

688156/69

In accordance with  
Sections 859A and  
859J of the Companies  
Act 2006.

# MR01

## Particulars of a charge



Companies House



Go online to file this information  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

A fee is be payable wi  
Please see 'How to pay' i

WEDNESDAY



\*A96VV9BN\*

A10

10/06/2020

#215

COMPANIES HOUSE

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

☒ **What this form is NOT**  
You may not use this form to  
register a charge where 1  
instrument. Use form MF

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

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

### 1 Company details

Company number 1 1 3 8 8 7 8 1

Company name in full Evolution Motor Finance Limited

For official use

#### Filing in this form

Please complete in typescript or in bold black capitals.

All fields are mandatory unless specified or indicated by \*

### 2 Charge creation date

Charge creation date d 0 d 2 m 0 m 4 y 2 y 0 y 1 y 9

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

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

Name LDC (Managers) Limited as Security Trustee

Name

Name

Name

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

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

MR01

Particulars of a charge

<b>4</b>	<b>Brief description</b> Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.  Brief description None	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".  Please limit the description to the available space.
<b>5</b>	<b>Other charge or fixed security</b> Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box. <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>6</b>	<b>Floating charge</b> Is the instrument expressed to contain a floating charge? Please tick the appropriate box. <input checked="" type="checkbox"/> <b>Yes</b> Continue <input type="checkbox"/> <b>No</b> Go to <b>Section 7</b> Is the floating charge expressed to cover all the property and undertaking of the company? <input checked="" type="checkbox"/> <b>Yes</b>	
<b>7</b>	<b>Negative Pledge</b> Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box. <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>8</b>	<b>Trustee statement</b> You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge. <input type="checkbox"/>	<b>1</b> This statement may be filed after the registration of the charge (use form MR06).
<b>9</b>	<b>Signature</b> Please sign the form here.  Signature X <u>Gowling WLG(UK)LLP</u> X  This form must be signed by a person with an interest in the charge.	

# MR01

## Particulars of a charge



### Presenter information

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

Contact name Navin Prabhakar

Company name Gowling WLG (UK) LLP

Address Two Snowhill

Post town Birmingham

County/Region West Midlands

Postcode B 4 6 W R

Country United Kingdom

DX

Telephone +44 (0)7921 025547



### Certificate

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



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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



### Important information

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



### How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

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



### Where to send

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

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

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

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



### Further information

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

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



FILE COPY

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

Company number: 11388781

Charge code: 1138 8781 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd April 2019 and created by EVOLUTION MOTOR FINANCE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th June 2020.

Given at Companies House, Cardiff on 15th June 2020



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

IN THE COUNTY COURT AT CENTRAL LONDON  
BUSINESS & PROPERTY WORK  
DISTRICT JUDGE REVERE

Claim No:129/2020



IN THE MATTER OF (1) EVOLUTION FUNDING GROUP LIMITED (2) EVOLUTION MOTOR  
FINANCE LIMITED (3) EVOLUTION FUNDING LIMITED

AND IN THE MATTER OF THE COMPANIES ACT 2006

BETWEEN:-

(1) EVOLUTION FUNDING GROUP LIMITED

(2) EVOLUTION MOTOR FINANCE LIMITED

(3) EVOLUTION FUNDING LIMITED

Claimants

---

ORDER

---

UPON the application by Claim filed on 21 January 2020 of the above named Companies "the Claimants" And upon a paper determination pursuant to the Protocol for Insolvency and Companies work in Central London dated 24 March 2020 relating to Covid 19

**AND UPON READING** the evidence of Katie Molloy, solicitor, and Kevin Kaye, director of all three Claimants

**AND UPON THE COURT** being satisfied that the omission to deliver to the Registrar of Companies pursuant to Section 859A(3) of the Companies Act 2006 the Composite Guarantee and Debenture dated 2 April 2019 hereinafter mentioned together with the prescribed particulars thereof was accidental or due to inadvertence or some other sufficient cause and/or that it is just and equitable to grant relief

**IT IS ORDERED THAT**

- (1) The First Claimant's name be amended to Evolution Funding Group Limited and the Second Claimant's name be amended to Evolution Motor Finance Limited and
- (2) Pursuant to Section **859F** of the Act that the time for registration in the manner required by Section **859A** of the said Act of a Composite Guarantee and Debenture dated 2 April 2019 and made between the Claimants of the one part and LDC Managers Limited of the other part of certain land and property known as "Security Assets" to secure repayment of £9,837,305.53 in respect of A1 Loan Notes and £15,153,694.47 in respect of B1 Loan Notes and the interest thereon be extended to 29 June 2020.
- (3) The Claimant do deliver a copy of this Order to the Registrar of Companies. For the avoidance of doubt this order is effective immediately.
- (4) There be no order as to costs.

Dated: 8 June 2020

EXECUTION VERSION

Private & Confidential

Dated 2 April 2019

THE COMPANIES LISTED IN SCHEDULE 1 (1)

AND

LDC (MANAGERS) LIMITED AS SECURITY TRUSTEE (2)

---

**COMPOSITE GUARANTEE  
AND DEBENTURE**

---

This Deed is subject to the terms of the Intercreditor Deed (as defined in this Deed).

I certify that, save for material omissions and amendments to  
Schedule 1 and 2, this document is a correct copy of the original document.

Signed Gawling WLG (UK) LLP Date 09/06/2020

## CONTENTS

Clause	Heading	Page
1	DEFINITIONS AND INTERPRETATION .....	1
2	CREATION OF SECURITY .....	10
3	GUARANTEE AND INDEMNITY .....	14
4	NEGATIVE PLEDGE AND DISPOSAL RESTRICTION .....	15
5	PERFECTION OF SECURITY .....	16
6	REPRESENTATIONS .....	17
7	UNDERTAKINGS .....	19
8	INVESTMENTS .....	23
9	WHEN SECURITY BECOMES ENFORCEABLE .....	23
10	ENFORCEMENT OF SECURITY .....	27
11	RECEIVER .....	29
12	POWERS OF RECEIVER .....	31
13	APPLICATION OF PROCEEDS .....	34
14	INTEREST .....	35
15	EXPENSES AND INDEMNITIES .....	36
16	DELEGATION .....	36
17	FURTHER ASSURANCES .....	36
18	POWER OF ATTORNEY .....	37
19	PRESERVATION OF SECURITY .....	37
20	CHANGES TO THE PARTIES .....	40
21	MISCELLANEOUS .....	42
22	RELEASE .....	43
23	SET-OFF .....	43
24	OBLIGORS' AGENT .....	43
25	NOTICES .....	44
26	PARTIAL INVALIDITY .....	45
27	REMEDIES AND WAIVERS .....	45
28	INTERCREDITOR DEED .....	45
29	COUNTERPARTS .....	46
30	GOVERNING LAW .....	46
31	JURISDICTION .....	46



SCHEDULE 1 THE ORIGINAL OBLIGORS .....	47
SCHEDULE 2 SPECIFIED ASSETS .....	48
SCHEDULE 3 ADDITIONAL OBLIGORS .....	51
SCHEDULE 4 FORM OF RESIGNATION LETTER .....	61

THIS DEED is dated the 2 April 2019 and is made

**BETWEEN:**

- (1) THE COMPANIES listed in schedule 1 (*The Original Obligors*) (the "Original Obligors"); and
- (2) LDC (MANAGERS) LIMITED, a company incorporated in England and Wales (Registered number 02495714)) whose registered office is at One Vine Street, London, W1J OAH as security trustee for the Secured Parties (as defined below) (the "Security Trustee").

**BACKGROUND:**

- (A) The Original Obligors enter into this Deed in connection with the Loan Notes (as defined below).
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

**IT IS AGREED** as follows:

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

<b>AI Loan Note Instrument</b>	the instrument constituting £[REDACTED] A1 institutional fixed rate subordinated guaranteed secured loan notes 2026 of the Issuer dated on or about the date of this Deed;
<b>Accession Deed</b>	a deed substantially in the form set out in <u>part 1</u> of schedule 3 ( <i>Additional Obligors</i> );
<b>Additional Obligor</b>	a company which becomes an Additional Obligor in accordance with clause 20 ( <i>Changes to the Parties</i> );
<b>Authorisation</b>	an authorisation, consent, approval, resolution, licence,

exemption, filing, notarisation or registration;

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

**B1 Loan Note Instrument** the instrument constituting the £[REDACTED] B1 manager fixed rate subordinated guaranteed secured loan notes 2026 of the Issuer dated on or about the date of this Deed;

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

**Designated Account** (a) the accounts (if any) specified in schedule 2 (*Specified Assets*) or in the schedule to any Accession Deed; and

(b) any account from time to time substituted for or additional to any such account (including in each case such account as redesignated and/or renumbered from time to time);

**Enforcement Event** has the meaning given to it in clause 9.1 (*Enforcement Events*);

**Environmental Law** 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;

**EU Regulation** Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast);

**Finance Document** this Deed, the Loan Note Instruments, the Loan Notes, the Security Trust Deed and any other document designed as a "Finance Document" by the Security Trustee and the

Obligors' Agent;

**Insurance** any contract of insurance required under clause 7.3 (*Insurances*);

**Insurance Rights** all rights under any contract or policy of insurance taken out by the Chargor or on its behalf or in which it has an interest;

**Intellectual Property Rights** (a) all present and future patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, in each case whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets;

**Intercreditor Deed** the intercreditor agreement dated 6 February 2015 originally between (1) Banco Santander SA, London Branch as Senior Agent, (2) the entities listed in part 1 of schedule 1 as Senior Lenders, (3) the entities listed in part 2 of schedule 1 as Senior Arrangers, (4) Santander UK plc as Hedge Counterparty, (5) the individuals listed in part 4 of schedule 1 as Vendors, (6) the entities listed in part 5 of schedule 1 as Investor Loan Note Holders, (7) the individuals listed in part 6 of schedule 1 as Management Loan Note Holders, (8) SDB1 Ltd as Parent, (9) SDB1 Ltd as Intra Group Lender, (10) SDB1 Ltd as Original Debtor, (11) Santander UK PLC as Security Agent, (12) LDC (Managers) Limited as Subordinated Security Agent, (13) Jeremy Levine as Vendor Security Agent;

**Investments** (a) the shares (if any) specified in schedule 2 (*Specified Assets*) or in the schedule to any Accession Deed; and

(b) all other shares, stocks, debentures, bonds or other

securities or investments owned by any Obligor or held by any nominee or trustee on its behalf;

<b>Issuer</b>	SDB1 Ltd a company incorporated in England and Wales (Registered number 11737452) whose registered office Two Snowhill, Birmingham B4 6WR;
<b>Loan Note Instruments</b>	the A1 Loan Note Instrument and the B1 Loan Note Instrument;
<b>Loan Notes</b>	each of the notes constituted by the Loan Note Instruments;
<b>LPA 1925</b>	the Law of Property Act 1925;
<b>Mortgaged Property</b>	all freehold or leasehold property included in the definition of Security Asset;
<b>Noteholders</b>	has the meaning given to that term in the Security Trust Deed;
<b>Obligor</b>	an Original Obligor or an Additional Obligor unless it has ceased to be an Obligor in accordance with clause 20 ( <i>Changes to the Parties</i> );
<b>Obligors' Agent</b>	SDB1 Ltd a company incorporated in England and Wales (Registered number 11737452) whose registered office is at Two Snowhill, Birmingham B4 6WR;
<b>Original Jurisdiction</b>	means, in relation to an Obligor, the jurisdiction under whose laws that Obligor is incorporated as at the date of this Deed or, in the case of an Additional Obligor, as at the date on which that Additional Obligor becomes Party to this Deed;
<b>Party</b>	a party to this Deed;
<b>Receiver</b>	a receiver or receiver and manager or administrative

receiver, in each case appointed under this Deed;

**Relevant Jurisdiction** means, in relation to an Obligor:

- (a) its Original Jurisdiction;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Security to be created by it is situated; and
- (c) any jurisdiction where it conducts its business;

**Relevant Seller Discharge Date** has the meaning given to the term "Vendor Discharge Date" pursuant to the Intercreditor Deed;

**Relevant Seller Security Document** means:

- (a) the composite guarantee and debenture dated on or about the date of this deed made by certain of the Obligors in favour of the Relevant Seller Security Trustee securing amounts due pursuant to a sale and purchase agreement in respect of the Target Shares and subordinated pursuant to the Intercreditor Deed; and
- (b) the security trust deed dated on or about the date of this deed between certain of the Obligors, the persons named therein as Original Relevant Sellers and the Relevant Seller Security Trustee;

**Relevant Seller Security Trustee** Jeremy Levine as security trustee under the Relevant Seller Security Documents;

**Resignation Letter** a letter substantially in the form set out in schedule 4 (*Form of Resignation Letter*);

**Secured Liabilities** all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally

or in any other capacity whatsoever) of each Obligor to any Secured Party under each Finance Document;

**Secured Party** the Security Trustee, any Receiver or Delegate and each of the Noteholders from time to time;

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

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

**Security Period** the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no Noteholder has any further commitment, obligation or liability to any Obligor;

**Security Trust Deed** the security trust deed dated on or about the date of this Deed and made between the Security Trustee and the Noteholders;

**Senior Facilities Agreement** the senior facilities agreement dated on or about the date of this Deed made between (1) SDB1 Ltd as parent, (2) the entities listed in Part 1 of Schedule thereto as original borrowers, (3) the entities listed in Part 1 of Schedule 1 thereto as original guarantors, (4) the financial institutions listed in Part 2 of Schedule 1 as arrangers, (5) the financial institutions listed in Part 3 of Schedule 1 as as original lenders, (6) the entities listed in Part 4 of Schedule 1 as original hedge counterparties, (7) Banco Santander SA, London Branch as agent and (8) Santander UK Plc as security agent;

<b>Senior Security Document</b>	the composite guarantee and debenture dated on or about the date of this Deed and granted by the Original Obligors in favour of Santander UK Plc (as security agent);
<b>Subsidiary</b>	a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 or a subsidiary within the meaning of section 1159 of the Companies Act 2006;
<b>Target</b>	Project Beagle 1 Limited, a company incorporated in England and Wales (Registered number 11388781) whose registered office is at Thompson Close, Whittington Moor, Chesterfield, Derbyshire S41 9AZ;
<b>Target Shares</b>	the entire issued share capital of the Target, all of which have been issued and fully paid or credited as fully paid;
<b>Tax</b>	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).

## 1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Deed to:
- (i) any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under this Deed;
  - (ii) "**assets**" includes present and future properties, revenues and rights of every description;
  - (iii) "**costs**" includes all costs, fees, charges and expenses of any nature and includes any Tax charged on any of them;
  - (iv) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or that other agreement or instrument as amended, novated, supplemented, extended, replaced or restated;



- (v) any **"rights"** in respect of an asset includes:
  - (A) all amounts and proceeds paid or payable;
  - (B) all rights to make any demand or claim; and
  - (C) all powers, remedies, causes of action, security, guarantees and indemnities,in each case in respect of or derived from that asset;
- (vi) any **"share", "stock", "debenture", "bond" or "other security"** or **"investment"** includes:
  - (A) any dividend, interest or other distribution paid or payable;
  - (B) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,in each case in respect of that share, stock, debenture, bond or other security or investment;
- (vii) **"disposal"** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **"dispose"** will be construed accordingly;
- (viii) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality); and
- (ix) a provision of law is a reference to that provision as amended or re-enacted.

1.3 Clause and schedule headings are for ease of reference only.

1.4 Words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

- 1.5 The words "**including**" shall not be construed as limiting the generality of the words preceding it.
- 1.6 An Enforcement Event is "**continuing**" if it has not been waived.
- 1.7 Any covenant of an Obligor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- 1.8 The terms of any other agreement or instrument between the Parties are incorporated in this Deed to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 1.9 If the Security Trustee considers that an amount paid to a Secured Party in connection with this Deed is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.10 Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.
- 1.11 The obligations of the Obligors under this Deed are joint and several.
- 1.12 **Third party rights**
- (a) Unless expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Deed.
  - (b) Any Receiver may enforce and enjoy the benefit of any clause which expressly confers rights on it, subject to the provisions of the Third Parties Act.
- 1.13 **Excluded IP Licences**
- (a) If, under the terms of any licence of Intellectual Property Rights, an Obligor is prohibited from charging its interest in such licence without the consent or waiver of the licence counterparty (an "**Excluded IP Licence**"), then that Excluded IP Licence shall be excluded from the fixed charge at clause 2.6 (*Intellectual Property Rights*),

provided always that all amounts which the relevant Obligor may receive, or has received, under that Excluded IP Licence shall not be so excluded.

- (b) Each Obligor undertakes that it shall:
- (i) at the request of the Security Trustee (acting in accordance with the instructions of all the Noteholders), apply for any required consent or waiver to charge an Excluded IP Licence, unless to do so (i) would result in costs and/or expenses to any Obligor which are material in the opinion of the Security Trustee (acting in accordance with the instructions of all the Noteholders) or (ii) would or would be reasonably likely to in the opinion of the Security Trustee (acting in accordance with the instructions of all the Noteholders) materially impair or destroy property or other rights of any Obligor in relation to such Excluded IP Licence;
  - (ii) use reasonable endeavours to obtain such consent or waiver as soon as possible following that request; and
  - (iii) promptly provide to the Security Trustee a copy of such consent or waiver on obtaining the same.

Following the receipt by the relevant Obligor of such consent or waiver, the relevant Excluded IP Licence shall immediately be subject to the fixed charge at clause 2.6 (*Intellectual Property Rights*).

## **2 CREATION OF SECURITY**

### **2.1 General**

- (a) Each Obligor covenants with the Security Trustee that it will pay or discharge the Secured Liabilities as and when the same are due.
- (b) All the security created under this Deed is created in favour of the Security Trustee over present and future assets of the Obligors as security for the payment of all the Secured Liabilities and it is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

- (c) The Security Trustee holds the benefit of this Deed and the Security created by this Deed on trust for the Secured Parties.

## **2.2 Real property**

- (a) Each Obligor charges:
  - (i) by way of a first legal mortgage all estates or interests in any freehold or leasehold property now owned by it; this includes its real property (if any) specified in schedule 2 (*Specified Assets*) or in the schedule to any Accession Deed; and
  - (ii) (to the extent that they are not the subject of a mortgage under clause 2.2(a)(i) above) by way of a first fixed charge all estates or interests in any freehold or leasehold property now or subsequently owned by it.
- (b) A reference in this clause 2 (*Creation of Security*) to a mortgage or charge of any freehold or leasehold property includes:
  - (i) all buildings, fixtures, fittings and fixed plant and machinery on that property; and
  - (ii) the benefit of any covenants for title given or entered into by any predecessor in title of any Obligor in respect of that property or any moneys paid or payable in respect of those covenants.

## **2.3 Investments**

Each Obligor charges by way of a first fixed charge its interest in all its Investments.

## **2.4 Plant and machinery**

To the extent that they are not the subject of a mortgage or a first fixed charge under clause 2.2 (*Real property*), each Obligor charges by way of a first fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession; this includes its plant and machinery (if any) specified in schedule 2 (*Specified Assets*) or in the schedule to any Accession Deed.

**2.5 Credit balances**

- (a) Each Obligor charges by way of a first fixed charge all of its rights in respect of any Designated Account, any amount standing to the credit of any Designated Account and the debt represented by it.
- (b) Each Obligor charges by way of a first fixed charge all of its rights in respect of any account it has with any person other than the accounts referred to in clause 2.5(a) above, any amount standing to the credit of any such account and the debt represented by it.

**2.6 Intellectual Property Rights**

Each Obligor charges by way of a first fixed charge all of its Intellectual Property Rights; this includes its rights (if any) specified in schedule 2 (*Specified Assets*) or in the schedule to any Accession Deed.

**2.7 Book debts etc**

Each Obligor charges by way of a first fixed charge:

- (a) all of its book and other debts;
- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights in relation to any item under clauses 2.7(a) to 2.7(b) above.

**2.8 Insurances**

- (a) Each Obligor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under the Insurance Rights.
- (b) To the extent that they have not been effectively assigned under clause 2.8(a) above, each Obligor charges by way of a first fixed charge all of its Insurance Rights.

**2.9 Other contracts**

- (a) Each Obligor:

- (i) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:
    - (A) under each of the contracts (if any) specified in schedule 2 (*Specified Assets*) or in the schedule to any Accession Deed; and
    - (B) under any document, agreement or instrument to which it and any nominee or trustee is party in respect of an Investment; and
  - (ii) charges by way of a first fixed charge all of its rights under any other document, agreement or instrument to which it is a party except to the extent that it is subject to any fixed security created under any other term of this clause 2 (*Creation of Security*).
- (b) To the extent that they have not been effectively assigned under clause 2.9(a)(i) above, each Obligor charges by way of a first fixed charge all of its rights listed under clause 2.9(a)(i) above.

#### **2.10 Other assets**

Each Obligor charges by way of first fixed charge:

- (a) its goodwill;
- (b) the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset;
- (c) the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in clause 2.10(c) above;
- (d) its uncalled capital; and
- (e) the benefit of all rights in relation to any item under clauses 2.10(b) to 2.10(e) above.

## **2.11 Floating charge**

- (a) Each Obligor charges by way of a first floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, fixed charge or assignment under this clause 2 (*Creation of Security*).
- (b) Except as provided below, the Security Trustee may by notice to an Obligor convert the floating charge created by this clause 2.11 (*Floating charge*) into a fixed charge as regards any of the Obligor's assets specified in that notice.
- (c) The floating charge created by this clause 2.11 (*Floating charge*) may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium, under section AI of the Insolvency Act 1986.
- (d) If any steps are taken for any of the Security Assets to become subject to any Security in favour of any other person or any person levies or attempts to levy any distress, execution or other process or exercises any enforcement power against any of the Security Assets, the floating charge created by this clause 2.11 (*Floating charge*) will (in addition to the circumstances when this may occur under the general law) automatically convert into a fixed charge as regards any such Security Assets.
- (e) The floating charge created by this clause 2.11 (*Floating charge*) will (in addition to the circumstances when this may occur under the general law) automatically convert into a fixed charge over all of the Obligors' assets (including those subsequently acquired by any Obligor) if a resolution is passed or an order is made for the winding-up, dissolution or re-organisation of or any steps are taken for the appointment of an administrator in respect of any Obligor.
- (f) The floating charge created by this clause 2.11 (*Floating charge*) is a qualifying floating charge for the purpose of paragraph 14 of schedule B1 to the Insolvency Act 1986.

## **3 GUARANTEE AND INDEMNITY**

### **3.1 Guarantee and indemnity**

Each Obligor irrevocably and unconditionally jointly and severally:

- (a) guarantees to the Security Trustee punctual performance by each other Obligor of the Secured Liabilities;
- (b) undertakes with the Security Trustee that whenever another Obligor does not pay any amount of the Secured Liabilities when due, that Obligor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with the Security Trustee (on behalf of each Secured Party) that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Trustee (on behalf of each Secured Party) immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it on the date when it would have been due. The amount payable by an Obligor under this indemnity will not exceed the amount it would have had to pay under this clause 3 (*Guarantee and Indemnity*) if the amount claimed had been recoverable on the basis of a guarantee.

### **3.2 Guarantee Limitations**

This guarantee is subject to any limitations set out in the Accession Deed applicable to any Additional Guarantor.

## **4 NEGATIVE PLEDGE AND DISPOSAL RESTRICTION**

### **4.1 Security**

Except for:

- (a) the Security created by this Deed;
- (b) the Security created by the Senior Security Document;
- (c) any Security permitted by the Senior Facilities Agreement;
- (d) the Security created by the Relevant Seller Security Documents; and
- (e) any lien arising by operation of law and in the ordinary course of trading,



no Obligor shall create or permit to subsist any Security on any Security Asset.

#### **4.2 Disposals**

- (a) No Obligor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any Security Asset.
- (b) Clause 4.2(a) (*Disposals*) does not apply to any disposal made in the ordinary course of trading of any asset subject to the floating charge created under this Deed.

### **5 PERFECTION OF SECURITY**

#### **5.1 General**

- (a) Each Obligor must immediately on request by the Security Trustee deposit with the Security Trustee all deeds and documents necessary to show good and marketable title to any Security Asset. There shall be no breach of this clause 5.1(a) where, prior to the Relevant Seller Discharge Date, the relevant Obligor complies with a corresponding requirement pursuant to the Senior Security Document and/or a Relevant Seller Security Document. In such circumstances, the relevant Obligor must comply with this clause immediately on and from the Relevant Seller Discharge Date.
- (b) Each Obligor must immediately on request by the Security Trustee execute and deliver to the Security Trustee a notice of any assignment of its rights referred to in clause 2 (*Creation of Security*) in such form as the Security Trustee may require.

#### **5.2 Real Property**

- (a) If any Obligor acquires any freehold or leasehold property in England and Wales after the date of this Deed it must notify the Security Trustee immediately and immediately on request by the Security Trustee and at the cost of the Obligors, execute and deliver to the Security Trustee a legal mortgage over that property in favour of the Security Trustee (to hold on trust for the Secured Parties) in any form which the Security Trustee may require.
- (b) Each Obligor consents to a restriction in the following terms being entered into on the Register of Title relating to any Mortgaged Property registered at the Land Registry:

*"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [•] in favour of [•] referred to in the charges register or their conveyancer. (Standard Form P)".*

- (c) Each Obligor consents to an application being made to the Chief Land Registrar to enter a note on the Register of Title relating to its Mortgaged Property registered at the Land Registry that there is an obligation to make further advances on the security of this Deed.

### **5.3 Investments**

- (a) Each Obligor must immediately on the date of this Deed deposit with the Security Trustee, or as the Security Trustee may direct, all certificates and other documents of title or evidence of ownership in relation to its Investments and execute and deliver to the Security Trustee all share transfers and other documents which may be requested by the Security Trustee in order to enable the Security Trustee or its nominees to be registered as the owner of or otherwise obtain a legal title to its Investments.
- (b) There shall be no breach of clause 5.3(a) where, prior to the Relevant Seller Discharge Date, the relevant Obligor complies with a corresponding requirement pursuant to the Senior Security Document and/or a Relevant Seller Security Document. In such circumstances, the relevant Obligor must comply with clause 5.3(a) immediately on and from the Relevant Seller Discharge Date.

## **6 REPRESENTATIONS**

### **6.1 General**

Each Obligor makes the representations and warranties set out in this clause 6 (*Representations*) to the Security Trustee on the date of this Deed and on each day during the Security Period by reference to the facts and circumstances then existing.

### **6.2 Status**

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

- (b) It has the power to own its assets and carry on its business as it is being conducted.

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

The entry into and performance by it of, and the transactions contemplated by, this Deed, and the granting of the Security created by 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 interest binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

### **6.4 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 and the transactions contemplated by this Deed.
- (b) No limit on its powers will be exceeded as a result of the grant of Security created or expressed to be created in favour of the Security Trustee by this Deed.

### **6.5 Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and
- (b) to make this Deed admissible in evidence in England and Wales, have been obtained or effected and are in full force and effect.

### **6.6 Legal and beneficial ownership**

It is the sole legal and beneficial owner of its Security Assets (save that the Target Shares are beneficially but not legally owned by the Issuer until the Target Shares are registered in the register of shareholders of the Target, which registration will be made as soon as possible

after the date of this Deed) free from Security (other than those created by or pursuant to this Deed, the Senior Security Document or the Relevant Seller Security Documents).

## **7 UNDERTAKINGS**

The undertakings in this clause 7 (*Undertakings*) remain in force throughout the Security Period.

### **7.1 Information**

Each Obligor must:

- (a) promptly supply to the Security Trustee such information as the Security Trustee may reasonably require about the Security Assets and the Obligor's compliance with the terms of this Deed; and
- (b) promptly upon becoming aware of its occurrence, notify the Security Trustee of any event or circumstance specified in the definition of "Enforcement Event" which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Enforcement Event (and the steps, if any, being taken to remedy it) unless that Obligor is aware that a notification has already been provided by another Obligor.

### **7.2 Authorisations**

Each Obligor must promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Security Trustee of:

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

- (i) enable it to perform its obligations under this Deed; and
- (ii) ensure the legality, validity, enforceability or admissibility in evidence of this Deed.

### **7.3 Insurances**

- (a) Each Obligor must ensure that at all times Insurances are maintained in full force and effect which insure it in respect of its interests in the Security Assets 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 Obligor (or as otherwise notified by the Security Trustee from time to time).
- (b) Each Obligor must procure that the Security Trustee is named as composite insured in respect of its own separate insurable interest under each of its Insurances (other than public liability and third party liability insurances), or, at the option of the Security Trustee, that the interest of the Security Trustee is noted on each of its Insurances and that they contain such other provisions for the protection of the Security Trustee as the Security Trustee may reasonably require.
- (c) No Obligor shall do or permit anything to be done which may make void or voidable any of the Insurances.
- (d) Each Obligor must ensure that each premium for the Insurances is paid within the period permitted for payment of that premium and all other things necessary are done so as to keep each of the Insurances in force.
- (e) Except as provided below, the proceeds of any Insurances must, if the Security Trustee so requires, be paid into a Designated Account specified by the Security Trustee. Any such moneys standing to the credit of a Designated Account may be applied by the Security Trustee in payment of any amount due but unpaid to a Secured Party under this Deed.
- (f) Moneys received under liability policies held by an Obligor which are required by the Obligor to satisfy established liabilities of the Obligor to third parties must be used to satisfy those liabilities.

### **7.4 Environmental matters**

Each Obligor must comply and ensure that any relevant third party complies with all Environmental Law.

## 7.5 Property

- (a) Each Obligor must exercise its rights and comply in all respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Mortgaged Property.
- (b) No Obligor shall agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Mortgaged Property.
- (c) No Obligor shall without the consent of the Security Trustee:
  - (i) grant, or enter into any agreement to grant, any lease or licence or other right of occupation or right to receive rent for all or part of a Mortgaged Property (an "Occupational Lease");
  - (ii) agree to any amendment, supplement, extension, waiver, surrender or release in respect of any Occupational Lease; or
  - (iii) grant any licence or right to use or occupy any part of a Mortgaged Property.
- (d) Each Obligor must exercise its right and comply with its obligations under any lease under which the Obligor holds title to all or any part of a Mortgaged Property (a "Headlease") in a proper and timely manner.
- (e) No Obligor shall agree to any amendment, supplement, waiver, surrender or release of any Headlease.
- (f) Each Obligor must ensure that all buildings, plant, machinery, fixtures and fittings on each Mortgaged Property are in, and maintained in good and substantial repair and condition and, as appropriate, in good working order.
- (g) No Obligor shall carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of any part of any Mortgaged Property.

#### **7.6 Credit balances, book debts and receipts**

- (a) Each Obligor must get in and realise its book and other debts and other moneys due and owing to it in the ordinary course of its business and hold the proceeds of the getting in and realisation (until payment into a Designated Account if required in accordance with clause 7.6(b) below) on trust for the Security Trustee.
- (b) Each Obligor must, except to the extent that the Security Trustee otherwise agrees, immediately pay all the proceeds of the getting in and realisation into a Designated Account specified by the Security Trustee. Any such moneys standing to the credit of a Designated Account may be applied by the Security Trustee in payment of any amount due but unpaid to a Secured Party under this Deed.
- (c) Each Obligor must, if called to do so by the Security Trustee, execute a legal assignment of its book debts in such terms as the Security Trustee may require and give notice of that assignment to the debtors from whom the book debts are due, owing or incurred.

#### **7.7 Intellectual property rights**

Each Obligor must preserve and maintain the subsistence and validity of the Intellectual Property Rights necessary for its business.

#### **7.8 Preservation of assets**

No Obligor shall do, cause or permit to be done or omit to do anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Security Assets.

#### **7.9 Access**

If an Enforcement Event is continuing or the Security Trustee reasonably suspects that an Enforcement Event is continuing, each Obligor must permit the Security Trustee and/or its delegates access at all reasonable times and on reasonable notice at the risk and cost of the Obligor to the premises (including, without limitation, any Mortgaged Property), assets, books, accounts and records of the Obligor.

#### **7.10 Centre of main interests and establishments**

No Obligor shall, without the prior written consent of the Security Trustee, change its centre of main interest (as that expression is used in Article 3(1) of the EU Regulation) to somewhere other than England and Wales, nor will it have any establishment (as that term is used in Article 2(h) of the EU Regulation) in any other jurisdiction.

### **8 INVESTMENTS**

8.1 After any Security created by this Deed has become enforceable:

- (a) the voting rights, powers and other rights in respect of its Investments may be exercised by the Security Trustee (in the name of the relevant Obligor and without any further consent or authority on the part of the Obligor); and
- (b) each Obligor must hold all dividends, distributions or other income paid or payable in relation to any of its Investments on trust for the Security Trustee and pay the same immediately upon receipt to the Security Trustee or as it may direct.

### **9 WHEN SECURITY BECOMES ENFORCEABLE**

#### **9.1 Enforcement Events**

The Security created by this Deed will become immediately enforceable if any of the events and circumstances set out in this clause 9.1 (*Enforcement Events*) (each being an "Enforcement Event") occurs and is continuing.

(a) **Non-payment**

Any of the Secured Liabilities are not paid on their due date at the place at, and in the currency in which they are, expressed to be payable.

(b) **Other obligations**

Any Obligor does not comply with any provision of any Finance Document.



(c) **Misrepresentation**

Any representation or statement made or deemed to be made by an Obligor in any Finance Document is or proves to have been incorrect or misleading when made or deemed to be made.

(d) **Insolvency**

(i) An Obligor:

- (A) is unable or admits inability to pay its debts as they fall due;
- (B) is deemed to, or is declared to, be unable to pay its debts under applicable law;
- (C) suspends or threatens to suspend making payments on any of its debts or,
- (D) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Noteholder in its capacity as such) with a view to rescheduling any of its indebtedness.

(ii) The value of the assets of any Obligor is less than its liabilities (taking into account contingent and prospective liabilities).

(iii) A moratorium is declared in respect of any indebtedness of any Obligor. If a moratorium occurs, the ending of the moratorium will not remedy any Enforcement Event caused by that moratorium.

(e) **Insolvency proceedings**

Any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor;

- (ii) a composition, compromise, assignment or arrangement with any creditor of any Obligor;
- (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Obligor or any of its assets; or
- (iv) enforcement of any Security over any assets of any Obligor, or any analogous procedure or step is taken in any jurisdiction.

**(f) Creditors' process**

Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of any Obligor.

**(g) Unlawfulness and invalidity**

- (i) It is or becomes unlawful for any Obligor to perform any of its obligations under any Finance Document or any Security created by this Deed ceases to be effective.
- (ii) Any obligation or obligations of any Obligor under any Finance Document are not or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of any Secured Party under the Finance Documents.
- (iii) Any Finance Document ceases to be in full force and effect or any Security created by this Deed ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than the Secured Parties) to be ineffective.

**(h) Repudiation and rescission of agreements**

Any Obligor (or any other relevant party) rescinds or purports to rescind or repudiates or purports to repudiate any Finance Document or any Security created by this Deed or evidences an intention to rescind or repudiate any Finance Document or any Security created by this Deed.

**(i) Cross Default**

- (i) Any financial indebtedness of any Obligor is not paid when due nor within any originally applicable grace period.
- (ii) Any financial indebtedness of any Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).
- (iii) Any commitment for any financial indebtedness of any Obligor is cancelled or suspended by a creditor of any Obligor as a result of an event of default (however described).
- (iv) Any creditor of any Obligor becomes entitled to declare any financial indebtedness of any Obligor due and payable prior to its specified maturity as a result of an event of default (however described).

**(j) Material adverse change**

Any event or circumstance occurs which, in the Security Trustee's opinion, has or is reasonably likely to have a material adverse effect on:

- (i) the business, operations, property or condition (financial or otherwise) of an Obligor; or
- (ii) the ability of an Obligor to perform its obligations under any Finance Document; or
- (iii) the validity or enforceability of, or the effectiveness or ranking of any Security granted or purported to be granted pursuant to this Deed; or
- (iv) the rights or remedies of any Secured Party under any Finance Document.

**9.2 Discretion**

After any Security created by this Deed has become enforceable, the Security Trustee may enforce all or any part of any Security created by this Deed in any manner it sees fit.

### **9.3 Statutory powers**

The power of sale and other powers conferred by section 101 of the LPA 1925, as amended by this Deed, will be immediately exercisable at any time after any Security created by this Deed has become enforceable.

### **9.4 Investigations**

Following the occurrence of an Enforcement Event, the Security Trustee may initiate an investigation of, and/or instruct any report (accounting, legal, valuation or other) on the business and affairs of any Obligor which it considers necessary to ascertain the financial position of any Obligor. All fees and expenses incurred by the Security Trustee in connection with such investigations shall be payable by the Obligors and the Obligors consent to the provision by the Security Trustee of all information in relation to the Obligors which the Security Trustee provides to any person in relation to the preparation of any such report.

### **9.5 Power to remedy**

If at any time any Obligor does not comply with any of its obligations under this Deed, the Security Trustee may (but shall not be obliged to) rectify such default and the Obligor irrevocably authorises the Security Trustee, its employees and agents, at the Obligors' expense, to do all such things as are necessary or desirable to rectify such default.

## **10 ENFORCEMENT OF SECURITY**

### **10.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the LPA 1925 (restricting the power of sale) and section 93 of the LPA 1925 (restricting the right of consolidation) do not apply to any Security created by this Deed.
- (c) The statutory powers of leasing conferred on the Security Trustee are extended so as to authorise the Security Trustee to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Trustee may think fit and

without the need to comply with any provision of section 99 or section 100 of the LPA 1925.

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

Neither the Security Trustee nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

#### **10.3 Privileges**

The Security Trustee and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers duly appointed under the LPA 1925, except that section 103 of the LPA 1925 does not apply.

#### **10.4 Protection of third parties**

No person (including a purchaser) dealing with the Security Trustee or a Receiver or its or his/her agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Security Trustee or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due to the Security Trustee; or
- (d) how any money paid to the Security Trustee or to that Receiver is to be applied.

#### **10.5 Redemption of prior mortgages**

At any time after any Security created by this Deed has become enforceable, the Security Trustee may: redeem any prior Security against any Security Asset; and/or procure the transfer of that Security to itself; and/or settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Obligors.

## **10.6 Financial collateral**

- (a) To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of the Obligors under this Deed constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the Security Trustee will have the right after any Security created by this Deed has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (b) Where any financial collateral is appropriated:
  - (i) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or
  - (ii) in any other case, its value will be such amount as the Security Trustee reasonably determines having taken into account advice obtained by it from an independent commercial property adviser, investment bank or accountancy firm of national standing selected by it,

and each Secured Party will give credit for the proportion of the value of the financial collateral appropriated to its use.

## **11 RECEIVER**

### **11.1 Appointment of Receiver**

- (a) Except as provided below, the Security Trustee may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if any Security created by this Deed has become enforceable or any Obligor so requests to the Security Trustee at any time.
- (b) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA 1925) does not apply to this Deed.

- (c) The Security Trustee is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A of the Insolvency Act 1986.
- (d) The Security Trustee may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Trustee is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.
- (e) The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Security Trustee under the Insolvency Act 1986, the LPA 1925 or otherwise.

#### **11.2 Removal**

The Security Trustee may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

#### **11.3 Remuneration**

The Security Trustee may fix the remuneration of any Receiver appointed by it and the maximum rate specified in section 109(6) of the LPA 1925 will not apply.

#### **11.4 Agent of the Obligors**

- (a) A Receiver will be deemed to be the agent of the Obligors for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA 1925. The Obligors themselves are responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.
- (b) No Secured Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### **11.5 Relationship with the Security Trustee**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may, after any Security created by this Deed becomes enforceable, be exercised by the Security Trustee in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

## **12 POWERS OF RECEIVER**

### **12.1 General**

- (a) A Receiver has all of the rights, powers and discretions set out below in this clause 12 (*Powers of Receiver*) in addition to those conferred on it by any law. This includes:
  - (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and
  - (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925 and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

### **12.2 Possession**

A Receiver may take immediate possession of, get in and realise any Security Asset.

### **12.3 Carry on business**

A Receiver may carry on any business of any Obligor in any manner he/she thinks fit.

### **12.4 Employees**

- (a) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he/she thinks fit.



- (b) A Receiver may discharge any person appointed by any Obligor.

#### **12.5 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to any Security created by this Deed or otherwise and generally on any terms and for whatever purpose which he/she thinks fit.

#### **12.6 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he/she thinks fit.
- (b) The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he/she thinks fit.
- (c) Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of any Obligor.

#### **12.7 Leases**

A Receiver may let any Security Asset for any term and at any rent (with or without a premium) which he/she thinks fit and may accept a surrender of any lease or tenancy of any Security Asset on any terms which he/she thinks fit (including the payment of money to a lessee or tenant on a surrender).

#### **12.8 Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of any Obligor or relating in any way to any Security Asset.

#### **12.9 Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he/she thinks fit.

#### **12.10 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

#### **12.11 Subsidiaries**

A Receiver may form a Subsidiary of any Obligor and transfer to that Subsidiary any Security Asset.

#### **12.12 Delegation**

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

#### **12.13 Lending**

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

#### **12.14 Protection of assets**

A Receiver may:

- (a) effect any repair or insurance and do any other act which an Obligor might do in the ordinary conduct of its business to protect or improve any Security Asset;
- (b) commence and/or complete any building operation; and
- (c) apply for and maintain any planning permission, building regulation approval or any other Authorisation,

in each case as he/she thinks fit.

#### **12.15 Exercise of rights**

A Receiver may exercise all powers, rights and/or obligations under any contract or agreement forming part of the Security Assets, including, without limitation, all voting and other rights attaching to the Investments.

#### **12.16 Other powers**

A Receiver may:

- (a) do all other acts and things which he/she may consider necessary or desirable for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he/she would be capable of exercising if he/she were the absolute beneficial owner of that Security Asset; and
- (c) use the name of any Obligor for any of the above purposes.

### **13 APPLICATION OF PROCEEDS**

#### **13.1 Order of application**

- (a) Subject to clause 13.2 (*Appropriations*) and the Intercreditor Deed, all amounts from time to time received or recovered by the Security Trustee or any Receiver pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or part of any Security created by this Deed will be held by the Security Trustee on trust to apply them at any time as the Security Trustee (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this clause 13 (*Application of Proceeds*)), in the following order of priority:
  - (i) in discharging any sums owing to the Security Trustee, any Receiver or any of its delegates;
  - (ii) in discharging all costs and expenses incurred by the Noteholders in connection with any realisation or enforcement of any Security created by this Deed taken in accordance with the terms of this Deed;
  - (iii) in discharging the Secured Liabilities (in accordance with the terms of the Finance Documents) on a pro rata basis;

- (iv) if no Obligor is under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom the Security Trustee is obliged to pay or distribute in priority to any Obligor; and
- (v) the balance, if any, in payment or distribution to the relevant Obligor.

- (b) This clause 13 (*Application of Proceeds*) is subject to the payment of any claims having priority over any Security created by this Deed.

### **13.2 Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may without affecting the liability of any Obligor under this Deed:

- (a) refrain from applying or enforcing any other monies, Security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts; or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Obligor shall be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received from any Obligor or on account of any Obligor's liability under or in connection with this Deed.

## **14 INTEREST**

- 14.1 If an Obligor fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the rate of four per cent. per annum higher than the highest rate which would have been payable if that overdue amount had constituted part of the Principal Amount (under, and as defined in, each Loan Note Instrument). Any interest accruing under this clause 14 (*Interest*) shall be immediately payable by the Obligors on demand by the Security Trustee.

- 14.2 Any interest accruing under this clause 14 (*Interest*) 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. If unpaid, any such interest shall be compounded with the overdue amount on the last Business Day of each month but will remain immediately due and payable.

## **15 EXPENSES AND INDEMNITIES**

- 15.1 Each Obligor must, within three Business Days of demand, pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of, or the preservation of any rights under, this Deed or any Security created by this Deed and with any proceedings instituted by or against the Security Trustee as a consequence of it entering into this Deed, taking or holding the Security created by this Deed, or enforcing those rights.
- 15.2 Each Obligor must immediately on demand pay to each Secured Party the amount of all other costs and expenses (including legal fees) incurred by that Secured Party in the creation, registration, perfection, enforcement, discharge and/or assignment of this Deed, including any arising from any actual or alleged breach by any person of any law or regulation, and keep each Secured Party indemnified against any failure or delay in paying those costs or expenses.

## **16 DELEGATION**

- 16.1 The Security Trustee or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion exercisable by it under this Deed.
- 16.2 Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Trustee or that Receiver (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- 16.3 Neither the Security Trustee nor any Receiver shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

## **17 FURTHER ASSURANCES**

- 17.1 Each Obligor must promptly, at its own expense, take whatever action the Security Trustee or a Receiver may require for creating, perfecting or protecting any security over any Security Asset or facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Security Trustee or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

17.2 The action that may be required under clause 17.1 above includes:

- (a) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance of any asset whether to the Security Trustee or to its nominees; and
- (b) the giving of any notice, order or direction and the making of any filing or registration, which, in any such case, the Security Trustee may consider necessary or desirable.

## **18 POWER OF ATTORNEY**

Each Obligor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of their respective delegates or sub-delegates to be its attorney with the full power and authority of the Obligor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any obligation of any Obligor under or pursuant to this Deed or generally for enabling the Security Trustee or any Receiver to exercise the respective powers conferred on them under this Deed or by law. Each Obligor ratifies and confirms whatever any attorney does or purports to do under its appointment under this clause 18 (*Power of Attorney*).

## **19 PRESERVATION OF SECURITY**

### **19.1 Continuing Security**

The guarantee and Security created by this Deed are a continuing guarantee and security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.

### **19.2 Further advances**

Any obligation of any Noteholder to make further advances to any Obligor is deemed to be incorporated in this Deed.

### **19.3 Additional security**

- (a) This Deed is in addition to and is not in any way prejudiced by any other Security now or subsequently held by any Secured Party.

- (b) No prior Security held by any Secured Party (in its capacity as such or otherwise) over any Charged Property will merge into the Security created or expressed to be created in favour of the Security Trustee pursuant to this Deed.

#### **19.4 Waiver of defences**

The obligations of each Obligor under this Deed will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed (whether or not known to it or any Secured Party). This includes (without limitation):

- (a) any time or waiver granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;
- (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 Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or 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 including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or 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.

#### **19.5 Immediate recourse**

Each Obligor waives any rights it may have of first requiring the Security Trustee (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 that Obligor under this Deed. This waiver applies irrespective of any law or any provision of any document to the contrary.

#### **19.6 Deferral of Obligors' rights**

Until the Secured Liabilities and all other amounts which may be or become payable by the Obligors under or in connection with this Deed have been irrevocably paid in full and unless the Security Trustee otherwise directs, no Obligor will exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of the Secured Liabilities;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under this Deed or of any other guarantee or Security taken pursuant to, or in connection with, the Secured Liabilities by the Secured Parties;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Obligor has given a guarantee, undertaking or indemnity under this Deed or otherwise in relation to the Secured Liabilities;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If an Obligor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable the Secured Liabilities and all other amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with this Deed to be repaid in full on trust for the Security



Trustee and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with this Deed.

**19.7 New accounts**

If any subsequent charge or other interest affects any Security Asset, a Secured Party may open a new account with any Obligor. If that Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest. As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

**20 CHANGES TO THE PARTIES**

**20.1 Assignment and transfers by the Security Trustee**

- (a) Subject to the terms of the Security Trust Deed, the Security Trustee may assign any of its rights or transfer by novation any of its rights and obligations under this Deed.
- (b) The Security Trustee shall be entitled to disclose such information concerning the Obligors and this Deed as the Security Trustee considers appropriate to any actual or proposed direct or indirect successor and to any person to whom information may be required to be disclosed by any applicable law or regulation.

**20.2 Assignment and transfers by the Obligors**

No Obligor may assign any of its rights or transfer any of its rights or obligations under this Deed.

**20.3 Additional Obligors**

- (a) The Obligors' Agent may request that any of its wholly owned Subsidiaries become an Additional Obligor. That Subsidiary shall become an Additional Obligor if:
  - (i) the Obligors' Agent and the proposed Additional Obligor deliver to the Security Trustee a duly completed and executed Accession Deed; and

- (ii) the Security Trustee has received all of the documents and other evidence listed in part 2 of schedule 3 (*Additional Obligors*) in relation to that Additional Obligor, each in form and substance satisfactory to the Security Trustee.
- (b) The Security Trustee shall notify the Obligors' Agent promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and evidence listed in part 2 of schedule 3 (*Additional Obligors*).
- (c) With effect from the date of notification by the Security Trustee under clause 20.3(b) above, the Additional Obligor shall assume the same obligations and become entitled to the same rights as if it had been a party to this Deed as an Original Obligor.

#### 20.4 Resignation of an Obligor

- (a) The Obligors' Agent may request that an Obligor other than the Obligors' Agent or the Issuer ceases to be an Obligor by delivering to the Security Trustee a Resignation Letter.
- (b) The Security Trustee may in its absolute discretion accept or reject a Resignation Letter and notify the Obligors' Agent of its acceptance if no Enforcement Event is continuing or would result from the acceptance of the Resignation Letter (and the resigning Obligor has confirmed that this is the case).
- (c) If any Obligor (a "**Retiring Obligor**") ceases to be an Obligor in accordance with this clause 20.4 (*Resignation of an Obligor*) then on the date on which the Security Trustee notifies the Obligors' Agent of its acceptance of a Resignation Letter:
  - (i) the Retiring Obligor is released by each other Obligor from any liability (whether past, present or future and whether actual or contingent) to make a contribution to any other Obligor arising by reason of the performance by any other Obligor of the Secured Liabilities; and
  - (ii) each other Obligor waives any rights it may have by reason of the performance of the Secured Liabilities to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Trustee or of any other security taken pursuant to, or in connection with, in relation to the Secured Liabilities where such rights or security are granted by or in relation to the assets of the Retiring Obligor.

- (d) If an Obligor is released from its obligations under this Deed pursuant to this clause 20.4 (*Resignation of an Obligor*), the other Obligors will continue to be bound by this Deed which will remain a continuing security.

## **21 MISCELLANEOUS**

### **21.1 No deductions and tax gross-up**

- (a) All payments to be made by any Obligor under this Deed shall be made in freely available funds and in sterling and shall be calculated and be made without (and free and clear of any deduction for) set-off, counterclaim or deduction on account of Tax.
- (b) If a Tax deduction is required by law to be made by any Obligor, the amount of the payment due from the Obligor shall be increased to an amount which (after making any Tax deduction) leaves an amount equal to the payment which would have been due if no Tax deduction had been required.

### **21.2 Perpetuity period**

The perpetuity period under the rule against perpetuities, if applicable to this Deed, shall be the period of 125 years from the date of this Deed.

### **21.3 No liability**

- (a) None of the Security Trustee, its delegate(s) nominee(s) or any Receiver or its delegate(s) shall be liable for any loss by reason of (a) taking any action permitted by this Deed or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property, except in the case of gross negligence or wilful default upon its part.
- (b) The Security Trustee will not be required in any manner to perform or fulfil any obligation of any Obligor, make any payment, make any enquiry as to the nature or sufficiency of any payment received by it or present or file any claim or take any action to collect or enforce the payment of any amount.
- (c) The Security Trustee shall not be liable either to any Obligor or to any other person by reason of the appointment of a Receiver or delegate or for any other reason.

- (d) Neither the Security Trustee nor the Receiver or any of their respective delegates will be in any way liable or responsible to any Obligor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

#### **21.4 Certificates**

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

#### **22 RELEASE**

At the end of the Security Period, the Security Trustee must, at the request and cost of the Obligors, take whatever action is necessary to release the Security Assets from any Security created by this Deed.

#### **23 SET-OFF**

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

#### **24 OBLIGORS' AGENT**

24.1 Each Obligor (other than the Obligors' Agent) by its execution of this Deed or an Accession Deed irrevocably appoints the Obligors' Agent (acting through one or more authorised signatories) to act on its behalf as its agent in relation to this Deed and irrevocably authorises:

- (a) the Obligors' Agent on its behalf to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Obligor (including any Accession Deed) notwithstanding that they may affect the Obligor, without further reference to or the consent of that Obligor; and
- (b) the Security Trustee to give any notice, demand or other communication to that Obligor pursuant to this Deed to the Obligors' Agent,

and in each case the Obligor shall be bound as though the Obligor itself had given the notices and instructions or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

## **25 NOTICES**

### **25.1 Communications in writing**

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

### **25.2 Addresses**

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

(a) in the case of the Obligors:

Address: Two Snowhill, Birmingham B4 6WR

Attention: The directors; and

(b) in the case of the Security Trustee:

Address: One Vine Street, London, W1J OAH

Attention: Lawrence Dean

or any substitute address, department or officer as one Party may notify to the other Party by not less than five Business Days' notice.

### **25.3 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 when it has been left at the relevant address or five Business Days after being deposited in the post (postage prepaid) in an envelope addressed to the relevant person at that address, and, if a particular

department or officer is specified as part of its address details provided under clause 25.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by the Security Trustee and then only if it is expressly marked for the attention of the department or officer identified with the Security Trustee's details provided under clause 25.2 (*Addresses*) (or any substitute department or officer as the Security Trustee shall specify for this purpose).

## **26 PARTIAL INVALIDITY**

- 26.1 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 26.2 If any part of the Security created or expressed to be created in favour of the Security Trustee pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of Security created or expressed to be created in favour of the Security Trustee pursuant to this Deed.

## **27 REMEDIES AND WAIVERS**

No failure to exercise, nor delay in exercising, on the part of the Security Trustee, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Security Trustee 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 of that right or remedy 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.

## **28 INTERCREDITOR DEED**

This Deed is subject to the terms of the Intercreditor Deed. If there is any conflict between the terms of this Deed and the terms of the Intercreditor Deed, the Intercreditor Deed shall prevail.

## **29 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.

## **30 GOVERNING LAW**

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

## **31 JURISDICTION**

31.1 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 obligation arising out of or in connection with this Deed) (a "Dispute").

31.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

31.3 Notwithstanding clause 31.1 above, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

**THIS DEED** has been signed on behalf of the Security Trustee and **EXECUTED AS A DEED** by each of the Original Obligors and is delivered by them on the date specified at the beginning of this Deed.

## SCHEDULE 1

### THE ORIGINAL OBLIGORS

Company name	Place of incorporation	Registered number	Registered office address
SDB1 Ltd	England and Wales	11737452	Two Snowhill, Birmingham B4 6WR
Project Beagle 1 Limited	England and Wales	11388781	Thompson Close, Whittington Moor, Chesterfield, Derbyshire S41 9AZ
Evolution Funding 2018 Limited	England and Wales	11354996	Thompson Close, Whittington Moor, Chesterfield, Derbyshire S41 9AZ



## SCHEDULE 2

### SPECIFIED ASSETS

#### REAL PROPERTY

Obligor	Description	Title number
Evolution Funding 2018 Limited	Evolution House (formerly known as Fusion House), Smeckley Wood Close, Chesterfield, Derbyshire S419PZ	DY521203
Evolution Funding 2018 Limited	Unit 1, Thompson Close, Whittington, Chesterfield, Derbyshire S41 9AZ	DY460393
Evolution Funding 2018 Limited	Thompson House, Unit 2 Thompson Close, Chesterfield, Derbyshire S41 9AZ	DY83701
Evolution Funding 2018 Limited	Whittington Works, Thompson Street, Chesterfield S41 9AR	DY256557
Evolution Funding 2018 Limited	Land on the south side of Duke Street, Whittington Moor, Chesterfield, Derbyshire S41 9AZ, known as Capstang House	DY192477

#### INVESTMENTS

Obligor	Description	Company
SDB1 Ltd	52,799 B ordinary shares of £1 each	Project Beagle 1 Limited (Registered Number 11388781)
Project Beagle 1 Limited	3 ordinary shares of £1 each	Evolution Funding 2018 Limited (Registered Number 11354996)

#### PLANT AND MACHINERY

Intentionally left blank

## ACCOUNTS

Collection Accounts			
Account Holder	Account Number	Account Bank	Account bank branch address and sort code
Evolution Funding 2018 Limited			
Project Beagle 1 Ltd			

## INTELLECTUAL PROPERTY RIGHTS

Intentionally left blank

## CONTRACTS

Obligor	Contract	Parties	Details of Contract
SDB1 Ltd	On or about the date of this Deed	(1) SDB1 Ltd (2) Jeremy David Levine (3) Lee David Streets (4) Christopher John Lister Coverdale (5) Huw Thomas (6) James Burke	Sale and purchase agreement in relation to the shares in Project Beagle 1 Limited
SDB1 Ltd	On or about the date of this Deed	(1) SDB1 Ltd (2) Jeremy David Levine (3) Lee David Streets (4) Christopher John Lister Coverdale	Sale and purchase agreement in relation to the shares in Evolution Loans Limited

<b>Obligor</b>	<b>Contract</b>	<b>Parties</b>	<b>Details of Contract</b>
SDB1 Ltd	On or about the date of this Deed	(1) SDB1 Ltd (2) Hunter George & Partners	Warranty and indemnity insurance policy provided by Hunter George & Partners

## SCHEDULE 3

### ADDITIONAL OBLIGORS

#### PART 1

#### FORM OF ACCESSION DEED

THIS ACCESSION DEED is made on the 20[•]

**Between:**

- (1) [•], a company incorporated in England and Wales (company number [•]) whose registered office is at [•] (the "**Acceding Obligor**");
- (2) [•], a company incorporated in England and Wales (company number [•]) whose registered office is at [•] as security trustee for the Secured Parties (the "**Security Trustee**"); and
- (3) [•], a company incorporated in England and Wales (company number [•]) whose registered office is at [•] (the "**Obligors' Agent**") for itself and on behalf of each of the existing Obligors.

#### BACKGROUND

This Accession Deed is supplemental to a guarantee and debenture dated [•] between, amongst others, the Obligors' Agent and the Security Trustee (as supplemented and amended from time to time, the "**Debenture**") and shall take effect as an Accession Deed for the purposes of the Debenture.

This Deed witnesses as follows:

#### **1 Definitions and interpretation**

- 1.1 Terms defined in the Debenture have the same meaning when used in this Accession Deed unless given a different meaning in this Accession Deed.
- 1.2 The provisions of clauses 1.2 (*Construction*) to 1.12 (*Third party rights*) of the Debenture apply to this Accession Deed as though they were set out in full in this Accession Deed except that references to the Debenture will be construed as references to this Accession Deed.

- 1.3 In this Accession Deed, "Additional Security Assets" means any asset of the Acceding Obligor which is, or is expressed to be, subject to any Security created by this Accession Deed.
- 1.4 From the date of this Accession Deed, references within the Debenture to "Security Assets" shall be construed so as to extend to and include the Additional Security Assets.
- 1.5 The Debenture continues and remains in full force and effect and this Accession Deed shall be read and construed as one with the Debenture so that all references to "this Deed" in the Debenture shall include reference to this Accession Deed.
- 1.6 It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

## **2 Accession of the Acceding Obligor**

The Acceding Obligor agrees to be an Additional Obligor and agrees to be bound by the terms of the Debenture as an Additional Obligor pursuant to clause 20.3 (*Additional Obligors*) of the Debenture.

## **3 Creation of security**

Without prejudice to the generality of clause 2 (*Accession of the Acceding Obligor*) of this Accession Deed:

### **3.1 Real property**

- (a) The Acceding Obligor charges:
- (i) by way of a first legal mortgage all estates or interests in any freehold or leasehold property now owned by it; this includes its real property (if any) specified in the schedule to this Accession Deed; and
  - (ii) (to the extent that they are not the subject of a mortgage under clause 3.1(a)(i) above) by way of a first fixed charge all estates or interests in any freehold or leasehold property now or subsequently owned by it.
- (b) A reference in this clause 3 (*Creation of Security*) to a mortgage or charge of any freehold or leasehold property includes:

- (c) all buildings, fixtures, fittings and fixed plant and machinery on that property; and
- (d) the benefit of any covenants for title given or entered into by any predecessor in title of the Acceding Obligor in respect of that property or any moneys paid or payable in respect of those covenants.

### **3.2 Investments**

The Acceding Obligor charges by way of a first fixed charge its interest in all its Investments.

### **3.3 Plant and machinery**

To the extent that they are not the subject of a mortgage or a first fixed charge under clause 3.1 (*Real property*), the Acceding Obligor charges by way of a first fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession; this includes its plant and machinery (if any) specified in the schedule to this Accession Deed.

### **3.4 Credit balances**

- (a) The Acceding Obligor charges by way of a first fixed charge all of its rights in respect of any Designated Account, any amount standing to the credit of any Designated Account and the debt represented by it.
- (b) The Acceding Obligor charges by way of a first fixed charge all of its rights in respect of any account it has with any person other than the accounts referred to in clause 3.4(a) above, any amount standing to the credit of any such account and the debt represented by it.

### **3.5 Intellectual Property Rights**

The Acceding Obligor charges by way of a first fixed charge all of its Intellectual Property Rights; this includes its rights (if any) specified in the schedule to this Accession Deed.

### **3.6 Book debts etc**

The Acceding Obligor charges by way of a first fixed charge:

- (a) all of its book and other debts;

- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights in relation to any item under clauses 3.6(a) to 3.6(b) above.

### **3.7 Insurances**

- (a) The Acceding Obligor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its Insurance Rights.
- (b) To the extent that they have not been effectively assigned under clause 3.7(a) above, the Acceding Obligor charges by way of a first fixed charge all of its Insurance Rights.

### **3.8 Other contracts**

- (a) The Acceding Obligor:
  - (i) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:
    - (A) under each of the contracts (if any) specified in the schedule to this Accession Deed; and
    - (B) under any document, agreement or instrument to which it and any nominee or trustee is party in respect of an Investment; and
  - (ii) charges by way of a first fixed charge all of its rights under any other document, agreement or instrument to which it is a party except to the extent that it is subject to any fixed security created under any other term of this clause 3 (*Creation of Security*).
- (b) To the extent that they have not been effectively assigned under clause 3.8(a)(i) above, the Acceding Obligor charges by way of a first fixed charge all of its rights listed under clause 3.8(a)(i) above.

### **3.9 Other assets**

The Acceding Obligor charges by way of first fixed charge:

- (a) its goodwill;
- (b) the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset;
- (c) the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in clause 3.9(b) above;
- (d) its uncalled capital; and
- (e) the benefit of all rights in relation to any item under clauses 3.9(a) to 3.9(d) above.

#### 3.10 Floating charge

- (a) The Acceding Obligor charges by way of a first floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, fixed charge or assignment under this clause 3 (*Creation of Security*).
- (b) The floating charge created by this clause 3.10 (*Floating charge*) is a qualifying floating charge for the purpose of paragraph 14 of schedule B1 to the Insolvency Act 1986.

### 4 General

- 4.1 The Acceding Obligor covenants with the Security Trustee that it will pay or discharge the Secured Liabilities as and when the same are due.
- 4.2 All the security created under this Deed is created in favour of the Security Trustee over present and future assets of the Acceding Obligor as security for the payment of all the Secured Liabilities and it is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- 4.3 The Security Trustee holds the benefit of this Accession Deed and the Security created by this Accession Deed on trust for the Secured Parties.



**5 Perfection of Security**

The Accessing Obligor must take such action in accordance with clause 5 (*Perfection of Security*) of the Debenture in respect of the Additional Security Assets as if the Additional Security Assets had been Security Assets on the date of the Debenture.

**6 Representations**

6.1 The Accessing Obligor makes the representations and warranties set out in clause 6 (*Representations*) of the Debenture to the Security Trustee on the date of this Accession Deed as if references in that clause to "this Deed" were to this Accession Deed.

6.2 The Accessing Obligor further represents and warrants to the Security Trustee on the date of this Accession Deed that:

(a) the entry into and performance by it of the transactions contemplated by, this Accession Deed, and the granting of the Security created by this Accession Deed, do not and will not conflict with:

(i) any law or regulation applicable to it;

(ii) its constitutional documents; or

(iii) 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; and

(b) 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 Accession Deed and the transactions contemplated by this Accession Deed.

**7 Miscellaneous**

7.1 The existing Obligors agree to the terms of this Accession Deed and agree that its execution will in no way prejudice or affect any guarantee or Security given by any of them under the Debenture.

- 7.2 The provisions of clauses 26 (*Partial invalidity*), 29 (*Counterparts*) and 31 (*Jurisdiction*) of the Debenture apply to this Accession Deed as if set out in full in this Accession Deed but as though references to the Debenture were references to this Accession Deed.
- 7.3 This Accession Deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law

**THIS ACCESSION DEED** has been signed on behalf of the Security Trustee and **EXECUTED AS A DEED** by the Acceding Obligor and the Obligors' Agent and is delivered by them on the date specified at the beginning of this Accession Deed

## **SCHEDULE TO ACCESSION DEED**

### **REAL PROPERTY**

[Intentionally left blank]

<b>Tenure</b>	<b>Description (address)</b>	<b>Title number</b>
[Freehold/Leasehold]	[•]	[•]

### **INVESTMENTS**

[Intentionally left blank/]

<b>Description</b>	<b>Issuer</b>
[•] [ordinary] shares of [£1] each	[•]

### **PLANT AND MACHINERY**

[Intentionally left blank [•]]

### **ACCOUNTS**

[Intentionally left blank]

<b>Account number</b>	<b>Sort code</b>	<b>Account name</b>	<b>Bank</b>
[•]	[•]	[•]	[•]

### **INTELLECTUAL PROPERTY RIGHTS**

[Intentionally left blank [•]]

### **CONTRACTS**

[Intentionally left blank [•]]

**[SIGNATORIES TO ACCESSION — TO BE SIGNED BY THE SECURITY TRUSTEE AND EXECUTED AS A DEED BY THE ACCEDING OBLIGOR AND THE OBLIGORS' AGENT]**

**PART 2**  
**CONDITIONS PRECEDENT REQUIRED TO BE**  
**DELIVERED BY AN ADDITIONAL OBLIGOR**

- 1 An Accession Deed executed by the Additional Obligor and the Obligors' Agent.
- 2 A copy of the constitutional documents of the Additional Obligor.
- 3 A copy of a resolution of the board of directors of the Additional Obligor:
  - (a) approving the terms of, and the transactions contemplated by, the Accession Deed and resolving that it execute, deliver and perform the Accession Deed;
  - (b) authorising a specified person or persons to execute the Accession Deed on its behalf; and
  - (c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Accession Deed.
- 4 A specimen of the signature of each person authorised by the resolution referred to in clause 3 above.
- 5 If required by the Security Trustee, a copy of a resolution signed by all the holders of the issued shares of the Additional Obligor, approving the terms of, and the transactions contemplated by, the Accession Deed.
- 6 If required by the Security Trustee, a copy of the resolution of the board of directors of each corporate shareholder of the Additional Guarantor approving the terms of the resolution referred to at clause 5 above.
- 7 A certificate of the Additional Obligor (signed by a director) confirming that guaranteeing and securing the Secured Liabilities would not cause any guarantee, security or similar limit binding on it to be exceeded.
- 8 A certificate of an authorised signatory of the Additional Obligor certifying that each copy document listed in this part 2 of schedule 3 (*Additional Obligors*) is correct, complete and in

full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.

- 9 A copy of any other authorisation or other document, opinion or assurance which the Security Trustee considers to be necessary or desirable in connection with the entry into and performance of a the transactions contemplated by the Accession Deed or for the validity and enforceability of the Accession Deed.
- 10 If available, the latest audited financial statements of the Additional Obligor.
- 11 Each notice required to be given under the terms of the Accession Deed, signed by the Additional Obligor.
- 12 If required by the Security Trustee, a legal opinion addressed to the Security Trustee by its legal advisers as to English law.

## SCHEDULE 4

### FORM OF RESIGNATION LETTER

To: [•] as Security Trustee

From: [resigning Obligor] and [Obligors' Agent]

Dated: [•]

Dear Sirs

**Composite Guarantee and Debenture between (amongst others) [•] and [•] as Security Trustee  
dated [•] (the "Debenture")**

- 1 We refer to the Debenture. This is a Resignation Letter. Terms defined in the Debenture have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.
- 2 Pursuant to clause 20.4 (*Resignation of an Obligor*) of the Debenture, we request that [resigning Obligor] be released its obligations as an Obligor under the Debenture.
- 3 We confirm that no Enforcement Event is continuing or would result from the acceptance of this request.
- 4 This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

[resigning Obligor]

[resigning Obligor]

By:

By:

Print name:

Print name:

**Original Obligors**

**EXECUTED and DELIVERED** )  
as a **DEED** by )  
**SDB1 LTD** )  
acting by a Director )



.....  
Director

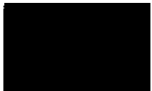
In the presence of:

Witness signature:

Witness name:

Witness address:

Witness occupation:

  
~~MATTHEW DORMAN~~  
Gowling WLG (UK) LLP  
Two Snowhill  
Birmingham  
B4 6WR

TRAFFIC SOLICITOR

**EXECUTED and DELIVERED** )  
as a **DEED** by )  
**PROJECT BEAGLE 1 LIMITED** )  
acting by a Director )



.....  
Director


In the presence of:

Witness signature:

Witness name:

Witness address:

Witness occupation:

  
~~MATTHEW DORMAN~~  
Gowling WLG (UK) LLP  
Two Snowhill  
Birmingham  
B4 6WR

TRAFFIC SOLICITOR

**EXECUTED and DELIVERED**

as a DEED by

**EVOLUTION FUNDING 2018 LIMITED**

acting by a Director

)

)

)

)

.....  
Director

In the presence of:

Witness signature:

Witness name:

Witness address:

Witness occupation:

[Redacted]

MATTHEW DOMINIC  
Cowling WLG (UK) LLP  
Two Snowhill  
Birmingham  
B4 6WR  
TRADE COLLECTOR

**THE SECURITY TRUSTEE**

**SIGNED** for and on

behalf of

**LDC (MANAGERS) LIMITED**

)

)

)

[Redacted]  
.....  
Authorised signatory