occupational tenant]

[Date]

Dear Sirs

re: [Insert a description of the Real Property]

Security Agreement dated [] between [insert name of the Chargor] and [insert name of the Landlord] (the "Security Agreement")

We refer to the lease dated [] and made between [] and [] (the "**Lease**") in respect of the real property known as [], title number [] and located at [insert the address]. Terms defined in the Security Agreement have the same meaning in this Notice.

This letter constitutes notice to you that under the Security Agreement we have assigned absolutely by way of security to [insert name of the Landlord] all our rights under the Lease.

We irrevocably instruct and authorise you to pay any rent payable by you under the Lease to our account at [], Account No. [], Sort Code [] (the "**Account**") [insert details of the [] Account].

The instructions in this letter apply until you receive notice from the Landlord to the contrary and notwithstanding any previous instructions given by us.

The instructions in this letter may not be revoked or amended without the prior written consent of the Landlord.

This letter is governed by English law.

Please confirm your agreement to the above by signing the attached acknowledgment and returning it to the Landlord at [insert Landlord's address] with a copy to us.

Yours faithfully,

For

[Insert name of Chargor]

Part 2

Acknowledgment from Occupational Tenant

To: [Insert name and address of the Landlord]

Attention: []

[Date]

Dear Sirs

re: [Insert a description of the Real Property]

Security Agreement dated [] between [insert name of the Chargor] and [insert name of the Landlord] (the "Security Agreement")

We confirm receipt from [insert name of the Chargor] (the "**Chargor**") of a notice dated [] (the "**Notice**") in relation to the Lease (as defined in the Notice) in respect of the real property known as [], title number [] and located at [insert the address]. Terms defined in the Notice have the same meaning in this letter.

We accept the instructions contained in the Notice.

We confirm that we:

- (a) have not received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Chargor under or in respect of the Lease; and
- (b) will pay all rent and all other monies payable by us under the Lease into the Account as defined in the Notice until we receive your written instructions to the contrary.

This letter is governed by English law.

Yours faithfully,

.....
For

[]

Part 3**Notice to Account Bank regarding the Operating Account**To: *[insert name and address of Account Bank]**[Date]*

Dear Sirs

Security Agreement dated [] between *[insert name of Chargor]* and *[insert name of Landlord]* (the "Security Agreement")

We are writing to give you notice of certain rights in respect of the *[insert Account Number/Sort Code for the Operating Account]* (the "**Operating Account**") that we have granted to *[Landlord]* (the "**Landlord**"). Terms defined in the Security Agreement have the same meanings in this Notice. Under the Security Agreement we have charged in favour of the Landlord by way of first floating charge, all our rights in respect of any moneys standing to the credit of the Operating Account. We notify you that:

- (i) after you have received notice from the Landlord that its permission is withdrawn, we may not withdraw any moneys from the Operating Account without first obtaining the prior written consent of the Landlord;
- (i) there is a prohibition in the Security Agreement on the creation of any further Security over the Operating Account; and
- (ii) you are authorised to disclose information relating to the Operating Account to the Landlord on the request of the Landlord.
- (iii) After you have received notice from the Landlord that its permission is withdrawn, we irrevocably authorise and instruct you to hold all moneys from time to time standing to the credit of the Operating Account to the order of the Landlord; and pay all or any part of those moneys to the Landlord (or as it may direct) promptly following receipt of written instructions from the Landlord to that effect.

By counter-signing this notice the Landlord confirms that we may make withdrawals from the Operating Account until such time as the Landlord shall notify you (with a copy to us) in writing that its permission is withdrawn.

We acknowledge that you may comply with the instructions in this letter without any further permission from us. The instructions in this letter may not be revoked or amended without the prior written consent of the Landlord. Please confirm your agreement to the above by sending the attached acknowledgment to the Landlord at *[insert Landlord's address]* with a copy to us.

This letter is governed by English law.

Yours faithfully

.....
[insert name of Chargor]

.....
[Landlord]

Part 4

Acknowledgment from Account Bank regarding Operating Account

To: [insert name and address of Landlord], the "Landlord")

Attention: []

[Date]

Dear Sirs

Security Agreement dated [] between [insert name of Chargor] and [insert name of Landlord] (the "Security Agreement")

We acknowledge receipt of a notice (the "**Notice**") from [] (the "**Chargor**") dated [] that under the Security Agreement it has charged by way of floating charge in favour of the Landlord all of the Chargor's right, title and interest in, and relating to the Operating Account (the "**Security**"). Terms defined in the Notice have the same meaning in this letter. We confirm that:

- 1 we acknowledge receipt of the Notice and accept the authorisations and instructions contained in the Notice and we undertake to comply with its terms;
- 2 we have not received notice of:
 - 2.1 any other assignment of or grant or creation of Security over the Operating Account; or
 - 2.2 any interest, claim or right in or to it by any third party,and we shall promptly give you notice of any such actual, potential or asserted assignment, Security, interest, claim or right of which we become aware;
- 3 we do not, and will not, hold or otherwise have the benefit of any Security or other interest over the Operating Account; and
- 4 we will not exercise any right of combination, consolidation, merger or set-off which we may have in respect of the Operating Account.

We are aware that you are relying on this letter in connection with your rights under the Security.

This letter is governed by English law.

Yours faithfully,

.....
(Authorised signatory)
[Account Bank]

Schedule 6

Forms of letter and acknowledgment for Insurances

To: *[insert name and address of insurance company]*

Attention: []

[Date]

Dear Sirs

Notice of assignment

Security Agreement dated [] between [insert name of the Chargor](the "Chargor") and [insert name of the Landlord](the "Landlord") (the "Security Agreement")

We refer to the *[specify the relevant insurance policy]* dated [] between us and you (the "**Policy**"). Terms defined in the Security Agreement have the same meaning in this Notice.

1 We notify you that:

- 1.1 under a Security Agreement , we have [assigned to the Landlord all our right, title and interest in and to, and all benefits accruing under, the Policy][as Security for certain obligations owed to the Landlord;
- 1.2 we may not agree to amend or terminate the Policy without the prior written consent of the Landlord;
- 1.3 until you receive written notice to the contrary from the Landlord that an Event of Default has occurred, you may continue to deal with us in relation to the Policy and credit all moneys to which we are entitled under the Policy in accordance with our instructions;
- 1.4 after receipt of written notice in accordance with paragraph 1.3 we will cease to have any right to deal with you in relation to the Policy and from that time you should deal only with the Landlord; and
- 1.5 you are authorised to disclose information relating to the Policy to the Landlord on its request.

2 We request that you:

- 2.1 after receipt of written notice in accordance with paragraph 1.3, ensure that all moneys to which we are entitled under the Policy are credited to any account of the Landlord specified by the Landlord (and are not paid to us);
- 2.2 immediately note on the Policy the Landlord's Security under the Security Agreement; and
- 2.3 give the Landlord not less than 30 days' written notice of you terminating the Policy or allowing the Policy to lapse.

3 Please sign and return the enclosed copy of this notice to the Landlord at [*insert Landlord's address*] (with a copy to us) to confirm that you:

- 3.1 agree to the terms of this notice and to act in accordance with its provisions;
- 3.2 have not received notice that we have [*assigned our rights under the Policy*] OR [*charged by way of fixed charge our rights to receive all amounts payable to it under the Policy and all our rights in connection with those amounts*] to a third party or created any other interest (whether by way of Security or otherwise) in the Policy in favour of a third party; and
- 3.3 have not claimed or exercised, nor do you have any outstanding right to claim or exercise against us, any right of set-off, counter-claim or other right relating to the Policy.

The provisions of this notice are governed by English law.

Yours faithfully

.....
for and on behalf of

[*insert name of Chargor*]

Copy to: Landlord

[*On acknowledgment copy*]

To: **[*insert name and address of Landlord*]**

Copy to: **[*insert name and address of Chargor*]**

We acknowledge receipt of the above notice and confirm the matters set out in paragraph 3.

.....
for and on behalf of

[*insert name of insurance company*]

Date:

Schedule 7**Forms of letter and acknowledgment for agreements being assigned agreements**

To: *[insert name and address of counterparty]*

Attention: []

[Date]

Dear Sirs

Notice of assignment

**Security Agreement dated [] between [insert name of the Chargor]
and
Equitix Proton Cancer Centre LLP (the "Landlord") (the "Security Agreement")**

- 1 We refer to the *[specify the agreement being assigned]* dated [] between us and you (the "**Agreement**"). Terms defined in the Security Agreement have the same meaning in this Notice. We notify you that:
 - 1.1 under a Security Agreement we have assigned to the Landlord all our right, title and interest in and to, and all benefits accruing under, the Agreement as Security for certain obligations owed to the Landlord;
 - 1.2 we may not agree to amend or terminate the Agreement without the prior written consent of the Landlord;
 - 1.3 an **Event of Default has occurred** pursuant that that Security Agreement, and therefore you **must not** continue to deal with us in relation to the Agreement;
 - 1.4 we have ceased to have any right to deal with you in relation to the Agreement and you must deal only with the Landlord; and
 - 1.5 you are authorised to disclose information relating to the Agreement to the Landlord on its request.
- 2 We request that you:
 - 2.1 ensure that all moneys to which we are entitled under the Agreement are credited to an account of the Landlord as specified by the Landlord (and are not paid to us);
 - 2.2 give the Landlord written notice of any breach of the Agreement as soon as you become aware of it; and
 - 2.3 give the Landlord not less than 30 days' written notice of you terminating the Agreement.
- 3 Please sign and return the enclosed copy of this notice to the Landlord at *[insert Landlord's address]* (with a copy to us) to confirm that you:
 - 3.1 agree to the terms of this notice and to act in accordance with its provisions;

3.2 have not received notice that we have assigned our rights under the Agreement to a third party or created any other interest (whether by way of Security or otherwise) in the Agreement in favour of a third party; and

3.3 have not claimed or exercised, nor do you have any outstanding right to claim or exercise against us, any right of set-off, counter-claim or other right relating to the Agreement.

4 The provisions of this notice are governed by English law.

Yours faithfully

.....
for and on behalf of

[insert name of Chargor]

Copy to: Landlord

[On acknowledgment copy]

To: **[insert name and address of Landlord]**

Copy to: **[insert name and address of Chargor]**

We acknowledge receipt of the above notice and confirm the matters set out in paragraph 3.

.....
for and on behalf of

[insert name of counterparty]

Date:

.....

Schedule 8

Form of Legal Mortgage

This deed is dated [] between:

- (1) **[Insert name of Chargor]**, a company incorporated under the laws of [England and Wales] with registered number [] and whose registered office is at [] (the "**Chargor**"); and
- (2) **[insert name of Landlord]** a company incorporated under the laws of [England and Wales] with registered number [] and whose registered office is at [] (the "**Landlord**").

This deed witnesses as follows:

1 Definitions and interpretation

This legal mortgage is intended to be a deed between the parties to it and is referred to here as "**this Mortgage**". Words and expressions defined in the security agreement dated [] [on or about the date of this Mortgage] between the Chargor and the Landlord (the "**Security Agreement**") have the same meanings in this Mortgage unless they are expressly defined in it.

This Mortgage takes effect as a deed even if it is signed under hand on behalf of the Landlord.

2 Incorporation of provisions into each Mortgage

Clauses 1.2 (*Construction*), 1.3 (*Third party rights*), 1.5 (*Law of Property (Miscellaneous Provisions) Act 1989*), 6 (*Representations and warranties*), 7 (*Undertakings relating to the Security Assets*), 8 (*Undertakings relating to Real Properties*), 10 (*Enforcement*), 11 (*Appointment and powers of Receivers*), 12 (*Protection of purchasers*), 13 (*Protection of the Landlord and Receivers*), 14 (*Costs, expenses and fees*), 15 (*Preservation of Security*), 16 (*Further assurance*), 17 (*Power of attorney*), 18 (*Currency*), 19 (*Set-off*), 20 (*Notices*), 21 (*Calculations and certificates*), 22 (*Partial invalidity*), 23 (*Remedies and waivers*), 24 (*Discharge of Security*), 25 (*Counterparts*), 26 (*Governing law and jurisdiction*) of the Security Agreement are deemed to form part of this Mortgage as if expressly incorporated into this Mortgage and as if references in those Clauses to (a) the "Security Agreement" or "this Deed" were references to this Mortgage, and (b) the Security Assets were references to the assets of the Chargor from time to time charged, or assigned (whether at law, or in equity) in favour of the Landlord by or pursuant to this Mortgage.

3 Nature of security created

All of the Security created under this Mortgage is created:

- 3.1 as a continuing security to secure the payment and discharge of all of the Secured Liabilities;
- 3.2 over all present and future assets of the description in this Mortgage in Clause 4 owned by the Chargor, except in the case of assets which are the subject

of a legal mortgage under this Deed, and over any right or interest which the Chargor may otherwise have in such assets; and

- 3.3 with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4 Fixed security

The Chargor:

- 4.1 charges to the Landlord by way of first legal mortgage its Real Properties including those listed in the Schedule, (*Real Properties charged by way of legal mortgage*); and
- 4.2 charges, to the Landlord to the extent not subject to the charge by way of legal mortgage in Clause 4.1, by way of first fixed charge its Real Property which it has now or which it owns and which it may subsequently acquire.

5 Application to Land Registrar

The Chargor shall apply to the Land Registry in Form RX1 and consents to the registration against the registered titles specified in the Schedule (*Real Property charged by way of legal mortgage*) of a restriction in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [*the date of this Mortgage*] in favour of [*insert name of Landlord*] referred to in the charges register or their conveyancer. (Form P).

6 Negative pledge

The Chargor shall not create or permit to subsist any Security over any Security Asset other than Permitted Security.

7 Governing law

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

Executed as a deed and delivered on the date appearing at the beginning of this Mortgage.

Schedule
Real Property charged by way of legal mortgage

Description address	Title Number
---------------------	--------------

EXECUTION PAGE TO LEGAL MORTGAGE

The Chargor

Executed as a deed by [insert name of Chargor] acting by a director in the presence of:

signature

Director

signature _____
of witness _____

```
print name
```

```
name
-----
print name of witness
```

address


The Landlord

Signed for and on behalf of the [Landlord])
by)

EXECUTION PAGE TO SECURITY AGREEMENT

The Chargor


Executed as a deed by Rutherford
Diagnostics Limited acting by a
director in the presence of:



Director

signature

signature
of witness



print name

KIAME JIKANA

name

PUNA OVAN

print name of witness

address

12 PUNAWATU ST
LONDON W1G 7AB

The Landlord

Signed for and on behalf of **Equitix**

Proton Cancer Centre LLP

by

)

)

EXECUTION PAGE TO SECURITY AGREEMENT

The Chargor

Executed as a deed by **Rutherford
Diagnostics Limited** acting by a
director in the presence of:

signature Director

signature
of witness _____

print name

name _____
print name of witness

address

The Landlord

Executed as a deed by **Equitix Proton
Cancer Centre LLP** by Seamus Crilly
duly authorised by
Diagnostic Centre (Taunton) LP
and Charlotte Douglass duly authorised
by Diagnostic Centre Taunton LP

DocuSigned by:

829FEABCF55409

signature

Seamus Crilly

print name

DocuSigned by:

75F3C89AB92846E...

signature

Charlotte Douglass

print name