



**Registration of a Charge**

Company name: **K9 MIDCO LIMITED**

Company number: **10851921**

Received for Electronic Filing: **19/09/2017**



X6FAFJDM

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**Details of Charge**

Date of creation: **12/09/2017**

Charge code: **1085 1921 0001**

Persons entitled: **GLAS TRUST CORPORATION LIMITED AS SECURITY TRUSTEE**

Brief description: **NONE.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **ASHURST LLP**



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

Company number: 10851921

Charge code: 1085 1921 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 12th September 2017 and created by K9 MIDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th September 2017 .

Given at Companies House, Cardiff on 21st September 2017

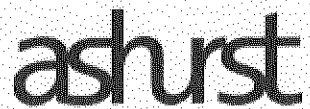
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



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



EXECUTION VERSION

## Share Charge

K9 Midco Limited  
the Chargor

and

GLAS Trust Corporation Limited  
as Security Agent

Note: the application of recoveries under this instrument is regulated  
by the terms of the Intercreditor Agreement

12 September 2017

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THIS DEED is made on 12 SEPTEMBER 2017.

**BETWEEN:**

- (1) K9 Midco Limited (a company incorporated in England with registered number 10851921) (the "**Chargor**"); and
- (2) GLAS Trust Corporation Limited as security trustee for itself and the other Secured Parties (the "**Security Agent**", which expression shall include any person from time to time appointed as a successor, replacement or additional trustee in relation to the interests created by this deed).

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this deed:

**"Charged Property"** means the assets mortgaged, charged or assigned in favour of the Security Agent by this deed;

**"Declared Default"** means an Event of Default or a Material Event of Default which has resulted in the Agent exercising any of its rights under clause 26.19 (Acceleration) or clause 26.20 (Super Senior Acceleration) of the Senior Facilities Agreement;

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Security Agent;

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

**"Event of Default"** means an Event of Default under the Senior Facilities Agreement;

**"Finance Documents"** means the Senior Finance Documents (including any Hedging Agreement);

**"Intercreditor Agreement"** means an intercreditor agreement dated on or about the date hereof between (amongst others) (1) K9 Bidco Limited as the Parent, (2) K9 Midco Limited, (3) Global Loan Agency Services Limited as Agent and (4) GLAS Trust Corporation Limited as Security Agent and (5) the Senior Lenders;

**"Receiver"** means a receiver or receiver and manager in each case appointed under this deed;

**"Related Rights"** means, in relation to any asset:

- (a) the proceeds of sale of that asset or any part of that asset;
- (b) any monies and proceeds paid or payable in relation to that asset; and
- (c) the benefit of all other rights, powers, claims, consents, contracts, warranties, security, guarantees, indemnities or covenants for title in respect of that asset,

including the Distribution Rights;

**"Secured Obligations"** means all the Liabilities (as defined in the Intercreditor Agreement) and all other present and future liabilities and obligations at any time due, owing or incurred by any member of the Group and by each Debtor (as defined in the Intercreditor Agreement) to any Secured Party under the Finance Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity;

**"Secured Parties"** means the Security Agent, any Receiver or Delegate and each of the Senior Creditors but, in the case of each Senior Creditor, only if it is a party to the Intercreditor Agreement or has acceded to the Intercreditor Agreement in the appropriate capacity, pursuant to clause 20.9 (Creditor Accession Undertaking) of the Intercreditor Agreement;

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

**"Senior Creditors"** means the Senior Creditors as defined in the Intercreditor Agreement;

**"Senior Discharge Date"** has the meaning given to that term in the Intercreditor Agreement;

**"Senior Facilities Agreement"** has the meaning given to that term in the Intercreditor Agreement;

**"Senior Finance Documents"** means the Senior Finance Documents as defined in the Intercreditor Agreement;

**"Senior Lenders"** means the Senior Lenders as defined in the Intercreditor Agreement; and

**"Subsidiary Shares"** means all shares owned by the Chargor in the capital of K9 Bidco Limited.

## 1.2 Construction

(a) In this deed, unless a contrary intention appears, a reference to:

- (i) words and expressions defined in the Senior Facilities Agreement have the same meanings when used in this deed unless otherwise defined in this deed;
- (ii) the principles of construction contained in clause 1.2 (Construction) of the Senior Facilities Agreement apply equally to the construction of this deed, except that references to the Senior Facilities Agreement;
- (iii) the **"Chargor"**, any **"Secured Party"** or any other person shall be construed so as to include its successors in title, permitted assignees and transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;

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<sup>1</sup> It is **VITAL** that you read 1.2 (Construction) carefully and apply in the drafting of this document. Items in this clause 1.2 (Construction) which are in square brackets will usually be included verbatim in the SFA/MFA. If so, then you can rely on their incorporation by reference – see 1.2(a)(i) and delete from this document.

- (iv) **"losses"** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **"loss"** shall be construed accordingly; and
- (v) any clause or schedule is a reference to, respectively, a clause of and schedule to this deed and any reference to this deed includes its schedules.
- (b) The parties intend that this document shall take effect as a deed, notwithstanding the fact that a party may only execute it under hand.

### 1.3 Third Party Rights

- (a) Any Receiver or Delegate will have the right to enforce the provisions of this deed which are given in its favour however the consent of a Receiver or Delegate is not required for the rescission or variation of this deed.
- (b) Subject to paragraph (a), a person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this deed.

## 2. COVENANT TO PAY

The Chargor as primary obligor covenants with the Security Agent (for the benefit of itself and the other Secured Parties) that it will on demand pay the Secured Obligations when they fall due for payment provided that the covenant of the Chargor to pay the Secured Obligations shall be limited to an amount equal to the proceeds of enforcement of the Charged Property owned by it; the Chargor's covenant shall be satisfied only from those proceeds and the Secured Parties shall have no remedy against the Chargor in relation to this covenant other than the enforcement of the security granted by this deed.

## 3. CHARGING CLAUSE

The Chargor, as security for the payment and discharge of the Secured Obligations, charges in favour of the Security Agent with full title guarantee all of its right, title and interest in the Subsidiary Shares and all Related Rights, by way of first fixed charge.

## 4. FURTHER ASSURANCE

- (a) The Chargor shall promptly (and at its own expense) do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
  - (i) to perfect the Security created or intended to be created under or evidenced by this deed or for the exercise of any rights, powers and remedies of the Security Agent, any Receiver or the Secured Parties provided by or pursuant to this deed or by law;
  - (ii) to confer on the Security Agent or on the Secured Parties Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this deed; and/or
  - (iii) following the occurrence of a Declared Default, to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by this deed.



- (b) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to this deed.

## **5. REPRESENTATIONS AND WARRANTIES**

### **5.1 Matters Represented**

The Chargor represents and warrants to the Security Agent as set out in clause 5.2 (Status) to 5.8 (Insolvency) (inclusive) on the date of this deed and on each day on which a Repeating Representation is repeated or deemed to be repeated in accordance with the Senior Facilities Agreement.

### **5.2 Status**

It is a limited liability corporation, duly incorporated and validly existing under the law of its Original Jurisdiction.

### **5.3 Binding Obligations**

Subject to the Legal Reservations, the Perfection Requirements and any Authorisations to be obtained in accordance with clause 22.6 of the Senior Facilities Agreement by the Chargor as if the Chargor was an Obligor under the Senior Facilities Agreement in relation to this deed:

- (a) the obligations expressed to be assumed by it in this deed are legal, valid, binding and enforceable obligations; and
- (b) (without limiting the generality of paragraph (a) above), this deed creates the security interests which this deed purports to create and those security interests are valid and effective.

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

The entry into and performance by it of this deed and the granting of the Security pursuant to this deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument unless such conflict, default or termination event in each case to an extent which has or is reasonably likely to have a Material Adverse Effect.

### **5.5 Power and authority**

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of this deed.
- (b) No limit on its powers will be exceeded as a result of the grant of security contemplated by this deed.

### **5.6 Subsidiary Shares**

- (a) It is the legal and beneficial owner of the Subsidiary Shares and such ownership is free from any claims, third party rights and competing interests.



- (b) All of the Subsidiary Shares are fully paid.
- (c) No Security or Quasi-Security exists over all or any of the Subsidiary Shares.

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

- (a) Subject to the Legal Reservations, all Authorisations required:
    - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this deed to which it is a party; and
    - (ii) to make this deed admissible in evidence in its Relevant Jurisdictions,
- have been obtained or effected and are in full force and effect.

#### **5.8 Insolvency**

No:

- (a) corporate action, legal proceeding or other procedure or step described in paragraph (a) of clause 26.7 (Insolvency proceedings) of the Senior Facilities Agreement; or
- (b) creditors' process described in clause 26.8 (Creditors' process) of the Senior Facilities Agreement; or

has been taken or, to the knowledge of the Chargor, threatened in relation it, and none of the circumstances described in clause 26.6 (Insolvency) of the Senior Facilities Agreement applies to any member of the Group.

### **6. UNDERTAKINGS - GENERAL**

#### **6.1 Duration of Undertakings**

All of the undertakings given in this deed are given from the date of this deed and for so long as any security constituted by this deed remains in force.

#### **6.2 Negative Pledge**

The Chargor will not create or agree to create or permit to subsist any Security or Quasi-Security over all or any part of the Charged Property.

#### **6.3 Disposal Restrictions**

The Chargor will not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, transfer or otherwise dispose of all or any part of the Charged Property.

#### **6.4 Preservation of Charged Property**

- (a) The Chargor will observe and perform in all material respects all covenants and stipulations from time to time affecting the Charged Property, make all payments, carry out all registrations or renewals and generally take all steps which are necessary to preserve, maintain and renew when necessary all the Charged Property.
- (b) The Chargor will not vary any contract, constitutional or other document relevant to its interest in any Charged Property where such variation would have a material

adverse effect on the value of the relevant Charged Property or the rights of the Secured Parties.

- (c) The Chargor will enforce the due observance and performance of all material covenants given for its benefit in relation to the Charged Property.

#### **6.5 Documents Relating to Charged Property**

- (a) Without prejudice to any specific requirements in this deed for the delivery of documents, the Chargor will promptly on request deliver to the Security Agent all documents relating to the Charged Property which the Security Agent from time to time reasonably requires.
- (b) The Security Agent may retain any document delivered to it under this deed for so long as any security constituted by this deed remains in force and, if for any reason it returns any document to the Chargor (or its nominee) before that time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor shall promptly comply (or procure compliance) with that notice.

#### **6.6 Authorisations**

The Chargor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) after the Agent's request supply certified copies to the Agent of any Authorisation required under any law or regulation of a Relevant Jurisdiction to:
  - (i) enable it to perform its obligations under the Finance Documents and the Acquisition Documents;
  - (ii) subject to the Legal Reservations and the Perfection Requirements, ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document or Acquisition Document; and
  - (iii) carry on its business where failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **7. SUBSIDIARY SHARES**

#### **7.1 Voting and Distribution Rights**

- (a) Until a Declared Default occurs, the relevant Charging Company may:
  - (i) receive and retain all dividends, distributions and other monies paid on or derived from the Subsidiary Shares; and
  - (ii) exercise all voting and other rights and powers attaching to the Subsidiary Shares provided that it may not exercise any such voting or other rights or powers in a manner which is inconsistent with any terms of any Finance Document or which, in the reasonable opinion of the Secured Parties, is materially prejudicial to the interests of the Secured Parties under this deed or the value of the security given by this deed or the realisation of the same.
- (b) On and after the occurrence of a Declared Default:

- (i) the relevant Charging Company will promptly pay all dividends, distributions and other monies paid on or derived from the Subsidiary Shares into a Collection Account; and
  - (ii) the Security Agent may (in its sole discretion) directly or indirectly (by instruction to the relevant legal owner of the relevant Subsidiary Shares) exercise, refrain from exercising or disclaim any right to exercise any voting or other rights and powers attaching to the Subsidiary Shares. Any exercise of such voting rights may only be for the purpose of preserving the value of the security given by this deed or facilitating the realisation of it. The relevant Charging Company will promptly comply with any direction given by the Security Agent in relation to the exercise of voting or other rights and powers. Any such disclaimer will confer on the relevant Charging Company the authority to direct the exercise of the disclaimed right, as if a Declared Default had not occurred, in accordance with paragraph (a)(ii) above.
- (c) At any time when any Subsidiary Shares are registered in the name of the Security Agent or its nominee, the Security Agent will not be under any duty to ensure that any dividends, distributions or other monies payable in respect of those Subsidiary Shares are duly and promptly paid or received by it or its nominee, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, monies or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Subsidiary Shares.

## 7.2 Perfection of Subsidiary Shares Security

The Chargor will promptly following the execution of this deed or (if later) acquisition of an Investment deposit with the Security Agent (or as it shall direct) (provided that, if the relevant stock transfer forms require stamping by any competent authority (including but not limited to, HMRC), the Chargor shall deliver such stock transfer forms and share certificates to the Security Agent within three Business Days of such authority returning such stock transfer forms to the Chargor) all stock and share certificates and other documents of title relating to the Subsidiary Shares in which it has an interest together with stock transfer forms executed in blank and left undated on the basis that the Security Agent shall be able to hold such documents of title and stock transfer forms until the Secured Obligations have been irrevocably and unconditionally discharged in full and shall be entitled, at any time, following the occurrence of a Declared Default to complete, under its power of attorney given by clause 8 (Attorney) below, the stock transfer forms on behalf of the Chargor in favour of itself or its nominee(s).

## 8. ATTORNEY

- (a) The Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any person nominated for the purpose by the Security Agent or any Receiver (in writing and signed by an officer of the Security Agent or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, deliver and perfect any deed, agreement or other instrument and to do any act or thing:
  - (i) which the Chargor is required to do by the terms of any Finance Document; or
  - (ii) which is for the purpose of enabling the exercise of any rights or powers conferred on the Security Agent or any Receiver by any Finance Document or by law,

and the Chargor covenants with the Security Agent and the Receiver to ratify and confirm all such acts or things made, done or executed by that attorney.

- (b) The power given under paragraph (a) may be exercised at any time after:
  - (i) the expiry of five Business Days following the failure by the Chargor to do that which it is required to do by the terms of this deed;
  - (ii) the expiry of five Business Days following the failure by the Chargor to do that which it is required to do by the terms of any Finance Document; or
  - (iii) an Event of Default has occurred, which is continuing.

## **9. ENFORCEMENT**

### **9.1 Exercise of Enforcement Powers**

At any time after a Declared Default has occurred:

- (a) the security created by or pursuant to this deed is immediately enforceable;
- (b) the Security Agent may enforce all or any part of the security and take possession of and hold, sell or otherwise dispose or deal with all or any part of the Charged Property; and
- (c) the Security Agent may exercise the power of sale and all other rights and powers conferred by this deed or by statute (as varied or extended by this deed) on the Security Agent or on a Receiver, irrespective of whether the Security Agent has taken possession or appointed a Receiver of the Charged Property.

### **9.2 Appointment of Receiver**

- (a) Subject to paragraphs (d) and (e) below, if:
  - (i) a Declared Default has occurred; or
  - (ii) so requested by the Chargor,the Security Agent may by writing under hand appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this deed.
- (c) The Security Agent shall be entitled to appoint a Receiver save to the extent prohibited by section 72A of the Insolvency Act 1986.
- (d) A Receiver may not be appointed solely by reason of the obtaining of a moratorium under section 1A of the Insolvency Act 1986 in relation to the Chargor, or anything done with a view to obtaining such a moratorium.

### **9.3 Appropriation**

- (a) In this deed, "**financial collateral**" has the meaning given to that term in the Financial Collateral Arrangements (No. 2) Regulations 2003.
- (b) If a Declared Default has occurred the Security Agent may appropriate all or part of the financial collateral in or towards satisfaction of the Secured Obligations.

- (c) The Security Agent must attribute a value to the appropriated financial collateral in a commercially reasonable manner.
- (d) Where the Security Agent exercises its rights of appropriation and the value of the financial collateral appropriated differs from the amount of the Secured Obligations, as the case may be, either:
  - (i) the Security Agent must account to the Chargor for the amount by which the value of the appropriated financial collateral exceeds the Secured Obligations; or
  - (ii) the Chargor will remain liable to the Secured Parties for any amount whereby the value of the appropriated financial collateral is less than the Secured Obligations.

## **10. EXTENSION AND VARIATION OF STATUTORY POWERS**

### **10.1 Statutory Powers**

The powers conferred on mortgagees, receivers or administrative receivers by statute shall apply to the security created by this deed unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers conferred by statute and those contained in this deed, those contained in this deed shall prevail.

### **10.2 Section 101 LPA Powers**

The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 shall arise on the date of this deed and for that purpose the Secured Obligations are deemed to have fallen due on the date of this deed.

### **10.3 Restrictions Disapplied**

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

## **11. STATUS, POWERS, REMOVAL AND REMUNERATION OF RECEIVER**

### **11.1 Receiver as Agent**

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

### **11.2 Powers of Receiver**

- (a) Each Receiver appointed under this deed shall have all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this deed), so that the powers set out in schedule 1 to the Insolvency Act 1986 (to the extent relevant) shall extend to every Receiver, whether or not an administrative receiver.
- (b) In addition, notwithstanding any liquidation of the Chargor, each Receiver will have the power to exercise all voting and other rights attaching to the Subsidiary Shares.

### **11.3 Removal of Receiver**



The Security Agent may by notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

#### **11.4 Remuneration of Receiver**

The Security Agent (acting in good faith) may from time to time fix the remuneration of any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receivership). Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this deed.

#### **11.5 Several Receivers**

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

### **12. PROTECTION OF THIRD PARTIES**

#### **12.1 No Obligation to Enquire**

No purchaser from, or other person dealing with, the Security Agent, any Receiver or Delegate shall be obliged or concerned to enquire whether:

- (a) the right of the Security Agent or any Receiver to exercise any of the powers conferred by this deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or
- (b) any of the Secured Obligations remain outstanding or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

#### **12.2 Receipt Conclusive**

The receipt of the Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys or other consideration paid to or by the direction of the Security Agent or any Receiver.

### **13. PROTECTION OF SECURITY AGENT AND RECEIVER**

#### **13.1 Role of Security Agent**

The provisions set out in clause 30 (Role of the Agent, the Arranger and Others) of the Senior Facilities Agreement and clause 19 (The Security Agent) of the Intercreditor Agreement shall govern the rights, duties and obligations of the Security Agent under this deed.

#### **13.2 Delegation**

The Security Agent may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Security Agent will not be liable or responsible to the Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any Delegate save in the case of fraud, wilful default and/or gross negligence.

### **13.3 No Liability**

Neither the Security Agent nor any Receiver or Delegate shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its, his or her fraud, gross negligence or wilful default.

### **13.4 Possession of Charged Property**

Without prejudice to clause 13.3 (No Liability), if the Security Agent or any Delegate enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

## **14. APPLICATION OF ENFORCEMENT PROCEEDS**

### **14.1 Order of Application**

All proceeds of enforcement (whether cash or non-cash) received or recovered by the Security Agent or any Receiver pursuant to this deed shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified by the Intercreditor Agreement notwithstanding any purported appropriation by the Chargor.

### **14.2 Suspense Account**

- (a) Until the Secured Obligations are paid in full (or the recoveries or proceeds of enforcement received by the Security Agent are sufficient to discharge the Secured Obligations in full), each Secured Party may place and keep (to the extent possible and for such time as it shall determine) any recoveries or other proceeds of enforcement (whether cash or non-cash) received pursuant to this deed or otherwise on account of the Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account, without having any obligation to apply all or any part of the same in or towards discharge of the Secured Obligations.
- (b) If the security created by this deed is enforced at a time when no amount is due under the Finance Documents but at the time when amounts may or will become due, a Secured Party may pay any recoveries or other proceeds of enforcement into a suspense account.

## **15. PROTECTION OF SECURITY**

### **15.1 Continuing Security**

This security is to be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other matter or thing unless and until discharged by the Security Agent.

### **15.2 Other Security**

- (a) This security is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other security or other right which the Security Agent or any other Secured Party may now or after the date of this deed hold for any of the Secured Obligations.
- (b) This security may be enforced against the Chargor without first having recourse to any other rights of the Security Agent or any other Secured Party.



### **15.3 Cumulative Powers**

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

### **15.4 Amounts Avoided**

If any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the Chargor or otherwise, then for the purposes of this deed that amount shall not be considered to have been paid. No interest shall accrue on any such amount, unless and until such amount is so avoided or set aside.

### **15.5 Discharge Conditional**

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

### **15.6 Waiver of Defences**

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

- (a) any time, waiver or consent granted to, or composition with, any person;
- (b) the release of any person under the terms of any composition or arrangement (other than, subject to clause 15.5 above, an irrevocable and unconditional release by the Security Agent of the Chargor from its obligations under this deed);
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security;

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

#### **15.7 Non-competition**

Until all amounts which may be or become payable in respect of the Secured Obligations have been irrevocably paid in full and unless the Security Agent otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this deed or by reason of any amounts being payable, or liability arising under this deed:

- (a) to claim any right of indemnity or contribution in respect of any payment made or other satisfaction of the Chargor's liability under this deed;
- (b) to take the benefit (whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents; or
- (c) to claim or prove as a creditor of any Obligor in competition with any Secured Party.

The Chargor shall hold any benefit, payment or distribution received by it contrary to this clause 15.7 (Non-competition) on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with clause 14 (Application of Enforcement Proceeds).

#### **15.8 Subsequent Security - Ruling-off Accounts**

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

#### **15.9 Redemption of Prior Charges**

The Security Agent may, at any time after a Declared Default has occurred, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Security Agent all principal monies and interest and all losses incidental to any such redemption or transfer.

#### **16. SET-OFF**

- (a) At any time following the occurrence of a Declared Default, any Secured Party may set off any matured obligation due from the Chargor under this deed (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **17. NOTICES**

### **17.1 Communications in Writing**

Any communication made under or in connection with this deed shall be made in writing and, unless otherwise stated, may be made by e-mail or letter.

### **17.2 Addresses**

The address and e-mail address for each party to this deed shall be made in writing and, unless otherwise stated, may be made by e-mail or letter.

- (a) as shown immediately after its name on the execution pages of this deed (in the case of any person who is a party as at the date of this deed);
- (b) in the case of any person who becomes a party after the date of this deed, notified in writing to the Security Agent on or prior to the date on which it becomes a party, or any substitute address or e-mail address as the party may notify to the Security Agent (or the Security Agent may notify to the parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

### **17.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this deed will only be effective:
  - (i) if by way of e-mail when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or three Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 17.2 (Addresses), if addressed to that department or officer.

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

### **17.4 Electronic Communication**

Any communication to be made in connection with this deed, between any two parties to this deed may be made by electronic mail or other electronic means:

- (a) to the extent that those two parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any electronic communication made between those two parties will be effective only when actually received in readable form and in the case of any electronic

communication made by a party to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

## **18. CHANGES TO PARTIES**

### **18.1 Assignment by the Security Agent**

The Security Agent may at any time assign or otherwise transfer all or any part of its rights under this deed in accordance with the Finance Documents.

### **18.2 Changes to Parties**

The Chargor authorises and agrees to changes to parties under clause 27 (Changes to the Lenders) and clause 29 (Changes to the Obligors) of the Senior Facilities Agreement, and clause 20 (Changes to the Parties) of the Intercreditor Agreement and authorises the Security Agent to execute on its behalf any document required to effect the necessary transfer of rights or obligations contemplated by those provisions.

## **19. CURRENCY**

### **19.1 Conversion**

All monies received or held by the Security Agent or any Receiver under this deed may be converted into any other currency which the Security Agent considers necessary to discharge any obligations and liabilities comprised in the Secured Obligations in that other currency at a market rate of exchange then prevailing.

### **19.2 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.

### **19.3 No Discharge**

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

## **20. MISCELLANEOUS**

### **20.1 Invalidity of any Provision**

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

### **20.2 Failure to Execute**

Failure by one or more parties ("**Non-Signatories**") to execute this deed on the date hereof will not invalidate the provisions of this deed as between the other parties who do

execute this deed. Such Non-Signatories may execute this deed on a subsequent date and will thereupon become bound by its provisions.

**20.3 Covenant to Release**

Once all the Secured Obligations have been paid in full and none of the Security Agent nor any Secured Party has any actual or contingent liability to advance further monies to, or incur liability on behalf of, any member of the Group, the Security Agent and each Secured Party shall, at the request and cost of the Chargor, take any action which is necessary to release the Charged Property from the security constituted by this deed.

**21. GOVERNING LAW AND JURISDICTION**

- (a) This deed and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this deed or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- (b) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed or any non-contractual obligations arising out of or in connection with this deed) (a "**Dispute**").
- (c) The parties to this deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

**IN WITNESS** whereof this deed has been duly executed and delivered on the above date first above written.



## SIGNATORIES

### Chargor

Executed as a deed by  
**K9 MIDCO LIMITED:**

)  
)  
)  
)

Signature of director

Name of director

Kajen Mohanadas

Signature of witness

Name of witness

Alex Ctings

Address of witness

TAYLOR WESSING LLP  
5 NEW STREET SQUARE  
LONDON EC4A 3TW

Occupation of witness

### Notice Details

Address: Cunard House, 15 Regent Street, London, SW1Y 4LR

Email: ben.slatter@rutlandpartners.com and kajen.mohanadas@rutlandpartners.com

Attention: Ben Slatter and Kajen Mohanadas

**Security Agent**

Signed for and on behalf of **GLAS**  
**TRUST CORPORATION LIMITED:**

)  
)  
)  
)

Name: **Keith Miller**

**Notice Details**

Address: 45 Ludgate Hill, London EC4M 7JU, United Kingdom

Facsimile: +44 (0)20 3070 0113

Email: [tmg@glas.agency](mailto:tmg@glas.agency)

Attention: Transaction Management Group