



Registration of a Charge

Company Name: **NOVEAYR RESPIRATORY SERVICES LIMITED**

Company Number: **15116144**



Received for filing in Electronic Format on the: **19/09/2023**

XCCEAO5F

Details of Charge

Date of creation: **14/09/2023**

Charge code: **1511 6144 0002**

Persons entitled: **PHARMASERVE (NORTH WEST) LIMITED (IN ADMINISTRATION)**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **GATELEY LEGAL**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 15116144

Charge code: 1511 6144 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th September 2023 and created by NOVEAYR RESPIRATORY SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th September 2023 .

Given at Companies House, Cardiff on 19th September 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

14 September 2023

- (1) **NOVEAYR RESPIRATORY SERVICES LIMITED**
- (2) **PHARMASERVE (NORTH WEST) LIMITED (IN
ADMINISTRATION)**
- (3) **JAMES SAUNDERS AND MICHAEL LENNON**

DEBENTURE

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DATE 14 September 2023

PARTIES

- (1) **NOVEAYR RESPIRATORY SERVICES LIMITED** a company incorporated and registered in England and Wales (registered number 15116144) whose registered office is at Ayrton House, Commerce Way, Liverpool, United Kingdom, L8 7BA (the **Chargor**);
- (2) **PHARMASERVE (NORTH WEST) LIMITED (IN ADMINISTRATION)** a company incorporated and registered in England and Wales (registered number 06368662) whose registered office is at Ayrton House, Parliament Business Park, Commerce Way, Liverpool, L8 7BA (the **Seller**); and
- (3) **JAMES SAUNDERS** and **MICHAEL LENNON** both of Kroll Advisory Limited, The Chancery, 58 Spring Gardens, Manchester M2 1EW who are the joint administrators of the Seller (each the **Joint Administrators**).

IT IS AGREED

1. DEFINITIONS AND INTERPRETATION

1.1 In this deed the following definitions apply:

Administrator

any person appointed to be an administrator of the Chargor under Schedule B1 Insolvency Act;

Authorisation

any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

Bank Accounts

in relation to the Chargor, all its accounts (held by it or by any trustee or nominee on its behalf) with any bank, financial institution or other person together with all sub-accounts, additions to or sub-divisions, renewals or replacements of those accounts (in whatever currency);

Business Day

any day (other than a Saturday, Sunday or public holiday) during which banks in London are open for normal business;

Charged Assets

in relation to the Chargor, all its property and assets which are, or are intended or expressed to be, subject to any Security Interest created by this deed (and references to the Charged Assets includes any part of them);

Claim

any action, proceeding, right, claim or demand of any nature, whether actual or contingent or otherwise;

Default Interest

any interest accruing under clause 19;

Default Rate

2% per year;

Delegate

any delegate, agent, attorney or co-trustee appointed by the Seller;

Environment

humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following:

- (a) air (including air within natural or man-made structures, whether above or below ground);

- (b) water (including territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including land under water);

Environmental Law

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 any waste;

Equipment

in relation to the Chargor, all equipment, plant, machinery, tools, vehicles, furniture, fittings, installations, apparatus and other tangible moveable property owned by it (or any trustee or nominee on its behalf), including any part of it and all spare parts, replacements, modifications and additions and the benefit of all manuals, instructions, warranties, licences and maintenance agreements relating to the equipment;

Event of Default

- (a) the Chargor fails to pay all or any of the Secured Liabilities following expiration of a written demand for payment by the Seller;
- (b) any corporate action, legal proceedings or other procedure or step (including the making of a petition or an application or the giving of any notice) is taken in relation to:
 - (i) the appointment of an Administrator;
 - (ii) the winding up or dissolution of the Chargor or to appoint a liquidator, trustee, manager or receiver, administrative receiver or similar office of the Chargor or any part of its undertaking or assets;
 - (iii) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Chargor;
 - (iv) any composition, compromise, assignment or arrangement with any creditor or member of the Chargor;
- (c) the making of a request by the Chargor for the appointment of a Receiver;
- (d) any equivalent procedure or step to those listed in (b) and (c) above is taken under the laws of any Relevant Jurisdiction; or
- (e) the Chargor breaches any of the provisions of any Finance Document or an event of default (however described) occurs under any Finance Document;

Finance Documents

- (a) this deed;
- (b) the Sale and Purchase Agreement; and
- (c) any document, instrument or agreement under which the Chargor owes sums to the Seller;

- (d) any Security Interest granted in favour of the Seller in connection with the Secured Liabilities from time to time;
- (e) any intercreditor, subordination or other priority agreement to which the Seller and the Chargor are party in connection with the Secured Liabilities (or in connection with any Security Interest referred to in paragraph (d) above) from time to time; and
- (f) any other document designated a 'Finance Document' by the Chargor and the Seller;

Fixtures

all (trade) fixtures and fittings and fixed plant and machinery now or at any time after the date of this deed on the Property;

Floating Charge Asset

any Charged Asset which is subject to the floating charge created by this deed;

Insolvency Act

the Insolvency Act 1986;

Insurances

in relation to the Chargor,

- (a) any insurance policies in which it has an interest (other than public liability and third party liability insurances); and
- (b) any rights in respect of those policies;

Intercreditor Agreement

a intercreditor agreement made on the date of this deed between the Chargor, the Seller, and the Lender;

Lender

Gerald Francis O'Brien, C/O Ayrton House, Commerce Way, Liverpool, United Kingdom, L8 7BA

Lender Debenture

the debenture made on the date of this deed between the Chargor and the Lender;

Losses

any loss, cost, damage, award, charge, penalty, fine, expense or any other liability which any of the Secured Parties have incurred or suffered, or may, directly or indirectly, incur or suffer, including legal costs and any VAT or similar tax on any of those;

LPA

the Law of Property Act 1925;

LPMPA

the Law of Property (Miscellaneous Provisions) Act 1994;

New Property

has the meaning given in clause 7.1;

Party

a party to this deed;

Permitted Disposal

a disposal that is not prohibited by any Finance Document of any Charged Asset charged by way of uncrystallised floating charge only for market value in the ordinary course of the Chargor's business;

Permitted Security

- (a) liens and rights of set-off securing obligations which are not overdue beyond their standard payment dates, arising by operation of law in the ordinary and usual course of trading over property other than land;
- (b) any Security Interest arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired in the ordinary and usual course of trading; or
- (c) any Security Interest granted in relation to any Finance Document or with the prior written approval of the Seller or in favour of the Seller;

Premises

any building or erection on the Property;

Property

in relation to the Chargor, any of its freehold, heritable and leasehold property including any property specified in schedule 1 (but excluding any Short Leasehold Property), together with:

- (a) the benefit of all rights, easements and privileges relating to that property;
- (b) all covenants given in respect of that property;
- (c) all licences to enter or use land; and
- (d) all Premises and Fixtures on that property at any time,

(and references to Property includes any part of it);

Receivables

in relation to the Chargor:

- (a) all book and other debts and owing to it;
- (b) all other monetary claims or money due and owing to it;
- (c) any rights in respect of any item listed in paragraph (a) and (b) above,

but excluding any such debts or claims in relation to the Insurances;

Receiver

any receiver, manager or receiver and manager appointed under this deed;

Related Rights

in connection with any Securities:

- (a) all dividends, interest and other distributions paid or payable;
- (b) all rights, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise; and
- (c) any other rights;

Relevant Jurisdiction

- (a) the Chargor's jurisdiction of incorporation or organisation;
- (b) any jurisdiction where any Charged Asset is situated; and
- (c) any jurisdiction where the Chargor conducts its business;

Sale and Purchase Agreement

the sale and purchase agreement dated on or around the date hereof made between, amongst others, the Chargor (1) the Seller (2) and the Joint Administrators (3) pursuant to which the Seller has agreed to sell and the Chargor has agreed to buy part of the business and certain assets of the Seller;

Secured Liabilities

all present and future liabilities and obligations owing or incurred by the Chargor to the Seller or the Joint Administrators pursuant to clauses 3.3, 3.4, and 5.3 of the Sale and Purchase Agreement together with any claims arising out of a breach by the Buyer of its obligations under the Sale and Purchase Agreement which fall to be paid as an expense of the administration or payable personally by the Administrators;

Secured Parties

- (a) the Seller;
- (b) the Joint Administrators;
- (c) any Receiver, and
- (d) any Delegate,

or any of them and any of their agents, officers and employees;

Securities

in relation to the Chargor, all its stocks, shares, loan capital, debentures, bonds, warrants, coupons or other securities or investments (whether or not marketable) (including its Subsidiary Shares) (held by it or by any trustee or nominee on its behalf) together with all Related Rights;

Security Interest

a mortgage, charge, pledge, trust, assignment by way of security, lien, hypothecation or other encumbrance, arrangement or security interest securing any obligation of any person or any other agreement or arrangement having a similar effect or any title retention rights or set-off rights created by agreement;

Security Period

the period beginning on the date of this deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full;

Short Leasehold Property

a leasehold property held by the Chargor now or in the future under a lease granted at a market rate which has an unexpired term of 15 years or less at the date of this deed (or in the case of future acquired leasehold property, at the date of acquisition of such property by the Chargor);

Subsidiary

a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006;

Subsidiary Shares

in relation to the Chargor, any of its Securities described in schedule 2 and any other Securities owned by it (or held by any trustee or nominee on its behalf) in any of its Subsidiaries, in each case including all Related Rights;

Tax

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 them);

Third Parties Act

the Contracts (Rights of Third Parties) Act 1999; and

VAT

value added tax provided for in the Value Added Tax Act 1994 and any other Tax of a similar nature.

- 1.2 In this deed, unless stated otherwise, a reference to:
 - 1.2.1 a clause or schedule is to a clause or schedule to this deed;
 - 1.2.2 a paragraph is to a paragraph of a schedule;
 - 1.2.3 a provision of law includes that provision as replaced, modified or re-enacted from time to time and any secondary legislation made under that statutory provision from time to time, in each case whether before or after the date of this deed;
 - 1.2.4 a person includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - 1.2.5 a "Party", the "Chargor", the "Seller", the "Joint Administrators" or any other person includes its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under any Finance Document;
 - 1.2.6 "disposal" or "dispose" includes any sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary;
 - 1.2.7 a company includes any company, corporation or other body corporate, wherever and however incorporated or established;
 - 1.2.8 writing, subject to clause 28, includes any mode of reproducing words in a legible and non-transitory form;
 - 1.2.9 this deed or any provision of this deed or any other agreement, document or instrument is to this deed, that provision or that agreement, document or instrument as amended, novated, supplemented, extended, restated or replaced; and
 - 1.2.10 a time of day is to London time.
- 1.3 The contents table and headings are for convenience only and do not affect interpretation of this deed.
- 1.4 Words in the singular include the plural (and *vice versa*) and gender specific words include every gender.
- 1.5 The schedules form part of this deed as if set out in the body of this deed.
- 1.6 The words "other", "include", "including" and "in particular" (or any similar words or expression) do not limit the generality of any preceding words and any words which follow them will not be limited by any preceding words where a wider interpretation is possible.
- 1.7 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of all Finance Documents and other documents and of any side letters between any parties relating to any Finance Document are incorporated into this deed to the extent necessary to ensure that any disposition of Property in this deed is valid under that section.
- 1.8 In this deed, unless the context requires otherwise, references to :
 - 1.8.1 "this Security" is to any Security Interest created or intended or expressed to be created by this deed;
 - 1.8.2 a Charged Asset includes the proceeds of that Charged Asset;
 - 1.8.3 any **rights** in respect of an asset includes:
 - (a) all amounts and proceeds paid or payable;
 - (b) all rights to make any demand or Claim; and
 - (c) all powers, remedies, causes of action, security, guarantees and indemnities,

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

1.9 "£" and "sterling" represent lawful currency of the United Kingdom.

1.10 The Parties intend this document to take effect as a deed despite the fact the Seller may only execute it under hand.

2. CREATION OF SECURITY

2.1 Security

2.1.1 The Chargor covenants to pay or discharge, on demand, the Secured Liabilities when they fall due in the manner provided for in the Sale and Purchase Agreement.

2.1.2 This Security is:

- (a) created in favour of the Seller;
- (b) created over present and future assets of the Chargor;
- (c) security for payment of all the Secured Liabilities; and
- (d) made with full title guarantee under the LPMPA.

2.1.3 Clause 2.2 and clause 2.3 shall be construed as creating a separate and distinct mortgage, fixed charge or security assignment over each Charged Asset within any particular class of assets specified.

2.1.4 Any failure to create an effective fixed Security Interest (for whatever reason) over a Charged Asset shall not affect the fixed nature of the Security Interest over any other Charged Asset, whether within the same class of assets or not.

2.2 Fixed charges

2.2.1 The Chargor charges by first legal mortgage its Property listed in schedule 1

2.2.2 The Chargor charges by first fixed charge:

- (a) all its other interests in Property (not effectively charged by clause 2.2.1);
- (b) all its Equipment;
- (c) its Subsidiary Shares;
- (d) all its other Securities;
- (e) all its Bank Accounts;
- (f) the benefit of all Authorisations used in connection with its business or any of its Charged Assets and the right to recover and receive compensation which may be payable to it in respect of any of those Authorisations;
- (g) all its goodwill and uncalled capital;
- (h) all its Receivables; and
- (i) to the extent not effectively assigned under clause 2.3, all its Insurances.

2.3 Assignment

The Chargor assigns and will assign absolutely (subject to a condition for reassignment on irrevocable discharge in full of the Secured Liabilities) all its rights, title, interest and benefit in and to its Insurances.

2.4 Floating charge

2.4.1 The Chargor charges by a first floating charge all its assets not effectively mortgaged, charged or assigned by fixed mortgage, fixed charge or assignment.

2.4.2 The floating charge created by clause 2.4.1 is a qualifying floating charge for the purpose of Paragraph 14 of Schedule B1 to the Insolvency Act.

2.5 **Conversion of floating charge**

- 2.5.1 If:
- (a) an Event of Default is continuing; or
 - (b) the Seller, in its reasonable opinion:
 - (i) considers any Floating Charge Asset 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
 - (ii) considers it desirable to protect the priority of this Security,
- the Seller may, by written notice to the Chargor, convert the floating charge created by this deed into a fixed charge over those Charged Assets specified in the notice.
- 2.5.2 The floating charge created by this deed may not be converted into a fixed charge solely by reason of:
- (a) obtaining a moratorium; or
 - (b) anything done with a view to obtaining a moratorium,
- under Part A1 Insolvency Act.
- 2.5.3 Clause 2.5.2 does not apply to any floating charge referred to in subsection (4) of section A52 of Part A1 Insolvency Act.
- 2.5.4 The giving by the Seller of a notice under clause 2.5.1 relating to any class of assets of the Chargor shall not be construed as a waiver or abandonment of the rights of the Seller to serve similar notices for any other class of assets or of any of the other rights of the Seller.
- 2.5.5 The floating charge created by this deed will (in addition to the circumstances in which this will occur under general law) automatically be converted into a fixed charge over any Floating Charge Asset if an administrator is appointed or the Seller receives notice of an intention to appoint an administrator.
- 2.5.6 Clause 2.5.5 will not apply to any assets situated in Scotland if, and to the extent that, a Receiver would not be capable of exercising his powers in Scotland pursuant to section 72 of the Insolvency Act by reason of such automatic conversion.

3. **REPRESENTATIONS AND WARRANTIES**

- 3.1 The Chargor makes the following representations and warranties to the Seller:
- 3.1.1 all Property beneficially owned by the Chargor at the date of this deed is identified in schedule 1;
 - 3.1.2 it is the legal and beneficial owner of the Charged Assets; and
 - 3.1.3 the obligations expressed to be assumed by it in this deed are legal, valid, binding and enforceable obligations.
- 3.2 The Chargor makes the representations and warranties in clause 3.1 on the date of this deed and the representations and warranties in clause 3.1.2 and 3.1.3 on each day any of the Secured Liabilities remain outstanding.

4. **NEGATIVE PLEDGE AND NO DISPOSAL**

- 4.1 The Chargor must not:
- 4.1.1 create, purport to create or permit to exist any Security Interest over any Charged Asset (unless it is Permitted Security); or
 - 4.1.2 dispose of any Charged Asset (unless it is a Permitted Disposal),
- except with the prior written consent of the Seller.

4.2 Without prejudice to the foregoing, the Seller consents to the grant and registration of the Lender Debenture, subject to the terms of the Intercreditor Agreement.

5. **PRESERVATION AND MAINTENANCE**

5.1 The Chargor must not do (or allow to be done) anything which might:

5.1.1 depreciate, jeopardise or otherwise prejudice this Security; or

5.1.2 materially reduce the value of any Charged Asset.

5.2 The Chargor must:

5.2.1 comply with all laws, regulations, licences or consents affecting any of the Charged Assets;

5.2.2 observe and perform in all material respects all covenants and stipulations from time to time affecting any Charged Assets make all payments, carry out all registrations or renewals and generally take all steps to preserve, maintain and renew where necessary or desirable all of the Charged Assets;

5.2.3 not enter into any onerous or restrictive obligations affecting the Charged Assets without the prior written consent of the Seller;

5.2.4 produce to the Seller within 14 days of receipt by it, every material notice, order or proposal given or made relating to the Charged Assets by any competent authority and either comply with them or make any objections and representations against them that the Seller requires or approves;

5.2.5 keep all Premises in a good state of repair and keep all other Charged Assets in good working order and condition (ordinary wear and tear excepted); and

5.2.6 not, except with the prior written consent of the Seller:

- (a) part with or share possession or occupation of the Property;
- (b) grant any lease or other right or licence to occupy the Property or any licence to assign or sub-let the Property;
- (c) forfeit, determine, accept or agree to accept the surrender of any lease relating to the Property;
- (d) vary the terms of any lease or licence of the Property;
- (e) agree any rent review of any lease or licence of the Property;
- (f) surrender or agree to surrender any leasehold interest held by it relating to the Property or allow that interest to be forfeited;
- (g) create or permit to arise on the Property any interest having overriding effect; or
- (h) permit any person to become entitled to any right, easement, covenant or other matter which might adversely affect the use, value or marketability of the Property.

6. **INSURANCES**

6.1 The Chargor will collect all money payable to it under the Insurances.

6.2 All money collected under clause 6.1:

6.2.1 will be held on trust for the Seller; and

6.2.2 if the Seller requests, be promptly paid into any bank account the Seller directs.

7. **NEW PROPERTY**

7.1 If, after the date of this deed, the Chargor acquires any Property (**New Property**) it must:

7.1.1 notify the Seller;

7.1.2 as soon as reasonably practicable on the Seller's request and at the Chargor's cost, execute and deliver to the Seller a legal mortgage (or, in the case of New

Property situated in Scotland, standard security) in favour of the Seller over that New Property in any form which the Seller may require; and

7.1.3 complete any registration requirements or notices that the Seller requires in respect of this Security or such legal charge (or standard security).

7.2 If any New Property is leasehold property requiring the landlord's consent for the Chargor to perform any of its obligations under this clause 7, the Chargor is not required to perform that obligation until it has obtained the landlord's consent. The Chargor will use its reasonable endeavours to obtain that consent.

8. SECURITIES

8.1 Until this Security is enforced:

8.1.1 the voting rights, powers and other rights in respect of the Securities will be exercised:

- (a) by the Chargor; or
- (b) if exercisable by the Seller, in any manner which the Chargor may direct the Seller in writing; and

8.1.2 all dividends, distributions or other income paid or payable in relation to any of the Securities may be received by the Chargor.

8.2 Despite anything to the contrary contained in this deed, the Chargor remains liable to observe and perform all conditions and obligations assumed by it relating to the Securities.

9. NOTICE OF SECURITY

9.1 Insurances

On execution of this deed (or in respect of any Insurances put in place after the date of this deed, as soon as reasonably practicable after it being put in place) and otherwise on request by the Seller from time to time, the Chargor must give notice of assignment under this Security to each counterparty to its Insurances.

9.2 Bank Accounts

On execution of this deed, and otherwise on request by the Seller from time to time, the Chargor must give notice of this Security to any bank or financial institution that it holds a Bank Account with.

9.3 Equipment

If requested by the Seller, the Chargor must affix or indorse (as appropriate) a notice of this Security on any of its Equipment:

- 9.3.1 on execution of this deed; or
 - 9.3.2 in respect of any Equipment obtained by it after the date of this deed, after it being obtained; and
 - 9.3.3 otherwise on request by the Seller from time to time,
- and not allow that notice to be removed, obscured or defaced.

9.4 Form of notice and acknowledgement

- 9.4.1 The Chargor must use reasonable endeavours to ensure that each addressee of a notice under this clause 9 promptly provides an acknowledgement of receipt to the Seller.
- 9.4.2 Any notice or acknowledgement referred to in this clause 9 will be in the form contained in schedule 3 or any other form approved by the Seller or the Joint Administrators in writing.

10. THE LAND REGISTRY

The Chargor consents to a restriction being entered on the Register of Title relating to any of its Property registered at HM Land Registry. The restriction will be as follows:

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

11. WHEN SECURITY BECOMES ENFORCEABLE

- 11.1 This Security will become immediately enforceable if an Event of Default occurs.
- 11.2 After this Security has become enforceable, the Seller may enforce all or any part of it in any manner it sees fit.
- 11.3 The power of sale and other powers conferred by section 101 LPA, as amended by this deed, will be immediately exercisable at any time after this Security has become enforceable.

12. ENFORCEMENT OF SECURITY

12.1 General

- 12.1.1 Section 103 LPA (restricting the power of sale) and section 93 LPA (restricting the right of consolidation) do not apply to this Security.
- 12.1.2 The Seller's statutory powers of leasing are extended so as to authorise the Seller to lease, make agreements for leases, accept surrenders of leases and grant options as the Seller considers suitable, without the need to comply with any provision of section 99 or section 100 LPA.
- 12.1.3 No person dealing with any Secured Party need enquire:
 - (a) whether the Secured Liabilities have become payable;
 - (b) whether any power a Secured Party is exercising or trying to exercise:
 - (i) has become exercisable; or
 - (ii) is being exercised properly;
 - (c) whether any money remains due by the Chargor to the Seller; or
 - (d) how any money paid to a Secured Party will be applied.

12.2 No liability as mortgagee in possession

No Secured Party will be liable, by reason of entering into possession of a Charged 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.

12.3 Privileges

Each Secured Party is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers properly appointed under the LPA, except that section 103 LPA does not apply.

13. RECEIVER

13.1 Appointment, remuneration and removal of Receiver

- 13.1.1 Except as provided below, the Seller or any Delegate may appoint any one or more persons to be a Receiver of the Charged Assets if:
 - (a) this Security has become enforceable under clause 11; or
 - (b) the Chargor asks the Seller to do so at any time.
- 13.1.2 Any appointment under clause 13.1.1 may be by deed, under seal or in writing under its hand.
- 13.1.3 Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) LPA) does not apply to this deed.
- 13.1.4 The Seller 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 Insolvency Act other than in respect of a floating charge referred to in subsection (4) of section A52 of Part A1 Insolvency Act.

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

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

13.1.7 The Seller may remove any Receiver appointed by it and appoint a new Receiver in his place. If there is more than one Receiver, they will have power to act individually (unless the deeds or other instruments appointing them say otherwise).

13.2 **Agent of the Chargor**

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

13.2.2 No Secured Party (and none of their agents, officers or employees) will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

13.3 **Relationship with Seller**

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 this Security becomes enforceable under clause 11, be exercised by the Seller or any Delegate in relation to any Charged Asset whether or not a Receiver has been appointed.

14. **POWERS OF RECEIVER**

14.1 **General**

14.1.1 A Receiver has all of the rights, powers and discretions set out below in this clause 14 in addition to those conferred on it by any law (but without any of the restrictions on the exercise of those powers imposed by the LPA or the Insolvency Act). This includes:

- (a) all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act, even though they may not be an administrative receiver; and
- (b) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA and the Insolvency Act.

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

14.2 **Possession**

A Receiver may take immediate possession of, collect and get in the Charged Assets and/or income for which they were appointed.

14.3 **Carry on business**

A Receiver may manage the Charged Assets and the business of the Chargor.

14.4 **Employees**

14.4.1 A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others (including his partners and firms) for the purposes

of this deed on any terms (as to remuneration or otherwise) they consider suitable.

14.4.2 A Receiver may discharge any person appointed by the Chargor.

14.5 **Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Charged Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose they consider suitable.

14.6 **Sale of assets**

14.6.1 A Receiver may (or may agree to) sell, exchange, convert into money and realise any Charged Asset by public auction or private contract and generally in any manner and on any terms they consider suitable.

14.6.2 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 they consider suitable.

14.6.3 Fixtures, (other than those belonging to a landlord), may be severed and sold separately from the relevant Property without the consent of the Chargor.

14.7 **Leases**

14.7.1 A Receiver may (or may agree to) let any Property for any term and at any rent (with or without a premium) they consider suitable and may accept a surrender of any lease or tenancy of any Property on any terms they consider suitable (including the payment of money to a lessee or tenant on a surrender).

14.7.2 A Receiver may operate any rent review clause for any Property and apply for any new or extended lease.

14.8 **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 the Chargor or relating in any way to any Charged Asset.

14.9 **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Charged Asset they consider suitable.

14.10 **Receipts**

14.10.1 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 Charged Asset.

14.10.2 No Secured Party need take any particular action relating to the Receivables.

14.11 **Subsidiaries**

A Receiver may form a subsidiary of the Chargor and transfer any Charged Asset to that subsidiary.

14.12 **Delegation**

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

14.13 **Lending**

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

14.14 **Protection of assets**

A Receiver may:

14.14.1 carry out any repair or put in place any insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Charged Asset;

- 14.14.2 commence and/or complete any building operation; and
 - 14.14.3 apply for and maintain any planning permission, building regulation approval or any other Authorisation,
- in each case as they consider suitable.
- 14.15 Redemption of prior charges**
- 14.15.1 A Receiver may redeem any prior Security Interest over any Charged Asset and settle and pass the accounts to which the Security Interest relates.
 - 14.15.2 Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the money paid shall be deemed to be an expense properly incurred by the Receiver.
- 14.16 Other powers**
- A Receiver may:
- 14.16.1 do all other acts and things they consider necessary or desirable for realising any Charged 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;
 - 14.16.2 exercise in relation to any Charged Asset all the powers, authorities and things they would be capable of exercising if they were the absolute beneficial owner of that Charged Asset;
 - 14.16.3 agree to any arrangement or compromise they consider suitable and do any other things incidental or conducive to any of his other powers; and
 - 14.16.4 use the name of the Chargor for any of the above purposes.
- 14.17** In making any disposal a Secured Party may accept, as consideration, cash, shares, loan capital or other assets on any terms they may agree. Any contract for disposal may contain conditions excluding or restricting the personal liability of any Secured Party.
- 14.18** No Secured Party will be liable for:
- 14.18.1 the Charged Assets; or
 - 14.18.2 any loss or damage which arises out of the:
 - (a) exercise;
 - (b) attempted exercise; or
 - (c) failure to exercise,
 any of their respective powers, unless the loss or damage is caused by his gross negligence or wilful misconduct.
- 14.19** No Secured Party will be liable to the Chargor for the manner in which they deal or fail to deal with the Receivables.
- 14.20** Except to the extent provided by law, an insolvency event for the Chargor will not affect any powers described in this clause 14.
- 15. APPLICATION OF PROCEEDS AND SUSPENSE ACCOUNT**
- 15.1** All money received by a Secured Party under this deed will (subject to the claims of any person having prior rights and as a variation of the LPA) be applied in the following order:
- 15.1.1 in payment of the costs, charges and expenses incurred by or for any Secured Party (or attorney or agent appointed by them) relating to this deed and the payment of any Receiver's remuneration due in relation to this deed;
 - 15.1.2 in or towards the Secured Liabilities in any order the Seller decides; and
 - 15.1.3 any surplus to the Chargor or other person entitled to it.

15.2 Until the Secured Liabilities have been irrevocably paid in full, the Seller (or any trustee or agent on its behalf) may:

15.2.1 refrain from applying or enforcing any other money, Security Interest or rights held or received by the Seller (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce them in any manner and order it chooses (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of them; and

15.2.2 hold in an interest-bearing suspense account any money received from the Chargor or on account of the Chargor's liability under this deed.

15.3 If this Security is enforced at a time when no amount is due in respect of the Secured Liabilities but at a time when amounts may or will become due, the Seller may pay the proceeds of any recoveries or other proceeds of enforcement into a suspense account.

16. SECURITY PROTECTIONS

16.1 Continuing

This Security is a continuing security and extends to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part or any other matter or thing.

16.2 No merger

16.2.1 This Security is in addition to, and independent of, any other Security Interest or guarantee that the Seller holds at any time for any of the Secured Liabilities.

16.2.2 No prior Security Interest held by the Seller over the Charged Assets will merge with this Security.

16.2.3 This Security may be enforced against the Chargor without first having recourse to any other rights of the Seller.

16.3 Remedies and waivers

16.3.1 No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this deed or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.

16.3.2 No failure to exercise, nor any delay in exercising, on the part of any Secured Party, any right or remedy shall operate as a waiver of any such right or remedy or constitute an election to affirm any Finance Document or other document. No election to affirm any Finance Document or other document on the part of any Secured Party shall be effective unless it is in writing.

16.3.3 The rights and remedies of the Secured Parties under this deed are cumulative and not exclusive of any rights or remedies provided by law.

16.4 Reinstatement

16.4.1 If the Seller considers that an amount paid to it 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.

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

16.5 Redemption of prior charges

- 16.5.1 When this Security has become enforceable under clause 11, the Seller may, at the sole cost of the Chargor (payable to the Seller on demand):
- (a) redeem any prior Security Interest over any Charged Asset; and/or
 - (b) procure the transfer of that Security Interest to itself; and/or
 - (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which, once so settled and passed, will be conclusive and binding on the Chargor.
- 16.5.2 The Chargor must pay to the Seller, immediately on demand, the costs and expenses incurred by the Seller in connection with any such redemption and/or transfer, including the payment of any principal or interest.

16.6 Waiver of defences

The obligations of the Chargor under this deed will not be affected by any act, omission, matter or thing which but for this clause 16.6, might reduce, release or prejudice any of its obligations under this deed (whether or not the Chargor or the Seller knows about it) including:

- 16.6.1 any time, waiver or consent granted to, or composition with, the Chargor or any other person;
- 16.6.2 any failure or delay in exercising a right or remedy under this deed;
- 16.6.3 the release of any other person under the terms of any composition or arrangement;
- 16.6.4 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security Interest over assets of, the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security Interest;
- 16.6.5 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 16.6.6 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or Security Interest including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility or other document, guarantee or Security Interest;
- 16.6.7 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security Interest; or
- 16.6.8 any insolvency or similar proceedings.

16.7 Deferral of rights

- 16.7.1 Until all amounts which may be or become payable in respect of the Secured Liabilities have been irrevocably paid in full and unless the Seller otherwise directs, the Chargor will not exercise any rights it may have by reason of performance by it of its obligations under the Finance Documents or any other document or by reason of any amount being payable, or liability arising, under this deed:
- (a) to be indemnified by or otherwise claim any right of contribution from any other person in respect of any payment made or other satisfaction of the Secured Liabilities;
 - (b) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Seller under any Finance Documents or of any other document, guarantee or Security Interest taken pursuant to, or in connection with, the Secured Liabilities by the Seller;

- (c) to bring legal or other proceedings for an order requiring any person to make any payment, or perform any obligation in respect of the Secured Liabilities;
- (d) to exercise any right of set-off against any person in respect of any payment made or other satisfaction of the Secured Liabilities; and/or
- (e) to claim or prove as a creditor of any person in respect of any payment made or other satisfaction of the Secured Liabilities in competition with the Seller.

16.7.2 If the 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 all amounts which may be or become payable to the Seller by the Chargor to be repaid in full on trust for the Seller and shall promptly pay or transfer the same to the Seller or as the Seller may direct for application in accordance with clause 15.

16.8 New accounts

- 16.8.1 If the Seller receives notice of any subsequent Security Interest or other interest affecting any Charged Asset, it may open a new account for the Chargor in its books.
- 16.8.2 If the Seller 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 Security Interest.
- 16.8.3 As from that time all payments made to the Seller will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

17. COSTS, EXPENSES AND INDEMNITIES

17.1 Documentation costs

The Chargor must on demand pay the Secured Parties all reasonable costs and expenses, including reasonable legal, valuation, accountancy and consultancy fees (and VAT) incurred by any of them relating to:

- 17.1.1 the negotiation, preparation, execution and completion of this deed, or any of the documents referred to in this deed; and
- 17.1.2 any actual or proposed amendment, replacement, restatement or extension of, or any waiver or consent under, this deed or any of the documents referred to in this deed.

17.2 Enforcement costs

The Chargor must reimburse any Secured Party on demand for all Losses incurred as a result of the enforcement, attempted enforcement or preservation of any of their rights under:

- 17.2.1 this deed; or
- 17.2.2 any of the documents referred to in this deed.

17.3 Further indemnity

- 17.3.1 The Chargor must, on demand, indemnify the Secured Parties for all Claims and Losses which may be incurred by or made against any of them at any time relating to or arising directly or indirectly out of:
 - (a) a failure by the Chargor to pay any amount due under this deed on its due date;
 - (b) taking, holding, protection or enforcement of this Security;
 - (c) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;

- (d) instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts;
- (e) any Event of Default or other default by the Chargor in the performance of any of its other obligations under any Finance Documents;
- (f) the exercise of any of the rights, powers, discretions, authorities and remedies vested in any Secured Party by this deed or by law;
- (g) any actual or alleged breach of any law or regulation (including any Environmental Law) by any person which would not have arisen if this deed had not been entered into;
- (h) any misconduct, omission or default by any substitute or delegate under clause 0 or clause 23.3;
- (i) acting as Seller, Receiver or Delegate under this deed or which otherwise relates to any of the Charged Assets (otherwise, in each case, than by reason of the relevant Secured Party's gross negligence or wilful misconduct).

17.3.2 The Chargor expressly acknowledges and agrees that the continuation of its indemnity obligations under this clause 17.3 will not be prejudiced by any release of this Security or disposal of any Charged Asset.

17.3.3 Each Secured Party may, in priority to any payment to the other Secured Parties, indemnify itself out of the Charged Assets in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 17.3 and shall have a lien on this Security and the proceeds of the enforcement of this Security for all money payable to it.

17.4 **No liability**

17.4.1 No Secured Party will in any way be liable or responsible for any loss or liability of any kind arising from any act or omission by that Secured Party (whether as mortgagee in possession or otherwise) relating to the Charged Assets, except to the extent caused by its own negligence or wilful misconduct.

17.4.2 If any Secured Party enters into possession of the Charged Assets, they may, at any time at their discretion, go out of possession.

17.4.3 The Chargor acknowledges and agrees that in the negotiation and completion of this deed the Joint Administrators are acting only as agents of the Seller and that notwithstanding that this deed shall have been signed by the Joint Administrators on behalf of the Seller it is expressly agreed and declared that:

- (a) no personal liability under or in connection with this deed shall fall on the Joint Administrators or their firm, partners or employees and the Chargor shall indemnify the Joint Administrators on a full indemnity basis against all and any Liabilities arising under or in connection with this deed;
- (b) the Joint Administrators are party to this deed in their personal capacities only for the purpose of receiving the benefit of this sub-clause and the exclusions, limitations, undertakings, covenants and indemnities in their favour in this deed; and
- (c) the Chargor hereby waives any claim in tort as well as under contract against the Joint Administrators.

17.5 **Stamp duty costs**

The Chargor must pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, as a result of the execution, delivery, performance or enforcement of this deed or any judgment given relating to this deed.

18. PAYMENTS

18.1 Subject to clause 18.2, all payments to be made by the Chargor under this deed, must be made:

18.1.1 in immediately available funds to any account the Seller chooses; and

18.1.2 free and clear of, and without any deduction for, or on account of, any set-off or counterclaim or, except to the extent required by law, any deduction on account of any Tax.

18.2 If the Chargor is legally required to withhold or deduct any Tax from any payment under this deed, that sum must be increased so as to result in the receipt by the Seller of a net amount equal to the full amount expressed to be payable under this deed.

18.3 Any demand, notification or certificate given by the Seller specifying amounts due and payable under or relating to this deed shall, in the absence of manifest error, be conclusive and binding on the Chargor.

19. DEFAULT INTEREST

19.1 Any amount due under this deed but unpaid will bear interest (both before and after judgment and payable on demand) from its due date (or, in the case of costs, fees or expenses incurred, from the date they are incurred) until the date it is unconditionally and irrevocably paid and discharged in full on a daily basis at the Default Rate.

19.2 Default Interest is calculated on the basis of the actual number of days elapsed and a year of 365 days and is compounded at monthly intervals.

20. CURRENCY**20.1 Conversion**

All money received or held by a Secured Party under this deed may be converted from its existing currency into any other currency the Seller considers necessary to discharge the Secured Liabilities in that other currency at a market rate of exchange then prevailing.

20.2 No Discharge

No payment to the Seller (whether under any judgment or court order or in the liquidation or dissolution of the Chargor or otherwise) will discharge any obligation or liability of the Chargor, unless and until the Seller has received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Seller has a further separate cause of action in relation to the shortfall and is entitled to enforce this Security to recover the amount of the shortfall.

20.3 Change of Currency

20.3.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(a) any reference in this deed to, and any obligations arising under this deed in, the currency of that country is translated into, or paid in, the currency or currency unit of that country designated by the Seller (after consultation with the Chargor); and

(b) any translation from one currency or currency unit to another is at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Seller (acting reasonably).

20.3.2 If a change in any currency of a country occurs, this deed will, to the extent the Seller (acting reasonably and after consultation with the Chargor) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

21. SET-OFF BY SELLER

The Seller may at any time set off any obligation of the Chargor to the Seller against any obligation of the Seller to the Chargor, whether either obligation is present or future, liquidated or unliquidated, and whether or not either obligation arises under this deed. Any exercise by the Seller of its rights under this clause shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

22. DELEGATION

22.1 The Seller 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.

22.2 Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Seller or that Receiver (as the case may be) may, in its discretion, think fit.

22.3 Neither the Seller 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.

23. FURTHER ASSURANCE AND POWER OF ATTORNEY**23.1 Further assurance**

23.1.1 The Chargor must as soon as reasonably practicable at its own expense do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Seller specifies (and in any form the Seller requires in favour of the Seller or its nominee(s)):

- (a) to perfect this Security (which may include the execution of a mortgage, charge, assignment or other Security Interest over all or any of the Charged Assets) or for the exercise of any rights, powers and remedies of the Seller provided by or pursuant to this deed or by law; and
- (b) to confer on the Seller Security Interests over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security Interest intended to be conferred by or pursuant to this deed.

23.1.2 The Chargor must take all reasonable steps (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of this Security.

23.2 Remedy

Without prejudice to clause 11, clause 23.3 or any other provision of this deed, if the Chargor does not comply with any of its obligations under this deed and that failure is not remedied to the Seller's satisfaction within 10 Business Days of the earlier of:

- 23.2.1 the Chargor becoming aware of such failure; and
- 23.2.2 the Seller notifying the Chargor that remedy is required,

the Chargor irrevocably authorises the Seller or any Delegate to take any action on its behalf that is necessary to ensure those obligations are complied with.

23.3 Power of attorney

23.3.1 The Chargor, by way of security, irrevocably and severally appoints the Seller, any Delegate and each Receiver (and any Receiver's delegates or sub-delegates) to be its attorney with the full power and authority of the Chargor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise for the Chargor 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 the Chargor under this deed or generally for enabling the Seller or any Delegate or Receiver (or Receiver's delegates or sub-delegates) to exercise the respective powers conferred on them under this deed or by law.

23.3.2 The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under clause 23.3.1.

24. TIME DEPOSITS

Without prejudice to any right of set-off the Seller may have under any other Finance Document or otherwise, if any time deposit matures on any account the Chargor has with the Seller within the Security Period when:

24.1 this Security has become enforceable under clause 11; and

24.2 no Secured Liability is due and payable,

that time deposit will automatically be renewed for any further maturity which the Seller considers appropriate.

25. CHANGE TO PARTIES

25.1 The Seller may assign, charge or transfer all or any part of its rights under this deed.

25.2 The Chargor must not assign, transfer, charge, make the subject of a trust or deal in any other manner with this deed or any of its rights or obligations under this deed or purport to do any of the same without the prior written consent of the Seller.

26. EXCLUSION OF LIABILITY

26.1 The Administrators are party to this deed only to receive the benefit of this declaration and any other covenants conditions or terms in their favour contained in this deed.

26.2 Neither the Administrators nor their business organisation or its members or partners or its or their employees or agents shall incur any personal liability howsoever arising under or in connection with this deed or under any deed or other document or agreement entered into pursuant to or in connection with this deed.

27. THIRD PARTY RIGHTS

27.1 Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this deed.

27.2 Notwithstanding any term of any Finance Document or other document, the consent of any person who is not a Party is not required to rescind or vary this deed at any time.

27.3 Any Secured Party may enforce and enjoy the benefit of any clause which expressly confers rights on it, subject to clause 27.2 and the provisions of the Third Parties Act.

28. NOTICES

28.1 Communications in writing

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

28.1.2 Notice given under this deed shall not be validly served if sent by fax or electronic mail.

28.2 Addresses

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this deed is that identified with its name below or any substitute address, department or officer as one Party may notify to the other Party by not less than five Business Days' notice.

28.3 Delivery

28.3.1 Any communication or document made or delivered by one person to another under or in connection with this deed will only be effective when it has been left at the relevant address or five Business Days after being deposited in the post with postage prepaid in an envelope addressed to it at that address, and, if a

particular department or officer is specified as part of its address details provided under clause 28.1.1, if addressed to that department or officer.

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

28.3.3 Any communication or document which becomes effective, under clause 28.3.1 and clause 28.3.2 after 5:00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

29. GENERAL

29.1 No variation to this deed will be effective unless made in writing and signed by or on behalf of each of the Parties. A waiver given or consent granted by the Seller under this deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

29.2 Each provision of this deed is severable and distinct from the others. If at any time any provision of this deed is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this deed but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this deed will not be affected in any way.

29.3 If any provision of this deed is found to be illegal, invalid or unenforceable under clause 29.2 but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question will apply with any modifications that may be necessary to make it legal, valid or enforceable.

29.4 This deed may be executed in any number of counterparts each of which when executed and delivered will be an original. All the counterparts together will form one and the same document.

30. GOVERNING LAW AND JURISDICTION

30.1 This deed and any non-contractual obligations arising out of or relating to it are governed by the laws of England and Wales.

30.2 The English Courts have exclusive jurisdiction to settle any dispute arising out of or relating to this deed (including a dispute relating to the existence, validity or termination of this deed or any non-contractual obligation arising out of or relating to this deed) (a **Dispute**).

30.3 The Parties agree that the English Courts are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

30.4 Notwithstanding clause 30.2 and 30.3, the Seller will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Seller may take concurrent proceedings in any number of jurisdictions.

EXECUTED as a deed and delivered on the date stated at the beginning of this deed.

SCHEDULE 1
Property

Address	Title Interest	Title Number

SCHEDULE 2
Subsidiary Shares

Subsidiary	Number and Class of Shares

SCHEDULE 3

Forms of Notice and Acknowledgement

Part 1 - Form of Notice and Acknowledgement of Assignment of Insurances

[To be printed on the letterhead of the Chargor]

[name of Insurer]

[address of Insurer]

[date]

Dear Sirs

Debenture (the Debenture) dated _____ 2023 between [Chargor] (the Chargor), Pharmaserve (North West) Limited (in administration) (the Seller) and James Saunders and Michael Lennon (the Joint Administrators) in respect of [insert description and number of Policy] (the Policy)

This letter is notice that under the Debenture we have assigned absolutely (subject to any requirement for re-assignment on redemption) and charged by way of a first fixed charge to the Seller, all our rights in respect of the Policy.

We confirm that:

1. we will remain liable under the Policy to perform all the obligations assumed by us under it;
2. none of the Seller, Joint Administrators, their 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 Policy (unless, and to the extent, otherwise expressly provided for in the Policy);
3. we instruct you to disclose to the Seller and Joint Administrators any information relating to the Policy which the Seller or Joint Administrators request;
4. we have agreed that we will not amend or waive any provision of or terminate the Policy without the prior written consent of the Seller or Joint Administrators
5. unless and until you receive notice from the Seller or Joint Administrators to the contrary stating that the security under the Debenture has become enforceable we will remain entitled to exercise all our rights, powers and discretions under the Policy (as agent of the Seller and Joint Administrators) (unless, and to the extent, otherwise expressly provided for in the Policy or in any insurer letter you may have issued to the Seller or Joint Administrators in respect of the Policy) and you should continue to give notices and make payments under the Policy to us; and
6. once you receive notice from the Seller or Joint Administrators stating that the security under the Debenture has become enforceable, all the rights, powers and discretions will be exercisable by, and notices must be given and payments must be made to, the Seller and Joint Administrators or as they directs.

Please note, the instructions in this letter may not be revoked or amended without the prior written consent of the Seller or the Joint Administrators.

Please sign and return the enclosed copy of this letter to the Seller and Joint Administrators (with a copy to the Chargor) by way of confirmation that:

- (a) you agree to the terms of this letter and agree to comply with it;
- (b) you will give notices and make payments under the Policy as directed in this letter;
- (c) you have not received notice that the Chargor has assigned its rights under the Policy to a third party, or created any other interest in the Policy in favour of a third party; and

- (d) the Seller and Joint Administrators will not in any circumstances have any liability relating to the Policy.

This letter and any non-contractual obligations arising out of or in connection with it are governed by the laws of England and Wales.

Yours faithfully

.....
Name:

For and on behalf of

[name of Chargor]

[On acknowledgement copy]

To: James Saunders and Michael Lennon, the Joint Administrators, Pharmaserve (North West) Limited (in administration), Ayrton House, Parliament Business Park, Commerce Way, Liverpool, L8 7BA

Copy to: *[insert name and address of Chargor]*

[On acknowledgement copy]

To: James Saunders and Michael Lennon, Kroll Advisory Limited, The Chancery, 58 Spring Gardens, Manchester M2 1EW

Copy to: *[insert name and address of Chargor]*

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (d) above.

.....
Name:

For and on behalf of

[name of Insurer]

Dated:

Part 2 - Form of Notice and Acknowledgement of Account Charge*[To be printed on the letterhead of the Chargor]**[name of Account Bank]**[address of Account Bank]**[date]*

Dear Sirs

Debenture (the Debenture) dated _____ 2023 between [Chargor] (the Chargor), Pharmaserve (North West) Limited (the Seller) and James Saunders and Michael Lennon (the Joint Administrators)

This letter is notice to you that under the Debenture we have charged (by way of first fixed charge) in favour of the Seller all our rights in respect of our account with you detailed below (the **Account**) and any amount standing to the credit of the Account from time to time (including, but not limited to, entitlements to interest):

Name of Account: [•]**Sort code:** [•]**Account number:** [•]

We irrevocably instruct and authorise you to:

1. disclose to the Seller and Joint Administrators any information relating to the Account which the Seller or Joint Administrators request;
2. comply with the terms of any written notice or instructions relating to the Account received by you from the Seller or Joint Administrators;
3. hold all sums from time to time standing to the credit of the Account to the order of the Seller or Joint Administrators; and
4. pay or release any sum standing to the credit of the Account only in accordance with the written instructions of the Seller or Joint Administrators.

We acknowledge that you may comply with the instructions in this letter without any further permission from us.

We are permitted to withdraw any amount from the Account for any purpose unless and until you receive a notice from the Seller or Joint Administrators to the contrary stating that we are no longer permitted to withdraw any amount from the Account without its consent. If and from the date on which you receive any such notice, we will not be permitted to withdraw any amount from the Account without the prior written consent of the Seller or Joint Administrators.

Please note, the instructions in this letter may only be revoked or amended with the prior written consent of the Seller or Joint Administrators.

Please sign and return the enclosed copy of this letter to the Seller and Joint Administrators (with a copy to the Chargor) by way of confirmation that:

- (a) you agree to the terms of this letter and agree to comply with it;
- (b) you have not received notice of any prior security over, or the interest of any third party in, the Account;
- (c) you have neither claimed nor exercised, nor will claim or exercise, any security interest, set-off, counter-claim or other right in respect of the Account;

- (d) you will comply with any notice you may receive from the Seller or Joint Administrators in respect of the Account; and
- (e) the Seller and Joint Administrators will not in any circumstances have any liability relating to the Account.

This letter and any non-contractual obligations arising out of or in connection with it are governed by the laws of England and Wales.

Yours faithfully

.....
Name:

For and on behalf of

[name of Chargor]

[On acknowledgement copy]

To: James Saunders and Michael Lennon, the Joint Administrators, Pharmaserve (North West) Limited (in administration), Ayrton House, Parliament Business Park, Commerce Way, Liverpool, L8 7BA

Copy to: *[insert name and address of Chargor]*

[On acknowledgement copy]

To: James Saunders and Michael Lennon, Kroll Advisory Limited, The Chancery, 58 Spring Gardens, Manchester M2 1EW

Copy to: *[insert name and address of Chargor]*

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (e) above.

.....
Name:

For and on behalf of

[name of Account Bank]

Dated:

EXECUTION PAGES FOR DEBENTURE

CHARGOR

EXECUTED as a DEED by NOVEAYR)
RESPIRATORY SERVICES LIMITED acting)
by a director in the presence of:)

[Redacted Signature]
.....
Director Mark Bromiley

I confirm that the witness named below was physically present when I signed this deed

Signature of witness [Redacted Signature]

I confirm that I was physically present when the above signatory signed this deed

Witness Name STEPHEN HOWARD
(in BLOCK CAPITALS)

Address Arkwright Road
Astmoor Industrial Estate
Runcorn
WA7 1NU

Notice details:

Address: Ayrton House, Commerce Way, Liverpool, United Kingdom, L8 7BA

Attention: Stephen Howard and Mark Bromiley

SELLER

**EXECUTED as a DEED by PHARMASERVE)
(NORTH WEST) LIMITED (IN)
ADMINISTRATION) by JAMES
SAUNDERS, its Joint Administrator,
pursuant to powers conferred under the
Insolvency Act 1986 as agent and without
personal liability in the presence of:**



.....
Signature

its Joint Administrator

I confirm that the witness named below was physically present when I signed this deed

I confirm that I was physically present when the above signatory signed this deed

Signature of witness



Witness Name Tom Bond

(in BLOCK CAPITALS)

Address The Chancery, 58 spring gardens, Manchester
M21ew

**EXECUTED as a DEED by JAMES
SAUNDERS for and on behalf of the Joint
Administrators and without personal liability
in the presence of:**



I confirm that the witness named below was physically present when I signed this deed

I confirm that I was physically present when the above signatory signed this deed

Witness

Signature :



Name : Tom Bond

Occupation : Senior Manager

Address : The Chancery, 58 spring gardens, Manchester M21ew

Notice details:

Address: Kroll Advisory Limited, The Chancery, 58 Spring Gardens, Manchester M2 1EW

Attention: James Saunders and Michael Lennon