



Registration of a Charge

Company name: **SHOO 640 LIMITED**

Company number: **12624694**

Received for Electronic Filing: **03/02/2021**



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Details of Charge

Date of creation: **03/02/2021**

Charge code: **1262 4694 0001**

Persons entitled: **SHOO 641 LIMITED**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

ALISTAIR HAYES



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 12624694

Charge code: 1262 4694 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd February 2021 and created by SHOO 640 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd February 2021 .

Given at Companies House, Cardiff on 4th February 2021

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED

3 February

2021

(1) SHOO 641 LIMITED

AND

(2) SHOO 640 LIMITED

DEBENTURE

N.B. This deed is subject to the terms of the Intercreditor Agreement (as defined herein).

CONTENTS

1	INTERPRETATION	1
2	COVENANT TO PAY	6
3	CHARGING PROVISIONS	6
4	UNDERTAKINGS, REPRESENTATIONS AND WARRANTIES	8
5	FURTHER ASSURANCE AND POWER OF ATTORNEY	16
6	CONSEQUENCES OF AN EVENT OF DEFAULT	16
7	POWER OF POSSESSION AND SALE	17
8	APPOINTMENT OF RECEIVER OR ADMINISTRATOR AND THEIR POWERS	17
9	VARIATIONS TO STATUTORY PROVISIONS	19
10	APPLICATION OF MONIES	19
11	PROTECTION OF THIRD PARTIES	20
12	CONTINUING AND ADDITIONAL SECURITY	21
13	EXPENSES AND INDEMNITIES	21
14	PAYMENTS, DISCHARGE AND SET-OFF	22
15	SERVICE OF NOTICES AND PROCESS	23
16	TRANSFERS AND DISCLOSURES	24
17	MISCELLANEOUS	24
18	LAW AND JURISDICTION	25
	SCHEDULE 1 REAL PROPERTY	27
	SCHEDULE 2 PLANT AND MACHINERY	28
	SCHEDULE 3 SECURITIES	29
	SCHEDULE 4 INSURANCES	30
	SCHEDULE 5 NOTICE OF ASSIGNMENT OF INSURANCES AND FORM OF ACKNOWLEDGEMENT AND ENDORSEMENT	31
	SCHEDULE 6 NOTICE OF ASSIGNMENT	33

DATE OF DEBENTURE**3 February****2021****PARTIES**

- (1) **SHOO 641 LIMITED** company number 12624406, whose registered office is at 100 Avebury Boulevard, Milton Keynes MK9 1FH ("**S641**"); and
- (2) **SHOO 640 LIMITED** company number 12624694, whose registered office is at 100 Avebury Boulevard, Milton Keynes MK9 1FH (the "**Chargor**").

THIS DEED WITNESSES THAT:**1 INTERPRETATION****1.1 Definitions**

In this Deed, including the Schedules, the following words and expressions have the following meanings:

Administrator means an Administrator appointed under this Deed.

Asset Based Finance Agreement means the asset based finance agreement entered into between the Chargor and IGF Business Credit Limited dated on or about the date of this Deed (as the same may be amended, varied, supplemented, restated or replaced from time to time).

Charged Asset means all of the Chargor's assets, rights and property (including its undertaking and revenues) the subject of any security created by, or pursuant to, this Deed and the proceeds of the disposal of the same.

Collateral means in relation to any person, all property and assets, whether real or personal, tangible or intangible in which that person may at any time have any right, title or interest.

Debt means trading, book and other debts and other amounts owed or to become owing to the Chargor.

Environment means

- (a) land, including, without limitation, surface land, sub-surface strata, sea bed and river bed under water (as defined in paragraph (b)) and natural and man-made structures;
- (b) water, including, without limitation, coastal and inland waters, surface waters, aquatic sediment, ground waters and water in drains and sewers;
- (c) air, including, without limitation, air inside buildings and other natural and man-made structures above or below ground; and
- (d) any living systems or organisms supported by the media set out in (a), (b) or (c) above.

Environmental Law means all European Community, national, state, federal, regional or local laws, common law, statutes, ordinances, directives, directions, regulations, notices, relevant clean-up standards, judgments, decrees or orders, codes of practice, the requirements and conditions of all Environmental Licences both express and implied, covenants, agreements, circulars, guidance notes (statutory or otherwise), judicial and administrative interpretations of each of the foregoing concerning (without limitation) the protection of human health or the Environment or the conditions of the workplace and worker health and safety and process

safety, or the generation, transportation, storage, treatment or disposal of any Relevant Substance, as enacted, amended, replaced or supplemented from time to time.

Environmental Licence means any permits, consents, licences, certificates, notices, filings, lodgements, agreements, directions, declarations, exemptions, variations, renewals and amendments and other authorisations and approvals required or provided under Environmental Law.

Environmental Regulator means any governmental entity or other public or quasi-public authority or privatised utility having responsibility for any matters concerning the Environment or Environmental Law.

Expenses means any of the following:

- (a) all banking, legal and other costs, charges, expenses and/or liabilities (including VAT thereon) paid or, if earlier, incurred, by or on behalf of S641 or any Administrator or Receiver, as the case may be, (in each case on a full indemnity basis):
 - (i) in relation to the Charged Assets;
 - (ii) in protecting, preserving, improving, enforcing or exercising (or considering, or attempting, any of the foregoing) any rights under or pursuant to any of the Finance Documents;
 - (iii) in procuring the payment, performance or discharge of the Secured Obligations; or
 - (iv) in stamping, perfecting or registering any of the Finance Documents (or any Encumbrance or assignment created or purported to be created pursuant thereto); and
- (b) the principal amount of any borrowings, together with interest thereon, and all other expenses and liabilities of S641 or any Administrator or Receiver (as the case may be) paid or incurred from time to time in relation to the exercise of any of their respective rights or powers referred to or contained in any of the Finance Documents.

Facility Agreement means the revolving credit facility agreement entered into between S641 and the Chargor dated on around the date of this Deed.

Finance Documents has the meaning given to it in the Facility Agreement.

Financial Collateral has the meaning given to that expression in the Financial Collateral Regulations.

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

Group means in relation to any company, that company, each of its holding companies (as defined in Section 1159 of the Companies Act 2006) and all their Subsidiaries (and member of the Group will be construed accordingly).

Insolvent: in relation to any Obligor, the happening of any of the following:

- (a) the issue of a notice, petition or application (other than one which is discharged before it is advertised);

- (b) the calling of a meeting or making proposals to pass a resolution for voluntary winding up by reason of insolvency, a winding up order, the service of notice of intention to appoint an Administrator, the appointment of an Administrator under the Insolvency Act 1986 or the appointment of a receiver (whether in or out of court) or an administrative receiver of any of its assets or income;
- (c) the calling of a meeting or making proposals to enter into a voluntary arrangement under the Insolvency Act 1986 or any formal or informal arrangement generally for the benefit of creditors;
- (d) any income or assets, being subject to:
 - (i) seizure, distress or diligence;
 - (ii) enforcement of any Encumbrance;
 - (iii) execution of legal process;
 - (iv) sequestration;
 - (v) an injunction restricting dealing with such income or assets;
 - (vi) attachment; or
 - (vii) other legal process restricting dealing with such income or assets;
- (e) the service of any statutory demand under the Insolvency Act 1986 (other than one which is discharged before it is advertised);
- (f) the entry of any judgment, order or award which will remain unsatisfied or whose terms will not be complied with for seven days (except pending any appeal);
- (g) an application for a garnishee order;
- (h) giving notice of the intended suspension of payments of debts;
- (i) being deemed by section 123 of the Insolvency Act 1986 to be unable to pay debts as they fall due or in S641's reasonable opinion being capable of being deemed unable to pay debts as they fall due; and
- (j) the taking of any steps for the commencement of any proceedings in respect of any of the above matters;

or in each case anything analogous to or having a similar effect to any of the events specified above, and **"Insolvency"** shall be construed accordingly;

Insurances means the policies of insurance in which the Chargor is interested details of which are set out in Schedule 4, and any other policies of insurance in which the Chargor may now or hereafter have an interest and **"Insurance"** shall mean each one of the Insurances.

Intellectual Property means in relation to the Chargor, all patents (including applications for and rights to apply for patents), trade marks and service marks (whether registered or not) and applications for the same, trade names, registered designs, design rights, semi-conductor topography rights, database rights, copyrights, computer programs, know-how and trade

secrets and all other intellectual or intangible property or rights and all licences, agreements and ancillary and connected rights relating to intellectual and intangible property including any renewals, revivals or extensions thereof and wherever in the world subsisting.

Intercreditor Agreement means the intercreditor agreement entered into between (1) IGF Business Credit Limited, (2) Greybull Capital LLP, (3) Shoo 640 Limited and (4) Shoo 641 Limited dated on or around the date of this Deed.

Inventory means all inventory and stock now or hereafter acquired by the Chargor, wherever located, including all inventory or stock, merchandise, Goods and other personal property which are held by or on behalf of the Chargor for sale or lease.

Obligor means the Chargor and any other person which has entered into any agreement or instrument evidencing or creating an Encumbrance, guarantee or other assurance against loss in respect of the obligations of any the Chargor to S641.

Planning Acts means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning and Compensation Act 1991.

Plant and Machinery means all now owned and hereafter acquired plant, machinery and other equipment (including the plant and machinery specified in Schedule 2) and other tangible personal property (except Inventory) of the Chargor wherever located and all spare parts, replacements, modifications and additions for or to the same and any manuals, logbooks or registration documents relating thereto.

Real Property means all freehold and leasehold properties and other real property both present and future (including the property or properties specified in Schedule 1 and set opposite its name) of the Chargor, including all buildings and other structures from time to time erected thereon and all fixtures (trade or otherwise) from time to time thereon or therein.

Receiver means a receiver appointed under this Deed.

Relevant Substance means any natural or artificial substance (in solid or liquid form or in the form of a gas or vapour) whether alone or in combination with any substance capable of causing harm to man or any other living organism supported by the Environment or damaging the Environment or public health or welfare including, but not limited to, any controlled, special, hazardous, toxic or dangerous waste.

Remediation means any and all investigating, sampling, analysing, removing, remedying, cleaning-up, abating, containing or ameliorating the presence in or effect on the Environment of any contamination or pollution including, without limitation, the removal, treatment and disposal of material and the treatment and monitoring of ground waters and gases and emissions to air and the obtaining of expert technical and legal advice (including all project management functions) in relation thereto.

Rights means the rights (including any monies due or payable under or in connection with those rights) which the Chargor has on the occurrence of a termination event (howsoever described) or the ending of the Asset Based Finance Agreement.

Secured Obligations means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly or severally, as principal or as surety or in any capacity whatsoever) of each of the Obligors to S641 on any account whatsoever and howsoever arising (including, without limitation, under the Finance Documents) together with all Expenses.

Securities means in relation to the Chargor, all its stocks, shares, bonds and securities of any kind whatsoever (including warrants and options to acquire or subscribe any of the same)

whether marketable or otherwise (including those details which appear in Schedule 3) and all interests (including but not limited to loan capital) in any person, including all allotments, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, dividend, distribution, interest, or otherwise in respect thereof.

Security Financial Collateral Arrangement has the meaning given to that expression in the Financial Collateral Regulations.

Trustee Act means the Trustee Act 1925 as amended by the Trustee Investment Act 1961 and the Trustee Act 2000.

1.2 Interpretation

- (a) Words and phrases which are not defined or construed in this Deed but which are defined or construed in the Facility Agreement or in the Law of Property Act 1925 or the Insolvency Act 1986 shall be construed as having the meanings ascribed to them therein.
- (b) For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Facility Agreement and of any side letters between any parties in relation to the Facility Agreement are incorporated into this Deed.
- (c) In construing this **Deed**, **general words introduced by the word "other" shall not be given** a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples **intended to be embraced by the general words. In addition, the words "any of" shall be** construed as a reference to any one or more (including all) of the rights, assets, liabilities or other things referred to.
- (d) The security constituted by, and the rights of S641 under, this Deed shall be enforceable notwithstanding any change in the constitution of S641 or its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person.
- (e) The headings in this Deed are inserted for convenience only and shall not affect its construction or interpretation and references to a Clause or Schedule are (unless otherwise stated) to a Clause in, or a Schedule to, this Deed.
- (f) Any reference in this Deed to **"this Deed"** or to any other agreement or document shall, unless the context otherwise requires, be construed as a reference to this Deed or to such other agreement or document as the same may from time to time be amended, varied, supplemented, novated or replaced and shall include any document which is supplemental to, is expressed to be collateral with, or is entered into pursuant to or in connection with, the terms of this Deed or of such other agreement or document.
- (g) Any reference in this Deed to a person being **"controlled"** by another means that that other (whether directly or indirectly and whether by the ownership of share capital, the possession of voting power, contract or otherwise) has the power to appoint and/or remove all or the majority of the members of the board of directors or other governing body of that person or otherwise controls or has the power to control the affairs and policies of that person and **"control"** shall be construed accordingly.

- (h) The illegality, invalidity or unenforceability of any provision of this Deed under the law of any jurisdiction shall not affect its validity or enforceability under the law of any other jurisdiction or the legality, validity or enforceability of any other provision of this Deed.
- (i) Save where the context otherwise requires, the plural of any term includes the singular and vice versa.
- (j) Any reference in this Deed to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision as in force at the date of this Deed and as subsequently re-enacted or consolidated and shall also include all instruments, orders and regulations for the time being made thereunder or deriving validity therefrom.
- (k) In this Deed the expressions **“Chargor”**, **“Obligor”** or **“S641”** shall, unless the context otherwise requires, include their respective assignees, transferees or successors in title, whether immediate or derivative in relation to their respective interests.

1.3 Intercreditor Agreement

The provisions of this deed are subject to the terms of the Intercreditor Agreement and in the event of any conflict between the provisions of this deed and the Intercreditor Agreement, the provisions of the Intercreditor Agreement shall prevail.

2 COVENANT TO PAY

The Chargor hereby jointly and severally agrees that it will on demand pay, perform and discharge to S641 all the Secured Obligations in accordance with the terms of the relevant Finance Document evidencing or giving rise thereto.

3 CHARGING PROVISIONS

3.1 The Chargor, as continuing security for the payment, discharge and performance of all the Secured Obligations in relation to all of the following assets whether now or in future belonging to the Chargor hereby, in each case with full title guarantee:

- (a) **Fixed charges:** charges to S641 by way of separate fixed charges:
 - (i) by way of legal mortgage each property specified in Schedule 1;
 - (ii) by way of equitable mortgage its Real Property, other than the property or properties specified in Schedule 1;
 - (iii) all its Plant and Machinery listed in Schedule 2 and the benefit of all its rights and claims against any person in respect of the design, construction, repair or replacement of the same;
 - (iv) all its Plant and Machinery other than that listed in Schedule 2 and the benefit of all its rights and claims against any person in respect of the design, construction, repair or replacement of the same;
 - (v) all its goodwill, unpaid and/or uncalled capital;
 - (vi) all its Intellectual Property;

- (vii) all its Securities;
 - (viii) all loan capital, indebtedness or liabilities on any account or in any manner **owing to it from any member of the Chargor's Group**;
 - (ix) all amounts realised by an Administrator or liquidator of the Chargor upon enforcement or execution of any order of the court under Part VI of the Insolvency Act 1986;
 - (x) all its documents of title which at any time and for any purpose have been or may be deposited with S641 and the property mentioned in such documents;
 - (xi) all of its Debts;
 - (xii) the Rights to the extent not effectively assigned by way of security under Clause 3.1(c);
 - (xiii) all monies in the accounts specified in Clause 4.2(a) and in any other account in the name of the Chargor under the control of or operated in accordance with the directions of S641.
- (b) **Floating charge:** charges to S641 by way of a floating charge all of its undertaking, property, rights and assets whatsoever and wheresoever, both present and future (including to the extent that any of such undertaking, property, rights and assets are not effectively charged from time to time by any of the above fixed charges or assigned by way of security under Clause 3.1(c));
- (c) **Assignments by way of security:** assigns and agrees to assign by way of security to S641 all its rights, title and interest in and to:
- (i) the benefits arising under the Insurances;
 - (ii) the Rights; and
 - (iii) any contracts relating to or benefitting any of the Charged Assets.

3.2 Conversion of floating charge to a fixed charge

S641 may at any time after a Default has occurred give written notice to the Chargor immediately converting (in whole or in part) the floating charge contained in Clause 3.1(b) into a fixed charge in respect of the Chargor.

3.3 Automatic crystallisation

The floating charge created by the Chargor pursuant to Clause 3.1(b) of this Deed will, unless otherwise agreed by S641 in writing and in addition to any circumstances in which the same will occur under general law, automatically and without notice be converted into a fixed charge:

- (a) if the Chargor fails to comply with its obligations in Clauses 4.1(a) and/or 4.1(o) and/or 4.2(b);
- (b) upon the appointment of a Receiver or an Administrator;

- (c) upon the directors or members of the Chargor resolving to apply for an administration order to be made in relation to it or upon the presentation of a petition for an administration order to be made in relation to the Chargor;
- (d) upon any person taking any step with a view to levying distress against any of the Charged Assets of the Chargor or any judgment creditor taking any step with a view to enforcing against any of the Charged Assets of the Chargor a judgment obtained against it whether by a warrant of execution, writ of fieri facias, garnishee order, charging order or otherwise; or
- (e) if any other floating charge created by the Chargor crystallises for any reason.

3.4 Qualifying Floating Charge

The floating charge created by this Deed is a qualifying floating charge for the purpose of paragraph 14 of schedule B1 to the Insolvency Act 1986.

3.5 Further advances

This Deed secures both present and further advances. S641 covenants to make available advances and further advances to the extent (and on the terms) provided for in any agreement from time to time giving rise to the Secured Obligations.

4 UNDERTAKINGS, REPRESENTATIONS AND WARRANTIES

4.1 General Undertakings

The Chargor agrees that, whilst this security exists:

- (a) **No disposals:** without the prior written consent of S641 it will not sell, transfer, assign, lease out, license, lend or otherwise dispose of the whole or any part of its Charged Assets or any interest therein (or agree to do so) save that it may dispose of Inventory **by way of sale at arm's length terms for commercial value in the ordinary course of its business;**
- (b) **S641 information:** it will (and will procure that each member of its Group will) authorise its bankers to provide to S641 copy statements in respect of all its (and their respective) bank accounts and to disclose all other information available to those bankers about **the Chargor's and members of its Group's respective assets and liabilities, whenever** requested by S641;
- (c) **Other information:** it will provide any other information as S641 may reasonably request regarding its affairs and the affairs of any members of its Group;
- (d) **Litigation details:** it will, immediately upon becoming aware, provide S641 with details of any present or future litigation, arbitration or administrative proceedings in progress, pending or to its knowledge threatened against it or against any members of its Group which might have a material adverse effect on its ability to perform its obligations under any of the Finance Documents;
- (e) **Access to books:** it will (and will procure that each member of its Group will) permit S641 free access at all reasonable times to inspect and take copies of and extracts from its (and their respective) Accounting Records and will (and will procure that each

member of its Group will) provide S641 with all information and facilities which it may require for this purpose;

- (f) **Enquiries:** it will (and will procure that each member of its Group will) on request grant S641 and any agent of S641 all reasonable facilities to enable it or them to carry out, **at the Chargor's own expense, such investigation of its title to, and other enquiries** (including, without limitation, obtaining valuations) concerning, the whole or any part of its Charged Assets as should be carried out by a prudent mortgagee;
- (g) **Intellectual Property:** it will use its best endeavours to detect any infringement of and to maintain, protect and enforce its rights in respect of its Intellectual Property and, if aware of such infringement or threat to such rights, will immediately give S641 all information available to it about that infringement or threat and the actions taken and to be taken by it in respect thereof;
- (h) **Compliance with laws:** it will comply in all material respects with all laws concerning its Charged Assets and with the requirements of any competent authority and every notice, order, direction, licence, consent, and permission lawfully made or given in respect of it, and will provide S641 immediately after receipt or it first becoming aware thereof with copies and full details of all such notices, orders, directions, licences, consents and permissions;
- (i) **Carrying on business:** it will not, without the prior written consent of S641, make any material alteration to the nature of its business as carried on at the date of this Deed;
- (j) **Maintaining books:** it will (and will procure that each member of its Group will) maintain proper and up to date Accounting Records and will keep such Accounting Records and all other documents relating to its and their respective affairs at its registered office or at such other place where the same ought to be kept;
- (k) **Payment of Debts:** it will punctually pay all its Debts and liabilities becoming due and payable and which would, on its winding-up, have priority over any of the Encumbrances created by this Deed;
- (l) **Outgoings:** it will punctually pay all outgoings payable in respect of its Charged Assets and will promptly produce the receipts for them to S641 upon request;
- (m) **Observing covenants:** it will observe and perform all restrictive and other covenants and stipulations for the time being affecting its Charged Assets or their use or enjoyment;
- (n) **Proprietary interests:** it will not permit any person (including, without limitation, any member of its Group) to become entitled to any proprietary right or interest which might affect the value, use or marketability of its Charged Assets and will ensure that no overriding interest arises under the Land Registration Acts 1925-2002;
- (o) **Encumbrances:** it will ensure that no Encumbrances (other than liens arising by operation of law in the ordinary course of business and securing obligations not more than 60 days overdue or as permitted under the terms of the Intercreditor Agreement) will arise on or after the date of this Deed in respect of its Charged Assets without the prior written consent of S641;

- (p) **Landlord:** it will notify the landlord of any leasehold property forming part of the Charged Assets of the existence of this security forthwith upon this security attaching to such leasehold property;
- (q) **Moratorium:** it will notify S641 in writing, forthwith upon taking any steps with a view to resolving to initiate a moratorium in respect of itself pursuant to the provisions of the Insolvency Act 2000; and
- (r) **Land Registry:** The Chargor and S641 hereby agree that following completion of this Deed a restriction will be registered at the Land Registry on the title[s] referred to in Schedule 1 of this Deed in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without the written consent signed by the proprietor for the time being of the charge dated [] in favour of Shoo 641 Limited as referred to in the Charges Register".

4.2 Debts and Remittances

The Chargor agrees that, whilst this security exists:

- (a) **Getting in Debts:** until other directions are given by S641 in writing it will:
 - (i) only deal with its Debts by way of getting in and realising the same in the ordinary course of its business;
 - (ii) give written instructions to debtors to pay remittances in respect of its Debts to such bank account, address or person as S641 may specify;
 - (iii) only deal with the monies in such bank account in accordance with the written directions from time to time given by S641 which may include a direction to the Chargor to give written instructions to its bankers that all such monies will be forthwith paid into any other bank account as S641 may specify;
 - (iv) not otherwise, except as permitted by S641, withdraw any credit balance from, or otherwise deal with, any of its bank accounts;
- (b) **Disposals:** it will not sell, discount, factor, create any Encumbrance over, dispose of or, except in accordance with this Deed, otherwise deal with its Debts or the related remittances;

4.3 Rights

The Chargor agrees that, whilst this security exists:

- (a) **Trust:** if or to the extent that the assignment of the Rights is ineffective because of a prohibition on that assignment, the Chargor shall hold the Rights on trust for S641;
- (b) **Notice:** on executing this Deed the Chargor shall with S641 give the notices to IGF Business Credit Limited in the form specified in Schedule 6 (or such other form as S641 may specify) that the Rights have been assigned to S641 and requiring that all and any monies which are or become payable in respect of the Rights shall thereafter be paid direct to S641 and not to the Chargor;

- (c) **Obligations:** the Chargor will comply with all its obligations under the Asset Based Finance Agreement and must not do or permit to be done anything which would or might have the effect of releasing, varying, altering, transferring, encumbering or interfering with the Rights in any way;
- (d) **Protection:** the Chargor will use best endeavours to protect and enforce all rights it has in respect of the Rights and will do or permit to be done each and every thing which **S641 requires for the purpose of protecting and enforcing the Chargor's rights** in respect of the Rights;
- (e) **Information:** the Chargor will, if S641 reasonably requires, provide to S641 complete copies of the Asset Based Finance Agreement and such other information as S641 may reasonably require from time to time in relation to it or the Rights;
- (f) **Assistance:** the Chargor will do everything necessary to help S641 to (i) establish, perfect, confirm, enforce or protect its interest in the Rights and the validity, enforceability and the priority of this Deed, and (ii) exercise any of its rights under this Deed. This includes immediately signing and delivering documents or doing anything else S641 reasonably requires;
- (g) **Adverse claims:** the Chargor will if it becomes aware of any claim or proceeding which might adversely affect the Rights notify S641 in writing immediately.

4.4 Securities

The Chargor agrees that, whilst this security exists:

- (a) **Payment of monies:** all Securities will at all times be fully paid but without prejudice to such assurance it will duly and promptly pay all monies which become due in respect of any of the Securities and indemnify S641 in respect of any liability it may incur in respect of the Securities;
- (b) **Deposits:** forthwith upon the execution of this Deed, unless agreed otherwise in writing by S641, it will deposit with S641 all certificates or documents of title in respect of the Securities;
- (c) **Delivery:** unless S641 agrees otherwise in writing, it will ensure the delivery or payment to S641 of all Securities or the certificates or other documents of title to or representing the same;
- (d) **Registration:** S641 will at any time be entitled to have any of the Securities or other moneys or property referred to in Clauses 4.4(b) and/or 4.4(c) registered either in its name or in the name of nominees selected by it;
- (e) **Nominations:** it shall:
 - (i) not exercise any rights (including, without limitation, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person in respect of any of the Securities; and
 - (ii) terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of

the Companies Act 2006) in respect of any Securities and, pending that termination, procure that any person so nominated:

- (A) does not exercise any rights in respect of any Securities without the prior written approval of S641; and
- (B) immediately on receipt by it, forward to S641 all communications or other information received by it in respect of any Securities for which it has been so nominated.

(f) **Pre-emption rights and restrictions on transfer:** it shall:

- (i) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Securities, for the transfer of the Securities to S641 or its nominee, or to a purchaser on enforcement of the security constituted by this Deed; and
- (ii) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Securities in any manner that S641 may require in order to permit the transfer of the Securities to S641 or its nominee, or to a purchaser on enforcement of the security constituted by this Deed.

4.5 Real Property and Plant and Machinery

The Chargor agrees that, whilst this security exists:

- (a) **Maintenance:** it will keep all its Real Property in good and substantial repair and will allow S641 free access, at all reasonable times, to view the state and condition of any such Real Property and of any fixed Plant and Machinery from time to time thereon, but without S641 becoming liable to account as a mortgagee in possession;
- (b) **Plant and Machinery:** it will keep all its Plant and Machinery in good and substantial repair and in good working order and condition, normal wear and tear excepted, and will immediately upon request by S641 affix nameplates or other identifying symbols or numbers indicating S641's **interest on its Plant and Machinery and it will not, without S641's prior written** consent, alter or remove any identifying symbol or number on the Plant and Machinery;
- (c) **Covenants:** it will **observe and perform all the lessee's covenants in any lease under** which any of the Charged Assets may be held and will take no action which might lead to such lease being surrendered or forfeited;
- (d) **Repairs:** it will, at its own expense, allow S641 to carry out repairs or take any action which S641 will reasonably consider necessary should the Chargor fail to observe or perform any of its obligations as a lessee;
- (e) **Leasing:** it will not exercise the powers of leasing or accepting surrenders of leases conferred as a mortgagee in possession by sections 99 and 100 of the Law of Property Act 1925, or any other powers of leasing or accepting surrenders of leases, without the prior written consent of S641;

- (f) **Exclusion order:** it will make sure that an order of the court is obtained, under section 38(4) of the Landlord and Tenant Act 1954, excluding the security of tenure provisions of that Act, before granting any lease;
- (g) **No alterations:** it will procure that no alteration or addition is made to any of its Real Property and it will not do or allow anything to be done on its Real Property which will be treated as a development or a change of use within the meaning of the Planning Acts unless the prior written consent of S641 has been obtained;
- (h) **Planning:** it will not infringe the Planning Acts in any way which prejudices S641's security over the Charged Assets;
- (i) **Deposits:** it will deposit with S641 all deeds and documents relating to its Real Property and the Insurances relating to the same, (subject only to the requirements of any prior Encumbrance agreed by S641 or of its landlord);
- (j) **Environmental Licences:** it will have the benefit of, maintain and comply with all Environmental Licences (if any) needed for its use or occupation of its Charged Assets or for the conduct of any business it is engaged in from time to time;
- (k) **Environmental Laws:** it will comply with all applicable Environmental Laws and will not do or permit to be done any act or omission whereby its Environmental Licences (if any) could be varied or revoked or which could result in any liability being imposed on S641 under any applicable Environmental Law;
- (l) **Environmental audits:** if requested by S641 at any time (but, save in the case where at the time of requesting the environmental audit an Event of Default has occurred or in the opinion of S641 is likely to occur, no more frequently than once in every calendar year) it will forthwith on demand pay for an environmental audit of such type as S641 will specify in relation to the Charged Assets and, in any event, will permit S641, its agents, employees, and any firm of environmental consultants engaged by it, to have full access to all its properties, assets and Accounting Records for the purpose of carrying out any such environmental audit; and
- (m) **Ongoing obligations:** it will ensure that at all times there is no discharge, spillage, release or emission of any prescribed, dangerous, noxious or offensive substance or any controlled waste on, into or from any of its Charged Assets or any premises adjoining any part of them and no such substances or any controlled waste have been stored or disposed of on or in any part of its Charged Assets or, so far as it is aware, in any adjoining premises except in accordance with the requirements of the applicable Environmental Laws and/or Environmental Licences.

4.6 Insurances

The Chargor agrees that, whilst this security exists:

- (a) **Insuring:** it will insure and keep insured those parts of the Charged Assets as are of an insurable nature against loss or damage by fire and all other risks usually insured against and such other risks (which may include insurance against acts of terrorism) that S641 shall reasonably require to their full replacement value with insurers approved by S641 and will comply with all policy terms in respect thereof. If it holds property as a tenant or lessee and shall be required by the landlord either to insure or to **reimburse the Chargor's landlord for any insurance premium paid by him then the**

Chargor will be treated as having complied with its insuring obligation under this Deed if it duly and promptly complies with those requirements. However this shall not affect the right of S641 to require the Chargor to produce satisfactory evidence that it has **complied with the landlord's requirements**;

- (b) **S641's interest:** it will ensure that all its Insurances are endorsed (in the form set out in Schedule 5) with notice of the interest of S641 in them (or, if required by S641, with S641 named as a joint insured party though without S641 being liable for payment of premiums or for carrying out any other obligations under the relevant Insurance) and will produce to S641 the receipts for each current premium within fifteen days of its becoming due failing which S641 may effect or renew any such insurance as S641 **shall think fit at the Chargor's expense**;
- (c) **Dealing with proceeds:** it will ensure that each Insurance contains a provision under which the proceeds of that Insurance are payable to S641. Without prejudice to this, if any monies are received by the Chargor under any such Insurance in respect of any of the Charged Assets such monies shall be treated as part of the Charged Assets subject only to any rights of third parties having priority and to the requirements of any lease of the Charged Assets and shall be paid forthwith to S641. Pending payment to S641, the Chargor shall hold such proceeds on trust for S641. The proceeds of any such Insurance shall be applied at the discretion of S641 either in reducing the Secured Obligations as have fallen due for payment or towards making good the loss or damage for which the monies became payable;
- (d) **Insurances:** it will punctually pay all premiums and other sums payable under or in relation to each of the Insurances (and, if requested by S641, produce evidence of payment satisfactory to S641) and not omit to do or permit anything to be done which may make void, voidable or unenforceable any of the Insurances and not alter the terms of any of the Insurances or allow any of the Insurances to lapse;
- (e) **Retention of Insurances:** it will, immediately upon receiving the same, deliver all original Insurances to S641 and thereafter permit S641 to hold and retain all Insurances; and
- (f) **Notice:** it will immediately give notice of this security in the form set out at the beginning of Schedule 5 to the assurance or insurance company or organisation issuing any of the Insurances in its favour and obtain and deliver the form of acknowledgement of such notice in the form set out later in Schedule 5.

4.7 Representations and Warranties

The Chargor represents and warrants in favour of S641 as follows (and these representations and warranties shall survive the execution of this Deed):

- (a) **Due execution:** that the execution of this Deed has been duly authorised by a resolution of its board of directors or by a duly authorised committee of such board (or if the Client is a limited liability partnership by a resolution of its members) and that it does not breach any provision of its memorandum and/or articles of association or of any other Encumbrance, security or agreement entered into prior to the date of this Deed or the laws of any jurisdiction applying to it;

- (b) **Ownership:** that it is and will at all times be the sole beneficial owner with full title guarantee of all its Charged Assets and that no Encumbrances affect it other than those permitted by S641;
- (c) **Validity:** that this Deed constitutes its legal, valid, binding and enforceable obligations and is an effective security over all and every part of its Charged Assets in accordance with its terms;
- (d) **Authorisations:** that all necessary authorisations and consents to enable or entitle it to enter into this Deed and create the Encumbrances hereby created or intended to be created have been obtained and these will remain in full force and effect during the existence of this security;
- (e) **Discharges:** that there has been no discharge, spillage, release or emission of any prescribed, dangerous, noxious or offensive substance or any controlled waste on, into or from any Real Property or any premises adjoining any part of them and no such substances or any controlled waste have been stored or disposed of on or in any Real Property or, so far as it is aware, in any adjoining premises except in accordance with the requirements of the applicable Environmental Laws and/or Environmental Licences;
- (f) **Environmental compliance:** that it is not in breach of, and has not incurred or become subject to, any civil or criminal liability under any Environmental Laws or the terms of any Environmental Licence and that it has not done or omitted to do anything which could impose any liability on S641 under any applicable Environmental Law;
- (g) **Rights:** (i) it is, immediately before any assignment to S641 of the Rights, the sole legal and beneficial owner of the Rights free from any mortgage, lien, charge, pledge, security, trust or other interest affecting them, (ii) the Rights are as at the date of this Deed and shall remain until any such time as they are reassigned, free from any mortgage, lien, charge, pledge, security, trust or other interest affecting them other than this Deed, (iii) on execution of this Deed, that the Asset Based Finance Agreement is in full force and effect, has not been amended and it is not aware of any claim or proceedings current or threatened which might materially affect the Rights. You undertake that if you become aware of any such claim or proceeding you will notify the Bank in writing immediately; and
- (h) **Securities:**
 - (i) That it has complied with all notices relating to all or any of the Securities received by it pursuant to sections 790D and 790E of the Companies Act 2006; and
 - (ii) No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Securities.

5 FURTHER ASSURANCE AND POWER OF ATTORNEY

5.1 Further assurance

At S641's request, the Chargor will, at its own expense, immediately sign, seal, execute, deliver and perfect all deeds, debentures and instruments including, without limitation, standard securities, assignments and any other documents needed in relation to assets in Scotland and any other jurisdiction and do all such other acts and things as S641 or any Administrator or Receiver (as the case may be) appointed under this Deed may require in order to perfect, protect or enforce this security in respect of the Chargor or to facilitate the realisation of any of the Charged Assets or to use the powers given to each of them in this Deed or to enforce the obligations of the Chargor and/or the rights of S641 under this Deed and it will take such steps as S641 shall specify to make such registrations and give such notifications as S641 may consider appropriate (or which may be specified by applicable law) in relation to this Deed and the Chargor authorises S641 to effect the same if S641 so chooses.

5.2 Execution of documents/registration

Without prejudice to Clause 5.1 the Chargor will at the request of S641 **and at the Chargor's** own expense, execute a legal mortgage, charge or assignment of any part of the Charged Assets of the Chargor, subject to or intended to be subject to any fixed security under this Deed in such form as S641 may require. In every such case the Chargor will then take such other steps as S641 may require to perfect such legal mortgage, charge or assignment including, without limitation, using all reasonable endeavours to obtain the consent of any landlord or other person required for any legal mortgage.

5.3 Power of attorney

The Chargor, by way of security and in order more fully to secure the performance of its obligations hereunder, irrevocably appoints S641, any directors, officers or managers for the time being of S641 and any other person authorised by the directors of S641 and any Administrator or Receiver (as the case may be) appointed hereunder, jointly and each of them severally, to be the lawful attorneys of the Chargor for the purposes set out in this Clause 5. **Such appointment gives each attorney the power in that Obligor's** name and on its behalf to act and to carry out all acts and execute all the deeds, debentures, instruments and other documents required by Clauses 5.1 and 5.2 in the event of the Chargor not having done so following the relevant request from S641. Each attorney so appointed may appoint substitute attorneys to carry out all or any of such purposes. The Chargor agrees to ratify and confirm any instrument, act or thing which any such attorney or substitute attorney may lawfully execute or do in the name or on behalf of the Chargor.

6 CONSEQUENCES OF AN EVENT OF DEFAULT

Following the occurrence of an Event of Default:

- (a) **Enforceability:** the security constituted by this Deed shall become enforceable; and/or
- (b) **Retentions:** S641 may retain any monies in any account referred to in Clause 4.2(a), for such period as S641 **reasonably considers necessary to ensure the Chargor's** compliance with the terms of this Deed; and/or
- (c) **Voting rights:** S641 may exercise in the name of the Chargor any voting rights attached to the Securities and all powers given to trustees by the Trustee Act in respect

of securities, property subject to a trust and any powers or rights exercisable by the registered holder of any of the Securities or by the bearer of any of the Securities. S641 will not then need any consent or authority from the Chargor.

7 POWER OF POSSESSION AND SALE

At any time after this security has become enforceable, S641 and/or any Receiver or Administrator appointed under this Deed may, in their discretion, enter upon and take possession of the Charged Assets or any part of them. They may also, at their discretion, when exercising their powers given in this Deed, sell, call in, collect and convert into monies the Charged Assets or any part of them. By way of extension of these powers such sale, calling in and conversion may be done for such consideration in such form and upon such terms as to payment and otherwise as S641 or any Receiver or Administrator shall think fit.

8 APPOINTMENT OF RECEIVER OR ADMINISTRATOR AND THEIR POWERS

8.1 Appointment of a Receiver or an Administrator

The restrictions in Section 109 and Section 91(2) of the Law of Property Act 1925 (restricting, **inter alia**, the power to appoint a receiver, the maximum rate of a receiver's remuneration and the power to apply to court for an order for sale of mortgaged property) shall not apply to this Deed. At any time after:

- (a) this security becomes enforceable (whether as a consequence of an Event of Default occurring or otherwise);
- (b) the Chargor at any time so requests in writing; or
- (c) S641 becomes aware of the intention of any party to apply for an administration order to be made in relation to the Chargor or any such application is made,

S641 may, without further notice to the Chargor appoint any person to be a Receiver or an Administrator of the Chargor (as S641 may in its absolute discretion determine is appropriate) in respect of the Charged Assets of the Chargor. The appointment of a Receiver may extend to the whole or any part of such Charged Assets. S641 may, so far as the law permits, remove any Receiver. In case of the removal, retirement or death of any Receiver or Administrator, S641 may appoint another in his place. At the time of his appointment (or at any time afterwards) S641 may fix the remuneration of a Receiver on such basis as S641 shall determine.

8.2 Joint and several obligations

S641 may appoint more than one person to act as a Receiver or an Administrator and where it does so those so appointed shall carry out their duties, exercise their rights, and be subject to their obligations jointly as well as severally. References in this Deed to a **"Receiver" or an "Administrator"** shall be to each and all of them as appropriate.

8.3 Writing

The appointment of a Receiver or an Administrator or the removal or fixing of the remuneration of a Receiver shall be made in writing and may be signed by any director or officer of S641.

8.4 Appointment of Receiver or Administrator and their powers

- (a) **Appointment:** Any Receiver or Administrator shall be the agent of the Chargor to which such appointment relates. The Chargor to which such appointment relates will, and S641 will not in any way, be responsible for the acts, omissions, losses, misconduct, defaults and remuneration of such Receiver or Administrator; and
- (b) **Powers of a Receiver:** A Receiver shall, without the need for the consent of the Chargor to which such appointment relates, have all of the powers described in this Clause, unless any such powers shall specifically be excluded by the written terms of his appointment. A Receiver may exercise these powers in such way, at such time and on such terms as he shall think fit, necessary or expedient and whether in his name or the name of the Chargor and without being under any obligation to take or omit to take any action which the Chargor, but for the appointment of the Receiver, would or might have considered to be **in the Chargor's interests. A receiver shall have the powers** granted by the Law of Property Act 1925 to any receiver appointed under such Act and all the powers of an administrative receiver under Schedule 1 of the Insolvency Act 1986. A Receiver shall also have the power on behalf and at the cost of the Chargor, **and in the Chargor's name or otherwise, to do or omit to do anything which the Chargor** could do or omit to do or could have done or omitted to do but for any incapacity or the appointment of a liquidator, Administrator or equivalent officer in relation to the Chargor or its Charged Assets.
- (c) **Powers of an Administrator:** An Administrator shall have all the powers conferred from time to time on Administrators by law or by statute.

8.5 S641's powers

Whether or not a Receiver or an Administrator shall be appointed under this Deed, S641 may at any time after this security becomes enforceable, and without giving notice, exercise all or any of the powers, authorities and discretions conferred on a Receiver or an Administrator as set out above.

8.6 Right of appropriation

- (a) To the extent that:
 - (i) the Charged Assets constitute Financial Collateral; and
 - (ii) this Deed and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

S641 shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any of those Charged Assets in or towards the payment or discharge of the Secured Obligations in any order that S641 may, in its absolute discretion, determine.
- (b) The value of any Charged Assets appropriated in accordance with this clause shall be:
 - (i) **in the case of cash, the amount standing to the credit of each of the Chargor's** accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and

- (ii) in the case of Securities, the price of those Securities at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that S641 may select (including independent valuation).
- (c) The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

9 VARIATIONS TO STATUTORY PROVISIONS

9.1 Law of Property Act

Section 103 of the Law of Property Act 1925 (restricting the power of sale) shall not apply to this Deed. However the power of sale and the other powers conferred on mortgagees by that Act shall apply **to this security but without the Act's restrictions as to giving notice or otherwise**. Accordingly, for the purposes of a sale or other exercise of any such powers, the whole of the Secured Obligations shall be treated as due and payable on the date hereof.

9.2 Non-consolidation

The restrictions on the right of consolidating mortgage securities, which are contained in Section 93 of the Law of Property Act 1925, shall not apply to this security.

9.3 Subsequent encumbrances

If S641 receives, or is treated as having received, notice of any subsequent Encumbrance affecting any of the Charged Assets then S641 may open a new account with the Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received, or was treated as having received, such notice. From that time all payments made by the Chargor to S641 shall be credited, or be treated as having been credited, to the new account. These payments shall not operate to reduce the amount secured by this Deed when S641 received or was treated as having received such notice.

10 APPLICATION OF MONIES

10.1 Order of payment

All monies received by S641 or by an Administrator or Receiver (as the case may be) under or by virtue of this Deed shall be applied (so far as the law permits) in the following order:

- (a) **Costs and expenses:** in payment of all costs, charges and expenses of or incidental to the appointment of an Administrator or Receiver (as the case may be), the payment of his remuneration and the payment and discharge of any other Expenses incurred by or on behalf of the Administrator or Receiver (as the case may be);
- (b) **Preferential Debts:** in or towards payment of any debts or claims which are by statute payable in preference to the Secured Obligations but only to the extent to which those debts or claims have such preference;
- (c) **Payments to S641:** in payment to S641 of the Secured Obligations due to S641 in such order as S641 in its absolute discretion thinks fit; and then

- (d) **Surplus:** in payment to the Chargor of any surplus (which shall not carry interest) which **may be paid into any of the Chargor's bank accounts including** an account opened specifically for such purpose. S641 shall then have no further liability for the surplus.

10.2 Appropriation

Following the enforcement of this security, any monies received by S641 may be appropriated by S641 in its discretion in or towards the payment and discharge of any part of the Secured Obligations.

10.3 Suspense accounts

S641 or the Administrator or Receiver (as the case may be) may credit any monies to a suspense account for so long and in such manner as S641 may from time to time determine. The Administrator or Receiver (as the case may be) or S641 may retain the same for such period as the Administrator or Receiver (as the case may be) and S641 consider expedient.

11 PROTECTION OF THIRD PARTIES

11.1 Third party payments

No person paying or handing over monies to an Administrator or Receiver (as the case may be) and obtaining a discharge shall have any responsibility or liability to confirm the correct application of such monies.

11.2 Third party dealings

No person dealing with S641, or an Administrator or Receiver (as the case may be), need enquire:

- (a) **Powers exercisable:** whether any event has happened giving either S641 or the Administrator or Receiver (as the case may be) the right to exercise any of his powers;
- (b) **Propriety of acts:** as to the propriety or regularity of any act purporting or intending to be an exercise of such powers;
- (c) **Validity of appointment:** as to the validity or regularity of the appointment of any Administrator or Receiver (as the case may be) purporting to act or to have been appointed as such; or
- (d) **Satisfaction:** whether any of the Secured Obligations remain unsatisfied.

11.3 Statutory protection

All the protections given to purchasers contained under sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with an Administrator or Receiver (as the case may be) or S641 as if the Secured Obligations had become due and the statutory power of sale and appointment of the Administrator or Receiver (as the case may be) in relation to the Charged Assets had arisen, on the date of this Deed.

11.4 Express notice

No person dealing with S641 or any Administrator or Receiver (as the case may be) shall be affected by express notice that any act is unnecessary or improper.

12 CONTINUING AND ADDITIONAL SECURITY

12.1 Continuing security

This security is a continuing security for all the Secured Obligations notwithstanding any interim settlement of account until a final discharge of this security shall be given by S641.

12.2 Non-merger

This security is in addition to, and shall not merge or otherwise prejudice or affect, any other right or remedy of S641 or any assignment, bill, note, guarantee, Encumbrance, or other security now or in future in favour of S641 or held by, or available to, S641 (whether created by the Obligors or any of them or any third party).

13 EXPENSES AND INDEMNITIES

13.1 Expenses and interest

All Expenses incurred and all payments made by S641 or any Administrator or Receiver (as the case may be) in the lawful exercise of the rights created by this Deed shall carry interest at the Default Rate. Interest under this Deed shall accrue (both before and after judgment) from the date the Expenses were incurred or the sum paid became payable, whichever shall be earlier, until the date the same are paid and discharged in full. S641 may compound unpaid interest with rests at such times as it may consider appropriate. The amount of all Expenses and payments referred to in this Clause 13.1 and any interest thereon shall be payable by the Chargor on demand.

13.2 General indemnity

The Chargor jointly and severally agrees to indemnify S641 (and its nominees) and any Administrator or Receiver (as the case may be) on demand against all losses, actions, claims, expenses, demands and liabilities now or in the future incurred by any of them or by any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable for anything done or omitted in the exercise or purported exercise of the rights contained in this Deed or caused by any breach by the Chargor of any of its obligations under this Deed or in connection with the Charged Assets. S641 (and its nominees) and any Administrator or Receiver (as the case may be) shall also be entitled to be indemnified out of the Charged Assets in respect of all losses, actions, claims, expenses, demands and liabilities incurred by them in the execution, or purported execution, of any of the rights vested in them under this Deed.

13.3 Tax indemnity

The Chargor agrees to indemnify S641 and any Administrator or Receiver (as the case may be) on demand against all present or future stamp or other taxes or duties and any penalties or interest with respect thereto which may be imposed by any competent authority in connection with the execution or enforcement of this Deed or in consequence of any payment made pursuant to this Deed being challenged or declared void for any reason whatsoever.

13.4 Currency indemnity

- (a) **Conversion:** For the purpose of, or pending, the discharge of any of the Secured Obligations S641 or an Administrator or Receiver (as the case may be) may convert any monies received, recovered or realised under this Deed (including the proceeds of any previous conversion) from their existing currency into such other currency as S641 or such Administrator or Receiver (as the case may be) may think fit. Any such conversion shall be effected at the then prevailing spot selling rate of exchange of S641's bankers for such other currency against the existing currency.
- (b) **Shortfall indemnity:** The Chargor jointly and severally agrees to indemnify S641 against any shortfall between:
 - (i) any amount received or recovered by S641 in respect of any of the Secured Obligations which is converted in accordance with Clause 13.4(a) into the currency in which such liability was payable; and
 - (ii) the amount payable to S641 under this Deed in the currency of such liability.

14 PAYMENTS, DISCHARGE AND SET-OFF

14.1 Payments without deduction

All payments to be made to S641 under this Deed shall be made free and clear of and (save as required by law) without deduction for or on account of any tax withholding, charges, set-off or counterclaim. All payments shall be made into such account(s) as S641 may from time to time specify for the purpose.

14.2 Set-off

Without prejudice to any right of set-off or combination of accounts contained in any Finance Document, S641 may at any time following the occurrence of an Event of Default without notice to any of the Charging Companies combine or consolidate all or any amounts standing to the **credit of the Chargor's account or accounts with** S641 and/or set off any amount owed by S641 to the Chargor against any obligation (whether or not matured) owed to S641 by the Chargor whether or not each is expressed in the same currency.

14.3 Gross-up and tax receipts

If the Chargor is required by law to make a deduction or withholding from any payment made under this Deed, then the sum payable by the Chargor shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, S641 receives and retains (free from any liability related to such deduction or withholding) a net sum equal to the sum which it would have received and retained had no such deduction or withholding been made or required to be made. The Chargor will pay the amount deducted or withheld to the relevant tax or other authorities within the time allowed for such payment under applicable law and will deliver to S641 within 30 days of making such payment an original receipt or other evidence issued by the relevant authority showing that payment has been made in full.

14.4 Discharge of security

Upon payment and complete discharge and performance of all the Secured Obligations under or in relation to this Deed, S641 shall, at the request and cost of the Chargor, duly discharge

this security so far as it relates to the Chargor's **Charged Assets and any further security given** by the Chargor in accordance with the terms hereof. S641 will also, at the request and cost of the Chargor, transfer to the Chargor any of the Charged Assets of the Chargor which have been assigned or transferred to S641. If any Charged Assets transferred or assigned to S641 were fungible, S641 may transfer to the Chargor assets of the same class, denomination and quality rather than the identical Charged Assets transferred or assigned to it under this Deed.

14.5 Avoidance of payments

The right of S641 to payment of the monetary obligations comprised in the Secured Obligations or to enforce the terms of this Deed shall not be affected by any payment or any act or thing which is avoided or adjusted under the laws relating to bankruptcy or Insolvency or under Part VI of the Insolvency Act 1986. Any release, or discharge given or settlement made by S641 relying on any such payment, act or thing shall be void and of no effect.

15 SERVICE OF NOTICES AND PROCESS

15.1 Chargor's address for service

Unless otherwise provided in this Deed, any written notice from S641 to the Chargor and any proceedings issued by S641 requiring service on the Chargor may be given or served by delivering it at or posting it to:

- (a) **the Chargor's address** set out under its name at the end of this Deed or to such other address of the Chargor advised to and acknowledged by S641 as being effective for the purposes of service;
- (b) **the Chargor's registered office; or**
- (c) any address last known to S641 at which the Chargor carried on business.

It may also be handed to any officer of the Chargor. Such notice may also be given by facsimile **transmission or electronic medium to the Chargor's number or address acknowledged by S641** for communication by such means.

15.2 Time of service on Chargor

Any such notice or process shall be considered served:

- (a) if delivered – at the time of delivery;
- (b) if sent by post – 48 hours from the time of posting;
- (c) if sent by facsimile transmission or electronic medium – at the time of receipt; or
- (d) if handed over – at the time of handing over.

15.3 Service on S641

Any notice in writing by the Chargor to S641 required hereunder shall take effect at the time it is received by S641 at its registered office or at such other address as S641 may advise in writing to the Chargor for this purpose unless such notice is received on a day which is not a Working Day, in which case, it shall take effect on the next Working Day.

16 TRANSFERS AND DISCLOSURES

16.1 Transfers by S641

This Deed is freely transferable by S641 to any other party. The Chargor consents to any such transfer (whether by novation, assignment, or otherwise). References in this Deed to the "S641" **shall include its successors, assignees and transferees and any** person to whom this Deed is novated.

16.2 No transfers by the Chargor

The Chargor may not assign or transfer any of its obligations under this Deed nor may it enter into any transaction which would result in any such obligations passing to another person.

16.3 Disclosure of information

S641 **may disclose any information about the Chargor and any member of the Chargor's Group** and any other person connected or associated with it to any members of S641's **Group and/or** to any person to whom S641 is proposing to transfer or assign, or has transferred or assigned, this Deed and/or any of the Secured Obligations (in each case which is a bank or financial institution or any director, officer, agent or employee thereof or any professional adviser thereto). The Chargor represents and warrants that it has, and (so far as permitted by law) will maintain, any necessary authority by or on behalf of any such persons to agree to the provisions of this Clause.

17 MISCELLANEOUS

17.1 Delays and omissions

No delay or omission on the part of S641 in exercising any right or remedy under this Deed shall impair that right or remedy or operate as or be taken to be a waiver of it. Any single, partial or defective exercise of any such right or remedy shall not prevent the further exercise of that or any other right or remedy.

17.2 Cumulative rights

S641's **rights under this Deed are cumulative. They are not exclusive of any rights provided by** law. They may be exercised from time to time and as often as S641 sees fit.

17.3 Waivers

Any waiver by S641 of any terms of this Deed or any consent or approval given by S641 under it shall only be effective if given in writing. Such consent and approval shall then only apply for the purpose stated and be subject to any written terms and conditions imposed by S641.

17.4 Illegality

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

17.5 S641's certificates

Any certificate signed by a director or authorised officer of S641 as to the amount of the monetary obligations comprised in the Secured Obligations at the date of that certificate shall, in the absence of manifest error, be conclusive evidence of that amount and be binding on the Chargor to whom such certificate is addressed.

17.6 Counterparts

This Deed may be executed in any number of counterparts and by different parties on separate counterparts each of which, when executed and delivered, shall constitute an original and all the counterparts together shall constitute but one and the same instrument.

17.7 Paper

The paper on which this Deed is written is, and will remain at all times, the property of S641, even after the discharge of this security.

17.8 Access and Inspection

For the purpose of gaining access to or inspecting or (following any Event of Default) taking possession of any of the computer equipment, computer data, books, documents and other records included in or relating to the Charged Assets or for the purpose of taking copies of any of such data, books, documents and records any duly authorised official of S641 and any Administrator or Receiver (as the case may be) and any person authorised by such Administrator or Receiver (as the case may be) shall have the right at any time to enter upon any premises at which the Chargor carries on business and upon any other premises in which any part or all of such computer equipment, computer data, books, documents and other records are for the time being kept or stored.

17.9 Contracts (Rights of Third Parties) Act 1999

Other than in relation to the provisions of Clause 13, the terms of this Deed may only be enforced by a party to it and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

18 LAW AND JURISDICTION**18.1 Law**

This Deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the laws of England and Wales.

18.2 Jurisdiction

- (a) **Submission:** The Chargor irrevocably agrees for the benefit of S641 that the courts of England shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Deed and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- (b) **Forum:** The Chargor irrevocably waives any objection which it might now or hereafter have to the courts referred to in Clause 18.2(a) being nominated as the forum to hear

and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Deed and agrees not to claim that any such court is not a convenient or appropriate forum.

- (c) **Other competent jurisdictions:** The submission to the jurisdiction of the courts referred to in Clause 18.2(a) shall not (and shall not be construed so as to) limit the right of S641 to take proceedings against the Chargor in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.
- (d) **Consent to enforcement:** The Chargor hereby consents generally in respect of any legal action or proceeding arising out of or in connection with this Deed to the giving of any relief or the issue of any process in connection with such action or proceeding including, without limitation, the making, enforcement or execution against any property whatsoever (irrespective of its use or intended use) of any order or judgment which may be made or given in such action or proceeding.

IN WITNESS whereof the Chargor has duly executed this Deed as a deed and intends to deliver and hereby delivers the same on the date first above written and, prior to such delivery, this Deed has been duly signed on behalf of S641, in the manner appearing below.

SCHEDULE 1**Real Property**

Registered land			
Address		Administrative Area	Title Number
Unregistered land			
Address		Document describing the Property	
		Date	Parties

Intentionally blank.

SCHEDULE 2

Plant and Machinery

Funded Assets - Detail	Serial Number	
VH Posi-Matic 6 Head Filling Machine	n/a	
Premier P400 Labeller		164
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		62320502
Beltorque BT-ST Cap Tightening Machine	J10-005-00	
Beltorque AVB-460F Vibratory Bowl Feed	A5496	
Beltorque AVB-460F Vibratory Bowl Feed	A5496	
Twin Belt Drive Transfer Unit	M9GA7-5B	
VH Posi-Matic 6 Head Filling Machine		19305
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		1139880704
Twin Belt Drive Transfer Unit	349G02	
Premier P120 Labeller	334G02	
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		62180502
Laser Engraver for Code Marking	ORACLE-1006	
Bar Code Printer ZM400	08J120800291	
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		62310502
Posimatic Vh6 Head Filling Machine	00-05 36647	
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		62130502
Premier P250 Label Applicator	1084G11	
Semi Automatic Coder	4025C1601121	
P250 Conveyor Extension & Low Reel Sensor	1084 G 11	
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		62330502
Norden 620ha Tube Filler		51725
Premier P100 Base Label Applicator		10971111
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		62390502
Norden 700 Tube Filler		52668
Allen Hot Foil 40/25/Coder	PSU1107014	
40' Refrigerated Container (Hot Fill Chiller)	505380 7	
Omas Filling Machine (Part)		202571
Ronchi Sirio 4 Head Capper	3250/TP	
Sollas 19 Cellophane Wrapping Machine	002-004	
Avery 5.4 Dispense Printer, Waste Spindle & Network Card		62190502
Harland Sirius Mark 5 Single Head & Twin Belt units	J31872/01	
Magnum Refridgeration units		
Rotary Feed Table		

HVAC UK ltd M05-M10 Water Chiller 3.2kw		2200144343
Simistan Little David Case Sealing Machine	429204SB2	
Padlocker Afterwrap Unit and Backing Pad (Woods of Windsor)		
Padlocker Little David LD35B Case Sealing Machine	49907ISBX	
Flotronic Pumps 3" Hiflo pump	H002/02/10	
Pump Engineering 3" Hiflo pump	H003/02/10	
SEC AT/JT/Q73671 Double Height Wrapping Unit		
Kecol Pumps MEM Memshield 2 Distribution Board		
Linx Printing Technologies SOCO Carton Sealing Machine	14-2005	
Linx Printing Technologies SOCO Carton Sealing Machine		11317
Universal Filling Kern SFE 600 AU PLC Electronic Sleeve Wrapper x 2	B1747	
FA Expert Kern SFE 600 AU PLC Electronic Sleeve Wrapper	B5449	
MSD Linx 6800 IP55 3LSS Ultima Ink Jet Printer	14-2005	
Kern CC560 Capping Machine, Bowl Feed and Parts		3686
Kern SFE 600 AU PLC Electronic Sleeve Wrapper	1240/2010	
Turpins Daikin Air Conditioning - Pilot Vessel Lab	RZQ125B8W1B	
Kern Sleeveit SleeveMASTER	935/2008	
Loveshaw Europe Kern SFE 600 AU PLC Electronic Sleeve Wrapper	1092/93/09	
Universal EF piston Posi fill (pressure 6 bar)	EF 19.09	
Universal EF piston Posi fill (pressure 6 bar)	EF 19.10	
3 roller wrap labelling system	no details	
Alcohol Storage Tanks		
M1 500LT 20011 Vacuum Mixing Vessel		9320.2
650k Prop Mixing Vessel (M1)	34:10057:3655:97	
1200k Prop Mixing Vessel (M2)	11009:1:88	
1200k Prop Mixing Vessel (M3)	11009:2:88	
600k Prop Mixing Vessel (M4)	11009:1:88	
3500k Prop Mixing Vessel		4875
3500k Prop Mixing Vessel		4877
4000k Prop Mixing Vessel		
1950k Prop Mixing Vessel		
1950k Prop Mixing Vessel		
1400k Prop Mixing Vessel		
1300kg Prop Mixer Vessel	WJ51398	
1300k Prop Mixing Vessel		
1300k Prop Mixing Vessel		

1200k Prop Mixing Vessel (A1)		
Water Treatment Plant		103597
Denlos WK314.2 Temperature Controlled Cabinet		
1. Hot Fill Grundy no IDs x 5 sanitised		
2. Giusti 500l stainless steel mixing vessel (vacuum 3 bar)	M11751	
3. Giusti 1200l stainless steel mixing vessel (atmospheric)	J11417	
4. Giusti 2300l stainless steel mixing vessel (pressure 3 bar)	J8441	
5. BPT Skerman 120l stainless steel mixing vessel (pressure 40 bar)	NS1461	
6. Surrey Sheet Metal 400l stainless steel mixing vessel (pressure 2.8 bar)		3164
7. Giusti 250l stainless steel side pan (pressure 3 bar)	F11753	
8. Sundry Mixing Vessels		
Items 1 to 8 above		
Gate Machinery Precision Lathe		9010064
K.Sherwood Vertical Mill Machine		940487
RS Components Fluke T110 Thermal Imager	T110-10010471	
MB Air Systems Ingersoll Rand N45 Nirvana Air Compressor		
Keyence 10 Confocal Displacement Sensor (CL-P030)		
Keyence 10 Confocal Displacement Sensor (CL-P030N)		
Keyence 10 Confocal Displacement Sensor (CL-3000)		
Byworth Boiler		
Helios Spectrophotometer		913188
Silverson L4RT Mixer		63067
RVT Dial Viscometer		3255
Hellpath Stand for RVT Dial Viscometer		8179
Gallenkamp Economy Size 1 Incubator		
Gallenkamp Economy Size 1 Incubator		
Silverson L4RT Homogeniser		
Grant CC25 Refrigerated Cooler	R000100063	
Multi Probe Adapter/Corneometer/Tewameter		1520676
Pyser-SGI Microscope		463400028
DMA38 Density Meter		30375
Seta Flashpoint Tester		525592
Bigneat BC8004C Chemcap Fume Cabinet		100413
Hyllite Hygiene Monitoring System		99529
Jenway model 470 Conductivity meter		14555095
Silverson L4R Homogeniser		

Cabinets for RMQC Office		
Solarmaster 1500E UV Light Stability Cabinet		
Aditya Standard Penetrometer		
Eurotech Instruments PH Meter		14563677
CR300 Infrared Hot Plate		2010
CR300 Infrared Hot Plate	R000100063	
Eurotech Instruments PH Meter		1215377
Reflex HP220C Analytical Balance		
Raven 2 Incubator		
Silverson LSR Homogeniser		
Eurotech Instruments PH Meter		
Gx6100 Balance x 2		
Heidolph RZR 2020 Stirrer		
Axiomatic 50 litre Mixing Vessel		
LMS 25 degree Celled Incubator & cooled incubator		
LMS 25 degree Celled Incubator & cooled incubator		
GX6100 balance (x3)		
Used Boxer Autoclave 300/100	L2297-743	
Vacuum Chamber for QC		
Sampling Booth (Goods Inward)		
LMS Cooled Incubator Series 1A, Model 201A		
Genlab 40 Litre Desktop Incubator , Autoclave 60 Litre, Microscope Max 111 Bino		
RVDVE Viscometer		
RVDVE Viscometer		

SCHEDULE 3

Securities

Intentionally blank.

SCHEDULE 4

Insurances

Insurer	Insured risks	Policy number

SCHEDULE 5

Notice of Assignment of Insurances and Form of Acknowledgement and Endorsement

To: [insert name and address of insurer]

[Date]

Dear Sirs

Guarantee and Debenture (Debenture) dated [DATE] between [CHARGOR] and Shoo 641 Limited

We refer to the [DESCRIBE INSURANCE POLICY AND SPECIFY ITS POLICY NUMBER] (Policy).

This letter constitutes notice to you that under the Debenture we have charged and assigned to Shoo 641 Limited (S641) all our rights in respect of the Policy (including all claims and all returns of premium in connection with the Policy).

We irrevocably instruct and authorise you to:

- note S641's interest on the Policy as assignee and first loss payee;
- comply with the terms of any written instructions received by you from S641 relating to the Policy, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions;
- hold all sums from time to time due and payable by you to us under the Policy to the order of S641;
- pay, or release, all monies to which we are entitled under the Policy to S641, or to such persons as S641 may direct; and
- disclose information in relation to the Policy to S641 on request by S641.

Neither the Debenture nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Policy.

Subject to the foregoing, you may continue to deal with us in relation to the Policy until you receive written notice to the contrary from S641. Thereafter, we will cease to have any right to deal with you in relation to the Policy and you must deal only with S641.

The instructions in this notice may only be revoked or amended with the prior written consent of S641.

Please confirm that you agree to the terms of this notice and to act in accordance with its provisions by sending the attached acknowledgement to S641 at [2nd Floor Kingsgate, High Street, Redhill, Surrey, RH1 1SG], with a copy to us.

This notice, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

Yours faithfully
for and on behalf of []

Acknowledgement to notice of assignment of insurances

To: Shoo 641 Limited

Attn: _____

Fax no:

[Date]

Dear Sirs

Guarantee and Debenture (Debenture) dated [DATE] between [CHARGOR] and Shoo 641 Limited

We confirm receipt from [CHARGOR] (Chargor) of a notice (Notice) dated [DATE] of a charge/an assignment, by way of security, of all the Chargor's rights under [DESCRIBE INSURANCE POLICY AND ITS NUMBER] (Policy).

Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- We accept the instructions and authorisations contained in the Notice and agree to comply with the Notice.
- We have noted S641's interest on the Policy as assignee and first loss payee.
- There has been no amendment, waiver or release of any rights or interests in the Policy since the date the Policy was issued.
- We will not cancel, avoid, release or otherwise allow the Policy to lapse without giving S641 at least 30 days' prior written notice.
- We have not, as at the date of this acknowledgement, received notice that the Chargor has assigned its rights under the Policy to a third party, or created any other interest (whether by way of security or otherwise) in the Policy in favour of a third party.
- S641 will not in any circumstances be liable for the premiums in relation to the Policy.
- The Policy shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by S641.

This letter, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation), shall be governed by and construed in accordance with the law of England and Wales

Yours faithfully
[name of insurer]

SCHEDULE 6

Notice of Assignment

To: IGF Business Credit Limited
2nd Floor Kingsgate
High Street
Redhill
Surrey
RH1 1SG

[date]

Asset Based Facilities Agreement between IGF Business Credit Limited and Shoo 640 Limited ("the Contract")

We, Shoo 641 Limited ("**S641**") and Shoo 640 Limited ("the **Assignor**"), hereby give you notice that on **the Assignor executed an assignment in S641's favour of the** Assignor's rights ("the **Rights**") which arise on the occurrence of a termination event (howsoever described) under, or the ending of, the Contract ("the **Assignment**").

We understand that you had consented to the Assignment.

As a result of the Assignment, the benefit of all such Rights are transferred to us and any monies that may arise on the occurrence of a termination event or the ending of the Contract ("the **Monies**") should be paid to us to such account as S641 may specify at any time ("the **Account**").

The Assignor is no longer permitted to do or agree anything which may release, vary, alter, transfer, encumber or interfere with the Rights, as they have been assigned to us.

Please:

(A) confirm that you had consented to the Assignment, that the Contract and the Rights remain in full force and effect and that you have not received notice of any other assignment of the Rights or of any mortgage, lien, charge, pledge, security, trust, other interest or claim over or affecting the Rights; and

(B) acknowledge receipt of this Notice,

by completing the duplicate enclosed and returning it to S641.

At the same time, please also send a copy of the signed and completed duplicate to the Assignor.

Yours faithfully

For and on behalf of Shoo 641 Limited

For and on behalf of Shoo 640 Limited

[ON DUPLICATE]

To IGF Business Credit Limited

I/We acknowledge receipt of the Notice on _____ of which the above is a true copy,
give the confirmations set out in the said Notice and agree to pay all Monies arising in respect of the
Rights to the Account detailed in the said Notice.

For and on behalf of IGF Business Credit Limited

Executed as a deed for and on behalf of **IGF Business Credit Limited** acting by

Signature _____ Director

Name in full _____
(Block letters)

Signature _____ Director/Company Secretary

Name in full _____
(Block letters)

Executed as deed by **Shoo 640 Limited** acting by:

Signature _____ Director

Name in full _____
(Block letters)

In the presence of:

Signature of witness _____ Witness

Full name of witness _____
(Block letters)

Address:

Occupation:

EXECUTION PAGES

S641

Executed as a deed by **SHOO 641 LIMITED**

acting **Samuel Hancock** by **Director**

....., **a**

director in the presence of:

Signature:

Rochelle Hancock

Name:

Address: .

.....
Occupation: **HR Executive**

THE CHARGOR

Executed as a deed by **SHOO 640 LIMITED** 

acting by **Hanna Coonagh** a director in the **Director**

presence of:

Signature: 

Cyril Burgess
Name:

Address: 

.....

Occupation: **Operations Director**