



**Registration of a Charge**

Company Name: **GRAIN CONNECT MIDCO LIMITED**

Company Number: **13613509**



XBYTFHQJ

Received for filing in Electronic Format on the: **07/03/2023**

**Details of Charge**

Date of creation: **28/02/2023**

Charge code: **1361 3509 0004**

Persons entitled: **PINNACLE GROUP 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 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ANNA LEJEHAN**



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

Company number: 13613509

Charge code: 1361 3509 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th February 2023 and created by GRAIN CONNECT MIDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th March 2023 .

Given at Companies House, Cardiff on 8th March 2023

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**

**28 February 2023**

I certify that this is a true, complete and up-to-date copy of the original.

Signed: *A. Le Jehan* Date: 6 March 2023

Name: Anna Le Jehan

Address: 8th Floor Holborn Tower, 137-144 High Holborn, London,  
WC1V 6PL

Position: Solicitor

**(1) THE COMPANIES LISTED IN SCHEDULE 1 (*THE ORIGINAL CHARGORS*) TO THIS DEED AS  
ORIGINAL CHARGORS**

**and**

**(2) PINNACLE GROUP LIMITED AS LENDER**

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**DEBENTURE**

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

**SHOOSMITHS**

Platform  
New Station Street  
Leeds  
LS1 4JB

Ref. ANR/KLR/M-00937092

**CONTENTS**

<b>1</b>	<b>DEFINITIONS AND INTERPRETATION .....</b>	<b>1</b>
<b>2</b>	<b>CREATION OF SECURITY .....</b>	<b>6</b>
<b>3</b>	<b>NEGATIVE PLEDGE AND DISPOSAL RESTRICTION .....</b>	<b>10</b>
<b>4</b>	<b>PERFECTION OF SECURITY .....</b>	<b>10</b>
<b>5</b>	<b>REPRESENTATIONS.....</b>	<b>13</b>
<b>6</b>	<b>GENERAL UNDERTAKINGS .....</b>	<b>14</b>
<b>7</b>	<b>PROPERTY UNDERTAKINGS .....</b>	<b>21</b>
<b>8</b>	<b>WHEN SECURITY BECOMES ENFORCEABLE .....</b>	<b>22</b>
<b>9</b>	<b>ENFORCEMENT OF SECURITY .....</b>	<b>23</b>
<b>10</b>	<b>RECEIVER.....</b>	<b>24</b>
<b>11</b>	<b>POWERS OF RECEIVER.....</b>	<b>25</b>
<b>12</b>	<b>APPLICATION OF PROCEEDS .....</b>	<b>27</b>
<b>13</b>	<b>INTEREST .....</b>	<b>28</b>
<b>14</b>	<b>EXPENSES AND INDEMNITY .....</b>	<b>29</b>
<b>15</b>	<b>DELEGATION.....</b>	<b>29</b>
<b>16</b>	<b>FURTHER ASSURANCES.....</b>	<b>29</b>
<b>17</b>	<b>POWER OF ATTORNEY.....</b>	<b>30</b>
<b>18</b>	<b>PRESERVATION OF SECURITY .....</b>	<b>30</b>
<b>19</b>	<b>CHANGES TO THE PARTIES .....</b>	<b>32</b>
<b>20</b>	<b>MISCELLANEOUS .....</b>	<b>33</b>
<b>21</b>	<b>RELEASE .....</b>	<b>34</b>
<b>22</b>	<b>SET-OFF .....</b>	<b>34</b>
<b>23</b>	<b>PARTIAL INVALIDITY.....</b>	<b>34</b>
<b>24</b>	<b>AMENDMENTS .....</b>	<b>34</b>
<b>25</b>	<b>REMEDIES AND WAIVERS.....</b>	<b>34</b>
<b>26</b>	<b>CHARGORS' AGENT.....</b>	<b>34</b>
<b>27</b>	<b>NOTICES .....</b>	<b>35</b>

28      COUNTERPARTS ..... 35

29      GOVERNING LAW ..... 35

30      JURISDICTION ..... 35

SCHEDULE 1 ..... 36

THE ORIGINAL CHARGORS ..... 36

SCHEDULE 2 SPECIFIED ASSETS ..... 37

SCHEDULE 3 FORMS OF LETTER FOR ACCOUNT BANK ..... 38

SCHEDULE 4 FORMS OF LETTER FOR INSURERS ..... 40

SCHEDULE 5 FORMS OF LETTER FOR OTHER CONTRACTS ..... 42

SCHEDULE 6 FORM OF SUPPLEMENTAL DEBENTURE ..... 44

SCHEDULE 7 ADDITIONAL CHARGORS ..... 48

SCHEDULE 8 EXCLUDED REAL PROPERTY ..... 55

SIGNATORIES ..... 56

**THIS DEED** is dated the 28th day of February 2023 and is made

**BETWEEN:**

- (1) **THE COMPANIES LISTED IN SCHEDULE 1 (THE ORIGINAL CHARGORS) TO THIS DEED** (the "**Original Chargors**" and each an "**Original Chargor**"); and
- (2) **PINNACLE GROUP LIMITED**, a company incorporated in England and Wales (company number 04240859) whose registered office is at 8th Floor, Holborn Tower, 137-144 High Holborn, London, United Kingdom, WC1V 6PL (the "**Lender**").

**BACKGROUND:**

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

**IT IS AGREED** as follows:

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

**"Accession Deed"** means a deed substantially in the form set out in Part 1 of Schedule 7 (*Additional Chargors*).

**"Account Bank"** means a person with whom any Chargor maintains an account.

**"Additional Chargor"** means a company which becomes an Additional Chargor in accordance with Clause 19 (*Changes to the Parties*).

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

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

**"Chargor"** means an Original Chargor or an Additional Chargor in accordance with Clause 19 (*Changes to the Parties*).

**"Chargors' Agent"** means the Company as Chargor's Agent for each Chargor.

**"Company"** means Grain Connect Topco Limited, a company incorporated in England and Wales with limited liability under the Companies Act 2006 (registered number 13609252), whose registered office is at Clifford House, Cooper Way, Parkhouse, Carlisle, CA3 0JG.

**"Conditions"** has the meaning ascribed to that term in the Loan Note Facility Agreement.

**"Designated Account"** means:

- (a) the accounts (if any) specified in Schedule 2 (*Specified Assets*) or the schedule to any Supplemental Debenture; and

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

**“Designated Contract”** means the contracts (if any) specified in Schedule 2 (*Specified Assets*) or the schedule to any Supplemental Debenture.

**“EA Contract”** means the fibre installation framework agreement dated 21 December 2020 made between (1) Energy Assets Limited and (2) Grain Connect.

**“Environment”** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water).

**“Environmental Claim”** any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

**“Environmental Law”** means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.

**“Environmental Permits”** any permit and other Authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of a Chargor conducted on or from the properties owned or used by that Chargor.

**“Event of Default”** has the meaning ascribed to that term in the Loan Note Facility Agreement.

**“Excluded Real Property”** means the real property described in Schedule 8 (*Excluded Real Property*) and any freehold, heritable or leasehold real property that is a short leasehold interest with a term of 10 years or less.

**“Finance Document”** means this Deed, the Loan Note Facility Agreement, the Loan Notes (as defined in the Loan Note Facility Agreement), the Guarantee and any other document designated as a “Finance Document” by the Lender and the Company.

**“Grain Connect”** means Grain Connect Limited (incorporated in England and Wales with registered number: 10285348);

**“Guarantee”** means the guarantee dated on or about the date of this Deed and entered into between each Chargor as guarantor and the Lender.

**“Insurance Rights”** has the meaning given to it in Clause 2.8 (*Insurances*).

**"Insurances"** means any contract of insurance required under Clause 6.4 (*Insurances*) but excluding any policies in respect of third party or public liability.

**"Intellectual Property"** means:

- (a) all present and future patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, in each case whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets.

**"Intercreditor Agreement"** means the intercreditor agreement to be entered into on or around the date of this Deed and made between, among others (1) Norddeutsche Landesbank Girozentrale, (2) the Company, (3) Grain Connect Midco Limited, (4) Grain Connect Limited, (5) Grain Communications Limited, (6) Grain Online Management Limited, and (7) the Lender;

**"Investments"** means:

- (a) the shares (if any) specified in Schedule 2 (*Specified Assets*) or the schedule to any Supplemental Debenture; and
- (b) all other shares, stocks, debentures, bonds or other securities or investments owned by any Chargor from time to time or held by any nominee or trustee on its behalf.

**"Legal Reservations"** means:

- a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- b) the time barring of claims under the Limitation Act 1980 and the Foreign Limitation Periods Act 1984, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- c) the limitation of the enforcement of the terms of leases of real property by laws of general application to those leases; and
- d) similar principles, rights and defences under the laws of England and Wales.

**"Loan Note Facility Agreement"** means the loan note facility agreement entered into between (1) the Company and (2) the Lenders (as therein defined) in respect of a facility of up to £21,200,000 (subject to any increase as therein stated) Secured Loan Notes 2036 dated on or about the date of this Deed.

**"Loan Notes"** has the meaning given to that term in the Loan Note Facility Agreement.

**"LPA 1925"** means the Law of Property Act 1925.

**"Material Adverse Effect"** has the meaning given to that term in the Loan Note Facility Agreement.

**"Mortgaged Property"** means all freehold or leasehold property included in the definition of Security Asset.

**"Noteholders"** has the meaning ascribed to that term in the Loan Note Facility Agreement.



**"Party"** means a party to this Deed.

**"Receiver"** means a receiver or receiver and manager or administrative receiver, in each case appointed under this Deed.

**"Secured Liabilities"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Chargor to any Secured Party under each Finance Document.

**"Secured Party"** means the Lender or a Receiver.

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

**"Security Asset"** means all of the assets of each Chargor which from time to time are, or are expressed to be, the subject any Security created by this Deed.

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

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

**"Senior Security Document"** means the Senior Security (as defined in the Intecreditor Agreement).

**"Specified Companies"** means each Chargor other than the Company.

**"Subsidiary"** means a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006 or a subsidiary within the meaning of section 1159 of the Companies Act 2006.

**"Supplemental Debenture"** means a document substantially in the form set out in Schedule 6 (*Form of Supplemental Debenture*).

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

## 1.2 Construction

1.2.1 Capitalised terms defined in the Loan Note Facility Agreement have the same meaning in this Deed unless expressly defined in this Deed.

1.2.2 Unless a contrary indication appears, a reference in this Deed to:

- a) any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under this Deed;
- b) **"assets"** includes present and future properties, revenues and rights of every description;
- c) **"costs"** includes all costs, fees, charges and expenses of any nature and includes any Tax charged on any of them;

- d) this **"Deed"**, or any other agreement or instrument is a reference to this Deed or that other agreement or instrument as amended, novated, supplemented, extended or restated;
- e) any **"rights"** in respect of an asset includes:
  - i all amounts and proceeds paid or payable;
  - ii all rights to make any demand or claim; and
  - iii all powers, remedies, causes of action, security, guarantees and indemnities,

in each case in respect of or derived from that asset;

- f) **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- g) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- h) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- i) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
- j) a provision of law is a reference to that provision as amended or re-enacted.
- k) any **"share"**, **"stock"**, **"debenture"**, **"bond"** or **"other security"** or **"investment"** includes:
  - i any dividend, interest or other distribution paid or payable;
  - ii any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,

in each case in respect of that share, stock, debenture, bond or other security or investment; and

- l) **"disposal"** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **"dispose"** will be construed accordingly.

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

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

- 1.5 The words "**including**" shall not be construed as limiting the generality of the words preceding it.
- 1.6 An Event of Default is "**continuing**" if it has not been remedied to the satisfaction of the Lender or waived, in each case in writing.
- 1.7 Any covenant of a Chargor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- 1.8 The terms of the other Finance Documents and of any other agreement or instrument between any Chargor and the Lender in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 1.9 If the Lender considers that an amount paid to it under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.10 Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.
- 1.11 The obligations of the Chargors under this Deed are joint and several.
- 1.12 It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.
- 1.13 **Third party rights**
  - 1.13.1 Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Deed.
  - 1.13.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
  - 1.13.3 Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to Clause 1.13.2 above and the provisions of the Third Parties Act.

## **2 CREATION OF SECURITY**

### **2.1 General**

- 2.1.1 Each Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.
- 2.1.2 All the security created under this Deed:
  - a) is created in favour of the Lender;
  - b) is created over present and future assets of each Chargor;
  - c) is security for the payment of all the Secured Liabilities; and
  - d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

## 2.2 **Real property**

### 2.2.1 Each Chargor charges:

- a) by way of a first legal mortgage all estates or interests in any freehold or leasehold property now owned by it (other than the Excluded Real Property); this includes the real property (if any) specified in Schedule 2 (*Specified Assets*) or the schedule to any Supplemental Debenture; and
- b) (to the extent that they are not the subject of a mortgage under paragraph a) above) by way of a first fixed charge all estates or interests in any freehold or leasehold property now or subsequently owned by it (other than the Excluded Real Property).

### 2.2.2 A reference in this Clause 2 to a mortgage or charge of any freehold or leasehold property includes:

- a) all buildings, fixtures, fittings and fixed plant and machinery on that property; and
- b) the benefit of any covenants for title given or entered into by any predecessor in title of each Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

## 2.3 **Investments**

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

## 2.4 **Plant and machinery**

To the extent that they are not the subject of a mortgage or a first fixed charge under Clause 2.2 (*Real property*), each Chargor charges:

- 2.4.1 by way of a first fixed charge, all plant and machinery (if any) specified in Schedule 2 (*Specified Assets*) or the schedule to any Supplemental Debenture and its interest in any such plant and machinery; and
- 2.4.2 (to the extent that they are not the subject of a fixed charge under paragraph 2.4.1 above) by way of a first fixed charge all plant and machinery owned by each Chargor and its interest in any plant or machinery in its possession (which, for the avoidance of doubt, shall exclude any vehicle each Chargor has access to under a lease or hire purchase arrangement, or any assets each Chargor owns, operates, manages or leases pursuant to the EA Contract).

## 2.5 **Credit balances**

- 2.5.1 Each Chargor charges by way of a first fixed charge all of its rights in respect of any Designated Account, any amount standing to the credit of any Designated Account and the debt represented by it.
- 2.5.2 Each Chargor charges by way of a first fixed charge all of its rights in respect of any account it has with any person other than the accounts referred to in Clause 2.5.1 above, any amount standing to the credit of any such account and the debt represented by it.

## 2.6 **Intellectual Property**

2.6.1 Each Chargor charges by way of a first fixed charge all of its Intellectual Property specified in Schedule 2 (*Specified Assets*) or the schedule to any Supplemental Debenture.

2.6.2 Each Chargor charges by way of a first fixed charge of all of all its Intellectual Property other than the Intellectual Property referred to in Clause 2.6.1 above.

2.7 **Book debts etc.**

Each Chargor charges by way of a first fixed charge:

2.7.1 all of its book and other debts;

2.7.2 all other moneys due and owing to it; and

2.7.3 the benefit of all rights in relation to any item under Clauses 2.7.1 to 2.7.2 above.

2.8 **Insurances**

2.8.1 Each Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under any contract or policy of insurance taken out by it or on its behalf or in which it has an interest (but excluding any policies in respect of third party or public liability) (**together, the "Insurance Rights"**).

2.8.2 To the extent that they have not been effectively assigned under Clause 2.8.1 above, each Chargor charges by way of a first fixed charge all of its Insurance Rights.

2.9 **Other contracts**

2.9.1 Each Chargor:

a) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:

i under each Designated Contract; and

ii under any document, agreement or instrument to which it and any nominee or trustee is party in respect of an Investment; and

b) charges by way of a first fixed charge all of its rights under any other document, agreement or instrument to which it is a party except to the extent that it is subject to any fixed security created under any other term of this Clause 2 or has any restrictions on assignment.

2.9.2 To the extent that they have not been effectively assigned under Clause 2.9.1a) above, each Chargor charges by way of a first fixed charge all of its rights listed under Clause 2.9.1a) above.

2.10 **Other assets**

Each Chargor charges by way of first fixed charge:

2.10.1 its goodwill;

2.10.2 the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset;

2.10.3 the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in Clause 2.10.2 above;

2.10.4 its uncalled capital; and

2.10.5 the benefit of all rights in relation to any item under Clauses 2.10.1 to 2.10.4 above.

## 2.11 **Floating charge**

2.11.1 Each Chargor charges by way of a first floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, fixed charge or assignment under this Clause 2.

2.11.2 Except as provided below, the Lender may by notice to any Chargor convert the floating charge created by this Clause 2.11 (*Floating charge*) into a fixed charge as regards any of that Chargor's assets specified in that notice if:

- a) an Event of Default is continuing;
- b) the Lender reasonably 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; or
- c) the Lender considers that it is desirable in order to protect the priority of the Security created by this Deed.

2.11.3 Subject to Clause 2.11.4 below, the floating charge created by this Clause 2.11 (*Floating charge*) may not be converted into a fixed charge solely by reason of:

- a) the obtaining of a moratorium; or
- b) anything done with a view to obtaining a moratorium,

under Part A1 of the Insolvency Act 1986.

2.11.4 Paragraph 2.11.3 above does not apply in respect of any floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act 1986.

2.11.5 The floating charge created by this Clause 2.11 (*Floating charge*) will (in addition to the circumstances when this may occur under the general law) automatically convert into a fixed charge over all of a Chargor's assets (including those subsequently acquired by that Chargor) if:

- a) an administrator is appointed or the Lender receives notice of an intention to appoint an administrator;
- b) any steps are taken for any of the Security Assets to become subject to any Security in favour of any other person;
- c) any person levies or attempts to levy any distress, execution or other process or exercises any enforcement power against any of the Security Assets; or
- d) a resolution is passed or an order is made for the winding-up, dissolution or re-organisation of or any steps are taken for the appointment of an administrator in respect of the relevant Chargor.

2.11.6 The floating charge created by this Clause 2.11 (*Floating charge*) is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

### **3 NEGATIVE PLEDGE AND DISPOSAL RESTRICTION**

#### **3.1 Security**

Except as expressly allowed under the Loan Note Facility Agreement, the Intercreditor Agreement or this Deed no Chargor may create or permit to subsist any Security on any Security Asset.

#### **3.2 Disposals**

Except as expressly allowed under the Loan Note Facility Agreement or this Deed, no Chargor may enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any Security Asset.

### **4 PERFECTION OF SECURITY**

#### **4.1 General**

4.1.1 Each Chargor must promptly following request by the Lender deposit with the Lender all deeds and documents necessary to show good and marketable title to any Security Asset.

4.1.2 Each Chargor must promptly following request by the Lender execute and deliver to the Lender a notice of any assignment of its rights referred to in Clause 2 (*Creation of security*) in such form as the Lender may require.

#### **4.2 Real Property**

##### **4.2.1 Acquisitions**

If a Chargor acquires any freehold or leasehold property in England and Wales after the date of this Deed (but excluding the Excluded Real Property) it must:

- a) promptly notify the Lender;
- b) promptly following request by the Lender and at the cost of each Chargor, execute and deliver to the Lender a Supplemental Debenture creating a legal mortgage over that property in favour of the Lender; and
- c)
  - i if the title to that freehold or leasehold property is registered at the Land Registry or required to be so registered, give the Land Registry written notice of the Security created by this Deed and any Supplemental Debenture; and
  - ii if applicable, ensure that the Security created by this Deed and any Supplemental Debenture is correctly noted against that title in the title register at the Land Registry.

##### **4.2.2 Land Registry**

- a) Each Chargor consents to a restriction in the following terms being entered into on the Register of Title relating to any Mortgaged Property registered at the Land Registry:

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

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

#### 4.2.3 Deposit of title deeds

Each Chargor must immediately on the date of this Deed (or, if later, as soon as reasonably practicable following the date of its acquisition of the corresponding Security Asset):

- a) deposit with the Lender all deeds and documents necessary to show good and marketable title to any Mortgaged Property (the "**Title Documents**"); or
- b) procure that the Title Documents are held to the order of the Lender by a firm of solicitors approved by the Lender for that purpose.

### 4.3 Investments

- 4.3.1 Subject to Clause 4.3.4 below, each Chargor must immediately on the date of this Deed:

- a) deposit with the Lender, or as the Lender may direct, all certificates and other documents of title or evidence of ownership in relation to its Investments; and
- b) execute and deliver to the Lender all share transfers and other documents which may be requested by the Lender in order to enable the Lender or its nominees to be registered as the owner of or otherwise obtain a legal title to its Investments.

- 4.3.2 Subject to Clause 4.3.4 below, the Lender is entitled to hold all certificates and other documents of title or evidence of ownership in relation to the Investments throughout the Security Period.

- 4.3.3 Subject to Clause 4.3.4 below, promptly upon the accrual, offer or issue to a Chargor of any Investments in the form of stocks, shares, warrants or other securities that Chargor must procure the delivery to the Lender of:

- a) all certificates and other documents of title or evidence of ownership in relation to such Investments; and
- b) all share transfers and other documents which may be requested by the Lender in order to enable the Lender or its nominees to be registered as the owner of or otherwise obtain a legal title to its Investments.

- 4.3.4 There shall be no breach of this Clause **Error! Reference source not found.**4.3 where, prior to the Senior Discharge Date, the relevant Chargor complies with a



corresponding requirement pursuant to a Senior Security Document. In such circumstances, the relevant Chargor must comply with this Clause immediately on and from the Senior Discharge Date.

#### 4.4 **Credit balances**

4.4.1 Subject to Clause 4.4.2 below, each Chargor must:

- a) immediately on the date of this Deed serve a notice of charge, substantially in the form of Part 1 of Schedule 3 (*Forms of Letter for Account Bank*), on each Account Bank at which a Designated Account is held and use reasonable endeavours to ensure that the Account Bank delivers to the Lender acknowledgement of the notice substantially in the form of Part 2 of Schedule 3 (*Forms of Letter for Account Bank*) or in a form as otherwise agreed with the Lender; and
- b) promptly upon the opening of any Designated Account, and promptly following the Lender's request in relation to any other account, serve a notice of charge, substantially in the form of Part 1 of Schedule 3 (*Forms of Letter for Account Bank*), on the Account Bank at which the account is held and use reasonable endeavours to ensure that the Account Bank acknowledges the notice, substantially in the form of Part 2 of Schedule 3 (*Forms of Letter for Account Bank*).

4.4.2 There shall be no breach of this Clause 4.4 where, prior to the Senior Discharge Date, the relevant Chargor complies with a corresponding requirement pursuant to a Senior Security Document. In such circumstances, the relevant Chargor must comply with this Clause immediately on and from the Senior Discharge Date.

#### 4.5 **Intellectual Property**

Each Chargor as registered proprietor appoints the Lender as its agent to apply for the particulars of this Deed and the interest of the Lender in the Intellectual Property and any other or future trade marks or trade mark applications registered or to be registered in the United Kingdom in the name of each Chargor, to be made on the Register of Trade Marks under section 25(1) of the Trade Marks Act 1994. Each Chargor agrees to execute all documents and forms reasonably required to enable such particulars to be entered on the Register of Trade Marks.

#### 4.6 **Insurances**

##### 4.6.1 **Notice**

Subject to Clause 4.6.3 below, each Chargor must:

- a) immediately on the date of this Deed, and promptly upon effecting any Insurance, serve a notice of assignment, substantially in the form of Part 1 of Schedule 4 (*Forms of Letter for Insurers*), on each counterparty to an Insurance; and
- b) use reasonable endeavours to ensure that such counterparty acknowledges that notice, substantially in the form of Part 2 of Schedule 4 (*Forms of Letter for Insurers*).

##### 4.6.2 **Deposit of contracts and policies**

Each Chargor must promptly following the date of this deed, and/or following the its entry into such contract or policy of insurance (as applicable) deposit with the Lender copies of all contracts and policies of insurance which it is entitled to possess in relation to the Insurance Rights.

- 4.6.3 There shall be no breach of this Clause 4.6 where, prior to the Senior Discharge Date, the relevant Chargor complies with a corresponding requirement pursuant to a Senior Security Document. In such circumstances, the relevant Chargor must comply with this Clause immediately on and from the Senior Discharge Date.

#### 4.7 **Other contracts**

Subject to Clause 4.7.2 below, each Chargor must, at the request of the Lender:

- a) immediately serve a notice of assignment or charge (as applicable), substantially in the form of Part 1 of Schedule 5 (*Forms of Letter for Other Contracts*), on each counterparty to a contract listed in Clause 2.9 (*Other contracts*); and
- b) use reasonable endeavours to ensure that each such party acknowledges that notice, substantially in the form of Part 2 of Schedule 5 (*Forms of Letter for Other Contracts*).

- 4.7.2 There shall be no breach of this Clause **Error! Reference source not found.**4.7 where, prior to the Senior Discharge Date, the relevant Chargor complies with a corresponding requirement pursuant to a Senior Security Document. In such circumstances, the relevant Chargor must comply with this Clause immediately on and from the Senior Discharge Date.

## 5 **REPRESENTATIONS**

### 5.1 **General**

Each Chargor makes the representations and warranties set out in this Clause 5 to the Lender on the date of this Deed and on each day during the Security Period by reference to the facts and circumstances then existing.

### 5.2 **Status**

- 5.2.1 It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- 5.2.2 It has the power to own its assets and carry on its business as it is being conducted.

### 5.3 **Binding obligations**

- 5.3.1 the obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations; and
- 5.3.2 this Deed creates the Security which it purports to create and that Security is valid and effective.

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

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

- 5.4.1 any law or regulation applicable to it;
- 5.4.2 its constitutional documents; or
- 5.4.3 any agreement or interest binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

**5.5 Power and authority**

- 5.5.1 It has the power to enter into, perform and deliver and has taken all necessary action to authorise its entry into, performance and delivery of this Deed and the transactions contemplated by this Deed.
- 5.5.2 No limit on its powers will be exceeded as a result of the grant of Security created or expressed to be created in favour of each Secured Party by this Deed.

**5.6 Validity and admissibility in evidence**

All Authorisations required or desirable:

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

**5.7 Legal and beneficial ownership**

It is the sole legal and beneficial owner of the Security Assets free from Security (other than those created by or pursuant to this Deed).

**5.8 Investments**

- 5.8.1 Each Specified Company's entire issued share capital is legally and beneficially owned and controlled by the Company
- 5.8.2 The Investments are fully paid and not subject to any option to purchase or similar rights.
- 5.8.3 There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any issuer of an Investment (including any option or right of pre-emption or conversion).
- 5.8.4 The constitutional documents of the issuers of the Investments do not and could not restrict or inhibit any transfer of the Investments on creation or enforcement of the Security created or expressed to be created by this Deed.
- 5.8.5 It has complied with all notices received by it pursuant to Part 21A of the Companies Act 2006 in relation to the Investments.
- 5.8.6 No "warning notice" or "restrictions notice" (in each case as defined in Schedule 1B of the Companies Act 2006) has been issued in respect of the Investments.
- 5.8.7 No nominations have been made in respect of any Investments.

## **6 GENERAL UNDERTAKINGS**

The undertakings in this Clause 6 remain in force throughout the Security Period.

### **6.1 Information**

Each Chargor must promptly supply to the Lender such information as the Lender may reasonably require about the Security Assets and each Chargor's compliance with the terms of this Deed.

### **6.2 Authorisations**

Each Chargor must promptly:

6.2.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and

6.2.2 supply certified copies to the Lender of:

any Authorisation required under any law or regulation of England and Wales to:

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

### **6.3 Compliance with laws**

Each Chargor must comply in all respects with all laws to which it may be subject, if failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **6.4 Insurances**

6.4.1 Each Chargor must ensure that at all times Insurances are maintained in full force and effect which insure it in respect of its interests in the Security Assets with such insurance companies or underwriters and to such extent and for such risks as is usual for prudent companies carrying on the same or substantially similar business to each Chargor (or as otherwise notified by the Lender from time to time).

6.4.2 Each Chargor must procure that the Lender is named as composite insured in respect of its own separate insurable interest under each of the Insurances (other than public liability and third party liability insurances), or, at the option of the Lender, that the interest of the Lender is noted on each of the Insurances and that they contain such other provisions for the protection of the Lender as the Lender may reasonably require.

6.4.3 Each Chargor must promptly notify the Lender of:

- a) the proposed terms of any future renewal of any of the Insurances;
- b) any amendment, supplement, extension, termination, avoidance or cancellation of any of the Insurances made or, to its knowledge, threatened or pending, provided that each Chargor shall not be obliged to notify the Lender of any vehicles owned pursuant to a lease of hire purchase arrangement that it is adding to or removing from existing insurance policies;
- c) any claim, and any actual or threatened refusal of any claim, under any of the Insurances; and

- d) any event or circumstance which has led or may lead to a breach by each Chargor of any term of this Clause 6.4.

6.4.4 Each Chargor must:

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

6.4.5 Each Chargor must ensure that:

- a) each premium for the Insurances is paid within the period permitted for payment of that premium; and
- b) all other things necessary are done so as to keep each of the Insurances in force.

6.4.6

- a) Except as provided below, following an Event of Default which is continuing and at the request of the Lender, the proceeds of any Insurances must, if the Lender so requires, be paid into a Designated Account specified by the Lender. Following an Event of Default which is continuing and at the request of the Lender, any such moneys standing to the credit of a Designated Account may be applied by the Lender in payment of any amount due but unpaid to a Secured Party under this Deed.
- b) Moneys received under liability policies held by any Chargor which are required by that Chargor to satisfy established liabilities of that Chargor to third parties must be used to satisfy those liabilities.

6.5 **Environmental matters**

6.5.1 Each Chargor must:

- a) comply and ensure that any relevant third party complies with all Environmental Law;
- b) obtain, maintain and ensure compliance with all requisite Environmental Permits applicable to it or to a Mortgaged Property; and
- c) implement procedures to monitor compliance with and to prevent liability under any Environmental Law applicable to it or a Mortgaged Property,

where failure to do so has or is reasonably likely to have a Material Adverse Effect or result in any liability for the Lender.

6.5.2 Each Chargor must, promptly upon becoming aware, notify the Lender of:

- a) any Environmental Claim started, or to its knowledge, threatened in relation to it or a Security Asset;
- b) any circumstances reasonably likely to result in an Environmental Claim in relation to it or a Security Asset; or

- c) any suspension, revocation or notification of any of its Environmental Permits or those relating to a Security Asset.

6.5.3 Each Chargor must indemnify the Lender against any loss or liability which:

- a) the Lender incurs as a result of any actual or alleged breach of any Environmental Law by any person; and
  - b) would not have arisen if this Deed had not been entered into,
- unless it is caused by the Lender's gross negligence or wilful misconduct.

## 6.6 **Investments**

### 6.6.1 **Control of Specified Companies**

The Company must ensure that at all times it legally and beneficially owns and controls the entire issued share capital of each Specified Company.

### 6.6.2 **Calls and other obligations**

- a) Each Chargor must pay all calls or other payments due and payable in respect of any of its Investments in accordance with the Loan Note Facility Agreement. If any Chargor fails to do so, the Lender may pay the calls or other payments in respect of any of its Investments on behalf of a Chargor. Each Chargor must immediately on request reimburse the Lender for any payment made by the Lender under this Clause 6.6.2a) (*Calls and other obligations*).
- b) Each Chargor must comply with all other conditions and obligations assumed by it in respect of any of its Investments.
- c) The Lender is not obliged to:
  - i perform any obligation of any Chargor;
  - ii make any payment;
  - iii make any enquiry as to the nature or sufficiency of any payment received by it or any Chargor; or
  - iv present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,

in respect of any of its Investments.

### 6.6.3 **Rights in respect of Investments**

- a) At the request of the Lender, each Chargor must procure all consents, waivers and approvals which are necessary, under the articles of association of an issuer of any Investment or otherwise, for the transfer of the Investments to the Lender or its nominee or to a transferee upon the enforcement of this Deed and to procure the amendment of the share transfer provisions of the articles of association of any issuer of any Investment in such manner as the Lender may require in order to permit such a transfer.

- b) No Chargor may, without the prior written consent of the Lender take or approve any action to amend, vary, novate, supplement, supersede, waive or terminate the articles of association of an issuer of any Investment.
- c) Each Chargor must not take nor allow the taking of any action on its behalf which may result in the rights attaching to, or conferred by, all or any of the Investments being altered nor cause or permit any of the Investments to be consolidated, sub-divided, converted, re-organised, exchanged or repaid nor allow any further shares in the issuer of any Investment to be issued.

#### 6.6.4 Requests for information

- a) Each Chargor must, within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Companies Act 2006 in relation to the Investments and promptly provide the Lender with a copy of that notice.
- b) Each Chargor must promptly send a copy to the Lender of, and comply with all other requests for, information which is within its knowledge and which are made under any law or regulation or any similar provision contained in any articles of association or other constitutional document, or by any listing or other authority, relating to any of its Investments. If it fails to do so, the Lender may elect to provide such information as it may have on behalf of each Chargor.

#### 6.6.5 Voting rights and dividends

- a) Before any Security created by this Deed becomes enforceable:
  - i the voting rights, powers and other rights in respect of its Investments will be exercised:
    - (A) by each Chargor provided that it must not do so in a manner which is prejudicial to the interests of the Lender under this Deed; or
    - (B) if exercisable by the Lender, in any manner which any Chargor may direct the Lender in writing; and
  - ii all dividends, distributions or other income paid or payable in relation to any of its Investments may be paid directly to the relevant Chargor.
- b) The Lender will not, by following any directions of any Chargor under Clause a)i(B) above, be construed to consent to any exercise or failure to exercise which is prejudicial to the interests of the Lender under this Deed.
- c) Each Chargor must indemnify the Lender against any loss or liability incurred by the Lender as a consequence of the Lender acting in respect of any of its Investments as permitted by this Deed on the direction of any Chargor.
- d) After any Security created by this Deed has become enforceable:
  - i the voting rights, powers and other rights in respect of its Investments:
    - (A) may be exercised by the Lender (in the name of the relevant Chargor and without any further consent or authority on the part of the relevant Chargor); and

(B) if exercisable by a Chargor, must be exercised in any manner which the Lender may direct the relevant Chargor and the relevant Chargor must procure that its nominees (if any) comply with any such directions from the Lender; and

ii each Chargor must hold all dividends, distributions or other income paid or payable in relation to any of its Investments on trust for the Lender and pay the same immediately upon receipt to the Lender or as it may direct.

## 6.7 **Plant and Machinery**

Each Chargor must:

6.7.1 as soon as reasonably practicable on request by the Lender, affix to any plant and machinery subject to this Deed a durable notice of this Deed in such form and location as the Lender may reasonably require. Each Chargor must not, and must not permit any person to, conceal, obscure, alter or remove any such notice;

6.7.2 not make any material alterations or additions to any plant and machinery on each Mortgaged Property which are reasonably likely to depreciate, jeopardise or prejudice their value or marketability; and

6.7.3 not except with the prior written consent of the Lender remove any plant and machinery from the Mortgaged Property except for the purpose of maintenance pursuant to the terms of this Deed;

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

6.8.1 Each Chargor must get in and realise its book and other debts and other moneys due and owing to it in the ordinary course of its business and, following an Event of Default which is continuing and at the request of the Lender, hold the proceeds of the getting in and realisation (until payment into a Designated Account if required in accordance with paragraph 6.8.2 below) on trust for the Lender.

6.8.2 Following an Event of Default which is continuing and at the request of the Lender, each Chargor must, except to the extent that the Lender otherwise agrees, pay all the proceeds of the getting in and realisation into a Designated Account specified by the Lender. Following an Event of Default which is continuing and at the request of the Lender, any such moneys standing to the credit of a Designated Account may be applied by the Lender in payment of any amount due but unpaid under this Deed.

## 6.9 **Intellectual property rights**

6.9.1 Each Chargor must:

a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for its business;

b) use reasonable endeavours to prevent any infringement in any material respect of its Intellectual Property;

c) make registrations and pay all registration fees and taxes necessary to maintain its Intellectual Property in full force and effect and record its interest in those Intellectual Property;



d) not use or permit its Intellectual Property to be used in a way or take any step or omit to take any step in respect of its Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil its right to use such property;

e) not discontinue the use of its Intellectual Property,

where failure to do so, in the case of paragraphs a) and b) above, or, in the case of paragraphs c) and e) above, such use, permission to use, omission or discontinuation, is reasonably likely to have a Material Adverse Effect.

#### 6.10 **Designated Contracts**

Each Chargor must:

6.10.1 duly perform its obligations under each Designated Contract, notify the Lender of any material default by it or any other party under any Designated Contract and not take any action which would reduce or impede recoveries in respect of any Designated Contract;

6.10.2 not, without the prior written consent of the Lender, materially amend or waive any term of, terminate or release any other party from its obligations under any Designated Contract to the extent that such amendment would have an adverse effect on the **Lender's interest created by this Deed**;

6.10.3 diligently pursue its rights under each Designated Contract (unless the Lender agrees otherwise in writing); and

6.10.4 provide to the Lender, as soon as practicable upon receipt, copies of all notices which it may from time to time receive from any other party to any Designated Contract.

#### 6.11 **Goodwill**

No Chargor may grant any franchise, licence or other authority to any person to use its company name, trade name or business name or any other business asset in a manner which will materially and adversely affect the value of the goodwill of that Chargor.

#### 6.12 **Uncalled capital**

Each Chargor must:

6.12.1 not call up, or receive in advance of its due date, any uncalled capital;

6.12.2 promptly apply any paid capital towards the repayment, in full or in part, of the Secured Liabilities.

#### 6.13 **Preservation of assets**

Each Chargor must not do, cause or permit to be done or omit to do anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Security Assets.

#### 6.14 **Enforcement of rights**

Each Chargor must take all reasonable and practical steps to preserve and enforce its rights and pursue any claims and remedies arising under any agreement or arrangement relating to the Security Assets.

#### 6.15 **Ranking of security**

Each Chargor must ensure that at all times any unsecured and unsubordinated claims of the Lender against it under this Deed rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies.

#### 6.16 **Access**

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

### **7 PROPERTY UNDERTAKINGS**

The undertakings in this Clause 7 remain in force throughout the Security Period.

#### 7.1 **Title**

- 7.1.1 Each Chargor must exercise its rights and comply in all respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Mortgaged Property.
- 7.1.2 Each Chargor may not agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Mortgaged Property which adversely effects the Lender's rights constituted by this Deed.
- 7.1.3 Each Chargor must promptly take all such steps as may be necessary or desirable to enable the Security created by this Deed to be registered, where appropriate, at the applicable Land Registry.

#### 7.2 **Occupational Leases**

Each Chargor may not without the consent of the Lender:

- 7.2.1 grant, or enter into any agreement to grant, any lease or licence or other right of occupation or right to receive rent for all or part of a Mortgaged Property (an "**Occupational Lease**");
- 7.2.2 agree to any amendment, supplement, extension, waiver, surrender or release in respect of any Occupational Lease;
- 7.2.3 exercise any right to break, determine or extend any Occupational Lease;
- 7.2.4 commence any forfeiture or irritancy proceedings in respect of any Occupational Lease; or
- 7.2.5 grant any licence or right to use or occupy any part of a Mortgaged Property.

### 7.3 **Maintenance**

Each Chargor must ensure that all buildings, plant, machinery, fixtures and fittings on each Mortgaged Property are in, and maintained in:

- a) good and substantial repair and condition and, as appropriate, in good working order; and
- b) such repair, condition and, as appropriate, good working order as to enable them to be let in accordance with all applicable laws and regulations.

### 7.4 **Development**

- a) Each Chargor may not, without the Lender's prior written consent:
  - i make or allow to be made any application for planning permission in respect of any part of any Mortgaged Property; or
  - ii carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of any part of any Mortgaged Property.
- b) Paragraph a) above shall not apply to:
  - i the maintenance of the buildings, plant, machinery, fixtures and fittings in accordance with the terms of this Deed; or
  - ii the carrying out of non-structural improvements or alterations which affect only the interior of any building on any Mortgaged Property.
- c) Each Chargor must comply in all respects with all planning laws, permissions, agreements and conditions to which any Mortgaged Property may be subject.

## **8 WHEN SECURITY BECOMES ENFORCEABLE**

### 8.1 **Event of Default**

The Security created by this Deed will become immediately enforceable if an Event of Default occurs and is continuing

### 8.2 **Discretion**

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

### 8.3 **Statutory powers**

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

### 8.4 **Investigations**

Following the occurrence of an Event of Default that is continuing, the Lender may initiate an investigation of, and/or instruct any report (accounting, legal, valuation or other) on the business and affairs of any Chargor which it considers necessary to ascertain the financial position of the Chargors. All fees and expenses incurred by the Lender in connection with such

investigations shall be payable by the Chargors and the Chargors consent to the provision by the Lender of all information in relation to any Chargor which the Lender provides to any person in relation to the preparation of any such report.

#### 8.5 **Power to remedy**

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

### 9 **ENFORCEMENT OF SECURITY**

#### 9.1 **General**

9.1.1 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.

9.1.2 Section 103 of the LPA 1925 (restricting the power of sale) and section 93 of the LPA 1925 (restricting the right of consolidation) do not apply to any Security created by this Deed.

9.1.3 The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender to lease, make agreements for leases, accept surrenders of leases and grant options as the Lender may think fit and without the need to comply with any provision of section 99 or section 100 of the LPA 1925.

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

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

#### 9.3 **Privileges**

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

#### 9.4 **Protection of third parties**

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

9.4.1 whether the Secured Liabilities have become payable;

9.4.2 whether any power which the Lender or a Receiver is purporting to exercise has become exercisable or is being properly exercised;

9.4.3 whether any money remains due under the Finance Documents; or

9.4.4 how any money paid to the Lender or to that Receiver is to be applied.

#### 9.5 **Redemption of prior mortgages**

9.5.1 At any time after any Security created by this Deed has become enforceable, the Lender may:

- a) redeem any prior Security against any Security Asset; and/or
- b) procure the transfer of that Security to itself; and/or
- c) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on each Chargor.

9.5.2 Each Chargor must pay to the Lender, immediately on demand, the costs and expenses incurred by the Lender in connection with any such redemption and/or transfer, including the payment of any principal or interest.

## 9.6 Contingencies

If any Security created by this Deed is enforced at a time when no amount is due under the Finance Documents (or the proceeds of any recoveries exceed the amount then due under the Finance Documents) at a time when amounts may or will become due, the Lender (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

## 9.7 Financial collateral

9.7.1 To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of each Chargor under this Deed constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the Lender will have the right after any Security created by this Deed has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

9.7.2 Where any financial collateral is appropriated:

- a) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or
- b) in any other case, its value will be such amount as the Lender reasonably determines having taken into account advice obtained by it from an independent commercial property adviser, investment bank or accountancy firm of national standing selected by it,

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

## 10 RECEIVER

### 10.1 Appointment of Receiver

10.1.1 Except as provided below, the Lender may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:

- a) any Security created by this Deed has become enforceable; or
- b) any Chargor so requests to the Lender at any time.

10.1.2 Any appointment under paragraph 10.1.1 above may be by deed, under seal or in writing under its hand.

10.1.3 Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA 1925) does not apply to this Deed.

10.1.4 The Lender is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 other than in respect of a floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act 1986.

10.1.5 The Lender may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Lender is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.

10.1.6 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.

## 10.2 **Removal**

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

## 10.3 **Remuneration**

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

## 10.4 **Agent of the Chargors**

10.4.1 A Receiver will be deemed to be the agent of each Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA 1925. Each Chargor alone is responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.

10.4.2 The Lender will not incur any liability (either to a Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

## 10.5 **Relationship with Lender**

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

# 11 **POWERS OF RECEIVER**

## 11.1 **General**

11.1.1 A Receiver has all of the rights, powers and discretions set out below in this Clause 11 in addition to those conferred on it by any law. This includes:

- a) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and

- b) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925 and the Insolvency Act 1986.

11.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

## 11.2 Possession

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

## 11.3 Carry on business

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

## 11.4 Employees

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

11.4.2 A Receiver may discharge any person appointed by a Chargor.

## 11.5 Borrow money

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

## 11.6 Sale of assets

11.6.1 A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he/she thinks fit.

11.6.2 The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he/she thinks fit.

11.6.3 Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of any Chargor.

## 11.7 Leases

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

## 11.8 Compromise

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

## 11.9 Legal actions

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

#### **11.10 Receipts**

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

#### **11.11 Subsidiaries**

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

#### **11.12 Delegation**

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

#### **11.13 Lending**

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

#### **11.14 Protection of assets**

A Receiver may:

11.14.1 effect any repair or insurance and do any other act which a Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset;

11.14.2 commence and/or complete any building operation; and

11.14.3 apply for and maintain any planning permission, building regulation approval or any other Authorisation,

in each case as he/she thinks fit.

#### **11.15 Exercise of rights**

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

#### **11.16 Other powers**

A Receiver may:

11.16.1 do all other acts and things which he/she may consider necessary or desirable for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;

11.16.2 exercise in relation to any Security Asset all the powers, authorities and things which he/she would be capable of exercising if he/she were the absolute beneficial owner of that Security Asset; and

11.16.3 use the name of any Chargor for any of the above purposes.

### **12 APPLICATION OF PROCEEDS**

#### **12.1 Order of application**



12.1.1 Subject to Clause 12.4 (*Appropriations*), all amounts from time to time received or recovered by the Lender or any Receiver pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or part of any Security created by this Deed will be held by the Lender on trust to apply them at any time as Lender (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 12), in the following order of priority:

- a) in discharging any sums owing to the Receiver or any of its delegates;
- b) in discharging all costs and expenses incurred by the Lender in connection with any realisation or enforcement of any Security created by this Deed taken in accordance with the terms of this Deed;
- c) in discharging the Secured Liabilities (in accordance with the terms of the Finance Documents);
- d) if a Chargor is not under any further actual or contingent liability under any Finance Document, in payment or distribution to any person to whom any Secured Party is obliged to pay or distribute in priority to a Chargor; and
- e) the balance, if any, in payment or distribution to a Chargor.

12.2 This Clause 12:

- a) is subject to the payment of any claims having priority over any Security created by this Deed; and
- b) does not prejudice the right of the Lender to recover any shortfall from any Chargor.

### 12.3 **Actual receipts**

Only money actually paid by the Receiver to the Lender shall be capable of being applied in or towards the satisfaction of the Secured Liabilities and a Chargor shall have no rights in respect of the application by the Lender of any sums received, recovered or realised by the Lender under this Deed.

### 12.4 **Appropriations**

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

12.4.1 refrain from applying or enforcing any other monies, Security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts; or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall not be entitled to the benefit of the same; and

12.4.2 hold in a suspense account any moneys received from any Chargor or on account of any Chargor's liability under or in connection with this Deed.

## 13 **INTEREST**

13.1 If any Chargor fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the rate of interest prescribed by paragraph 3.4 of the Conditions.

Any interest accruing under this Clause 13 shall be immediately payable by the relevant Chargor on demand by the Lender.

- 13.2 Any interest accruing under this Clause 13 will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days. If unpaid, any such interest shall be compounded with the overdue amount on the last Business Day of each month but will remain immediately due and payable.

## **14 EXPENSES AND INDEMNITY**

### **14.1 Enforcement and preservation costs**

Each Chargor must, within three Business Days of demand, pay to the Lender the amount of all costs and expenses (including legal fees) incurred by the Lender in connection with the enforcement of, or the preservation of any rights under, this Deed or any Security created by this Deed and with any proceedings instituted by or against the Lender as a consequence of it entering into this Deed, taking or holding the Security created by this Deed, or enforcing those rights.

### **14.2 Other costs and expenses**

Each Chargor must:

14.2.1 immediately on demand pay to the Lender the amount of all costs and expenses (including legal fees) incurred by the Lender in connection with this Deed including any arising from any actual or alleged breach by any person of any law or regulation; and

14.2.2 keep the Lender indemnified against any failure or delay in paying those costs or expenses.

## **15 DELEGATION**

### **15.1 Power of attorney**

Subject to Clause 17 (*Power of Attorney*), the Lender or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion exercisable by it under this Deed.

### **15.2 Terms**

Subject to Clause 17 (*Power of Attorney*), any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Lender or that Receiver (as the case may be) may, in its discretion, think fit in the interests of the Lender.

### **15.3 Liability**

Neither the Lender nor any Receiver shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate, save in relation to any breach by the Lender or Receiver of Clause 17 (*Power of Attorney*).

## **16 FURTHER ASSURANCES**

16.1.1 Each Chargor must promptly, at its own expense, take whatever action the Lender or a Receiver may require for:

- a) creating, perfecting or protecting any security over any Security Asset; or
- b) facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Lender or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset.

16.1.2 The action that may be required under paragraph 16.1.1 above includes:

- a) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance of any asset (including without limitation a Supplemental Debenture), whether to the Lender or to its nominees; or
- b) 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.

## **17 POWER OF ATTORNEY**

### **17.1 Appointment**

Each Chargor, by way of security, irrevocably and severally appoints the Lender, each Receiver and any of their respective delegates or sub-delegates to be its attorney with the full power and authority of each Chargor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any obligation of each Chargor under or pursuant to this Deed or generally for enabling the Lender or any Receiver to exercise the respective powers conferred on them under this Deed or by law. Each Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 17 save in relation to any breach by the Lender or the Receiver of Clause 17.2(*Exercise of power of attorney*).

### **17.2 Exercise of power of attorney**

The Lender or any Receiver may only exercise the power of attorney granted pursuant to Clause 17.1 (*Appointment*) following:

- 17.2.1 the occurrence of an Event of Default; or
- 17.2.2 the failure by a charger to comply with any undertaking or obligation under this Deed within five (5) Business Days of being notified of that failure by the Lender.

## **18 PRESERVATION OF SECURITY**

### **18.1 Continuing Security**

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

### **18.2 Further advances**

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

### **18.3 Additional security**

18.3.1 This Deed is in addition to and is not in any way prejudiced by any other Security now or subsequently held by the Lender.

18.3.2 No prior Security held by the Lender (in its capacity as such or otherwise) over any Security Asset will merge into the Security created or expressed to be created in favour of the Lender pursuant to this Deed.

#### 18.4 **Waiver of defences**

The obligations of each Chargor under this Deed will not be affected by any act, omission or thing which, but for this Clause 18, would reduce, release or prejudice any of its obligations under this Deed (whether or not known to it or the Lender). This includes (without limitation):

18.4.1 any time or waiver granted to, or composition with, any person;

18.4.2 the release of any person under the terms of any composition or arrangement with any creditor;

18.4.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or Security over assets of, any person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

18.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;

18.4.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or Security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or any other document or Security;

18.4.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security; or

18.4.7 any insolvency or similar proceedings.

#### 18.5 **Chargor intent**

Without prejudice to the generality of Clause 18.4 (*Waiver of defences*), each Chargor expressly confirms that it intends that the Security created or expressed to be created in favour of the Lender pursuant to this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents.

#### 18.6 **Immediate recourse**

Each Chargor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from each Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### 18.7 **Deferral of rights**

Until all amounts which may be or become payable by each Chargors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Lender otherwise

directs, each Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:

- 18.7.1 to be indemnified by a Chargor;
- 18.7.2 to claim any contribution from any other guarantor of any Chargor's obligations under the Finance Documents;
- 18.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;
- 18.7.4 to bring legal or other proceedings for an order requiring any Chargor to make any payment, or perform any obligation, in respect of which any Chargor has given a guarantee, undertaking or indemnity under this Deed or otherwise in relation to the Secured Liabilities;
- 18.7.5 to exercise any right of set-off against any Chargor; and/or
- 18.7.6 to claim or prove as a creditor of any Chargor in competition with the Lender.

If any Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable the Secured Liabilities and all other amounts which may be or become payable to the Lender by the Chargors under or in connection with the Finance Documents to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with this Deed.

## **18.8 New accounts**

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

## **19 CHANGES TO THE PARTIES**

### **19.1 Assignment and transfers by the Lender**

- 19.1.1 The Lender may assign any of its rights or transfer by novation any of its rights and obligations under this Deed.
- 19.1.2 The Lender shall be entitled to disclose such information concerning any Chargor and this Deed as the Lender considers appropriate to any actual or proposed direct or indirect successor and to any person to whom information may be required to be disclosed by any applicable law or regulation.

### **19.2 Assignment and transfers by a Chargor**

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

### 19.3 **Additional Chargers**

19.3.1 The Chargor's Agent may request that any of its wholly owned Subsidiaries become an Additional Chargor. That Subsidiary shall become an Additional Chargor if:

- a) the Chargor's Agent and the proposed Additional Chargor deliver to the Lender a duly completed and executed Accession Deed; and
- b) the Lender has received all of the documents and other evidence listed in Part 2 of Schedule 7 (*Additional Chargers*) in relation to that Additional Chargor, each in form and substance satisfactory to the Lender.

19.3.2 The Lender shall notify the Chargor's Agent promptly upon being satisfied that it has received (in form and substance satisfactory to it) all the documents and evidence listed in Part 2 of Schedule 7 (*Additional Chargers*).

19.3.3 With effect from the date of notification by the Lender under Clause 19.3.2 above, the Additional Chargor shall assume the same obligations and become entitled to the same rights as if it had been a party to this Deed as an Original Chargor.

## 20 **MISCELLANEOUS**

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

20.1.1 All payments to be made by a Chargor under this Deed shall be made in freely available funds and in sterling and shall be calculated and be made without (and free and clear of any deduction for) set-off, counterclaim or deduction on account of Tax.

20.1.2 If a Tax deduction is required by law to be made by a Chargor, the amount of the payment due from that Chargor shall be increased to an amount which (after making any Tax deduction) leaves an amount equal to the payment which would have been due if no Tax deduction had been required.

### 20.2 **Perpetuity period**

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

### 20.3 **No liability**

20.3.1 None of the Lender, its delegate(s) nominee(s) or any Receiver or its delegate(s) shall be liable for any loss by reason of (a) taking any action permitted by this Deed or (b) any neglect or default in connection with the Security Assets or (c) taking possession of or realising all or any part of the Security Assets, except in the case of gross negligence or wilful default upon its part.

20.3.2 The Lender will not be required in any manner to perform or fulfil any obligation of any Chargor, make any payment, make any enquiry as to the nature or sufficiency of any payment received by it or present or file any claim or take any action to collect or enforce the payment of any amount.

20.3.3 The Lender shall not be liable either to any Chargor or to any other person by reason of the appointment of a Receiver or delegate or for any other reason.

20.3.4 Neither the Lender nor the Receiver or any of their respective delegates will be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

## **21 RELEASE**

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

## **22 SET-OFF**

The Lender may set-off any matured obligation due from any Chargor under this Deed against any matured obligation owed by the Lender to any Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **23 PARTIAL INVALIDITY**

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

23.2 If any part of the Security created or expressed to be created in favour of the Lender pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of Security created or expressed to be created in favour of the Lender pursuant to this Deed.

## **24 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).

## **25 REMEDIES AND WAIVERS**

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

## **26 CHARGORS' AGENT**

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

26.1.1 the **Chargor's Agent** on its behalf to give all notices and instructions, to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Chargor (including any Supplemental Debenture and Accession Deed) notwithstanding that they may affect the Chargor, without further reference to or the consent of that Chargor; and

26.1.2 the Lender to give any notice, demand or other communication to that Chargor pursuant to this Deed to the **Chargor's Agent**,

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

## **27 NOTICES**

Any communication to be made under or in connection with this Deed shall be made in accordance with the provisions of Clause [20] (*Notices*) of the Loan Note Facility Agreement

## **28 COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

## **29 GOVERNING LAW**

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

## **30 JURISDICTION**

- 30.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- 30.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 30.3 Notwithstanding Clause 30.1 above, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

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



**SCHEDULE 1  
THE ORIGINAL CHARGORS**

<b>Company Name</b>	<b>Company Number</b>	<b>Registered Address</b>
Grain Connect Topco Limited	13609252	Clifford House, Cooper Way, Parkhouse, Carlisle, CA3 0JG
Grain Connect Midco Limited	13613509	Clifford House, Cooper Way, Parkhouse, Carlisle, CA3 0JG
Grain Connect Limited	10285348	Clifford House, Cooper Way, Parkhouse, Carlisle, CA3 0JG
Grain Communications Limited	07308930	Clifford House, Cooper Way, Parkhouse, Carlisle, CA3 0JG
Grain Online Management Limited	08180523	Clifford House, Cooper Way, Parkhouse, Carlisle, CA3 0JG

**SCHEDULE 2  
SPECIFIED ASSETS**

**REAL PROPERTY**

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**INVESTMENTS**

<b>Description</b>	<b>Issuer</b>	<b>Held by</b>
1,780,339 ordinary shares of £0.001 each	Grain Connect Midco Limited (company number: 13613509)	The Company
1,780,339 ordinary shares of £0.001 each	Grain Connect Limited (company number: 10285348)	Grain Connect Midco Limited (company number: 13613509)
100 ordinary shares of £1 each	Grain Communications Limited (company number: 07308930)	Grain Connect Limited (company number: 10285348)
100 ordinary shares of £1 each	Grain Online Management Limited (company number: 08180523)	Grain Connect Limited (company number: 10285348)

**PLANT AND MACHINERY**

Intentionally left blank

**ACCOUNTS**

<b>Account number</b>	<b>Sort code</b>	<b>Account name</b>	<b>Company</b>	<b>Bank</b>
93736938	20-00-00	GRAIN CURRENT ACCOUNT	Grain Connect Limited	Barclays Bank PLC
43418561	20-00-00	GRAIN COMMS LTD	Grain Communications Limited	Barclays Bank PLC
03351513	20-00-00	GRAIN ONLINE MGMT	Grain Online Management Limited	Barclays Bank PLC

**INTELLECTUAL PROPERTY**

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**CONTRACTS**

Intentionally left blank

**SCHEDULE 3**  
**FORMS OF LETTER FOR ACCOUNT BANK**  
**PART 1**  
**NOTICE TO ACCOUNT BANK**

To: [Account Bank]

Copy: [Lender]

[Date]

Dear Sirs,

**Debenture dated [•] 2023 between [Chargor]  
and Pinnacle Group Limited (the “Debenture”)**

- 1 This letter constitutes notice to you that under the Debenture we have charged (by way of a first fixed charge) in favour of Pinnacle Group Limited (the “**Lender**”) all our rights in respect of any account, and any amount standing to the credit of any account, maintained by us with you (the “**Accounts**”).
- 2 If the security constituted by the Debenture becomes enforceable, the Lender may notify you of such an event (an “**Enforcement Notice**”)
- 3 Following receipt of an Enforcement Notice, we irrevocably instruct and authorise you to:
  - a) disclose to the Lender any information relating to any Account requested from you by the Lender;
  - b) comply with the terms of any written notice or instruction relating to any Account received by you from the Lender; and
  - c) hold all sums standing to the credit of any Account to the order of the Lender.
- 4 We are permitted to withdraw any amount from any Account for any purpose unless and until you receive an Enforcement Notice from the Lender to the contrary stating that we are no longer permitted to withdraw any amount from the Accounts without its consent. If and from the date on which you receive any Enforcement Notice, we will not be permitted to withdraw any amount from the Accounts without the prior written consent of the Lender.
- 5 We acknowledge that you may comply with the instructions in this letter without any further permission from us.
- 6 The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.
- 7 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 8 Please confirm your agreement to the above by sending the attached acknowledgement to the Lender at Pinnacle Group Limited, 8<sup>th</sup> Floor Holborn Tower, 137-144 High Holborn. London, WC1V 6PL (attention: Company Secretary) with a copy to us.

Yours faithfully,

.....  
(Authorised Signatory)

[Chargor]

**PART 2**  
**ACKNOWLEDGEMENT OF ACCOUNT BANK**

To: [Lender]

Copy: [Chargor]

[Date]

Dear Sirs,

**Debenture dated [●] 2023 between [Chargor]  
and Pinnacle Group Limited (the “Debenture”)**

- 1 We confirm receipt from [Chargor] (the “**Chargor**”) of a notice dated [●] (the “**Notice**”) of a charge upon the terms of the Debenture over all the rights of the Chargor to any amount standing to the credit of any of the Chargor's accounts with us (the “**Accounts**”).
- 2 We confirm that we:
  - a) accept the instructions contained in the Notice and agree to comply with the Notice;
  - b) have not received notice of any prior security over, or the interest of any third party in, any Account;
  - c) have neither claimed nor exercised, nor will claim or exercise, any security interest, set-off, counter-claim or other right in respect of any Account;
  - d) following receipt of an Enforcement Notice, will not permit any amount to be withdrawn from any Account without your prior written consent; and
  - e) will comply with any Enforcement Notice we may receive from the Lender in respect of the Accounts.
- 3 The Accounts maintained with us are:  
  
[Specify accounts and account numbers]
- 4 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

.....

(Authorised signatory)

[Account Bank]

**SCHEDULE 4**  
**FORMS OF LETTER FOR INSURERS**  
**PART 1**  
**NOTICE TO INSURER**

To: [Insurer]

Copy: [Lender]

[Date]

Dear Sirs,

**Debenture dated [•] 2023 between [Chargor]  
and Pinnacle Group Limited (the “Debenture”)**

- 1 This letter constitutes notice to you that under the Debenture we have assigned absolutely, subject to a proviso for re-assignment on redemption, to Pinnacle Group Limited (the “Lender”) all our rights in respect of *[insert details of contract of insurance including policy number]* (the “Insurance”).
- 2 We confirm that:
  - a) we will remain liable under the Insurance to perform all the obligations assumed by us under the Insurance; and
  - b) none of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Insurance (unless, and to the extent, otherwise expressly provided for in the Insurance).
- 3 We will also remain entitled to exercise all our rights, powers and discretions under the Insurance, and you should continue to give notices and make payments under the Insurance to us (unless, and to the extent, otherwise expressly provided for in the Insurance or in any insurer letter you may have issued to the Lender in respect of the Insurance), unless and until you receive notice from the Lender to the contrary stating that the security under the Debenture has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Lender or as it directs (unless, and to the extent, otherwise expressly provided for in the Insurance or in any insurer letter you may have issued to the Lender in respect of the Insurance).
- 4 We irrevocably instruct and authorise you to disclose to the Lender any information relating to the Insurance requested from you by the Lender.
- 5 The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.
- 6 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 7 Please acknowledge receipt of this letter by sending the attached acknowledgement to the Lender at Pinnacle Group Limited, 8<sup>th</sup> Floor Holborn Tower, 137-144 High Holborn. London, WC1V 6PL (attention: Company Secretary) with a copy to us.

Yours faithfully,

.....  
(Authorised signatory)  
[Chargor]

**PART 2**  
**ACKNOWLEDGEMENT OF INSURER**

To: [Lender]

Copy: [Chargor]

[Date]

Dear Sirs,

**Debenture dated [●] 2023 between [Chargor]  
and Pinnacle Group Limited (the “Debenture”)**

- 1 We confirm receipt from [Chargor] (the “**Chargor**”) of a notice dated [●] (the “**Notice**”) of an assignment on the terms of the Debenture of all the Chargor's rights in respect of [*insert details of the contract of insurance*] (the “**Insurance**”).
- 2 We confirm that we:
  - a) accept the instructions contained in the Notice and agree to comply with the Notice; and
  - b) will give notices and make payments under the Insurance as directed in the Notice.
- 3 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

.....

(Authorised signatory)

[Insurer]

**SCHEDULE 5**  
**FORMS OF LETTER FOR OTHER CONTRACTS**  
**PART 1**  
**NOTICE TO COUNTERPARTY**

To: [Contract Counterparty]

Copy: [Lender]

[Date]

Dear Sirs,

**Debenture dated [•] 2023 between [Chargor]  
and Pinnacle Group Limited (the “Debenture”)**

- 1 This letter constitutes notice to you that under the Debenture we have [assigned absolutely, subject to a proviso for re-assignment on redemption,]/[charged by way of a first fixed charge]<sup>1</sup> to Pinnacle Group Limited (the “**Lender**”) all our rights in respect of [insert details of contract] (the “**Contract**”).
- 2 We confirm that:
  - a) we will remain liable under the Contract to perform all the obligations assumed by us under the Contract; and
  - b) none of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.
- 3 We will also remain entitled to exercise all our rights, powers and discretions under the Contract, and you should continue to give notices and make payments under the Contract to us, unless and until you receive notice from the Lender to the contrary stating that the security under the Debenture has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Lender or as it directs.
- 4 We irrevocably instruct and authorise you to disclose to the Lender any information relating to the Contract requested from you by the Lender.
- 5 The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.
- 6 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 7 Please acknowledge receipt of this letter by sending the attached acknowledgement to the Lender at Pinnacle Group Limited, 8<sup>th</sup> Floor Holborn Tower, 137-144 High Holborn. London, WC1V 6PL (attention: Company Secretary) with a copy to us.

Yours faithfully,

.....  
(Authorised signatory)  
[Chargor]

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<sup>1</sup> Delete as applicable.

**PART 2**  
**ACKNOWLEDGEMENT OF COUNTERPARTY**

To: [Lender]

Copy: [Chargor]

[Date]

Dear Sirs,

**Debenture dated [●] 2023 between [Chargor]  
and Pinnacle Group Limited (the “Debenture”)**

- 1 We confirm receipt from [Chargor] (the “**Chargor**”) of a notice dated [●] (the “**Notice**”) of [an assignment]/[fixed charge]<sup>2</sup> on the terms of the Debenture of all the Chargor's rights in respect of [insert details of the contract] (the “**Contract**”).
- 2 We confirm that we:
  - a) accept the instructions contained in the Notice and agree to comply with the Notice; and
  - b) will give notices and make payments under the Contract as directed in the Notice.
- 3 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

.....

(Authorised signatory)

[Contract counterparty]

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<sup>2</sup> Delete as applicable.



## SCHEDULE 6 FORM OF SUPPLEMENTAL DEBENTURE

**THIS SUPPLEMENTAL DEBENTURE** is made on the                      day of                      20[•]

Between:

- (1) **[Chargor]** a company incorporated in England and Wales (company number [•]) whose registered office is at [•] (the "**Chargor**");
- (2) **PINNACLE GROUP LIMITED** a company incorporated in England and Wales (company number ) whose registered office is at 8<sup>th</sup> Floor Holborn Tower, 137-144 High Holborn. London, WC1V 6PL (the "**Lender**"); and
- (3) **[Company]** a company incorporated in England and Wales (company number [•]) whose registered office is at [•] (the "**Chargors' Agent**") for itself and on behalf of each Chargor.

### BACKGROUND

This Supplemental Debenture is supplemental to a debenture dated [•] 2023 between the Chargor and the Lender (as supplemented and amended from time to time, the "**Debenture**") and shall take effect as a Supplemental Debenture for the purposes of the Debenture.

**This Deed witnesses as follows:**

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

- 1.1 Terms defined in the Debenture have the same meaning when used in this Supplemental Debenture unless given a different meaning in this Supplemental Debenture.
- 1.2 The provisions of clauses 1.2 (*Construction*) to 1.13 (*Third party rights*) of the Debenture apply to this Supplemental Debenture as though they were set out in full in this Supplemental Debenture except that references to the Debenture will be construed as references to this Supplemental Debenture.
- 1.3 In this Supplemental Debenture, "**Additional Security Assets**" means any asset of the Chargor which is, or is expressed to be, subject to any Security created by this Supplemental Debenture.
- 1.4 From the date of this Supplemental Debenture, references within the Debenture to "Security Assets" shall be construed so as to extend to and include the Additional Security Assets.
- 1.5 The Debenture continues and remains in full force and effect and this Supplemental Debenture shall be read and construed as one with the Debenture so that all references to "this Deed" in the Debenture shall include reference to this Supplemental Debenture.
- 1.6 It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

#### **2 Creation of security**

- 2.1 The Chargor must pay or discharge the Secured Liabilities as and when the same are due.
- 2.2 All the security created under this Supplemental Debenture:
  - 2.2.1 is created in favour of the Lender;

- 2.2.2 is created over present and future assets of the Chargor;
- 2.2.3 is security for the payment of all the Secured Liabilities; and
- 2.2.4 is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

### **3 Real property**

The Chargor charges by way of a first legal mortgage all estates or interests in the real property (if any) specified in the Schedule to this Supplemental Debenture (but excluding the Excluded Real Property) including:

- 3.1 all buildings, fixtures, fittings and fixed plant and machinery on that property; and
- 3.2 the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

### **4 Investments**

The Chargor charges by way of a first fixed charge its interest in the investments (if any) specified in the Schedule to this Supplemental Debenture.

### **5 Plant and machinery**

To the extent that they are not the subject of a mortgage or a first fixed charge under Clause 2.2 (*Real property*) of the Debenture, the Chargor charges by way of a first fixed charge the plant and machinery (if any) specified in the Schedule to this Supplemental Debenture.

### **6 Credit balances**

The Chargor charges by way of a first fixed charge all of its rights in respect of the accounts (if any) specified in the Schedule to this Supplemental Debenture, any amount standing to the credit of those accounts and the debt represented by them.

### **7 Intellectual property rights**

The Chargor charges by way of a first fixed charge all of its Intellectual Property (if any) specified in the Schedule to this Supplemental Debenture.

### **8 Other contracts**

- 8.1 The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under each contract (if any) specified in the Schedule to this Supplemental Debenture.
- 8.2 To the extent that they have not been effectively assigned under paragraph 8.1 above, the Chargor charges by way of a first fixed charge all of its rights listed under paragraph 8.1 above.

### **9 Perfection of Security**

The Chargor must take such action in accordance with Clause 0 (*Perfection of Security*) of the Debenture in respect of the Additional Security Assets as if the Additional Security Assets had been Security Assets on the date of the Debenture.

## 10 Representations

- 10.1 The Chargor makes the representations and warranties set out in Clause 5 (*Representations*) of the Debenture to the Lender on the date of this Supplemental Debenture as if references in that Clause to "this Deed" were to this Supplemental Debenture.
- 10.2 The Chargor further represents and warrants to the Lender on the date of this Supplemental Debenture that:
- 10.2.1 Subject to the Legal Reservations:
- a) the obligations expressed to be assumed by it in this Supplemental Debenture are legal, valid, binding and enforceable obligations; and
  - b) this Supplemental Debenture creates the Security which it purports to create and that Security is valid and effective;
- 10.2.2 the entry into and performance by it of the transactions contemplated by, this Supplemental Debenture, and the granting of the Security created by this Supplemental Debenture, do not and will not conflict with:
- a) any law or regulation applicable to it;
  - b) its constitutional documents; or
  - c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument; and
- 10.2.3 it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of this Supplemental Debenture and the transactions contemplated by this Supplemental Debenture.

## 11 Tacking

The Lender must perform its obligations under the Loan Note Facility Agreement (including any obligation to make available further advances).

## 12 Miscellaneous

- 12.1 The provisions of clauses 23 (*Partial invalidity*), 28 (*Counterparts*) and 30 (*Jurisdiction*) of the Debenture apply to this Supplemental Debenture as if set out in full in this Supplemental Debenture but as though references to the Debenture were references to this Supplemental Debenture.
- 12.2 This Supplemental Debenture and any non-contractual obligations arising out of or in connection with it shall be governed by English law

**THIS SUPPLEMENTAL DEBENTURE** has been signed on behalf of the Lender and **EXECUTED AS A DEED** by the Chargor and the Chargor's Agent and is delivered by them on the date specified at the beginning of this Supplemental Debenture

**SCHEDULE TO SUPPLEMENTAL DEBENTURE****REAL PROPERTY**

[Intentionally left blank/]

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

**INVESTMENTS**

[Intentionally left blank/]

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

**PLANT AND MACHINERY**

[Intentionally left blank/[•]]

**ACCOUNTS**

[Intentionally left blank/]

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

**INTELLECTUAL PROPERTY RIGHTS**

[Intentionally left blank/[•]]

**CONTRACTS**

[Intentionally left blank/[•]]

**[SIGNATORIES TO SUPPLEMENTAL DEBENTURE – TO BE EXECUTED AS A DEED BY THE CHARGOR AND THE CHARGOR'S AGENT]**

## SCHEDULE 7 ADDITIONAL CHARGORS

### PART 1 FORM OF ACCESSION DEED

**THIS ACCESSION DEED** is made on the                      day of                      20[●]

Between:

- (1) [●], a company incorporated in England and Wales (company number [●]) whose registered office is at [●] (the "**Acceding Chargor**");
- (2) **PINNACLE GROUP LIMITED** a company incorporated in Guernsey (company number 69397) whose registered office is at 8<sup>th</sup> Floor Holborn Tower, 137-144 High Holborn. London, WC1V 6PL (the "**Lender**"); and
- (3) [●], a company incorporated in England and Wales (company number [●]) whose registered office is at [●] (the "**Chargors' Agent**") for itself and on behalf of each of the existing Chargors.

#### **BACKGROUND**

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

#### **This Deed witnesses as follows:**

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

- 1.1 Terms defined in the Debenture have the same meaning when used in this Accession Deed unless given a different meaning in this Accession Deed.
- 1.2 The provisions of clauses 1.2 (*Construction*) to 1.13 (*Third party rights*) of the Debenture apply to this Accession Deed as though they were set out in full in this Accession Deed except that references to the Debenture will be construed as references to this Accession Deed.
- 1.3 In this Accession Deed, "**Additional Security Assets**" means any asset of the Acceding Chargor which is, or is expressed to be, subject to any Security created by this Accession Deed.
- 1.4 From the date of this Accession Deed, references within the Debenture to "Security Assets" shall be construed so as to extend to and include the Additional Security Assets.
- 1.5 The Debenture continues and remains in full force and effect and this Accession Deed shall be read and construed as one with the Debenture so that all references to "this Deed" in the Debenture shall include reference to this Accession Deed.
- 1.6 It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

#### **2 Accession of the Acceding Chargor**

The Acceding Chargor agrees to be an Additional Chargor and agrees to be bound by the terms of the Debenture as an Additional Chargor pursuant to Clause 19.3 (*Additional Chargors*) of the Debenture.

#### **3 Creation of security**

Without prejudice to the generality of clause 2 of this Accession Deed:

### 3.1 **Real property**

3.1.1 The Acceding Chargor charges:

- a) by way of a first legal mortgage all estates or interests in any freehold or leasehold property now owned by it but excluding the Excluded Real Property; this includes its real property (if any) specified in the Schedule to this Accession Deed or the schedule to any Supplemental Debenture; and
- b) (to the extent that they are not the subject of a mortgage under paragraph a) above) by way of a first fixed charge all estates or interests in any freehold or leasehold property now or subsequently owned by it but excluding the Excluded Real Property.

3.1.2 A reference in this Clause 3 to a mortgage or charge of any freehold or leasehold property includes:

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

### 3.2 **Investments**

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

### 3.3 **Plant and machinery**

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

### 3.4 **Credit balances**

3.4.1 The Acceding Chargor charges by way of a first fixed charge all of its rights in respect of any Designated Account, any amount standing to the credit of any Designated Account and the debt represented by it.

3.4.2 The Acceding Chargor charges by way of a first fixed charge all of its rights in respect of any account it has with any person other than the accounts referred to in Clause 3.4.1 above, any amount standing to the credit of any such account and the debt represented by it.

### 3.5 **Intellectual Property**

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

### 3.6 **Book debts etc.**

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

- 3.6.1 all of its book and other debts;
- 3.6.2 all other moneys due and owing to it; and
- 3.6.3 the benefit of all rights in relation to any item under Clauses 3.6.1 to 3.6.2 above.

### 3.7 **Insurances**

- 3.7.1 The Acceding Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights under any contract or policy of insurance taken out by it or on its behalf or in which it has an interest (together, the “**Insurance Rights**”).
- 3.7.2 To the extent that they have not been effectively assigned under Clause 3.7.1 above, the Acceding Chargor charges by way of a first fixed charge all of its Insurance Rights.

### 3.8 **Other contracts**

- 3.8.1 The Acceding Chargor:
  - a) assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:
    - i under each Designated Contract; and
    - ii under any document, agreement or instrument to which it and any nominee or trustee is party in respect of an Investment; and
  - b) charges by way of a first fixed charge all of its rights under any other document, agreement or instrument to which it is a party except to the extent that it is subject to any fixed security created under any other term of this Clause 3.
- 3.8.2 To the extent that they have not been effectively assigned under paragraph a) of Clause 3.8.1 above, the Acceding Chargor charges by way of a first fixed charge all of its rights listed under paragraph a) of Clause 3.8.1 above.

### 3.9 **Other assets**

The Acceding Chargor charges by way of first fixed charge:

- 3.9.1 its goodwill;
- 3.9.2 the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset;
- 3.9.3 the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in Clause 3.9.2 above;
- 3.9.4 its uncalled capital; and
- 3.9.5 the benefit of all rights in relation to any item under paragraphs 3.9.1 to 3.9.4 above.

### 3.10 **Floating charge**

3.10.1 The Acceding Chargor charges by way of a first floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, fixed charge or assignment under this Clause 3.

3.10.2 The floating charge created by this Clause 3.10 (*Floating charge*) is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

## 4 **General**

4.1 The Acceding Chargor must pay or discharge the Secured Liabilities as and when the same are due.

4.2 All the security created under this Deed:

4.2.1 is created in favour of the Lender;

4.2.2 is created over present and future assets of the Acceding Chargor;

4.2.3 is security for the payment of all the Secured Liabilities; and

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

## 5 **Perfection of Security**

The Acceding Chargor must take such action in accordance with Clause 0 (*Perfection of Security*) of the Debenture in respect of the Additional Security Assets as if the Additional Security Assets had been Security Assets on the date of the Debenture.

## 6 **Representations**

6.1 The Acceding Chargor makes the representations and warranties set out in Clause 5 (*Representations*) of the Debenture to the Lender on the date of this Accession Deed as if references in that Clause to "this Deed" were to this Accession Deed.

6.2 The Acceding Chargor further represents and warrants to the Lender on the date of this Accession Deed that:

6.2.1

a) the obligations expressed to be assumed by it in this Accession Deed are legal, valid, binding and enforceable obligations; and

b) this Accession Deed creates the Security which it purports to create and that Security is valid and effective;

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

a) any law or regulation applicable to it;

b) its constitutional documents; or



- c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument; and

6.2.3 it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of this Accession Deed and the transactions contemplated by this Accession Deed.

## **7 Tacking**

The Lender must perform its obligations to each Chargor (including any obligation to make available further advances).

## **8 Miscellaneous**

- 8.1 The existing Chargors agree to the terms of this Accession Deed and agree that its execution will in no way prejudice or affect any guarantee or Security given by any of them under the Debenture.
- 8.2 The provisions of clauses 23 (*Partial invalidity*), 26 (*Counterparts*) and 30 (*Jurisdiction*) of the Debenture apply to this Accession Deed as if set out in full in this Accession Deed but as though references to the Debenture were references to this Accession Deed.
- 8.3 This Accession Deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law

**THIS ACCESSION DEED** has been signed on behalf of the Lender and **EXECUTED AS A DEED** by the Acceding Chargor and the Chargors' Agent and is delivered as a deed on the date specified at the beginning of this Accession Deed

**SCHEDULE TO ACCESSION DEED****REAL PROPERTY**

[Intentionally left blank/]

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

**INVESTMENTS**

[Intentionally left blank/]

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

**PLANT AND MACHINERY**

[Intentionally left blank/[•]]

**ACCOUNTS**

[Intentionally left blank/]

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

**INTELLECTUAL PROPERTY RIGHTS**

[Intentionally left blank/[•]]

**CONTRACTS**

[Intentionally left blank/[•]]

**[SIGNATORIES TO ACCESSION – TO BE EXECUTED AS A DEED BY THE ACCEDING CHARGOR AND THE CHARGORS' AGENT]**

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

- 1 An Accession Deed executed by the Additional Chargor and the Chargors' Agent.
- 2 A copy of the constitutional documents of the Additional Chargor.
- 3 A copy of a resolution of the board of directors of the Additional Chargor:
  - a) approving the terms of, and the transactions contemplated by, the Accession Deed and resolving that it execute, deliver and perform the Accession Deed;
  - b) authorising a specified person or persons to execute the Accession Deed on its behalf; and
  - c) authorising a specified person or persons, on its behalf, to sign and/or despatch all other documents and notices to be signed and/or despatched by it under or in connection with the Accession Deed.
- 4 A specimen of the signature of each person authorised by the resolution referred to in paragraph 3 above.
- 5 If required by the Lender, a copy of a resolution signed by all the holders of the issued shares of the Additional Chargor, approving the terms of, and the transactions contemplated by, the Accession Deed.
- 6 If required by the Lender, a copy of the resolution of the board of directors of each corporate shareholder of the Additional Chargor approving the terms of the resolution referred to at paragraph 5 above.
- 7 A certificate of the Additional Chargor (signed by a director) confirming that guaranteeing and securing the Secured Liabilities would not cause any guarantee, security or similar limit binding on it to be exceeded.
- 8 A certificate of an authorised signatory of the Additional Chargor certifying that each copy document listed in this Part 2 of Schedule 7 is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of the Accession Deed.
- 9 A copy of any other authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable in connection with the entry into and performance of a the transactions contemplated by the Accession Deed or for the validity and enforceability of the Accession Deed.
- 10 If available, the latest audited financial statements of the Additional Chargor.
- 11 Each notice required to be given under the terms of the Accession Deed, signed by the Additional Chargor.
- 12 If required by the Lender, a legal opinion addressed to the Lender by its legal advisers as to English law.

**SCHEDULE 8**  
**Excluded Real Property**

<b>Property</b>	<b>Tenure</b>	<b>Tenant/Occupier</b>	<b>Lease Document</b>	<b>Term</b>
Point of Presence Building, Countesswells Aberdeen AB15 8FS	Leasehold	Grain Connect Limited	Lease dated 19.9.2018 (1) Countesswells Development Limited (2) Grain Connect Limited	4.10.2018 – 3.10.2068
Unit N, Kingmoor Park Carlisle Cumbria CA6 4SP <i>(Carlisle data centre)</i>	Leasehold	Grain Communications Limited	Lease dated 2.2.2015 (1) Kingmoor Park Properties Limited (2) Grain Communications Limited (then Solway Communications Limited)	18.10.2012 – 2.11.2022
Ground & First Floors, Clifford House, Clifford Court Parkhouse, Carlisle Cumbria CA3 0JG <i>(Office)</i>	Leasehold	Grain Connect Limited	Lease (1) Colston Trustees (2) Grain Connect Limited	10 years (including 5 year break clause) from 18 November 2021

SIGNATORIES

Original Chorgors

Executed as a deed by )  
**GRAIN CONNECT TOPCO LIMITED** )  
acting by two directors: ) Director  
Print name: ...Richard·Cameron.....

DocuSigned by:  
Richard·Cameron.....  
392646B44E2F4A6...

DocuSigned by:  
Roland·Barzegar.....  
3F4FF2C963F9482...  
Director

Print name: ..Ro1and·Barzegar.....

Executed as a deed by )  
**GRAIN CONNECT MIDCO LIMITED** )  
acting by two directors: ) Director  
Print name: ...Richard·Cameron.....

DocuSigned by:  
Richard·Cameron.....  
392646B44E2F4A6...

DocuSigned by:  
Roland·Barzegar.....  
3F4FF2C963F9482...  
Director

Print name: ...Ro1and·Barzegar.....

Executed as a deed by )  
**GRAIN CONNECT LIMITED** )  
acting by two directors: ) Director  
Print name: ...Richard·Cameron.....

DocuSigned by:  
Richard·Cameron.....  
392646B44E2F4A6...

DocuSigned by:  
Roland·Barzegar.....  
3F4FF2C963F9482...  
Director

Print name: ..Ro1and·Barzegar.....

Executed as a deed by )  
**GRAIN COMMUNICATIONS LIMITED** )  
acting by two directors: )  
)

DocuSigned by:  
Richard Cameron.....  
392646B44E2F4A6...  
Director  
Print name: ...Richard Cameron.....

DocuSigned by:  
Roland Barzegar.....  
3F4FF2C963F9482...  
Director  
Print name: ...Roland Barzegar.....

Executed as a deed by )  
**GRAIN ONLINE MANAGEMENT LIMITED** )  
acting by two directors: )  
)

DocuSigned by:  
Richard Cameron.....  
392646B44E2F4A6...  
Director  
Print name: ...Richard Cameron.....

DocuSigned by:  
Roland Barzegar.....  
3F4FF2C963F9482...  
Director  
Print name: ...Roland Barzegar.....

**Lender**

Executed as a deed by  
**PINNACLE GROUP LIMITED**  
acting by two directors:

)  
)  
)  
)

DocuSigned by:

...Christopher Hodson.....

FBFE5D29959C489...

Director

Print name: ..Christopher Hodson.....

DocuSigned by:

...Peregrine Lloyd.....

E067A1A9F8464D1...

Director

Print name: ..Peregrine Lloyd.....