



Registration of a Charge

Company Name: **BXB (THORNTON) LIMITED**

Company Number: **12984930**



Received for filing in Electronic Format on the: **20/08/2021**

XABARBWA

Details of Charge

Date of creation: **19/08/2021**

Charge code: **1298 4930 0002**

Persons entitled: **PROMENADE COWLEY HILL LIMITED**

Brief description: **ALL OF THE ASSETS, PROPERTY, LAND AND THE ENTIRE UNDERTAKING OF THE COMPANY FOR MORE DETAILS OF WHICH PLEASE REFER TO THE INSTRUMENT. CONTAINS FLOATING CHARGE. FLOATING CHARGE COVERS ALL THE PROPERTY OR UNDERTAKING OF THE COMPANY.**

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:

BRIAN MEHARG



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 12984930

Charge code: 1298 4930 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th August 2021 and created by BXB (THORNTON) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th August 2021 .

Given at Companies House, Cardiff on 23rd August 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**

DAC BEACHCROFT

Dated 19 August 2021

(1) BXB (THORNTON) LIMITED

- and -

(2) PROMENADE COWLEY HILL LIMITED

DEBENTURE

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Debenture

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THIS AGREEMENT is made the day of 2021

BETWEEN:

- (1) **BXB (THORNTON) LIMITED** incorporated and registered in England and Wales with company registration number 12984930 whose registered office is at 2nd Floor, 2 Queen Square, Liverpool, United Kingdom, L1 1RH ("**Borrower**")
- (2) **PROMENADE COWLEY HILL LIMITED** incorporated and registered in England and Wales with company registration number 11929487 whose registered office is at 2nd Floor 2 Queen Square, Liverpool, Merseyside, United Kingdom, L1 1RH ("**Lender**")

BACKGROUND:

- (A) Defined terms used in these recitals have the meanings set out in clause 1 below. The Lender has agreed, pursuant to the Facility Agreement, to provide the Borrower with loan facilities on a secured basis.
- (B) Under this deed, the Borrower provides security to the Lender for the loan facilities made under the Facility Agreement.

NOW IT IS HEREBY AGREED as follows:

PART A: PRELIMINARY

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed unless the context otherwise requires the following words and expressions shall have the following meanings:

Administrator:	an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 13.6;
Book Debts:	all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them;
Business Day:	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
Charged Property:	any freehold, leasehold or commonhold property, including but not limited to the land lying to the east of Fleetwood Road North, Thornton Cheveley registered at HM Land Registry under title number LAN234524, the subject of the security constituted by this deed and references to " Charged Property " shall include references to the whole or any part or part of it;
Charged Securities	all stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "investments" (as defined in the Financial Services and Markets Act 2000 as in force at the date of this Deed) now or in future owned (legally or beneficially) by the Borrower or held by a nominee, trustee, fiduciary or clearance

	system on its behalf or in which the Borrower has an interest at any time;
Delegate:	any person appointed by the Lender or any Receiver and any person appointed as attorney of the Lender, Receiver or Delegate;
Environment:	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media;
Environmental Law:	all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment;
Environmental Licence:	any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets;
Event of Default:	has the meaning given in the Facility Agreement;
Facility Agreement:	the loan agreement dated 27 January 2021 between the Borrower and the Lender for the provision of the loan facilities secured by this deed;
Finance Document:	has the meaning given in the Facility Agreement;
Insurance Policy:	each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its business (including, without limitation, any contract or policy of insurance relating to the Book Debts);
Intellectual Property:	the Borrower's present and future patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
LPA 1925:	the Law of Property Act 1925;

Receiver:	a receiver, receiver and manager or administrative receiver appointed by the Lender under clause 16;
Related Rights:	in relation to any Charged Securities, all dividends, distributions and other income paid or payable on the relevant Charged Securities and all rights, monies or property accruing or offered at any time in relation to such Charged Securities whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;
Secured Assets:	all the assets, property and undertaking of the Borrower which are, or are expressed to be, subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them);
Secured Liabilities:	all present and future obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, in connection with the Facility Agreement or this deed, together with all interest (including, without limitation, default interest and fees (including the non-utilisation fee)) accruing in respect of any such obligations or liabilities;
Security:	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect;
Security Period:	the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding; and
VAT:	value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 Interpretation

In this deed:

- (a) headings shall not affect the interpretation of this deed;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;

- (d) a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- (e) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; and
- (f) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time.

1.3 Clawback

If the Lender considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

1.4 Law of Property (Miscellaneous Provisions) Act 1989

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.

1.5 Perpetuity period

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

2. COVENANT TO PAY

The Borrower shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

3. GRANT OF SECURITY

3.1 Fixed charges

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of a first fixed charge:

- (a) all present and future estates or interests of the Borrower in, or over, any freehold, leasehold or commonhold property, including but not limited to the land lying to the east of Fleetwood Road North, Thornton Cheveley registered at HM Land Registry under title number LAN234524;
- (b) the benefit of all other contracts, guarantees, appointments and warranties relating to each Charged Property and other documents to which the Borrower is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of any Charged Property or otherwise relating to any Charged Property (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them) (each a "**Relevant Contract**");

- (c) all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business or the use of any Secured Asset, and all rights in connection with them;
- (d) all its present and future goodwill;
- (e) all the Intellectual Property;
- (f) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person, together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest) (the "Charged Accounts");
- (g) all the Book Debts;
- (h) all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and
- (i) all Charged Securities and any Related Rights.

3.2 Floating charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of first floating charge, all its undertaking, property, assets and rights not otherwise effectively mortgaged, charged or assigned under clause 3.1.

3.3 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.2.

3.4 Automatic crystallisation of floating charge

The floating charge created by clause 3.2 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- (a) the Borrower:
 - (i) creates, or attempts to create, without the prior written consent of the Lender, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Facility Agreement); or
 - (ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower.

3.5 Crystallisation of floating charge by notice

The Lender may, in its sole discretion, by written notice to the Borrower, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice if:

- (a) an Event of Default is continuing; or
- (b) the Lender considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

3.6 Assets acquired after any floating charge has crystallised

Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge.

4. ASSIGNMENT

The Borrower assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all of its present and future right, title and interest in and to:

- 4.1 all Insurance Policies and all claims under the Insurance Policies and all proceeds of such Insurance Policies;
- 4.2 the Relevant Contracts, all rights and remedies in connection with the Relevant Contracts and all proceeds and claims arising from them; and
- 4.3 all other Book Debts and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, the Borrower (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with the benefit of all rights, guarantees, Security and remedies relating to any of the foregoing and all proceeds of the foregoing.

5. NOTICE OF ASSIGNMENT

- 5.1 On execution of this Deed, the Borrower shall in respect of each of its Insurance Policies, Relevant Contracts and Charged Accounts, deliver a duly completed notice of assignment to the provider of each such insurance, each other party to a Relevant Contract and the financial institution at which such Charged Account is held and shall use its reasonable endeavours to procure that each such recipient of a notice provides its acknowledgment of such notice to the Lender.
- 5.2 The Borrower shall as soon as reasonably practicable in respect of each Insurance Policy, Relevant Contract and Charged Account opened or entered into after the date of this Deed deliver a duly completed notice of assignment to the provider of each such insurance, each other party to a Relevant Contract and the financial institution at which such Charged Account is held and shall use its reasonable endeavours to procure that each such recipient of a notice provides its acknowledgment of such notice to the Lender.

6. DEPOSIT OF DOCUMENTS

The Borrower shall, promptly on execution of this Deed, deposit with the Lender all certificates and other documents of title or evidence of ownership to the Charged Securities and their Related Rights, together with any blank stock transfer forms or such other documents as the Lender may require to enable it to (or its nominees) to be registered as the owner of or otherwise to acquire legal title to the Charged Securities and their Related Rights.

7. LAND REGISTRY

- 7.1 The Borrower shall apply to the Chief Land Registrar (and consents to such an application being made by or on behalf of the Lender) for a restriction in the following terms to be entered

on the Register of Title relating to any Charged Property registered at the Land Registry (or any unregistered land subject to first registration) and against which this Deed may be noted:

"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 [♦] 20[♦] in favour of [♦] referred to in the charges register or their conveyancer."

(a) The Borrower:

(i) authorises the Lender to make any application which the Lender deems appropriate for the designation of this Deed, the Facility Agreement or any other Finance Document as an exempt information document under rule 136 of the Land Registration Rules 2003;

(ii) shall use its reasonable endeavours to assist with any such application made by or on behalf of the Lender; and

(iii) shall notify the Lender in writing as soon as it receives notice of any person's application under rule 137 of the Land Registration Rules 2003 for the disclosure of this Deed, the Facility Agreement or any other Finance Document following its designation as an exempt information document.

(b) The Borrower shall not make any application under rule 138 of the Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document.

(c) The Borrower shall promptly make all applications to and filings with the Land Registry which are necessary or desirable under the Land Registration Rules 2003 to protect the security constituted by this Deed.

8. LIABILITY OF THE BORROWER

8.1 Liability not discharged

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

(a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;

(b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

(c) any other act or omission that, but for this clause 8.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

8.2 Immediate recourse

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

9. REPRESENTATIONS AND WARRANTIES

9.1 Times for making representations and warranties

The Borrower makes the representations and warranties set out in this clause 9 to the Lender on the date of this deed and such representations and warranties are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

9.2 Ownership of Secured Assets

The Borrower is the sole legal and beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

9.3 No Security

The Secured Assets are free from any Security other than the Security created by this deed.

9.4 No adverse claims

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

9.5 No adverse covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.

9.6 No breach of laws

There is no breach of any law or regulation that materially and adversely affects the Secured Assets.

9.7 No interference in enjoyment

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use.

9.8 Avoidance of security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

9.9 Environmental compliance

The Borrower has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

9.10 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

10. GENERAL COVENANTS

10.1 Negative pledge and disposal restrictions

The Borrower shall not at any time, except with the prior written consent of the Lender:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed;

- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

10.2 Preservation of Secured Assets

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

10.3 Compliance with laws and regulations

- (a) The Borrower shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.
- (b) The Borrower shall:
 - (i) comply with the requirements of any law or regulation relating to or affecting the Secured Assets or the use of it or any part of them;
 - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
 - (iii) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

10.4 Enforcement of rights

The Borrower shall use its best endeavours to:

- (a) procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Borrower and forming part of the Secured Assets of the covenants and other obligations imposed on such counterparty (including each counterparty in respect of a Relevant Agreement and each insurer in respect of an Insurance Policy); and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Lender may require from time to time.

10.5 Insurance

- (a) The Borrower shall insure and keep insured the Secured Assets against such risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower.
- (b) Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender, and must include property owners' public liability and third party liability insurance and be for not less than the replacement value of the relevant Secured Assets.

10.6 No invalidation of insurance

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy as is required by clause 10.5(a).

10.7 Payment of outgoings

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender.

11. BOOK DEBTS COVENANTS

11.1 Realising Book Debts

- (a) The Borrower shall as an agent for the Lender, collect in and realise all Book Debts, pay the proceeds into a designated account immediately on receipt and, pending that payment, hold those proceeds in trust for the Lender.
- (b) The Borrower shall not, without the prior written consent of the Lender, withdraw any amounts standing to the credit of any designated account.
- (c) The Borrower shall, if called on to do so by the Lender, execute a legal assignment of the Book Debts to the Lender on such terms as the Lender may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

11.2 Preservation of Book Debts

The Borrower shall not (except with the prior written consent of the Lender or as otherwise expressly provided under this deed) release, exchange, compound, set off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.

12. INTELLECTUAL PROPERTY COVENANTS

12.1 Preservation of rights

The Borrower shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

12.2 Registration of Intellectual Property

The Borrower shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Lender informed of all matters relating to each such registration.

12.3 Maintenance of Intellectual Property

The Borrower shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

13. POWERS OF THE LENDER

13.1 Power to remedy

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.
- (b) The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.

- (c) Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with clause 20.1.

13.2 Exercise of rights

- (a) The rights of the Lender under clause 13.1 are without prejudice to any other rights of the Lender under this deed.
- (b) The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

13.3 Power to dispose of chattels

- (a) At any time after the security constituted by this deed has become enforceable, the Lender or any Receiver may, as agent for the Borrower, dispose of any chattels or produce found on any Charged Property.
- (b) Without prejudice to any obligation to account for the proceeds of any disposal made under clause 13.3(a), the Borrower shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 13.3(a).

13.4 Lender has Receiver's powers

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

13.5 Indulgence

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.

13.6 Appointment of an Administrator

- (a) The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.
- (b) Any appointment under this clause 13.6 shall:
 - (i) be in writing signed by a duly authorised signatory of the Lender; and
 - (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.
- (c) The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 13.6 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

14. WHEN SECURITY BECOMES ENFORCEABLE

14.1 Security becomes enforceable on breach

The security constituted by this deed shall become immediately enforceable if the Borrower breaches any provision of the Facility Agreement.

14.2 Discretion

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

15. ENFORCEMENT OF SECURITY

15.1 Enforcement powers

- (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) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 14.1.
- (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

15.2 Access on enforcement

- (a) At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Facility Agreement, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.
- (b) At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 15.2(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

15.3 Conclusive discharge to purchasers

The receipt of the Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

16. RECEIVER

16.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

16.2 Removal

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing,

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.

16.3 Remuneration

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

16.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

16.5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets.

16.6 Agent of the Borrower

Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

17. POWERS OF RECEIVER

17.1 General

- (a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on it by statute, have the rights, powers and discretions set out in clause 17.1 to clause 17.18.
- (b) A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.
- (c) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (d) Any exercise by a Receiver of any of the powers given by clause 17 may be on behalf of the Borrower, the directors of the Borrower.

17.2 Employ personnel and advisers

- (a) A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit.
- (b) A Receiver may discharge any such person or any such person appointed by the Borrower.

17.3 Make and revoke VAT options to tax

A Receiver may make, exercise or revoke any VAT option to tax as it thinks fit.

17.4 Remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Lender may prescribe or agree with it.

17.5 Possession

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

17.6 Manage or reconstruct the Borrower's business

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower.

17.7 Dispose of Secured Assets

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

17.8 Sell Book Debts

A Receiver may sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit.

17.9 Valid receipts

A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

17.10 Make settlements

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

17.11 Legal action

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

17.12 Insure

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 20.2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed.

17.13 Subsidiaries

A Receiver may form a subsidiary of the Borrower and transfer to that subsidiary any Secured Asset.

17.14 Borrow

A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

17.15 Redeem prior Security

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

17.16 Delegation

A Receiver may delegate its powers in accordance with this deed.

17.17 Absolute beneficial owner

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do, in the ownership and management of the Secured Assets or any part of the Secured Assets.

17.18 Incidental powers

A Receiver may do any other acts and things that it:

- (a) may consider desirable or necessary for realising any of the Secured Assets;
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) lawfully may or can do as agent for the Borrower.

18. DELEGATION

18.1 Delegation

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 22.1).

18.2 Terms

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

18.3 Liability

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

19. APPLICATION OF PROCEEDS

19.1 Order of application of proceeds

All monies received or recovered by the Lender, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed (other than sums received under any Insurance Policy), shall (subject to the claims

of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Lender's right to recover any shortfall from the Borrower):

- (a) in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- (b) in or towards payment of the Secured Liabilities in any order and manner that the Lender determines; and
- (c) in payment of the surplus (if any) to the Borrower or other person entitled to it.

19.2 Appropriation

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

20. COSTS AND INDEMNITY

20.1 Costs

The Borrower shall, promptly on demand, pay to, or reimburse, the Lender and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with:

- (a) this deed or the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed; or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of the Borrower) at the rate and in the manner specified in the Facility Agreement.

20.2 Indemnity

- (a) The Borrower shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:
 - (i) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
 - (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or

(iii) any default or delay by the Borrower in performing any of its obligations under this deed.

(b) Any past or present employee or agent may enforce the terms of this clause 20.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

21. FURTHER ASSURANCE

21.1 Further assurance

The Borrower shall promptly, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security created or intended to be created by this deed;
- (b) facilitating the realisation of any Secured Asset; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Lender may consider necessary or desirable.

22. POWER OF ATTORNEY

22.1 Appointment of attorneys

By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) the Borrower is required to execute and do under this deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate.

22.2 Ratification of acts of attorneys

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 22.1.

23. RELEASE

23.1 Release

Subject to clause 30.3, at the end of the Security Period, the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

- (a) release the Secured Assets from the security constituted by this deed; and
- (b) reassign the Secured Assets to the Borrower.

24. ASSIGNMENT AND TRANSFER

24.1 Assignment by Lender

- (a) At any time, without the consent of the Borrower, the Lender may assign or transfer any or all of its rights and obligations under this deed to a member of its Permitted Group (as defined in the Facility Agreement).
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this deed that the Lender considers appropriate.

24.2 Assignment by Borrower

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

25. SET-OFF

25.1 Lender's right of set-off

The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 25 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

25.2 Exclusion of Borrower's right of set-off

All payments made by the Borrower to the Lender under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

26. AMENDMENTS, WAIVERS AND CONSENTS

26.1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

26.2 Waivers and consents

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing.

26.3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

27. SEVERANCE

27.1 Severance

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

28. COUNTERPARTS

28.1 Counterparts

- (a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- (b) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

29. THIRD PARTY RIGHTS

29.1 Third party rights

- (a) A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- (b) The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

30. FURTHER PROVISIONS

30.1 Independent security

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed.

30.2 Continuing security

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

30.3 Discharge conditional

Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Lender or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the

Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and

- (b) the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

30.4 Certificates

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed and the Facility Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.

30.5 Consolidation

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

30.6 Small company moratorium

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by the Borrower under schedule A1 to the Insolvency Act 1986 nor the doing of anything by the Borrower with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

- (a) an event under this deed which causes any floating charge created by this deed to crystallise;
- (b) an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Borrower; or
- (c) a ground under this deed for the appointment of a Receiver.

31. NOTICES

31.1 Delivery

Any notice or other communication given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service; and
- (c) sent to:

- (i) the Borrower at:

BXB (Thornton) Limited
2nd Floor, 2 Queen Square
Liverpool
United Kingdom
L1 1RH

- (ii) the Lender at:

Promenade Cowley Hill Limited

2nd Floor, 2 Queen Square

Liverpool

United Kingdom

L1 1RH

or to any other address or fax number or email address as is notified in writing by one party to the other from time to time.

31.2 Receipt by Borrower

Any notice or other communication that the Lender gives to the Borrower shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address; and
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting.

A notice or other communication given as described in clause 31.2(a) or clause 31.2(b) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

31.3 Receipt by Lender

Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

31.4 Service of proceedings

This clause 31 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

31.5 No notice by email

A notice or other communication given under or in connection with this deed is not valid if sent by email.

32. GOVERNING LAW AND JURISDICTION

32.1 Governing 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 law of England and Wales.

32.2 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

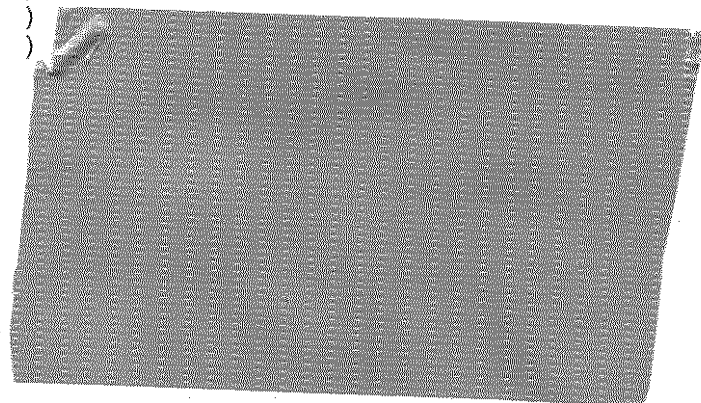
SIGNATURE PAGE

EXECUTED as a DEED
by BXB (THORNTON) LIMITED

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Director

Director



EXECUTED as a DEED
by PROMENADE COWLEY HILL LIMITED

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Director

Director

