



## Registration of a Charge

LLP name in full: **BENSON ELLIOT GP V LLP**

LLP Number: **OC419958**



Received for filing in Electronic Format on the: **02/08/2022**

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### Details of Charge

Date of creation: **27/07/2022**

Charge code: **OC41 9958 0015**

Persons entitled: **THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED AS  
SECURITY TRUSTEE FOR THE SECURED PARTIES**

Brief description: **NOT APPLICABLE**

**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.**

Certified by: **SIMMONS & SIMMONS LLP**



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

LLP number: OC419958

Charge code: OC41 9958 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th July 2022 and created by BENSON ELLIOT GP V 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 2nd August 2022 .

Given at Companies House, Cardiff on 4th August 2022

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: 27 JULY 2022

# Security Agreement (Bank Account)

between

**Bensell US Feeder V, L.P.**

acting by its general partner Benson Elliot GP V LLP  
as Chargor

and

**The Royal Bank of Scotland International Limited**

as Security Agent

relating to a multicurrency revolving credit facility

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**THIS DEED** is dated 27 July 2022 and made

**BETWEEN:**

- (1) **BENSELL US FEEDER V, L.P.**, a Scottish limited partnership established in Scotland under registered number SL032424 and having its principal place of business at 50 Lothian Road, Festival Square, Edinburgh, EH3 9WJ (the "Chargor") (acting by its general partner, Benson Elliot GP V LLP); and
- (2) **THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED**, as security trustee for the Secured Parties (the "Security Agent"), which expression includes its successors and assigns.

**BACKGROUND:**

- (A) The Chargor is entering into this Deed in connection with the Finance Documents.
- (B) It is intended that this document takes effect as a deed even though a Party may only execute it under hand.

**IT IS AGREED** as follows:

1. **Interpretation**

1.1 **Definitions**

In this Deed, terms defined in the Facility Agreement have the same meaning in this Deed unless given a different meaning and:

**"Account Bank"** means RBS International London Branch.

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

**"Blocking Event"** means:

- (A) an Event of Default which is continuing; or
- (B) an amount becoming payable by the Chargor pursuant to Clause 10.1 (*Illegality*), Clause 10.2 (*Illegality in relation to Issuing Bank*), Clause 10.3 (*Mandatory prepayment – Change of Control*), Clause 10.4 (*Mandatory prepayment – excess amount*) and/or Clause 10.5 (*Transfer and other acts in relation to any Limited Partner and Partnership Documents*) of the Facility Agreement, which amount remains outstanding.

**"Charged Property"** means all of the assets of the Chargor which from time to time are, or are expressed to be, subject to this Deed.

**"Collateral Account"** means the account (and any sub-accounts) in the name of the Chargor with the Account Bank with the following details:

Account Number:  
Sort Code:



(and any account replacing or substituting any such account as agreed by the Agent (acting on the instructions of all the Lenders)).

"Declared Default" has the meaning given to that term in the Facility Agreement.

"Delegate" means any delegate or sub delegate appointed under Clause 13 (*Delegation*).

"Enforcement Event" means the occurrence of a Declared Default.

"Event of Default" has the meaning given to that term in the Facility Agreement.

"Facility Agreement" means the facility agreement dated on or around the date of this Deed and made between, among others, Coöperatie Bensell Real Estate Investment V B.A. as borrower, the Original Lenders and The Royal Bank of Scotland International Limited as agent and security agent.

"LPA" means the Law of Property Act 1925.

"Manager" means Pinebridge Benson Elliot LLP, an English limited liability partnership established in England under registered number OC317119 and having its registered office at One, Bedford Avenue, London, England, WC1B 3AU.

"Party" means a party to this Deed.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

"Secured Obligations" means all the present and future moneys, debts, liabilities and obligations at any time due, owing or incurred by any Fund Party to any Secured Party under the Finance Documents, in each case whether actual or contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

"Secured Party" means a Finance Party, any Receiver or Delegate.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which the Security Agent is satisfied (acting reasonably) that all the Secured Obligations have been unconditionally and irrevocably paid or discharged in full and no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Fund Party pursuant to the Finance Documents.

"Transaction Security" means the Security created or expressed to be created in favour of the Security Agent pursuant to this Deed.

## 1.2 Construction

- (A) Any reference in this Deed to a "Finance Document" or any other agreement, document or instrument is a reference to that Finance Document or other agreement, document or instrument as amended, novated, supplemented, extended, restated, from time to time, in each case as permitted by the terms of the Facility Agreement including for the avoidance of doubt and without prejudice to the generality of the foregoing, any amendment, novation, supplement, extension, restatement, variation or replacement that increases the amount of any loan or credit facility made available under any Finance Document or increases the amount of any interest, fees, costs or expenses or any other sums due or to become due under any Finance Document or

extends the date for full and final repayment of the facility made available under any Finance Document.

- (B) Clause 1.2 (*Construction*) of the Facility Agreement apply to this Deed as if set out in full in this Deed with all necessary changes.
- (C) A reference in this Deed to the singular includes the plural and vice versa.
- (D) Unless a contrary indication appears, a reference in this Deed to "Charged Property" includes any part of that Charged Property and the proceeds of that Charged Property.
- (E) Each of the undertakings given by the Chargor in this Deed remain in force from the date of this Deed until the end of the Security Period.
- (F) Each representation and warranty expressed to be made by the Chargor in this Deed is made by the Chargor on the date of this Deed and is deemed to be repeated on each day during the Security Period on which the Repeating Representations under and as defined in the Facility Agreement are deemed to be repeated by reference to the facts and circumstances then existing.

### 1.3 Third party rights

- (A) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 or the Contract (Third Party Rights) (Scotland) Act 2017 (the "Third Parties Acts") to enforce or enjoy the benefit of any term of this Deed.
- (B) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (C) Any Receiver or Delegate may, subject to this Clause 1.2(F) and the Third Parties Acts, rely on any Clause of this Deed which expressly confers rights on it.

## 2. Covenant to Pay

The Chargor shall pay or discharge each of the Secured Obligations when due in accordance with their terms, which the Chargor may at any time have to the Security Agent or any of the Secured Parties under or pursuant to the Finance Documents.

## 3. Creation of Security

### 3.1 Security generally

All this Deed:

- (A) is created in favour of the Security Agent;
- (B) is created over the present and future assets of the Chargor;
- (C) is security for the payment of all the Secured Obligations; and

- (D) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 ( the "LP(MP)A 1994") notwithstanding that all covenants implied pursuant to the LP(MP)A 1994 shall be subject to any Permitted Security.

### **3.2 Security over Collateral Account**

The Chargor charges by way of a first fixed charge all of its rights, title and interest in respect of the Collateral Account, any amount standing to the credit of the Collateral Account and the debt represented by the Collateral Account (or to which it is beneficially entitled).

### **3.3 Authorisations**

The Chargor charges by way of first fixed charge the benefit of all Authorisations held by it in relation to any Collateral Account, together with the right to recover and receive compensation which may be payable to it in respect of any Authorisation.

## **4. Continuing Security**

### **4.1 Continuing Security**

This Deed is a continuing security and will extend to the ultimate balance of the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.

### **4.2 Additional Security**

This Deed:

- (A) is in addition to, and is not in any way prejudiced by, any other Security or other right now or subsequently held by any Secured Party; and
- (B) may be enforced against the Chargor without having recourse to any other rights of any Secured Party.

## **5. Further Assurance**

- (A) The Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
  - (1) to perfect the Security created or intended to be created by this Deed (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to the Finance Documents or by law;
  - (2) to confer on the Security Agent or confer on the Secured Parties Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security conferred or intended to be conferred by or pursuant to this Deed; and/or
  - (3) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Deed.



- (B) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to this Deed.

## 6. **Restrictions on Dealing**

### 6.1 **Negative pledge**

The Chargor shall not create or permit to subsist any Security or Quasi-Security over any Charged Property except as permitted by the Facility Agreement.

### 6.2 **Disposals**

The Chargor shall not (nor agree to) enter into a single transaction or series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any Charged Property, except as permitted by the Facility Agreement.

### 6.3 **Withdrawals from Collateral Account**

- (A) The Chargor shall not withdraw any moneys (including interest) from the Collateral Account except to the extent permitted by the Facility Agreement or with the prior written consent of the Security Agent.
- (B) Following an Enforcement Event, the Security Agent (or a Receiver) may withdraw amounts standing to the credit of the Collateral Account.

### 6.4 **Variation**

The Chargor shall not permit or agree to any variation of the rights attaching to any Collateral Account to the extent such variation would have a materially adverse effect on the Security created or purported to be created under this Deed and/or the rights of the Secured Parties under the Finance Documents.

### 6.5 **Notice of charge**

- (A) The Chargor shall on the date of this Deed serve a notice of charge or assignment, substantially in the applicable form as set out in Schedule 1 (*Notice to Bank Holding an Account*), on the Account Bank.
- (B) The Chargor shall use its reasonable endeavours to ensure that on the date of this Deed or as otherwise agreed between the Parties in writing, the Account Bank acknowledges receipt of the notice delivered under Clause 6.5(A), substantially in the applicable form as set out in Schedule 1 (*Notice to Bank Holding an Account*) or in a form as otherwise agreed between the Parties in writing.

## 7. **Representations**

Subject to the Perfection Requirements and the Legal Reservations, the Chargor represents and warrants to the Security Agent for the benefit of each Finance Party that:

- (A) this Deed:

- (1) creates (or, once entered into, will create) in favour of the Security Agent, the Security which it is expressed to create, fully perfected and with the ranking and priority it is expressed to have;
  - (2) is not subject to any prior or pari passu ranking Security; and
  - (3) is not liable to be avoided or set aside on its liquidation, administration or otherwise; and
- (B) it is the absolute legal and beneficial owner of all the assets over which it purports to create any Security pursuant to this Deed.

## **8. Enforcement**

### **8.1 When enforceable**

This Deed shall be immediately enforceable if an Enforcement Event occurs.

### **8.2 Power of sale**

The statutory powers of sale, of appointing a receiver and the other powers conferred on mortgagees by Section 101 of the LPA (Powers incident to estate or interest of mortgagee) as varied and extended by this Deed shall arise on the date of this Deed.

### **8.3 Section 103 of the LPA**

Section 103 of the LPA (Regulation of exercise of power of sale) shall not apply to this Deed.

### **8.4 Section 93 of the LPA**

Section 93 of the LPA (Restriction on consolidation of mortgages) shall not apply to this Deed.

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

Neither the Security Agent nor any Receiver or Delegate shall be liable, by reason of entering into possession of any Charged Property, to account as mortgagee in possession for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable unless caused by its gross negligence, fraud, or wilful misconduct.

### **8.6 Privileges**

The Security Agent, each Receiver and each Delegate is entitled to all the rights, powers and immunities conferred by the LPA on mortgagees and receivers duly appointed under the LPA except that Section 103 of the LPA (*Regulation of exercise of power of sale*) shall not apply to this Deed.

### **8.7 No duty to enquire**

No person dealing with the Security Agent, any Receiver or any Delegate shall be concerned to enquire:

- (A) whether the rights conferred by or pursuant to any Finance Document are exercisable;

- (B) whether any consents, regulations, restrictions or directions relating to such rights have been obtained or complied with;
- (C) otherwise as to the propriety or regularity of acts purporting or intended to exercise any such rights; or
- (D) as to the application of any money borrowed or raised.

## 8.8 **Protection to purchasers**

All the protection to purchasers contained in Sections 104 (Conveyance on sale) and 107 (Mortgagee's receipts, discharges etc.) of the LPA, Section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Security Agent, any Receiver or any Delegate.

## 8.9 **Financial collateral arrangements**

- (A) To the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "Regulations") apply to any Charged Property, the Security Agent shall, at any time after the occurrence of an Enforcement Event, have the right to appropriate any Charged Property which constitutes "financial collateral" (as defined in the Regulations) in or towards the satisfaction of the Secured Obligations.
- (B) The value of any Charged Property appropriated in accordance with this Clause 8.9 shall be the amount of the cash appropriated.
- (C) The Chargor agrees that the method of valuation provided for in this Clause 8.9 is commercially reasonable for the purposes of the Regulations.

## 9. **Receiver**

### 9.1 **Appointment of receiver**

- (A) The Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Charged Property if:
  - (1) an Enforcement Event occurs; or
  - (2) requested to do so by the Chargor.
- (B) Any appointment under Clause 9.1(A) may be by deed, under seal or in writing under hand.

### 9.2 **Removal**

The Security Agent may by writing under hand remove any Receiver appointed by it and may appoint a new Receiver in place of any Receiver whose appointment it may have terminated.

### 9.3 **Remuneration**

The Security Agent may determine the remuneration of any Receiver appointed by it and direct payment of that remuneration out of moneys received by it as Receiver. The maximum rate specified in section 109(6) of the LPA shall not apply to this Deed.

#### 9.4 **Agent of Chargor**

- (A) Any Receiver will be deemed to be the agent of the Chargor for all purposes. The Chargor alone is responsible for all contracts, engagements, acts, omissions, defaults, remuneration and all other costs, losses and expenses of a Receiver and for liabilities incurred by a Receiver.
- (B) No Finance Party will incur any liability (either to the Chargor or any other person) by reason of its appointment of a Receiver or for any other reasons other than as a result of its gross negligence, fraud or wilful misconduct.

#### 9.5 **Security Agent's rights**

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Security Agent, whether or not the Security Agent shall have taken possession or appointed a Receiver of the Charged Property.

### 10. **Powers of Receiver**

#### 10.1 **General**

- (A) A Receiver has all of the rights, powers and discretions set out below in this Clause 10 in addition to those conferred on it by any law, including all the rights, powers and discretions conferred on a receiver under the LPA and a receiver or an administrative receiver under the Insolvency Act 1986.
- (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.

#### 10.2 **Possession**

A Receiver may take immediate possession of, get in and collect any Charged Property.

#### 10.3 **Borrow money**

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

#### 10.4 **Sale of assets**

- (A) A Receiver may sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms which he thinks fit.
- (B) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

## 10.5 **Compromise**

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

## 10.6 **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Charged Property which he thinks fit.

## 10.7 **Receipts**

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

## 10.8 **Delegation**

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

## 10.9 **Protection of assets**

A Receiver may:

- (A) effect any insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect any Charged Property; and
  - (B) apply for and maintain any approval or any other authorisation,
- in each case as he thinks fit.

## 10.10 **Other powers**

A Receiver may:

- (A) do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (B) exercise in relation to any Charged Property all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Property; and
- (C) use the name of the Chargor for any of the above purposes.

## 11. **Power of Attorney**

### 11.1 **Appointment**

The Chargor by way of security irrevocably appoints the Security Agent, any Receiver and any Delegate severally as its attorney (with full power of substitution), on its behalf and in its name or otherwise at such time on and from the occurrence of an Enforcement Event and in such manner as the attorney may think fit:

- (A) to do anything which the Chargor is obliged to do under any Finance Document; and

- (B) to exercise any of the rights conferred on the Security Agent, any Receiver or any Delegate in relation to the Charged Property or under any Finance Document, or by the LPA or the Insolvency Act 1986.

## **11.2 Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney does or purports to do pursuant to the proper exercise of its powers under its appointment under this Clause 11.

## **12. Tacking**

Each Secured Party shall comply with its obligations under the Finance Documents (including any obligation to make further advances).

## **13. Delegation**

### **13.1 Delegate and sub-delegates**

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

### **13.2 Terms**

Any such delegation may be made upon any terms (including power to sub-delegate) as the Security Agent or any Receiver thinks fit.

### **13.3 Liability**

Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate save for in the case of fraud, gross negligence or wilful misconduct of any such delegate or sub-delegate.

## **14. Preservation of Security**

### **14.1 Reinstatement**

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

### **14.2 Waiver of defences**

The obligations of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Deed (and whether or not known to it or any Secured Party) including without limitation:

- (A) any time, waiver or consent granted to, or composition with, any person;

- (B) the release of any person under the terms of any composition or arrangement with any creditor of any person;
- (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, any person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (D) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (E) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement of a Finance Document or any document or security;
- (F) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any document or security; or
- (G) any insolvency, or similar proceedings.

#### **14.3 Immediate recourse**

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

#### **14.4 Appropriations**

Until all amounts which may be or become payable by the Fund Parties under or in connection with the Finance Documents have been irrevocably paid in full, any Finance Party (or any trustee or agent on its behalf) may:

- (A) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Fund Parties shall not be entitled to the benefit of the same; and
- (B) hold in an interest-bearing suspense account any moneys received from any Fund Party or on account of the Chargor's liability under this Deed.

#### **14.5 Deferral of Chargor's rights**

Until all amounts which may be or become payable by the Fund Parties under or in connection with the Finance Documents have been irrevocably paid in full and unless the Security Agent otherwise directs, the Chargor shall not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (A) to be indemnified by any person;
- (B) to claim any contribution from any guarantor of any Fund Party's obligations under the Finance Documents;

- (C) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- (D) to bring legal or other proceedings for an order requiring any Fund Party to make any payment, or perform any obligation, in respect of which any Fund Party has given a guarantee, undertaking or indemnity under any Finance Document;
- (E) to exercise any right of set-off against any person; and/or
- (F) to claim or prove as a creditor of any person in competition with any Secured Party.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Fund Parties under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 17.3 (Order of distributions).

## 15. **Enforcement Expenses**

### 15.1 **Enforcement expenses**

The Chargor shall, within 13 Business Days of demand, pay to the Security Agent the amount of all costs, losses, liabilities and expenses (including legal fees) incurred by any Secured Party in connection with the enforcement of or the preservation of any right under this Deed and any proceedings instituted by or against the any Secured Party as a consequence of taking or holding this Deed or enforcing those rights.

### 15.2 **VAT**

Clause 15.7 (*Value added tax*) of the Facility Agreement shall also apply to any amount payable under a Finance Document to any Receiver or Delegate with all necessary changes.

## 16. **Changes to the Parties**

### 16.1 **Assignments and transfer by the Chargor**

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

### 16.2 **Assignment and transfer by the Finance Parties**

Any Finance Party may assign any of its rights or transfer any of its rights or obligations under this Deed to any person to which it is permitted to assign its rights or transfer any of its rights or obligations under the terms of the Facility Agreement.

## 17. **Payments**

### 17.1 **Payments**

All payments by the Chargor under this Deed (including damages for its breach) shall be made in the currency in which the relevant amount is denominated, or if different, is payable



and to such account, with such person and in such other manner as the Security Agent may direct.

#### **17.2 Continuation of accounts**

- (A) At any time if any subsequent Security affects any Charged Property or a petition is presented or resolution passed in relation to the winding-up of the Chargor, any Finance Party may open a new account in the name of the Chargor (whether or not it permits any existing account to continue).
- (B) If a Finance Party does not open such a new account, it shall nevertheless be treated as if it had done so when the relevant event occurred.
- (C) No moneys paid into any account, whether new or continuing, after that event shall discharge or reduce any Secured Obligations.

#### **17.3 Order of distributions**

All amounts received or recovered by the Security Agent or any Receiver or Delegate in the exercise of their rights under this Deed shall be applied in the following order:

- (A) first, in or towards payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of its rights, including any remuneration and outgoings paid to it;
- (B) second, in or towards payment of the Secured Obligations in accordance with Clause 30.30 (*Application of proceeds*) of the Facility Agreement; and
- (C) third, in payment of any surplus to the Chargor or other person entitled to it.

#### **17.4 No set-off by Chargor**

All payments to be made by the Chargor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

### **18. Release of Security**

#### **18.1 Release**

At the end of the Security Period, the Security Agent shall at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the Security created by or expressed to be created by this Deed.

#### **18.2 Retention**

If the Security Agent considers (acting reasonably) that any amount paid or credited to any Secured Party under a Finance Document is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Obligations have been irrevocably paid.

### **19. Partial Invalidity**

If, at any time, any provision of the Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity

or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

20. **Remedies and Waivers**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under the Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

21. **Counterparts**

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

22. **Governing Law**

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

23. **Enforcement**

23.1 **Jurisdiction**

- (A) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non contractual obligations arising out of or in connection with this Deed) (a "Dispute").
- (B) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (C) This Clause 23.1 is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

23.2 **Service of process**

- (A) Without prejudice to any other mode of service allowed under any relevant law, the Chargor:
  - (1) irrevocably appoints the Manager as its agent for service of process in relation to any proceedings before the English courts in connection with any Finance Document; and
  - (2) agrees that failure by an agent for service of process to notify the Chargor of the process will not invalidate the proceedings concerned.
- (B) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Chargor shall immediately (and in any event within 7 days of such event taking place) appoint another agent on terms

acceptable to the Security Agent. Failing this, the Security Agent may appoint another agent for this purpose.

**THIS DEED has been executed and delivered as a deed on the date stated at the beginning of this Deed.**

## SCHEDULE 1 : NOTICE TO BANK HOLDING AN ACCOUNT

To: The Royal Bank of Scotland International Limited (London Branch)

Address: [•]

[Date]

Dear Sirs,

This letter constitutes notice to you that under a security agreement dated [•] 2022 (the "Security Agreement") between Bensell US Feeder V, L.P. as chargor and The Royal Bank of Scotland International Limited as Security Agent (the "Security Agent") we have charged by way of first fixed charge in favour of the Security Agent (as security agent and security trustee for the Secured Parties referred to in the Security Agreement) all of our rights, title and interest in respect of the bank account with account number [REDACTED] and sort code [REDACTED] (the "Account"), any amount standing to the credit of the Account and the debt represented by the Account.

We irrevocably instruct and authorise you to (notwithstanding any previous instructions which we may have given you to the contrary):

- (A) disclose to the Security Agent any information relating to the Account requested from you by the Security Agent; and
- (B) following receipt of notice from the Security Agent that a Blocking Event (as defined in the Security Agreement) has occurred, to comply with the terms of any written notice or instruction relating to the Account received by you from the Security Agent;
- (C) prior to receiving any further written instructions from the Security Agent to the contrary following a Blocking Event (as defined in the Security Agreement), to continue to allow us to operate and transact business in relation to the Account including allowing us to receive, withdraw or otherwise transfer any credit balance from time to time on the Account;
- (D) at any time after the Security Agent has notified you that there has been a Blocking Event (as defined in the Security Agreement):
  - (i) hold all sums from time to time standing to the credit of the Account to the order of the Security Agent;
  - (ii) at any time upon receipt by you of instructions in writing from the Security Agent, pay or release to the Security Agent all or any of the money standing to the credit of our Account and generally to act in accordance with such instructions in relation to our Account, without any reference to or further authority from us and without any enquiry by you as to the justification for such instructions or their validity;
  - (iii) to comply with the terms of any written instructions in any way relating or purporting to relate to our Account which you may receive at any time and from time to time from the Security Agent without any reference to or further authority from us; and
  - (iv) not to act upon our instructions with regard to the Account unless and until the Security Agent confirms those instructions to you in writing and, in particular but without limitation, in these circumstances no Chargor shall be permitted to withdraw any amount from the Account without the prior written consent of the Security Agent.

The Chargor shall at all times indemnify the Account Bank and keep it indemnified fully and effectively from and against all losses, damages, liabilities and costs and expenses that the Account Bank may incur in connection with or by reason of the Account Bank complying with the terms of this notice or in relation to the Accounts.

We acknowledge that you may comply with the instructions in this letter without any further permission from the Chargor or enquiry by you.

The instructions in this notice may not be revoked or amended without the prior written consent of the Security Agent.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice, and confirm that you will pay all moneys in respect of the Account as directed by or pursuant to this notice, by signing the acknowledgement on the attached copy of this notice and returning that copy to the Security Agent at [●] marked for the attention of [●].

.....  
For and on behalf of  
Bensell US Feeder V, L.P.  
as Chargor acting by its general partner Benson Elliot GP V LLP

## ACKNOWLEDGMENT

[•]

To: The Royal Bank of Scotland International Limited as Security Agent (the Secured Party).

cc: Bensell US Feeder V, L.P. (the Chargor).

Dear Sirs

We refer to the notice of charge dated [•] provided to us by the Chargor, and the account(s) listed in that notice (the Security Account(s)).

We note that the Chargor is free to continue to operate the Security Account(s) until such time as the Secured Party provides us with notice to the contrary. Any such notice must be provided to RBS International, Institutional Banking, Level 3, 440 Strand, London, WC2R 0QS.

We confirm that:

- (i) if you provided a copy of the charge document, we have not reviewed this and are not on notice of any provision contained in it, other than any provisions set out in the notice of charge detailed above;
- (ii) we will be entitled to rely upon any instruction or notice purporting to be from the Secured Party in relation to any Security Account without further enquiry or investigation into: (a) the identity of individuals providing such instruction or notice; or (b) whether a default or other event allowing the Secured Party to provide such instruction or notice has in actual fact occurred;
- (iii) we do not waive any rights of set-off, lien, netting, combination or consolidation which we may have now or in the future in respect of any Security Account or any monies standing to the credit of it;
- (iv) we, at the department specified above, have not, at the date of this acknowledgment, received any prior notice of charge in relation to any Security Account, provided that we shall be under no obligation to update the Chargor or the Secured Party in this respect.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

Yours faithfully

For and on behalf of RBS International (London Branch)

EXECUTION PAGE TO SECURITY AGREEMENT

THE CHARGOR

Executed as a deed by **BENSELL US FEEDER** )  
V, L.P. acting by its general partner **BENSON** )  
**ELLIOT GP V LLP** by )  
)  
)  
)  
)

[Redacted Signature]

in the presence of:

[Redacted Signature]

Signature of witness

kenneth MacNaughton  
.....

Name of witness

[Redacted Address]

Address of witness

Chartered Accountant  
.....

Occupation of witness  
.....

**THE SECURITY AGENT**

**THE ROYAL BANK OF SCOTLAND INTERNATIONAL LIMITED**

By:

