



## Registration of a Charge

LLP name: **GREYBULL CAPITAL LLP**

LLP number: **OC354497**



X79UZFJC

Received for Electronic Filing: **10/07/2018**

## Details of Charge

Date of creation: **06/07/2018**

Charge code: **OC35 4497 0004**

Persons entitled: **DEUTSCHE BANK AG, LONDON BRANCH, (WINCHESTER HOUSE, 1 GREAT WINCHESTER STREET, LONDON EC2N 2DB) (AS TRUSTEE FOR EACH OF THE SECURED PARTIES).**

Brief description:

**Contains fixed charge(s).**

**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.**





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

LLP number: OC354497

Charge code: OC35 4497 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th July 2018 and created by GREYBULL CAPITAL LLP was delivered pursuant to Part 25 of the Companies Act 2006 as applied by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 on 10th July 2018 .

Given at Companies House, Cardiff on 12th July 2018

The above information was communicated by electronic means and authenticated  
by the Registrar of Companies under the Limited Liability Partnership  
(Application of the Companies Act 2006) Regulations 2009 SI 2009/1804



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

DATED 06 JULY 2018

GREYBULL CAPITAL LLP  
AS THE CHARGOR

IN FAVOUR OF

DEUTSCHE BANK AG, LONDON BRANCH  
AS THE SECURITY AGENT

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SECURITY OVER SHARES AGREEMENT

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THIS AGREEMENT is made by way of deed on 06 July 2018:

**BETWEEN**

- (1) **GREYBULL CAPITAL LLP** registered in England and Wales with company number OC354497 (the "**Chargor**"); and
- (2) **DEUTSCHE BANK AG, LONDON BRANCH** as trustee for the Secured Parties on the terms and conditions set out in the Security Agent Appointment Documents (the "**Security Agent**" which expression shall include any person for the time being appointed as trustee or as an additional trustee for the purpose of and in accordance with the Security Agent Appointment Documents).

**RECITALS:**

- (A) The Bank Senior Lender and the Sparkwell Senior Lender have provided or will provide financing (the "**Financing**") to the Borrower (as defined below).
- (B) It is a condition to the Financing being made available under the Bank Senior Facility Agreement and the Sparkwell Senior Loan Agreement that the Chargor enters into this Agreement.
- (C) It is intended by the parties to this Agreement that this document will take effect as a deed despite the fact that a party may only execute this Agreement under hand.
- (D) The Security Agent is acting under and holds the benefit of the rights conferred upon it in this Agreement on trust for the Secured Parties.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement:

"**Acceleration Event**" means a Bank Acceleration Event or a Sparkwell Acceleration Event.

"**Bank Senior Creditors**" means the Agent, each Bank Senior Lender and the Arranger from time to time party to the Bank Senior Facility Agreement.

"**Bank Senior Facility Agreement**" means the secured facility agreement originally dated 17 September 2015 (as amended and restated on or about the date of this Agreement) and made between, amongst others, the Borrower, Plessey Semiconductors Limited, Plessey Lighting Limited and Intellec Ltd. as guarantors, the Security Agent and Deutsche Bank AG, London Branch as arranger and agent.

"**Bank Senior Finance Documents**" has the meaning given to the term "Finance Documents" in the Bank Senior Facility Agreement.

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**"Borrower"** means Plessey Group Holdings Limited, registered in England and Wales with company number 07125852.

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

**"Charged Portfolio"** means the Shares and the Related Assets.

**"Collateral Rights"** means subject always to the provisions of Clause 5 (*Voting Rights and Dividends*) in relation to the exercise of voting rights all rights, powers and remedies of the Security Agent provided by this Agreement or by law.

**"First Ranking Security"** means the security over shares agreement dated 21 November 2017 granted by the Chargor in favour of the Security Agent.

**"Intercreditor Agreement"** means the intercreditor agreement originally dated 17 September 2015 (as amended and restated on or about the date of this Agreement) and made between, amongst others, the Borrower, Plessey Jersey Limited, Plymouth Jersey II Limited, Sparkwell Limited, Greybull Capital Limited, the Secretary of State for Business, Energy and Industrial Strategy and Deutsche Bank AG, London Branch as security agent.

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the business, operations, property or financial condition of the Chargor;
- (b) the ability of the Chargor to perform its obligations under this Agreement; or
- (c) the validity or enforceability of this Agreement or the rights or remedies of any Secured Party under this Agreement.

**"Obligors"** means:

- (a) the Borrower, registered in England and Wales with company number 07125852;
- (b) Plessey Semiconductors Limited, registered in England and Wales with company number 04129612;
- (c) Plessey Lighting Limited, registered in England and Wales with company number 07875755; and
- (d) Inteltec Ltd., registered in England and Wales with company number 07636632.

**"Pensions Notice"** means a contribution notice or a financial support direction issued by the Pensions Regulator under the Pensions Act 2004.

**"Related Assets"** means all dividends, interest and other monies at any time payable at any time in respect of the Shares and all other rights, benefits and proceeds in respect of or derived from the Shares (whether by way of redemption, bonus,

preference, option, substitution, conversion, compensation or otherwise) held by, to the order or on behalf of the Chargor at any time.

**"Secured Obligations"** means all obligations owing to the Secured Parties or to the Security Agent (whether for its own account or as trustee for the Secured Parties) by the Obligors under or pursuant to the Senior Finance Documents including any liability in respect of any further advances made under the Senior Finance Documents, whether present or future, actual or contingent (and whether incurred by the Obligors alone or jointly, and whether as principal or surety or in some other capacity) except for any obligation or liability which, if it were included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful or prohibited by any applicable law.

**"Secured Parties"** means the Security Agent, any Receiver or Delegate, the Bank Senior Creditors and the Sparkwell Senior Creditors.

**"Security"** means the security created under or pursuant to or evidenced by this Agreement.

**"Security Agent Appointment Documents"** means the Bank Senior Facility Agreement, the Sparkwell Senior Loan Agreement and the Intercreditor Agreement.

**"Senior Finance Documents"** means the Bank Senior Finance Documents and the Sparkwell Senior Finance Documents.

**"Shareholders' Agreement"** means the shareholders agreement relating to the shares of the Borrower dated 21 November 2017 (as amended from time to time) and made between, amongst others, Plessey Jersey Limited, Plymouth Jersey II Limited, the Borrower, Sparkwell Limited, Greybull Capital LLP and X-FAB Semiconductor Foundries NG.

**"Shares"** means the shares listed in Schedule 1 (*Shares*) and all of the shares in the Borrower from time to time held by, to the order or on behalf of the Chargor.

**"Sparkwell Senior Creditors"** means the Sparkwell Senior Lenders.

**"Sparkwell Senior Loan Agreement"** means the loan agreement dated on or about the date of this Agreement and made between, amongst others, the Borrower and Sparkwell Limited as lender.

**"Sparkwell Senior Finance Documents"** has the meaning given to the term "Finance Documents" in the Sparkwell Senior Loan Agreement.

## 1.2 **Terms defined in the Intercreditor Agreement**

Unless defined in this Agreement or the context otherwise requires, a term defined in the Intercreditor Agreement has the same meaning in this Agreement or any notice given under or in connection with this Agreement.



### 1.3 Interpretation

- (a) This Agreement is subject to the terms of the Intercreditor Agreement. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Intercreditor Agreement including with regard to the rights, powers and obligations of the Security Agent, the terms of the Intercreditor Agreement will prevail.
- (b) In this Agreement:
  - (i) Clauses 1.2 (*Construction*) and 1.3 (*Currency*) of the Intercreditor Agreement will apply as if incorporated in this Agreement or in any notice given under or in connection with this Agreement; and
  - (ii) any reference to "**including**" and "**include**" shall mean including and include "without limitation" and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms.

### 1.4 Present and future assets

- (a) A reference in this Agreement to any Shares or other asset includes, unless the contrary intention appears, present and future Shares and other assets.
- (b) The absence of or incomplete details of any Shares in the Schedule shall not affect the validity or enforceability of any Security under this Agreement.

### 1.5 Third Party Rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

### 1.6 The Security Agent

In acting hereunder, the Security Agent does so pursuant to its terms of appointment under the Security Agent Appointment Documents and is entitled to the protections set out therein.

### 1.7 Existing Security

Notwithstanding any other provision of this Agreement, the security interests created pursuant to this Agreement shall at all times be subject to the security created by the First Ranking Security until such time as the security interests created by or pursuant to the First Ranking Security have no, or cease to have, effect and, in circumstances where the security constituted by the First Ranking Security remains in force, any reference in this Agreement to:

- (a) an asset secured under the First Ranking Security being assigned; and
- (b) the security over any asset secured under this Agreement being secured with full title guarantee,

shall be construed accordingly.

## **2. COVENANT TO PAY AND CHARGE**

### **2.1 Covenant to Pay**

The Chargor covenants with the Security Agent that it shall, on demand of the Security Agent, pay, discharge and satisfy each of the Secured Obligations on their due date in accordance with their respective terms **provided that** the liability of the Chargor shall be limited to the realisable value of the Charged Portfolio from time to time to the extent set out in Clause 3 (*Limited Recourse*).

### **2.2 Charge**

Subject only to the First Ranking Security, the Chargor charges the Charged Portfolio with full title guarantee and by way of first fixed charge, in favour of the Security Agent, as continuing security for the payment and discharge of the Secured Obligations.

## **3. LIMITED RECOURSE**

3.1 Notwithstanding any other provision of this Agreement or any Senior Finance Document, and save where the Chargor is in breach of any representation, warranty, covenant, undertaking, indemnity or other obligation under this Agreement, it is expressly agreed and understood that:

- (a) the sole recourse of the Secured Parties to the Chargor under this Agreement (whether in respect of an obligation to pay or repay amounts of principal, interest, costs and expenses or other sums, any breach of representation, warranty, covenant, undertaking, indemnity or other term or condition of this Agreement) is to the Chargor's interest in the Charged Portfolio and the Secured Parties may not seek to recover any payment or repayment from the Chargor's other assets or undertaking; and
- (b) the liability of the Chargor to a Secured Party pursuant to or otherwise in connection with this Agreement shall be:
  - (i) limited in aggregate to an amount equal to that recovered as a result of enforcement of this Agreement with respect to the realisable value of the Charged Portfolio from time to time; and
  - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Charged Portfolio pursuant to this Agreement.

3.2 No director of the Chargor in its personal capacity as such shall, under any circumstances, have any obligation to the Secured Parties under this Agreement, whether to pay or repay any sum of money or to do or refrain from doing any act or otherwise nor shall they have any personal liability under or in connection with this Agreement.

#### **4. DEPOSIT OF CERTIFICATES, RELATED RIGHTS AND RELEASE**

##### **4.1 Deposit of certificates**

The Chargor will, unless already held with the Security Agent pursuant to the First Ranking Security, immediately upon the execution of this Agreement (or upon coming into possession of the Chargor at any time) deposit (or procure there to be deposited) with the Security Agent all certificates and other documents of title to the Shares, and stock transfer forms (executed in blank by or on behalf of the Chargor) in respect of the Shares.

##### **4.2 Related Assets**

The Chargor shall, unless already held with the Security Agent pursuant to the First Ranking Security, promptly upon the accrual, offer or issue of any Related Assets (in the form of stocks, shares, warrants or other securities but for the avoidance of doubt, not including dividends, interest and other monies) in which the Chargor has a beneficial interest, procure the delivery to the Security Agent of (a) all certificates and other documents of title representing those Related Assets and (b) such duly executed blank stock transfer forms or other instruments of transfer in respect of those Related Assets as the Security Agent may require.

##### **4.3 Release**

Upon the Security Agent being satisfied that the Secured Obligations have been irrevocably paid or discharged in full, and the Security Agent and the Secured Parties having no further actual or contingent obligations to make advances or provide other financial accommodation to the Obligors or any other person under the Senior Finance Documents, the Security Agent shall, at the request and cost of the Chargor promptly release all the security granted by this Agreement without recourse to, and without any representations or warranties by, the Security Agent or any of its nominee(s).

##### **4.4 Further advances**

Subject to the terms of the Senior Finance Documents, the Senior Lenders are under an obligation to make further advances to the Borrower(s) and that obligation will be deemed to be incorporated in this Agreement as if set out in this Agreement.

##### **4.5 Custodians and nominees**

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to all or any part of the Charged Portfolio as the Security Agent may determine and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any such person or be bound to supervise the proceedings or acts of any such person.

## **5. VOTING RIGHTS AND DIVIDENDS**

### **5.1 Dividends prior to an Acceleration Event**

Prior to the occurrence of an Acceleration Event, the Chargor shall be entitled to receive all dividends, interest and other monies or distributions of an income nature arising from the Charged Portfolio.

### **5.2 Dividends after an Acceleration Event**

After the occurrence of an Acceleration Event, the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) apply all dividends, interest and other monies arising from the Charged Portfolio as though they were the proceeds of sale under this Agreement.

### **5.3 Voting rights prior to Security Agent Notice**

Prior to the giving of notice pursuant to Clause 5.4 (*Voting rights after Security Agent Notice*), the Chargor shall be entitled to exercise all voting rights in relation to the Charged Portfolio.

### **5.4 Voting rights after Security Agent Notice**

Subject to Clause 5.5 (*Waiver of voting rights by Security Agent*), after the occurrence of an Acceleration Event, the Security Agent may (but without having any obligation to do so) give notice to the Chargor (with a copy to the Agent and the Sparkwell Senior Lender) that this Clause 5.4 will apply. With effect from the giving of that notice the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):

- (a) exercise (or refrain from exercising) any voting rights in respect of the Charged Portfolio;
- (b) transfer the Charged Portfolio into the name of such nominee(s) of the Security Agent as it shall require; and
- (c) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Portfolio including the right, in relation to any company whose shares or other securities are included in the Charged Portfolio, to concur or participate in:
  - (i) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
  - (ii) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
  - (iii) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Security Agent thinks fit, and the proceeds of any such action shall form part of the Charged Portfolio.

## **5.5 Waiver of voting rights by Security Agent**

- (a) The Security Agent may, in its absolute discretion and without any consent or authority from the other Secured Parties or the Chargor, at any time, by notice to the Chargor (which notice shall be irrevocable), with a copy to the Agent and the Sparkwell Senior Lender, elect to give up the right to exercise (or refrain from exercising) all voting rights and powers in respect of the Charged Portfolio conferred or to be conferred on the Security Agent pursuant to Clause 5.4 (*Voting rights after Security Agent Notice*).
- (b) Once a notice has been issued by the Security Agent under paragraph (a) of this Clause 5.5, on and from the date of such notice the Security Agent shall cease to have the rights to exercise or refrain from exercising voting rights and powers in respect of the Charged Portfolio conferred or to be conferred on it pursuant to Clause 5.4 (*Voting rights after Security Agent Notice*) or any other provision of this Agreement and all such rights will be exercisable by the Chargor. The Chargor shall be entitled on and from the date of such notice, to exercise all voting rights and powers in relation to the Charged Portfolio subject only to the proviso contained in paragraph (e) (*Voting Rights*) of Clause 6.2 (*Undertakings*).

## **6. CHARGORS' REPRESENTATIONS AND UNDERTAKINGS**

### **6.1 Representations**

The Chargor makes the following representations and warranties to the Security Agent and acknowledges that the Security Agent has become a party to this Agreement in reliance on these representations and warranties:

- (a) ***Status***
  - (i) It is a corporation, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
  - (ii) It and each of its subsidiaries has the power to own its assets and carry on its business as it is being conducted.

- (b) ***Binding obligations***

Subject to the Legal Reservations, the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations; and, subject only to the First Ranking Security, create a first ranking security interest over the Charged Portfolio.

- (c) ***Non-conflict with other obligations***

The entry into and performance by it of, and the transactions contemplated by, this Agreement (including any transfer of the Shares on creation or

enforcement of the security constituted by this Agreement) do not and shall not:

- (i) conflict with:
  - (A) any law or regulation applicable to it;
  - (B) its or any of its subsidiaries constitutional documents; or
  - (C) any agreement or instrument binding upon it, any of its subsidiaries or the Shares where such conflict, default or termination event has or is reasonably likely to have a Material Adverse Effect; or
- (ii) result in the existence of, or oblige it to create, any security over the Shares other than as permitted under this Agreement.

(d) ***Ranking***

Subject only to the First Ranking Security, the security created by this Agreement has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* security.

(e) ***Power and authority***

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

(f) ***Ownership of Shares***

It is the sole legal and beneficial owner of the Charged Portfolio and all of the Shares are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of the Borrower do not and shall not restrict or inhibit any transfer of the Shares on creation or on enforcement of the security created by this Agreement. Except as provided in the Shareholders' Agreement and the Warrant Documents, there are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of the Borrower (including any option or right of pre-emption or conversion).

(g) ***Authorisations***

All Authorisations required:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Agreement; and
- (ii) to make this Agreement admissible in evidence in its jurisdiction of incorporation and the jurisdiction of incorporation of each company whose shares are charged under this Agreement,

have been obtained or effected and are in full force and effect.

(h) ***Choice of law***

Subject to the Legal Reservations, the choice of English law as the governing law of this Agreement and any judgement obtained in England in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

(i) ***Deduction of Tax***

It is not required to make any deduction for or on account of tax from any payment it may make under this Agreement.

(j) ***Winding-up***

No corporate actions, legal proceedings or other procedure or steps have been taken in relation to, or notice given in respect of, a composition, compromise, assignment or arrangement with any creditor of the Chargor or in relation to the suspension of payments or moratorium of any indebtedness, winding-up, dissolution, administration, reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) or bankruptcy of, or the appointment of an administrator or the Viscount to, the Chargor and no such step is intended by the Chargor (save for the purposes of any solvent re-organisation or reconstruction which has previously been approved by the Security Agent).

(k) ***Centre of main interests and establishments***

(i) It has its "centre of main interests" (as that term is used in Article 3(1) of Regulation (EU) 2015/848 of 20 May 2015 on Insolvency Proceedings (Recast) (the "**Regulation**")) in England.

(ii) It has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any jurisdictions other than England.

(l) ***Repetition***

The representations set out in paragraphs (a) (*Status*) to (k) (*Centre of main interests and establishments*) are deemed to be made by the Chargor by reference to the facts and circumstances then existing on the date of this Agreement, the date of each Utilisation Request, each Utilisation Date and the first day of each Interest Period.

## 6.2 **Undertakings**

(a) ***Authorisations***

The Chargor shall promptly:

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

- (ii) supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of any relevant jurisdiction to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability or admissibility in evidence in any relevant jurisdiction of this Agreement.

(b) ***Compliance with laws***

The Chargor shall comply in all respects with all laws to which it may be subject, if failure so to comply would impair its ability to perform its obligations under this Agreement.

(c) ***Disposals and Negative pledge***

The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntarily or involuntarily, to sell, lease, transfer or otherwise dispose of the whole or any part of the Charged Portfolio and, subject only to the First Ranking Security, will not create or permit to subsist any security interest on any part of the Charged Portfolio or otherwise deal with any part of the Charged Portfolio.

(d) ***Calls on Shares***

The Chargor undertakes to pay all calls or other payments when due in respect of any part of the Charged Portfolio. If the Chargor fails to make any such payment the Security Agent may (but shall have no obligation to) make that payment on behalf of the Chargor and any sums so paid by the Security Agent shall be reimbursed by the Chargor on demand together with interest on those sums. Such interest shall be calculated from the due date up to the actual date of payment (after, as well as before, judgment) in accordance with Clause 13.5 (*Interest on Demands*).

(e) ***People with Significant Control Register Regime***

The Chargor shall:

- (i) within the relevant timeframe, comply with any notice it receives pursuant to Part 21A of the Companies Act 2006 from the Borrower; and
- (ii) promptly provide the Security Agent with a copy of that notice.

(f) ***Voting Rights***

The Chargor shall not exercise (and shall procure that any nominee acting on its behalf does not exercise) its voting rights and powers in relation to the Charged Portfolio in any manner, or otherwise permit or agree to, or concur or participate in any (i) variation of the rights attaching to or conferred by all or any part of the Charged Portfolio (ii) increase in the issued share capital of any company whose shares are charged pursuant to this Agreement (iii) exercise, renunciation or assignment of any right to subscribe for any shares or



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securities or (iv) reconstruction, amalgamation, sale or other disposal of any company or any of the assets of any company (including the exchange, conversion or reissue of any shares or securities as a consequence thereof) whose shares are charged under this Agreement, which in the opinion of the Security Agent would prejudice the value of, or the ability of the Security Agent to realise, the security created by this Agreement **provided that** the proceeds of any such action shall form part of the Charged Portfolio.

## **7. FURTHER ASSURANCE**

### **7.1 Extension of implied covenant**

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 7.2 (*Covenant for Further Assurance*) below.

### **7.2 Covenant for Further Assurance**

The Chargor will promptly at its own cost do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may specify (and in such form as the Security Agent may require in favour of the Security Agent or its nominee(s)) for the purpose of exercising the Collateral Rights or perfecting the Security created or intended to be created in respect of the Charged Portfolio (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Charged Portfolio) or for the exercise of the rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law in each case in accordance with the rights vested in it under this Agreement.

### **7.3 Prescribed Wording**

The following covenants shall be implied in respect of any action taken by the Chargor to comply with its obligations under Clause 7.1 (*Covenant for Further Assurance*):

- (a) the Chargor has the right to take such action in respect of the Charged Portfolio; and
- (b) the Chargor will at its own cost do all that it reasonably can to give the Security Agent or its nominee the title and/or rights that it purports to give.

## **8. POWER OF ATTORNEY**

### **8.1 Appointment and powers**

The Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally to be its attorney (with full power of substitution and following the occurrence of an Acceleration Event) and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required for:

- (a) carrying out any obligation imposed on the Chargor by this Agreement or any other agreement binding on the Chargor to which the Security Agent is a party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Portfolio); and
- (b) enabling the Security Agent to exercise, or delegate the exercise of, all or any of the Collateral Rights;
- (c) enabling any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Agreement or by law,

such appointment to terminate upon the Security Agent being satisfied that the Secured Obligations have been irrevocably paid or discharged in full, and the Security Agent and the Secured Parties having no further actual or contingent obligations to make advances or provide other financial accommodation to the Obligors or any other person under the Senior Finance Documents.

### **8.2 Ratification**

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

## **9. SECURITY ENFORCEMENT**

### **9.1 Time for Enforcement**

On and at any time after the occurrence of an Acceleration Event or if the Chargor requests the Security Agent to exercise any of its powers under this Agreement or if a petition or application is presented for the making of an administration order in relation to the Chargor or if any person gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court, the security created by or pursuant to this Agreement is immediately enforceable and the Security Agent may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- (a) secure and perfect its title to all or any part of the Charged Portfolio (including transferring the Charged Portfolio into the name of the Security Agent or its nominees);
- (b) enforce all or any part of the Security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold, sell, or otherwise dispose

of all or any part of the Charged Portfolio (and any assets of the relevant Chargor which, when got in, would be part of the Charged Portfolio) at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration); and

- (c) whether or not it has appointed a Receiver, exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Agreement) on chargees and by this Agreement on any Receiver or otherwise conferred by law on chargees or Receivers.

## **9.2 Release of claims**

After the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 9.1 (*Timing of enforcement*), the Security Agent is irrevocably authorised (on behalf of and at the cost of the Chargor and without any further consent, sanction, authority or confirmation from it) to release any claim which the Chargor may have against any company whose shares are comprised in the Charged Portfolio and to execute and deliver any such release(s) on behalf of the Chargor which may, in the discretion of the Security Agent, be considered necessary or desirable.

## **9.3 Power of sale**

- (a) The power of sale or other disposal conferred on the Security Agent and on the Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Agreement.
- (b) The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other security in existence at any time or to its power of sale, which powers may be exercised by the Security Agent without notice to the Chargor on or at any time after the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 9 (*Security enforcement*).

## **9.4 Chargee's liability**

Neither the Security Agent nor any Receiver will be liable to account as mortgagee or mortgagee in possession in respect of the Charged Portfolio or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Charged Portfolio for which a mortgagee or mortgagee in possession might as such be liable.

## **9.5 Right of Appropriation**

To the extent that any of the Charged Portfolio constitutes "financial collateral" and this Agreement and the obligations of the Chargor hereunder constitutes a "security financial collateral arrangement" (in each case as defined in, and for the purposes of,

the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226), as amended, (the "**Regulations**") the Security Agent shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the market price of the Shares determined by the Security Agent by reference to a public index or by such other process as the Security Agent may select, including independent valuation. The parties agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## **9.6 Statutory powers**

The powers conferred by this Agreement on the Security Agent are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law (as extended by this Agreement) and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Charged Portfolio. In the case of any conflict between the statutory powers contained in any such Acts and those conferred by this Agreement, the terms of this Agreement shall prevail.

## **10. RECEIVERS**

### **10.1 Appointment and removal**

At any time after having been requested to do so by the Chargor or after this Agreement becomes enforceable in accordance with Clause 9 (*Security Enforcement*), the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent), without prior notice to the Chargor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Charged Portfolio;
- (b) appoint two or more Receivers of separate parts of the Charged Portfolio;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
- (d) appoint another person(s) as an additional or replacement Receiver(s).

### **10.2 Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 10.1 (*Appointment and removal*) will be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) the agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Security Agent or any Secured Party; and

- (c) entitled to remuneration for his services at a rate to be fixed by the Security Agent from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

### **10.3 Statutory powers of appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Agent under the Law of Property Act 1925 (as extended by this Agreement) or otherwise and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Charged Portfolio.

### **10.4 Powers of Receivers**

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Portfolio in respect of which he was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do;
- (d) the power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement or any of the Senior Finance Documents (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Receiver itself; and
- (e) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to:
  - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
  - (ii) the exercise of any rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law (including realisation of all or any part of the Charged Portfolio); or
  - (iii) bringing to his hands any assets of the Chargor forming part of, or which when got in would be, Charged Portfolio.

## **10.5 Consideration**

The receipt of the Security Agent or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Portfolio or making any acquisition, the Security Agent or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

## **10.6 Protection of purchasers**

No purchaser or other person dealing with the Security Agent or any Receiver shall be bound to inquire whether the right of the Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Security Agent or such Receiver in such dealings.

## **10.7 Discretions**

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Security Agent or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

# **11. EFFECTIVENESS OF COLLATERAL**

## **11.1 Collateral Cumulative**

The Security created by or pursuant to this Agreement and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Security Agent or any other Secured Party may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law and shall operate as an independent Security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security. No prior security held by the Security Agent or any other Secured Party over the whole or any part of the Charged Portfolio shall merge into the Security created by this Agreement.

## **11.2 No Waiver**

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement or any Senior Finance Document. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy of the Security Agent. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## **11.3 Illegality, Invalidity, Unenforceability**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired thereby and, if any part of the Security intended to be created by or pursuant to this Agreement is invalid,

unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security.

#### **11.4 No liability**

None of the Security Agent, its nominee(s) or any receiver appointed pursuant to this Agreement shall be liable by reason of (a) taking any action permitted by this Agreement or (b) any neglect or default in connection with the Charged Portfolio or (c) the taking possession or realisation of all or any part of the Charged Portfolio, except in the case of gross negligence or wilful default upon its part.

#### **11.5 Implied Covenants for Title**

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2.2 (*Charge*).
- (b) It shall be implied in respect of Clause 2.2 (*Charge*) that the Chargor is charging the Charged Portfolio free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

#### **11.6 Continuing security**

- (a) The Security from time to time constituted by this Agreement is a continuing security and will remain in full force and effect as a continuing security until released or discharged by the Security Agent.
- (b) No part of the Security from time to time constituted by this Agreement will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

#### **11.7 Immediate recourse**

The Chargor waives any right it may have of first requiring the Security Agent or a Secured Party to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Chargor under this Agreement or enforcing the Security. This waiver applies irrespective of any law or any provision of this Agreement to the contrary.

#### **11.8 Avoidance of Payments**

Notwithstanding Clause 4.3 (*Release*) if the Security Agent considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under this Agreement and the security constituted by this Agreement shall continue and that amount shall not be considered to have been irrevocably paid or credited.

### 11.9 Non-competition

Until the irrevocable discharge of the Secured Obligations referred to in Clause 4.3 (*Release*), the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Agreement:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any guarantor of any Obligor's obligations under this Agreement or any Senior Finance Document; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of the Security Agent under this Agreement or the Security Agent or any other Secured Party under any other guarantee or any Senior Finance Document or security taken pursuant to, or in connection with, this Agreement or any other Senior Finance Document by the Security Agent or any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor or other person to make any payment, or perform any obligation, in respect of which any Obligor or other person has given a guarantee, undertaking or indemnity under any Senior Finance Document;
- (e) to exercise any right of set-off against any Obligor or other person; and/or
- (f) to claim or prove as a creditor of any Obligor or other person in competition with any Secured Party.

### 11.10 Turnover Trust

- (a) The Chargor shall not accept or permit to subsist any collateral from any Obligor or any other person in respect of any rights the Chargor may have arising out of this Agreement: if, despite this provision, any such collateral shall be accepted or subsisting the Chargor acknowledges that the Chargor's rights under such collateral shall be held on trust for the Security Agent and the Secured Parties, to the extent necessary to enable all amounts which may be or become payable to the Security Agent and the Secured Parties by the Obligors under or in connection with the Senior Finance Documents to be repaid in full, and the Chargor shall if requested promptly transfer the same, or to the order of, to the Security Agent or as it may direct for application in accordance with Clause 14 (*Application of Proceeds*).
- (b) If the Chargor receives any benefit, payment or distribution relating to the rights mentioned in Clause 11.9 (*Non-competition*) above it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Security Agent and the Secured Parties by the Obligors under or in connection with the Senior Finance Documents to be repaid in full on trust for the Security Agent and the Secured Parties and shall promptly pay or transfer the same to, or to the order of, the Security Agent or as it may direct for application in accordance with Clause 14 (*Application of Proceeds*).



### 11.11 Waiver of defences

The obligations of the Chargor under this Agreement and this Security will not be affected by any act, omission, matter or thing which, but for this Clause 11.11 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Agreement and this Security and whether or not known to the Chargor or the Security Agent or any Secured Party including:

- (a) any time, waiver or consent granted to, or composition with, the Chargor, any Obligor or other person;
- (b) the release of the Chargor, any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Chargor, any Obligor or 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 other Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, the Chargor, any Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Senior Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Senior Finance Document or other documents and any amendment, variation, waiver or release of any of the Secured Obligations;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any document or security; or
- (g) any insolvency or similar proceedings.

### 11.12 Chargor's intent

Without prejudice to the generality of Clause 11.11 (*Waiver of Defences*), the Chargor expressly confirms that it intends that the Security created under this Agreement, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Senior Finance Documents and/or any facility or amount made available under any of the Senior Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

## **12. RETENTION OF AGREEMENT**

The Security Agent may retain this Agreement, the Security constituted by or pursuant to this Agreement and all documents relating to or evidencing ownership of all or any part of the Charged Portfolio for a period of seven months after any discharge in full of the Secured Obligations **provided that** if at any time during that seven month period a petition or application is presented for an order for the winding-up (which is not discharged, dismissed, stayed or withdrawn within 14 days of its presentation or commencement) of, or the making of an administration order in respect of, the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or the Chargor commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Security Agent may continue to retain such Security and such documents for such further period as the Security Agent may determine and the Security and such documents shall be deemed to have continued to be held as security for the Secured Obligations.

## **13. EXPENSES, STAMP TAXES, INDEMNITY**

### **13.1 Expenses**

The Chargor shall promptly on demand pay the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by the Security Agent on a full indemnity basis together with any VAT thereon incurred by it in connection with the negotiation, preparation and execution of this Agreement and the completion of the transactions and perfection of the security contemplated in this Agreement.

### **13.2 Enforcement expenses**

The Chargor shall, within three Business Days of demand pay to the Security Agent for all the costs and expenses (including legal fees) on a full indemnity basis incurred by it in connection with the exercise, preservation and/or enforcement of any of the rights, powers or remedies of the Security Agent or the Security or any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Security or of enforcing any rights, powers or remedies of the Security Agent.

### **13.3 Stamp Taxes**

The Chargor shall pay all stamp, registration and other taxes to which this Agreement, the Security or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Security Agent within five Business Days of demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

### **13.4 Indemnity**

The Chargor shall within five Business Days of demand, notwithstanding any release or discharge of all or any part of the Security, indemnify the Security Agent, its attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Agreement, the exercise or purported exercise of any of the rights

and powers conferred on them by this Agreement, the service on it of any Pensions Notice or otherwise relating to the Charged Portfolio.

### **13.5 Interest on Demands**

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate of two per cent. per annum over the rate at which the Security Agent was being offered, by prime banks in the London Interbank Market, deposits in an amount comparable to such sums in the currency or currencies thereof for such period(s) as the Security Agent may from time to time select.

### **13.6 Payments Free Of Deduction**

All payments to be made to the Security Agent under this Agreement shall be made free and clear of and without deduction for or on account of tax unless the Chargor is required to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Chargor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to tax such deduction or withholding has been made receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

## **14. APPLICATION OF PROCEEDS**

All moneys received or recovered and any non-cash recoveries made or received by the Security Agent or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied by the Security Agent (notwithstanding any purported appropriation by the Chargor) in accordance with Clause 16 (*Application of Proceeds*) of the Intercreditor Agreement.

## **15. OTHER SECURITY INTERESTS**

### **15.1 Additional Security**

The Security created by the Chargor under this Agreement and the Collateral Rights are in addition to and are not in any way prejudiced by any other guarantee or Security now or subsequently held by any Secured Party.

### **15.2 Redemption or transfer**

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking security in case of exercise by the Security Agent or any Receiver of any power of sale or right of appropriation or application under this Agreement the Security Agent may redeem such prior security or procure the transfer thereof to itself.

### **15.3 Accounts**

The Security Agent may settle and pass the accounts of the prior security and any accounts so settled and passed will be conclusive and binding on the Chargor.

### **15.4 Costs of redemption or transfer**

All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargor to the Security Agent on demand together with accrued interest thereon (after as well as before judgment) at the rate from time to time applicable to unpaid sums specified in the Intercreditor Agreement from the time or respective times of the same having been paid or incurred until payment thereof (after as well as before judgment).

### **15.5 Subsequent Interests**

If the Security Agent (acting in its capacity as trustee or otherwise) or any of the other Secured Parties at any time receives notice of any subsequent mortgage, assignment, charge or other interest affecting all or any part of the Charged Portfolio, all payments made by the Chargor to the Security Agent or any of the Secured Parties after that time shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Security Agent received notice.

## **16. SUSPENSE ACCOUNTS AND CURRENCY CONVERSION**

### **16.1 Suspense Accounts**

All monies received, recovered or realised by the Security Agent under this Agreement (including the proceeds of any conversion of currency) may in the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account maintained with the Security Agent or any bank, building society or financial institution as it considers appropriate and may be held in such account for so long as the Security Agent may think fit pending their application from time to time (as the Security Agent is entitled to do in its discretion) in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

### **16.2 Currency Conversion**

- (a) For the purpose of or pending the discharge of any of the Secured Obligations the Security Agent may convert any money received, recovered or realised or subject to application by it under this Agreement from one currency to another, as the Security Agent thinks fit and any such conversion shall be effected at the Security Agent's spot rate of exchange for the time being for obtaining such other currency with the first currency.
- (b) The obligations of the Chargor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

## 17. CALCULATIONS AND CERTIFICATES

### 17.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by the Security Agent are *prima facie* evidence of the matters to which they relate.

### 17.2 Certificates and Determinations

Any certification or determination by the Security Agent of a rate or amount under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## 18. CURRENCY INDEMNITY

(a) If any sum (a "**Sum**") owing by the Chargor under this Agreement or any order or judgment given or made in relation to this Agreement has to be converted from the Currency (the "**First Currency**") in which such Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against the Chargor;
- (ii) obtaining an order or judgment in any court of other tribunal;
- (iii) enforcing any judgment given or made in relation to this Agreement;  
or
- (iv) applying the Sum in satisfaction of any Secured Obligations,

the Chargor shall as an independent obligation, in three Business Days of demand, indemnify the Security Agent and each other Secured Party to whom that Sum is due from and against any cost, loss or liability suffered or incurred as a result of any conversion including any discrepancy between (a) the rate of exchange used for such purpose to convert such Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to the Security Agent at the time of such receipt of such Sum.

(b) The Chargor waives any right it may have in any jurisdiction to pay any amount under this Agreement in a currency or currency unit other than that in which it is expressed to be payable.

## 19. ASSIGNMENT

### 19.1 No assignments or transfers by Chargor

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Agreement.

## **19.2 Assignment by the Security Agent**

The Security Agent may at any time assign or transfer all or any of its rights in relation to this Agreement to any person in accordance with the terms of the Intercreditor Agreement. The Security Agent shall be entitled to disclose such information concerning the Chargor and this Agreement as the Security Agent considers appropriate to any actual or proposed direct or indirect assignee or to any person to whom information may be required to be disclosed by any applicable law.

## **19.3 Permitted Successors**

Subject to Clause 19.2 (*Assignment by the Security Agent*) above, this Agreement shall be binding upon and shall inure to the benefit of each party and its direct or subsequent legal successors, permitted transferees and assigns.

## **19.4 Security Agent Successors**

This Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Security Agent. References to the Security Agent shall include (i) any transferee, assignee or successor in title of the Security Agent, (ii) any entity into which the Security Agent is merged or converted or with which it may be consolidated, (iii) any legal entity resulting from any merger, conversion or consolidation to which such Security Agent is a party and (iv) any other person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Security Agent under this Agreement or to which, under such laws, those rights and obligations have been transferred (such person described in (i) to (iv) being a successor to the Security Agent for all purposes under the Senior Finance Documents).

## **19.5 Disclosure**

The Security Agent shall be entitled to disclose such information concerning the Chargor and this Agreement as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by applicable law.

## **20. NOTICES**

### **20.1 Communications in Writing**

Each communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

### **20.2 Addresses**

The address and fax number (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 the Agreement is:

- (a) in the case of the Chargor, that identified with its name below;
- (b) in the case of the Security Agent, that identified with its name below,

or any substitute address, fax number, or department or officer as the party may notify to the Security Agent (or the Security Agent may notify to the other parties, if a change is made by the Security Agent) by not less than five Business Days' notice.

### **20.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post 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 20.2 (*Addresses*) of this Agreement, if addressed to that department or officer.

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

### **20.4 Electronic communication**

- (a) Any communication to be made between the Chargor and the Security Agent under or in connection with this Agreement may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above may only be made in that way to the extent that the Chargor and the Security Agent agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Chargor to the Security Agent only if it is addressed in such manner as the Security Agent shall specify for this purpose.

- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the addressee of the relevant communication has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in this Agreement to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 20.4.

## **20.5 English language**

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

## **21. WAIVERS AND COUNTERPARTS**

### **21.1 Waivers**

No waiver by the Security Agent of any of its rights under this Agreement shall be effective unless given in writing.

### **21.2 Counterparts**

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

## **22. LAW**

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

## **23. ENFORCEMENT**

### **23.1 Jurisdiction of English Courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity) or any non-contractual obligations arising out of or in connection with this Agreement (a "**Dispute**").



- (b) The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- (c) Notwithstanding paragraph (a) of this Clause 23.1, the Security Agent may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

## **23.2 Service of process**

The Chargor agrees that the documents which start any proceedings in relation to any Senior Finance Document, and any other documents required to be served in connection with those proceedings, may be served on it by being delivered to Craig Thompson at Forsters LLP, 31 Hill Street, London W1J 5LS, or to such other address in England and Wales as the Chargor may specify by notice in writing to the Security Agent. Nothing in this paragraph shall affect the right of any Secured Party to serve process in any other manner permitted by law. This Clause applies to proceedings in England and proceedings elsewhere.

**THIS AGREEMENT** has been executed as a deed by the Chargor and has been signed by the Security Agent.

**SCHEDULE 1**  
**SHARES**

Shares pledged in:	PLESSEY GROUP HOLDINGS LIMITED
Type of Shares:	A Ordinary Shares
	D Ordinary Shares
Number of Shares:	22,800 A Ordinary Shares
	737,200 D Ordinary Shares
Certificates held:	2

EXECUTION PAGE

THE CHARGOR

EXECUTED AS A DEED by  
GREYBULL CAPITAL LLP  
ACTING BY A

~~By:~~ MEMBER :

~~Name:~~

~~Title:~~ Member

)  
)  


- SIGNATURE

RICHARD PERLHAGEN - MEMBER

~~By:~~ IN THE PRESENCE OF :

~~Name:~~

~~Title:~~ Member

- SIGNATURE

WITNESS

~~Address:~~

~~Fax:~~

Attention:

  
  


PA AT GREYBULL CAPITAL LLP