

# MR01

## Particulars of a charge

COMPANIES HOUSE  
**FEE PAID**  
BELFAST



Companies House



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

A fee is be payable with this form  
Please see 'How to pay' on the last page.

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument. Use form MR08.

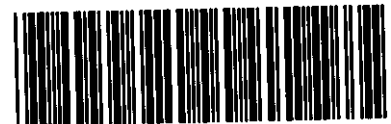
For further information, please  
refer to our guidance at:  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

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



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

TUESDAY



JNI \*J87WHNZM\* #7  
18/06/2019  
COMPANIES HOUSE

### 1 Company details

Company number N I 0 2 9 7 2 1  
Company name in full RANDALSTOWN HYDRO ELECTRIC COMPANY LIMITED

For official use  
00002  
→ Filling in this form  
Please complete in typescript or in  
bold black capitals.  
All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 1 2 0 6 2 0 1 9

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

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

Name H & A Group Limited

Name

Name

Name

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

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

COMPANIES HOUSE  
BELFAST  
18 JUN 2019  
RECEPTION DESK

# MR01

## Particulars of a charge

### 4 Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Brief description

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

### 5 Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☐ Yes

☒ No

### 6 Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☒ Yes Continue

☐ No Go to Section 7

Is the floating charge expressed to cover all the property and undertaking of the company?

☒ Yes

### 7 Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☐ Yes

☒ No

### 8 Trustee statement <sup>●</sup>

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

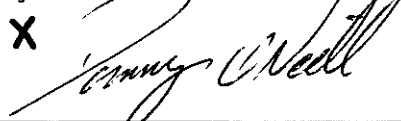
● This statement may be filed after the registration of the charge (use form MR06).

### 9 Signature

Please sign the form here.

Signature

Signature

X  X

This form must be signed by a person with an interest in the charge.

# MR01

## Particulars of a charge



### Presenter information

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

Contact name Eamonn Burke

Company name MKB Law

Address 14-18 Great Victoria Street

Belfast

Post town Belfast County Antrim

County/Region Antrim

Postcode B T 2 7 B A

Country Northern Ireland

DX 2010 NR Belfast

Telephone 028 90242450



### Certificate

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



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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



### Important information

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



### How to pay

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

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



### Where to send

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

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

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

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



### Further information

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

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



**FILE COPY**

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

Company number: NI29721

Charge code: NI02 9721 0002

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 12th June 2019 and created by RANDALSTOWN HYDRO ELECTRIC COMPANY LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th June 2019.

Given at Companies House, Belfast on 19th June 2019



**Companies House**



DATED THE 12 DAY OF June 2019

- (1) RANDALSTOWN HYDRO ELECTRIC COMPANY LIMITED
- (2) H & A GROUP LIMITED

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DEBENTURE

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Simmons, Meglaughlin & Orr,  
Solicitors,  
20 Northland Row,  
Dungannon,  
County Tyrone,  
BT71 6BL.

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THIS DEED is dated 12 June 2019

## Parties

**RANDALSTOWN HYDRO ELECTRIC LIMITED** incorporated and registered in Northern Ireland with company number (NI029721) whose registered office is at 8 Grange Road, Magherafelt, County Londonderry, BT45 5EL (**Borrower**).

- (1) **H & A GROUP LIMITED** incorporated and registered in Northern Ireland with company number (NI629672) whose registered office is 28 Fivemile Straight, Draperstown, Magherafelt, County Londonderry, BT45 7EE (**Lender**).

## Background

- (A) The Lender has agreed pursuant to the Facility Agreement to provide the Borrower with facilities on a secured basis.
- (B) It is a condition precedent to the provision of the loan facilities that the Borrower provide security to the Lender to secure payment and discharge of the Secured Liabilities.
- (C) The Borrower has agreed to create the security required by entering into this Deed.

## Agreed terms

### 1. Definitions and interpretation

#### 1.1 Definitions

The following definitions apply in this deed.

**Administrator:** an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 12.6.

**Book Debts:** all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them.

**Business Day:** a day (other than a Saturday or Sunday) on which commercial banks are open for general business in Belfast.

**Conveyancing Act:** the Conveyancing and Law of Property Act 1881.

**Delegate:** any person appointed by the Lender or any Receiver pursuant to clause 18 and any person appointed as attorney of the Lender, Receiver or Delegate.

**Designated Account:** any account of the Borrower nominated by the Lender as a designated account for the purposes of this deed.

**Environment:** the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.

**Environmental Law:** all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.

**Equipment:** all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions.

**Event of Default:** has the meaning given to that expression in the Facility Agreement.

**Facility Agreement:** the facility agreement dated 12 June 2019 between the Borrower and the Lender for the provision of the loan facilities secured by this deed.

**Financial Collateral:** shall have the meaning given to that expression in the Financial Collateral Regulations.

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

**Insurance Policy:** each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any insurances relating to the Properties or the Equipment).

**Intellectual Property:** the Borrower's present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights.

**Investments:** all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any:

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments; and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption,



substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

**Liquor Licence:** each and every licence as renewed, amended, varied, extended or supplemented from time to time now or hereafter held by the Borrower in relation to the Properties or any part thereof for the sale of spirits or intoxicating liquor whether for consumption on or off the premises.

**Properties:** all freehold and leasehold properties (whether registered or unregistered), now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest (including, but not limited to, the properties specified in Schedule 1), and **Property** means any of them.

**Receiver:** a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under clause 15.

**Secured Assets:** all the assets, property and undertaking for the time being subject to the Security Interests created by, or pursuant to, this deed.

**Secured Liabilities:** all present and future monies, obligations and liabilities owed by the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Agreement or this deed (including, without limitation, those arising under clause 25.3(b)), together with all interest (including, without limitation, default interest) accruing in respect of those monies or liabilities.

**Security Financial Collateral Arrangement:** shall have the meaning given to that expression in the Financial Collateral Regulations.

**Security Interest:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**Security Period:** the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

## **1.2 Interpretation**

In this deed:

- (a) reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or re-enactment or extension and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts;
- (b) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;

- (c) unless the context otherwise requires, words in the singular include the plural and in the plural include the singular;
- (d) a reference to a clause or Schedule is to a clause of, or Schedule to, this deed, unless the context otherwise requires;
- (e) a reference to **continuing** in relation to an Event of Default means an Event of Default which has not been remedied or waived;
- (f) a reference to **this deed** (or any provision of it) or any other document *shall be construed as a reference to this deed, that provision or that document as it is in force for the time being and as amended in accordance with its terms or with the agreement of the relevant parties;*
- (g) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, or any state or any agency of any person;
- (h) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);
- (i) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (j) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (k) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (l) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the discretion of the person making it;
- (m) a reference to the **Borrower** or the **Lender** shall include its successors, permitted transferees and permitted assigns;
- (n) clause and schedule headings shall not affect the interpretation of this deed; and

### 1.3 Clawback

If the Lender considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount

shall not be considered to have been irrevocably paid for the purposes of this deed.

#### **1.4 Nature of security over real property**

A reference in this deed to a charge or mortgage of or over any Property includes:

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time;
- (b) the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property;
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property, and any monies paid or payable in respect of those covenants; and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of that Property.

#### **1.5 Third party rights**

A third party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this deed.

#### **1.6 Schedules**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

### **2. Covenant to pay**

The Borrower shall, on demand pay to the Lender the Secured Liabilities.

### **3. Grant of security**

#### **3.1 Legal mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner charges to the Lender, by way of first legal mortgage, each Property specified in Schedule 1.

#### **3.2 Fixed charges**

- (a) As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner charges to the Lender by way of first fixed charge:
- (i) all Properties acquired by the Borrower in the future;
  - (ii) all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;
  - (iii) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;
  - (iv) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them;
  - (v) all its present and future goodwill;
  - (vi) all its uncalled capital;
  - (vii) all the Equipment;
  - (viii) all the Intellectual Property;
  - (ix) all the Book Debts;
  - (x) all the Investments;
  - (xi) the Liquor Licence; and
  - (xii) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account).
- (b) As continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner hereby demises and assigns unto the Lender so much of the Property as is unregistered land to hold so much thereof as are freehold unto the Lender for the term of ten thousand years from the date hereof without impeachment of waste and as to so much thereof as are leasehold unto the Lender for the residue as residues of the term as respective terms of years for which the same are held less the last three days of such term or of each such term or of each such terms impeachment of waste.
- (c) The Borrower shall stand possessed of the reversion immediately expectant upon the term of years hereby granted in any part of the legally mortgaged property mortgaged by clause 3.2 (b) in trust for the Lender and to assign convey or dispose of the same as the Lender may direct (subject to the proviso for redemption herein contained) and the Lender may at any time during the continuance of

the security hereby created remove any Borrower or any other person, persons or body corporate from being a trustee of the trust declared by this clause and/or the removal of any Borrower or such other person, persons or body corporate appoint a new trustee or trustees in his, their or its place.

- (d) The Borrower hereby attorns tenant to the Lender of any part of the legally mortgaged property mortgaged by subclause 3.2(b) at the yearly rent of five pence (if demanded) provided always that the Lender may at any time without notice to the Borrower determine the tenancy hereby created and enter upon such mortgaged property but so that neither the receipt of said rent nor the said tenancy shall render the Lender liable to account to any person as mortgagee in possession.

### **3.3 Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy.

### **3.4 Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower as beneficial owner charges to the Lender, by way of first floating charge, all the undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.3 inclusive.

### **3.5 Qualifying floating charge**

Paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 applies to the floating charge created by clause 3.4.

### **3.6 Automatic crystallisation of floating charge**

The floating charge created by clause 3.4 shall automatically and immediately (without notice) be converted into a fixed charge over the assets subject to that floating charge if:

- (a) the Borrower:

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

### **3.7 Crystallisation of floating charge by notice**

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

### **3.8 Assets acquired after any floating charge has crystallised**

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

## **4. Liability of the Borrower**

### **4.1 Liability not discharged**

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

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

- (c) any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

#### **4.2 Immediate recourse**

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

### **5. Representations and warranties**

#### **5.1 Representations and warranties**

The Borrower makes the representations and warranties set out in this clause 5, to the Lender.

#### **5.2 Ownership of Secured Assets**

The Borrower is the legal and beneficial owner of the Secured Assets.

#### **5.3 No Security Interests**

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

#### **5.4 No adverse claims**

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

#### **5.5 No adverse covenants**

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

#### **5.6 No breach of laws**

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

#### **5.7 No interference in enjoyment**

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

#### **5.8 No overriding interests**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Property.

#### **5.9 Avoidance of security**

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

#### **5.10 No prohibitions or breaches**

There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Borrower does not, and will not, constitute a breach of any Insurance Policy or any other agreement or instrument binding on the Borrower or its assets.

#### **5.11 Environmental compliance**

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

#### **5.12 Enforceable security**

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

#### **5.13 Liquor Licence**

Any Liquor Licence is valid and subsisting

#### **5.14 Times for making representations and warranties**



The representations and warranties in set out in clause 5.2 to clause 5.13 are made by the Borrower on the date of this deed.

## **6. GENERAL COVENANTS**

### **6.1 Negative pledge and disposal restrictions**

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

- (a) create, purport to create or permit to subsist any Security Interest on, or in relation to, any Secured Asset other than any Security Interest created by this deed;
- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, as permitted by the Facility Agreement); or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

### **6.2 Preservation of Secured Assets**

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

### **6.3 Compliance with laws and regulations**

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

- (iii) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

#### **6.4 Notice of misrepresentation and breaches**

The Borrower shall, promptly on becoming aware of any of the same, give the Lender notice in writing of:

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

#### **6.5 Title documents**

The Borrower shall, on the execution of this deed (or, if later, the date of acquisition of the relevant Secured Asset), deposit with the Lender and the Lender shall, for the duration of this deed be entitled to hold:

- (a) all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Borrower (and if these are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title);
- (b) the Liquor Licence;
- (c) all Insurance Policies and any other insurance policies relating to any of the Secured Assets that the Borrower is entitled to possess;
- (d) all deeds and documents of title (if any) relating to the Book Debts as the Lender may specify from time to time; and
- (e) copies of all the Relevant Agreements, certified to be true copies by either a director of the Borrower or by the Borrower's solicitors.

#### **6.6 Insurance**

- (a) The Borrower shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Secured Assets against:
  - (i) loss or damage by fire or terrorist acts;
  - (ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and

- (iii) any other risk, perils and contingencies as the Lender may reasonably require.

Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender, and must be for not less than the replacement value of the Secured Assets.

- (b) The Borrower shall, if requested by the Lender, produce to the Lender the policy, certificate or cover note relating to the insurance required by clause 6.6(a) (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).
- (c) The Borrower shall, if requested by the Lender, procure that a note of the Lender's interest is endorsed upon each insurance policy maintained by it or any person on its behalf in accordance with clause 6.6(a) and that the terms of each insurance policy require the insurer not to invalidate the policy as against the Lender by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Lender.

## **6.7 Insurance premiums**

The Borrower shall:

- (a) promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6.6(a) and do all other things necessary to keep that policy in full force and effect; and
- (b) (if the Lender so requires) produce to, or deposit with, the Lender the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 6.6(a).

## **6.8 No invalidation of insurance**

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6.6(a).

## **6.9 Proceeds of insurance policies**

All monies received or receivable by the Borrower under any insurance policy maintained by it in accordance with clause 6.6(a) (including all monies

received or receivable by it under any Insurance Policy) at any time (whether or not the security constituted by this deed has become enforceable) shall:

- (a) immediately be paid to the Lender;
- (b) if they are not paid directly to the Lender by the insurers, be held by the Borrower as trustee of the same for the benefit of the Lender (and the Borrower shall account for them to the Lender); and
- (c) at the option of the Lender, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities.

#### **6.10 Notices to be given by the Borrower**

The Borrower shall immediately on the execution of this deed (or, if later, the date of acquisition of the relevant Secured Asset):

- (a) give notice to each insurer that it has assigned its rights and interest in and under each Insurance Policy under clause 3.3 and procure that each addressee of any such notice promptly provides within five Business Days to the Lender an acknowledgement of the notice of the Lender's interest; and
- (b) give notice to any bank, financial institution or other person (excluding the Lender) with whom it has an account that it has charged to the Lender its rights and interests under that account under clause 3.2(a)(xii) and procure that each addressee of any such notice promptly provides within five Business Days to the Lender an acknowledgement of the notice of the Lender's interest.

#### **6.11 Information**

The Borrower shall:

- (a) give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require;
- (b) permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and
- (c) promptly notify the Lender in writing of any action, claim or demand made by or against it in connection with any Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to

the Lender's prior approval, implement those proposals at its own expense.

#### **6.12 Payment of outgoings**

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

#### **6.13 Borrower's waiver of set-off**

The Borrower waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Borrower under this deed).

### **7. Property covenants**

#### **7.1 Maintenance**

The Borrower shall keep all buildings and all fixtures on each Property in good and substantial repair and condition.

#### **7.2 Preservation of Property, fixtures and Equipment**

The Borrower shall not, without the prior written consent of the Lender:

- (a) pull down or remove the whole, or any part of, any building forming part of any Property or permit the same to occur;
- (b) make or permit any material alterations to any Property, or sever or remove, or permit to be severed or removed, any of its fixtures; or
- (c) remove or make any material alterations to any of the Equipment belonging to, or in use by, the Borrower on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes).

#### **7.3 Conduct of business on Properties**

The Borrower shall carry on its trade and business on those parts (if any) of the Properties as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business.

#### **7.4 Planning information**

The Borrower shall:

- (a) give full particulars to the Lender of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (**Planning Notice**) that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice; and
- (b) (if the Lender so requires) immediately, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Lender in making, any objections or representations in respect of that Planning Notice that the Lender may desire.

#### **7.5 Compliance with covenants and payment of rent**

The Borrower shall:

- (a) observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected, and (if the Lender so requires) produce evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed;
- (b) diligently enforce all covenants, stipulations and conditions benefiting each Property and shall not (and shall not agree to) waive release or vary any of the same; and
- (c) (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions.

#### **7.6 Payment of rent and outgoings**

The Borrower shall:

- (a) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and
- (b) pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier.

#### **7.7 Maintenance of interests in Properties**

The Borrower shall not, without the prior written consent of the Lender:

- (a) grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Property, or exercise, or agree to exercise, the statutory powers of leasing or of accepting surrenders under section 18 of Conveyancing Act or section 3 of the Conveyancing and Law of Property Act 1911.
- (b) in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Property.

#### **7.8 Registration restrictions**

If the title to any Property is not registered at the Land Registry, the Borrower shall procure that no person (other than itself) shall be registered under the Land Registration Act (Northern Ireland) 1970 as the registered owner of all or any part of any Property without the prior written consent of the Lender. The Borrower shall be liable for the costs and expenses of the Lender in lodging cautions against the registration of the title to the whole or any part of any Property from time to time.

#### **7.9 Development restrictions**

The Borrower shall not, without the prior written consent of the Lender:

- (a) make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property; or
- (b) carry out, or permit, or suffer to be carried out on any Property any development as defined in the Planning (Northern Ireland) Order 1991 as amended by the Planning Act (Northern Ireland) 2011, or change or permit or suffer to be changed the use of any Property.

#### **7.10 Environment**

The Borrower shall:

- (a) comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property; and
- (b) obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law.

#### **7.11 No restrictive obligations**

The Borrower shall not, without the prior written consent of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property.

#### **7.12 Proprietary rights**

The Borrower shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property without the prior written consent of the Lender.

#### **7.13 Inspection**

The Borrower shall permit the Lender, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice.

#### **7.14 Property information**

The Borrower shall inform the Lender promptly of any acquisition by the Borrower of, or contract made by the Borrower to acquire, any freehold, leasehold or other interest in any property.

#### **7.15 VAT option to tax**

The Borrower shall not, without the prior written consent of the Lender:

- (a) exercise any VAT option to tax in relation to any Property; or
- (b) revoke any VAT option to tax exercised, and disclosed to the Lender, before the date of this deed.

#### **7.16 Registration at the Land Registry**

The Borrower consents to an application being made by the Lender to the Land Registrar for the following inhibition to be registered against the Borrower's title to each Property:

"No disposition of the registered estate by the registered owner of the registered estate or by the owner of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the owner for the time being of the charge dated – , 2019 in favour of H & A Group Limited".



## **8. INVESTMENTS COVENANTS**

### **8.1 Deposit of title documents**

- (a) The Borrower shall:
  - (i) on the execution of this deed, deposit with the Lender all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Borrower at that time; and
  - (ii) on the purchase or acquisition by it of Investments after the date of this deed, deposit with the Lender all stock or share certificates and other documents of title or evidence of ownership relating to those Investments.
- (b) At the request of the Lender the Borrower shall immediately deposit with the Lender:
  - (i) all stock transfers forms relating to the relevant Investments duly completed and executed by or on behalf of the Borrower, but with the name of the transferee, the consideration and the date left blank; and
  - (ii) any other documents (in each case duly completed and executed by or on behalf of the Borrower) that the Lender may request in order to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments,

so that the Lender may, at any time and without notice to the Borrower, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

### **8.2 Nominations**

- (a) The Borrower shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:
  - (i) does not exercise any rights in respect of any Investments without the prior written approval of the Lender; and
  - (ii) immediately on receipt by it, forward to the Lender all communications or other information received by it in respect of any Investments for which it has been so nominated.
- (b) The Borrower shall not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 and

146 of the Companies Act 2006) to nominate any person in respect of any of the Investments.

### **8.3 Additional registration obligations**

The Borrower shall:

- (a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association of any issuer that is not a public company or otherwise, for the transfer of the Investments to the Lender or its nominee, or to a purchaser on enforcement of this deed; and
- (b) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) of the articles of association of each issuer that is not a public company in any manner that the Lender may require in order to permit such a transfer.

### **8.4 Dividends and voting rights before enforcement**

- (a) Before the security constituted by this deed becomes enforceable, the Borrower may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Lender or any of its nominees, the Lender will hold all those dividends, interest and other monies received by it for the Borrower and will pay them to the Borrower promptly on request; and
- (b) Before the security constituted by this deed becomes enforceable, the Borrower may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Lender or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
  - (i) it shall not do so in any way that would breach any provision of this deed or for any purpose inconsistent with this deed; and
  - (ii) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Lender's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Lender's security under this deed.
- (c) The Borrower shall indemnify the Lender against any loss or liability incurred by the Lender (or its nominee) as a consequence of the Lender (or its nominee) acting in respect of the Investments at the direction of the Borrower.

- (d) The Lender shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Lender considers prejudicial to, or impairing the value of, the security created by this deed.

#### **8.5 Dividends and voting rights after enforcement**

After the security constituted by this deed has become enforceable:

- (a) all dividends and other distributions paid in respect of the Investments and received by the Borrower shall be held by the Borrower on trust for the Lender and immediately paid into a Designated Account or, if received by the Lender, shall be retained by the Lender; and
- (b) all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Lender and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Lender may give, in its absolute discretion, concerning the exercise of those rights and powers.

#### **8.6 Calls on Investments**

The Borrower shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Borrower acknowledges that the Lender shall not be under any liability in respect of any such calls, instalments or other payments.

#### **8.7 No alteration of constitutional documents or rights attaching to Investments**

The Borrower shall not, without the prior written consent of the Lender, amend, or agree to the amendment of:

- (a) the memorandum or articles of association, or any other constitutional documents, of any issuer that is not a public company; or
- (b) the rights or liabilities attaching to any of the Investments.

## **8.8 Preservation of Investments**

The Borrower shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer that is not a public company shall not:

- (a) consolidate or subdivide any of its Investments, or reduce or re-organise its share capital in any way;
- (b) issue any new shares or stock; or
- (c) refuse to register any transfer of any of its Investments that may be lodged for registration by, or on behalf of, the Lender or the Borrower in accordance with this deed.

## **8.9 Investments information**

The Borrower shall, promptly following receipt, send to the Lender copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.

## **9. Equipment covenants**

### **9.1 Maintenance of Equipment**

The Borrower shall:

- (a) maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- (b) at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and
- (c) not permit any Equipment to be:
  - (i) used or handled other than by properly qualified and trained persons; or
  - (ii) overloaded or used for any purpose for which it is not designed or reasonably suitable.

### **9.2 Payment of Equipment taxes**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the

Equipment and, on demand, produce evidence of such payment to the Lender.

## **10. Liquor Licence**

If the Mortgaged Property or any part thereof comprises licensed premises (as defined in Article 2 of the Licensing (Northern Ireland) Order 1996) the Borrower:

- (a) Will take all such steps as may be necessary or desirable in relation to carrying on the business of the selling of intoxicating liquor (as defined in Article 2 of The Licensing (Northern Ireland) Order 1996) on such licensed premises and for keeping open such licensed premises as fully licensed premises within the terms of the Licensing (Northern Ireland) Order 1996 and shall, if and when required by the Lender, obtain a transfer or transfers of the said licences attached thereto or any of them to the Lender or to any person nominated by the Lender and for the purposes of this clause, the Borrower hereby irrevocably appoints the Lender (through such Officers as it may nominate) to be the attorney of the Borrower to apply for and to obtain from time to time, renewals of such licences and to sign all property notices and other documents and to do all necessary acts for assigning or transferring such licences to the Lender or as the Lender may in its absolute discretion otherwise require and the Borrower hereby covenants with the Lender to confirm whatever the Lender may do or purport to do under the power of attorney herein contained;
- (b) Preserve, maintain and renew as and when necessary intoxicating liquor licences, permissions and other rights required in order to allow the Borrower to carry on its business at the Mortgage Property

## **11. Book Debts covenants**

### **11.1 Realising Book Debts**

The Borrower shall:

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

### **13.2 Exercise of rights**

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

### **13.3 Power to dispose of chattels**

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

### **13.4 Lender has Receiver's powers**

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

### **13.5 Conversion of currency**

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 13.5) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.
- (b) Any such conversion shall be effected at Bank of England then prevailing spot selling rate of exchange for such other currency against the existing currency.
- (c) Each reference in this clause 13.5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

### **13.6 Indulgence**

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

### **13.7 Appointment of an Administrator**

- (a) The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 15 of Schedule B1 of the Insolvency (Northern Ireland) Order 1989 if the security constituted by this deed becomes enforceable.
- (b) Any appointment under this clause 13.7 shall:
  - (i) be in writing signed by a duly authorised signatory of the Lender; and
  - (ii) take effect, in accordance with paragraph 20 of Schedule B1 of the Insolvency (Northern Ireland) Order 1989.
- (c) The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 13.7 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

## **14. When security becomes enforceable**

### **14.1 Security becomes enforceable on Event of Default**

The security constituted by this deed shall be immediately enforceable if, an Event of Default occurs.

### **14.2 Discretion**

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

## **15. Enforcement of security**

### **15.1 Enforcement powers**

- (a) The power of sale and other powers conferred by section 19 of the Conveyancing Act (as varied or extended by this deed) shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this deed, but the Lender shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 14.1.
- (b) Section 20 of the Conveyancing Act does not apply to the security constituted by this deed.

## **15.2 Extension of statutory powers of leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the Conveyancing Act and by any other statute are extended so as to authorise the Lender and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to:

- (a) grant a lease or agreement to lease;
- (b) accept surrenders of leases; or
- (c) grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lender or Receiver thinks fit without the need to comply with any of the restrictions imposed by section 3 of the Conveyancing and Law of Property Act 1911, and section 18 of the Conveyancing Act.

## **15.3 Access on enforcement**

- (a) At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Facility Agreement, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.
- (b) At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 15.3(a) (including obtaining any necessary consents or



permits of other persons) and ensure that its employees and officers do the same.

#### **15.4 Prior Security Interests**

At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security Interest having priority to this deed shall have become exercisable, the Lender may:

- (a) redeem that or any other prior Security Interest;
- (b) procure the transfer of that Security Interest to it; and
- (c) settle and pass any account of the holder of any prior Security Interest.

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower. All monies paid by the Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Borrower to the Lender on current account and shall bear interest at the default rate specified in the Facility Agreement and be secured as part of the Secured Liabilities.

#### **15.5 Protection of third parties**

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire:

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (b) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- (c) how any money paid to the Lender, any Receiver or any Delegate is to be applied.

#### **15.6 Privileges**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the Conveyancing Act on mortgagees and receivers.

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

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the

Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

#### **15.8 Conclusive discharge to purchasers**

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

#### **15.9 Right of appropriation**

- (a) To the extent that:
  - (i) the Secured Assets constitute Financial Collateral; and
  - (ii) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine.
- (b) The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by any other method that the Lender may select (including independent valuation).
- (c) The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

### **16. Receiver**

#### **16.1 Appointment**

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

## **16.2 Removal**

The Lender may, without further notice (subject to article 55 of the Insolvency (Northern Ireland) Order 1989), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

## **16.3 Remuneration**

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 24 of the Conveyancing Act, and the remuneration of the Receiver shall be a debt secured by this deed, which shall be due and payable immediately on its being paid by the Lender.

## **16.4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency (Northern Ireland) Order 1989, the Conveyancing Act, the Conveyancing and Law of Property Act 1911 or otherwise, and shall be exercisable without the restrictions contained in sections 20 and 24 of the Conveyancing Act or otherwise.

## **16.5 Power of appointment exercisable despite prior appointments**

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

## **16.6 Agent of the Borrower**

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

## **17. Powers of Receiver**

### **17.1 General**

- (a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 17.2 to clause 17.23.
- (b) 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.
- (c) Any exercise by a Receiver of any of the powers given by clause 17 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 17.16) or himself.

### **17.2 Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

### **17.3 Surrender leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit.

### **17.4 Employ personnel and advisors**

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

### **17.5 Make VAT elections**

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit.

## **17.6 Remuneration**

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

## **17.7 Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

## **17.8 Manage or reconstruct the Borrower's business**

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

## **17.9 Dispose of Secured Assets**

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

## **17.10 Sever fixtures and fittings**

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Borrower.

## **17.11 Sell Book Debts**

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

#### **17.12 Valid receipts**

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

#### **17.13 Make settlements**

A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that he may think expedient.

#### **17.14 Bring proceedings**

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

#### **17.15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient.

#### **17.16 Make calls on Borrower members**

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

#### **17.17 Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 20, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed.

#### **17.18 Powers under the Conveyancing Act**

A Receiver may exercise all powers provided for in the Conveyancing Act in the same way as if he had been duly appointed under the Conveyancing Act, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency (Northern Ireland) Order 1989.

### **17.19 Borrow**

A Receiver may, for any of the purposes authorised by this clause 16, raise money by borrowing from the Lender (or from any other person) either *unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).*

### **17.20 Redeem prior Security Interests**

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

### **17.21 Delegation**

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

### **17.22 Absolute beneficial owner**

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

### **17.23 Incidental powers**

A Receiver may do any other acts and things:

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

## **18. Delegation**

### **18.1 Delegation**

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

### **18.2 Terms**

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

### **18.3 Liability**

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

## **19. Application of proceeds**

### **19.1 Order of application of proceeds**

All monies received by the Lender, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the Conveyancing Act) be applied in the following order of priority:

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



## **19.2 Appropriation**

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 24(8) of the Conveyancing Act, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

## **19.3 Suspense account**

All monies received by the Lender, a Receiver or a Delegate under this deed:

- (a) may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;
- (b) shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
- (c) may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

## **20. Costs and indemnity**

### **20.1 Costs**

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

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

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

## **20.2 Indemnity**

The Borrower shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents, on a full indemnity basis against any cost, charge, expense, tax, loss, liability or damage incurred by any of them as a result of:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Borrower in performing any of its obligations under this deed.

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

## **21. Further assurance**

### **21.1 Further assurance**

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

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

including, without limitation (if the Lender or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **22. Power of attorney**

### **22.1 Appointment of attorneys**

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

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

### **22.2 Ratification of acts of attorneys**

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

## **23. Release**

Subject to clause 25.3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

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

## **24. Assignment and transfer**

### **24.1 Assignment by Lender**

- (a) At any time, without the consent of the Borrower, the Lender may assign or transfer the whole or any part of the Lender's rights and/or obligations under this deed to any person.
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information about the Borrower, the Secured Assets and this deed that the Lender considers appropriate.

## **24.2 Assignment by Borrower**

The Borrower may not assign any of its rights, or transfer any of its obligations, under this deed, or enter into any transaction that would result in any of those rights or obligations passing to another person.

## **25. Further provisions**

### **25.1 Independent security**

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

### **25.2 Continuing security**

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

### **25.3 Discharge conditional**

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

- (a) the Lender or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
- (b) the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

#### **25.4 Certificates**

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

#### **25.5 Rights cumulative**

The rights and remedies of the Lender conferred by this deed are cumulative, may be exercised as often as the Lender considers appropriate, and are in addition to its rights and remedies under the general law.

#### **25.6 Variations and waivers**

Any waiver or variation of any right or remedy by the Lender (whether arising under this deed or under the general law), or any consent given under this deed, is only effective if it is in writing and signed by the waiving, varying or consenting party, and applies only in the circumstances for which it was given, and shall not prevent the party giving it from subsequently relying on the relevant provision.

#### **25.7 Further exercise of rights**

No act or course of conduct or negotiation by, or on behalf of, the Lender shall, in any way, preclude the Lender from exercising any right or remedy under this deed or constitute a suspension or variation of any such right or remedy.

#### **25.8 Delay**

No delay or failure to exercise any right or remedy under this deed shall operate as a waiver of that right or remedy.

#### **25.9 Single or partial exercise**

No single or partial exercise of any right or remedy under this deed shall prevent any further or other exercise of that right or remedy, or the exercise of any other right or remedy under this deed.

## **25.10 Consolidation**

The restriction on the right of consolidation contained in section 17 of the Conveyancing Act shall not apply to this deed.

## **25.11 Partial invalidity**

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

## **25.12 Counterparts**

This deed may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

## **26. Notices**

### **26.1 Service**

Each notice or other communication required to be given under, or in connection with, this deed shall be:

(a) in writing, delivered personally or sent by pre-paid first-class letter or fax; and

(b) sent:

(i) to the Borrower at:

8 Grange Road, Magherafelt,

Co Londonderry, BT45 5EL

(ii) to the Lender at:

28 Fivemile Straight, Draperstown,

Magherafelt, BT45 7EE

Attention:

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

## **26.2 Receipt by Borrower**

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

- (a) if sent by fax, when received in legible form;
- (b) if given by hand, at the time of actual delivery; and
- (c) if posted, on the second Business Day after the day it was sent by pre-paid first-class post.

*A notice or other communication given as described in clause 26.2(a) or clause 26.2(b) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.*

## **26.3 Receipt by Lender**

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

## **27. Governing law and jurisdiction**

### **27.1 Governing law**

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

### **27.2 Jurisdiction**

The parties to this deed irrevocably agree that, subject as provided below, the courts of Northern Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of

proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of that other jurisdiction.

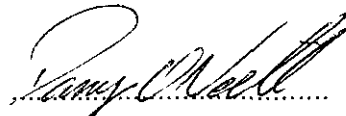
### **27.3 Other service**

The Borrower irrevocably consents to any process in any proceedings under clause 27.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

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



Executed as a deed by  
Randalstown Hydro Electric  
Company Limited  
acting by  
a director  
in the presence of

  
Director

EMMONN BURKE  
Witness Name

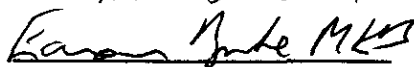
Eamon Burke  
Witness

14 Great Victoria  
Street Belfort BT2 7BA  
Witness Address

SOLICITOR  
Witness Occupation

We hereby certify that this is a true copy of  
the document of which it purports to be a copy.

Dated this 12 day of June 2019

Handwritten signature of Eamon Burke, with the letters 'MKB' written at the end of the signature.

MKB Law

14-18 Great Victoria Street, Belfast, BT2 7BA