



**Registration of a Charge**

Company Name: **ABACUS AGENTS LIMITED**

Company Number: **SC130480**



XB0X3V7C

Received for filing in Electronic Format on the: **31/03/2022**

**Details of Charge**

Date of creation: **28/03/2022**

Charge code: **SC13 0480 0008**

Persons entitled: **ALLICA BANK LIMITED**

Brief description:

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

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **GAVIN BUCHAN**



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

Company number: 130480

Charge code: SC13 0480 0008

The Registrar of Companies for Scotland hereby certifies that a charge dated 28th March 2022 and created by ABACUS AGENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st March 2022 .

Given at Companies House, Edinburgh on 31st March 2022

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



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



## Floating Charge – Limited Company

THIS DOCUMENT CONTAINS IMPORTANT LEGAL OBLIGATIONS. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE FROM A SOLICITOR TO ENSURE THAT YOU FULLY UNDERSTAND THE NATURE AND EFFECT OF THE OBLIGATIONS CONTAINED IN IT. IF YOU DEFAULT IN YOUR OBLIGATIONS TO THE BANK, THE BANK MAY ENFORCE AGAINST ANY SECURITY PROVIDED FOR UNDER THIS DOCUMENT IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO IT.

This Floating Charge is delivered on 29/03/ 2022

### FLOATING CHARGE BY:

- (1) **Chargor** : ABACUS AGENTS LIMITED incorporated and registered in Scotland with registered number SC130480 whose registered office is at Faraday Street, Dryburgh Industrial Estate, Dundee, Tayside, DD2 3UG;  
in favour of
- (2) **Bank** : ALLICA BANK LIMITED incorporated and registered in England and Wales with company number 07706156 whose registered office is at Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS.

### BACKGROUND

- (1) Under this Floating Charge, the Chargor provides security to the Bank for all its present and future obligations and liabilities to the Bank.

### IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions and Interpretation

The definitions and rules of interpretation set out in the Schedule apply in this Floating Charge.

#### 2. UNDERTAKING TO PAY

##### 2.1 Undertaking to pay

The Chargor undertakes to the Bank that it shall, on demand, pay to the Bank and discharge the Secured Liabilities when they become due.

##### 2.2 Interest

The Chargor undertakes to the Bank to pay interest on any amounts due under clause 2.1 from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the Default Rate, provided that, in the case of any cost or expense, such interest shall accrue and be payable as from the date on which the relevant cost or expense arose without the necessity for any demand being made for payment.

#### 3. GRANT OF SECURITY

##### 3.1 Floating charge

As a continuing security for the payment, discharge and performance of the Secured Liabilities, the Chargor grants to the Bank a floating charge over the Secured Assets.

##### 3.2 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by clause 3.1.

### **3.3 Priority**

- 3.3.1 The floating charge created by clause 3.1 above shall rank in priority to any Fixed Security (other than any Fixed Security granted by the Chargor in favour of the Bank which shall rank in priority to the floating charge created by clause 3.1).
- 3.3.2 The Chargor shall not, without the prior written consent of the Bank or unless permitted in terms of the Facility Agreement, create or permit to exist any Fixed Security or floating charge over all or any part of the Secured Assets except for any Fixed Security granted by the Chargor in favour of the Bank.
- 3.3.3 In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in clause 3.3.2) or with the consent of Bank under clause 3.3.2 but with no written agreement of the Bank as to the ranking of the charges, this Floating Charge shall rank in priority to that Fixed Security or floating charge.

## **4. LIABILITY OF THE CHARGOR**

### **4.1 Liability not discharged**

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

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Bank that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Bank renewing, determining, varying or increasing any Loan or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Chargor.

### **4.2 Immediate recourse**

The Chargor waives any right it may have to require the Bank to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Floating Charge against the Chargor.

## **5. REPRESENTATIONS AND WARRANTIES**

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

The Chargor makes the representations and warranties set out in this clause 5 to the Bank on the date of delivery of this Floating Charge and the representations and warranties contained in this clause 5 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

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

The Chargor is the sole legal owner and, in respect of any Secured Assets located in England and Wales or otherwise governed by the laws of England and Wales, beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

### **5.3 No Security**

The Secured Assets are free from any Security other than Permitted Security.

### **5.4 No adverse claims**

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

**5.5 No adverse covenants**

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

**5.6 No breach of laws**

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

**5.7 No interference in enjoyment**

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

**5.8 Avoidance of security**

No Security expressed to be created under this Floating Charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise.

**5.9 Environmental compliance**

The Chargor has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

**5.10 Enforceable security**

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

**6. GENERAL UNDERTAKINGS**

**6.1 Negative pledge and disposal restrictions**

The Chargor shall not at any time, save in respect of any Permitted Security:

- 6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset;
- 6.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- 6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

**6.2 Preservation of Secured Assets**

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

**6.3 Compliance with laws and regulations**

6.3.1 The Chargor shall not, without the Bank's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

6.3.2 The Chargor shall:

- a. comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them;
- b. obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
- c. promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

**6.4 Enforcement of rights**

The Chargor shall use its best endeavours to:

- 6.4.1 procure the prompt observance and performance of the covenants, undertakings and other obligations imposed on the Chargor's counterparties (including each insurer in respect of an Insurance Policy); and
- 6.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Bank may require from time to time.

**6.5 Notice of misrepresentation and breaches**

The Chargor shall, promptly on becoming aware of any of the same, notify the Bank in writing of:

- 6.5.1 any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 6.5.2 any breach of any undertaking set out in this Floating Charge.

**6.6 Title documents**

The Chargor shall, as so required by the Bank, deposit with the Bank and the Bank shall, for the duration of this Floating Charge be entitled to hold:

- 6.6.1 all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Chargor (and if these are not within the possession or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title);
- 6.6.2 all Insurance Policies.

**6.7 Insurance**

6.7.1 The Chargor shall, unless it has a prior written waiver from the Bank, effect and maintain sufficient and appropriate policies of insurance of its business and assets as would be maintained by reasonably prudent persons carrying on the same class of business as the Chargor and shall supply copies of them to the Bank on written demand by the Bank and in any event within 30 days of the end of each calendar year. In the event that the Chargor fails to provide copies of its Insurance Policies to the Bank within 30 days of the end of each calendar year then the Bank may put in place such insurance policies as it sees fit in respect of the Secured Assets, the costs of which may be debited by the Bank to the Chargor's loan account. The Chargor must immediately on request by the Bank pay the costs and expenses of the Bank or its agents incurred in connection with any action taken by the Bank under this clause 6.7.1.

6.7.2 In addition to the obligation on the Chargor to maintain insurance generally in relation to its business and assets under clause 6.7.1 above, the Chargor shall, at all times, ensure that, in relation to any Charged Property of which it is the owner, it maintains in full force and effect, insurance which:

- a. insures its interest in any such Charged Property and the plant and machinery thereon (including fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed) as stated in the most recent valuation for the relevant Charged Property addressed to and satisfactory to the Bank plus VAT (where applicable);
- b. provides cover on (i) an index linked basis, in line with the then current insurance industry practice and (ii) such other terms acceptable to the Bank, acting reasonably; and

- c. provides cover against loss or damage by fire, storm, tempest, flood, earthquake, landslip, heave, subsidence, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage;
  - d. is with an insurer of good repute in the insurance market;
  - e. includes cover for loss of rent and for all rents payable in respect of any Charged Property for a period of two years;
  - f. contains a note of the Bank's interest duly noted by the insurer against the policy (but, for the avoidance of doubt, without the Bank having any liability for any premium in relation to those Insurance Policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy).
- 6.7.3 The Chargor shall ensure that, at all times, it:
- a. complies with the terms of the Insurance Policies;
  - b. does not do or permit anything to be done which may make void or voidable any of the Insurance Policies;
  - c. pays each premium for the Insurance Policies promptly and in any event prior to the commencement of the period of insurance for which that premium is payable; and
  - d. does all other things necessary as to keep each of the Insurance Policies in force; and
  - e. promptly pays all premiums in respect of such Insurance Policies and provides such evidence of the same as the Bank may require.
- 6.7.4 The Chargor shall promptly notify the Bank of:
- a. any termination, avoidance or cancellation of any of the Insurance Policies made or, to its knowledge, threatened or pending;
  - b. any claim, and any actual or threatened refusal of any claim, under any of the Insurance Policies; and
  - c. any event or circumstance which has led or may lead to a breach by the Chargor of any provision of this clause 6.7 of this Floating Charge.
- 6.7.5 All monies payable under any Insurance Policies shall:
- a. be paid into a Designated Account;
  - b. if they are not paid into a Designated Account, be held, pending such payment, by the Chargor as trustee of the same for the benefit of the Bank; and
  - c. at the option of the Bank, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities.

## 6.8 Information

The Chargor shall:

- 6.8.1 give the Bank such information concerning the location, condition, use and operation of the Secured Assets as the Bank may require;
- 6.8.2 permit any persons designated by the Bank and any Receiver or Administrator to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and

- 6.8.3 promptly notify the Bank in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Bank's prior approval, implement those proposals at its own expense.
- 6.9 **Payment of outgoings**  
The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Bank.
- 6.10 **Appointment of accountants**
- 6.10.1 The Chargor shall:
- a. at its own cost, if at any time so required by the Bank, appoint an accountant or firm of accountants nominated by the Bank to investigate the financial affairs of the Chargor and those of its subsidiaries and report to the Bank; and
  - b. co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.
- 6.10.2 The Chargor authorises the Bank to make an appointment as it shall think fit at any time, without further authority from the Chargor. In every case, the Chargor shall pay, or reimburse the Bank for, the fees and expenses of those accountants.
7. **POWERS OF THE BANK**
- 7.1 **Power to remedy**
- 7.1.1 The Bank shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this Floating Charge.
- 7.1.2 The Chargor irrevocably authorises the Bank and its agents to do all things that are necessary or desirable for that purpose.
- 7.1.3 Any monies expended by the Bank in remedying a breach by the Chargor of its obligations contained in this Floating Charge shall be reimbursed by the Chargor to the Bank on a full indemnity basis and shall carry interest in accordance with clause 12.1.
- 7.2 **Exercise of rights**
- 7.2.1 The rights of the Bank under clause 7.1 are without prejudice to any other rights of the Bank under this Floating Charge.
- 7.2.2 The exercise of any rights of the Bank under this Floating Charge shall not make the Bank liable to account as a mortgagee or heritable creditor in possession.
- 7.3 **Bank has Receiver's powers**  
To the extent permitted by law, any right, power or discretion conferred by this Floating Charge on a Receiver may, after the security constituted by this Floating Charge has become enforceable, be exercised by the Bank in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.
- 7.4 **Conversion of currency**
- 7.4.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Bank may convert any monies received, recovered or realised by it under this Floating Charge (including the proceeds of any previous conversion under



this clause 7.4) from their existing currencies of denomination into any other currencies of denomination that the Bank may think fit.

7.4.2 Any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange or such other bank's prevailing spot selling rate of exchange as the Bank in its sole discretion may select for such other currency against the existing currency.

7.4.3 Each reference in this clause 7.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

## **7.5 New accounts**

7.5.1 If the Bank receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Bank may open a new account for the Chargor in the Bank's books. Without prejudice to the Bank's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

7.5.2 If the Bank does not open a new account immediately on receipt of the notice, or deemed notice, under clause 7.5.1, then, unless the Bank gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Bank 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 Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Bank.

## **7.6 Indulgence**

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

## **7.7 Further advances**

This Floating Charge secures further advances and re-advances but the Bank is not obliged to make further advances.

# **8. ENFORCEMENT OF SECURITY**

## **8.1 Enforcement**

8.1.1 The security constituted by this Floating Charge shall become immediately enforceable if:

- a. the Secured Liabilities, or any part of them, are not paid or discharged when due;
- b. the Chargor is in breach of any of its obligations under this Floating Charge;
- c. the Chargor enters into liquidation or any arrangement with creditors or a receiver, administrator or a trustee is appointed over a substantial part of the Chargor's assets or the Chargor is subject to similar proceedings in any jurisdiction;
- d. anyone seeks to, or takes possession of, or seeks to enforce, or enforces, any security affecting the Secured Assets or if anything else happens which might adversely affect the security given by this Floating Charge;
- e. any other event occurs that makes the security constituted by this Floating Charge (or any other security for the Secured Liabilities) enforceable;
- f. the Charged Property is compulsorily purchased or requisitioned;

- g. an Event of Default (as defined under the Loan Agreement) under the Loan Agreement occurs; or
  - h. any act of default (howsoever described) occurs entitling the Bank to declare the Secured Liabilities or any part of them due and payable or the Secured Liabilities or any part of them otherwise becomes due and payable.
- 8.1.2 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of delivery of this Floating Charge.
- 8.2 **Access on enforcement**
  - 8.2.1 At any time after the Bank has demanded payment of the Secured Liabilities or if the Chargor defaults in the performance of its obligations under this Floating Charge, the Chargor will allow the Bank or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Bank or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry.
  - 8.2.2 At all times, the Chargor must use its best endeavours to allow the Bank or its Receiver access to any premises for the purpose of clause 8.2.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.
- 8.3 **Prior Security**
  - 8.3.1 At any time after the security constituted by this Floating Charge has become enforceable, or after any powers conferred by any Security having priority to this Floating Charge shall have become exercisable, the Bank may:
    - a. redeem that or any other prior Security;
    - b. procure the transfer of that Security to it; and
    - c. settle and pass any account of the holder of any prior Security.
  - 8.3.2 The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Chargor. All monies paid by the Bank to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Bank, be due from the Chargor to the Bank on current account and shall bear interest at the Default Rate and be secured as part of the Secured Liabilities.
- 8.4 **Protection of third parties**

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

  - 8.4.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
  - 8.4.2 whether any power the Bank, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
  - 8.4.3 how any money paid to the Bank, any Receiver or any Delegate is to be applied.
- 8.5 **No liability as mortgagee or heritable creditor in possession**

Neither the Bank, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee or heritable creditor in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect

or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee or heritable creditor in possession might be liable as such.

**8.6 Conclusive discharge to purchasers**

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

**8.7 Right of appropriation**

8.7.1 To the extent that:

- a. the Secured Assets constitute Financial Collateral; and
  - b. this Floating Charge and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,
- the Bank shall have the right, at any time after the security constituted by this Floating Charge has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Bank may, in its absolute discretion, determine.

8.7.2 The value of any Secured Assets appropriated in accordance with this clause shall be:

- a. in the case of cash, the amount standing to the credit of each of the Chargor's accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and
- b. in the case of Investments, the price of those Investments at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Bank may select (including independent valuation).

8.7.3 The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

**9. APPOINTMENT OF RECEIVER OR ADMINISTRATOR**

**9.1 Appointment and Removal**

Without prejudice to the provisions of the Insolvency Act, at any time after having been requested to do so by the Chargor in writing or if the Security created by this Floating Charge has become enforceable in accordance with clause 8.1 (Enforcement), the Bank may by instrument in writing, without prior notice to the Chargor:

- 9.1.1 (subject to section 72A of the Insolvency Act) appoint one or more persons to be a Receiver of the whole or any part of the Secured Assets;
- 9.1.2 remove (so far as it is lawfully able) any Receiver so appointed;
- 9.1.3 appoint another person(s) as an additional or replacement Receiver(s); and
- 9.1.4 appoint one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act.

Nothing in this clause 9.1 shall restrict the exercise by the Bank of any one or more of the rights of the Bank under Schedule B1 to the Insolvency Act and the rules thereunder or at common law.

**9.2 Receiver as agent of the Chargor**

A Receiver shall be the agent of the Chargor and, except as otherwise required by the Insolvency Act, the Chargor shall be solely responsible for his acts and defaults and liable on any contract or engagements made or entered into or adopted by him.

**9.3 Powers of Administrator or Receiver**

An Administrator shall have all the rights, the statutory powers and discretions conferred on an administrator under the Insolvency Act. A Receiver shall have (and be entitled to exercise in such manner and on such terms as he may in his absolute discretion think fit) in relation to the Secured Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Floating Charge):

- 9.3.1 all of the powers of a receiver set out in Schedule 2 to the Insolvency Act;
- 9.3.2 power to sell (whether by public auction or private contract or otherwise) all or any of the Secured Assets on any terms and for any consideration (including without limitation for deferred consideration or a consideration payable wholly or partly in instalments or consisting in whole or in part of shares or securities of any other company or of any other non-cash asset);
- 9.3.3 power to grant any lease or tenancy or right of or affecting the Secured Assets for any term or terms of years at any or no rent and with or without any premium and accept the surrender of any lease or tenancy or right and give a valid receipt for any premium payable on any such grant or surrender and to amend or vary any lease, licence agreement or other arrangement in any way relating to or affecting the Secured Assets;
- 9.3.4 power to grant options to sell, lease, licence or dispose of the Secured Assets;
- 9.3.5 power to enter on or otherwise take possession of the Secured Assets to repair, convert, manufacture, process, decorate, alter, renew, improve, add to or develop or to complete any development or building which may be unfinished and to settle, compound, compromise or submit to arbitration any accounts or claims arising out of the commencement, carrying on or completion of any such development or building;
- 9.3.6 power to redeem any mortgage, charge or other Security on, over or affecting the Secured Assets or any part of it;
- 9.3.7 power to repair, renew or improve plant, machinery, implements, furniture, equipment and other effects of the Chargor in or on the Secured Assets;
- 9.3.8 power to settle or compromise or submit to arbitration any claim or claims on or against the Secured Assets or claim or dispute arising out of the Secured Assets;
- 9.3.9 power to disclaim, abandon or disregard all or any of the outstanding contracts of the Chargor and to allow time for payment by or to the Chargor of any debts either with or without security;
- 9.3.10 power to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Secured Assets including, without limitation, all voting and other rights attaching to stocks, shares and other securities owned by the Chargor;
- 9.3.11 power to convene an extraordinary general meeting of the Chargor;
- 9.3.12 power to exercise all powers conferred by the Insolvency Act on receivers appointed in England and Wales in respect of any of the Secured Assets located in England and Wales;

- 9.3.13 power to manage and carry on or concur in managing or carrying on upon the Secured Assets any type of trade or business and to enter and perform such contracts and arrangements and incur any obligations in relation thereto;
- 9.3.14 power to make or exercise an election pursuant to paragraphs 2 and 3 of Schedule 10 to the Value Added Tax Act 1994 in relation to the Secured Assets or exercise any option or right of election available to the Chargor or the Bank or the Receiver that the supplies made in respect of any lease or tenancy of any part of the Secured Assets shall be supplies chargeable or taxable for value added tax purposes at the standard or other applicable rate provided always that neither the Bank nor the Receiver shall be liable for any loss suffered by the Chargor as a result and to execute all documents, and perform such acts or things as a result and to execute all documents, and perform such acts or things as maybe necessary to permit any disposal of the Secured Assets to be zero-rated for the purposes of value added tax;
- 9.3.15 power to exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Asset; and
- 9.3.16 power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Floating Charge or upon receivers by the statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargor; the preservation, improvement, collection and/or realisation of Secured Assets; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).

#### 9.4 **Discretions**

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

#### 9.5 **Powers may be restricted**

The powers granted to a Receiver pursuant to this Floating Charge may be restricted by the instrument (signed by the Bank) appointing him but they shall not be restricted by any winding-up or dissolution of the Chargor.

#### 9.6 **Several Power**

Where more than one Receiver is appointed, each Receiver has the power to act severally unless the Bank specifies otherwise in the appointment of such Receiver.

#### 9.7 **Powers Exercisable by the Bank**

- 9.7.1 The Bank may exercise all powers granted to a Receiver by this Floating Charge, whether as attorney of the Chargor or otherwise.
- 9.7.2 The powers of an Administrator and a Receiver set out above are in addition to, and without prejudice to, all statutory and other powers of the Bank and so that, without limitation, such powers are and remain exercisable by the Bank in respect of that part of the Secured Assets in respect of which no appointment of an Administrator or a Receiver by the Bank is from time to time subsisting.

#### 9.8 **Protection of the Bank and Receiver**

Neither the Bank nor any Receiver or Administrator shall be liable to the Chargor in respect of any loss or damage which arises out of the exercise, the attempted exercise or

the failure to exercise any of their respective powers or for any other loss of any nature whatsoever, except in the case of gross negligence or wilful default.

**10. DELEGATION**

**10.1 Delegation**

The Bank or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Floating Charge (including the power of attorney granted under clause 14.1).

**10.2 Terms**

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

**10.3 Liability**

Neither the Bank nor any Receiver shall 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.

**11. APPLICATION OF PROCEEDS**

**11.1 Order of application of proceeds**

All monies received by the Bank, a Receiver or a Delegate pursuant to this Floating Charge, after the security constituted by this Floating Charge has become enforceable, shall (subject to the claims of any person having prior rights) be applied in the following order of priority:

11.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Bank (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Floating Charge, and of all remuneration due to any Receiver under or in connection with this Floating Charge;

11.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Bank determines; and

11.1.3 in payment of the surplus (if any) to the Chargor or other person entitled to it.

**11.2 Appropriation**

Neither the Bank, any Receiver nor any Delegate shall be bound to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

**11.3 Suspense account**

All monies received by the Bank, a Receiver or a Delegate under this Floating Charge:

11.3.1 may, at the discretion of the Bank, Receiver or Delegate, be credited to any suspense or securities realised account;

11.3.2 shall bear interest, if any, at the rate agreed in writing between the Bank and the Chargor; and

11.3.3 may be held in that account for so long as the Bank, Receiver or Delegate thinks fit.

**12. COSTS AND INDEMNITY**

**12.1 Costs**

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

12.1.1 this Floating Charge or the Secured Assets;

- 12.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Bank's, a Receiver's or a Delegate's rights under this Floating Charge; or
- 12.1.3 taking proceedings for, or recovering, any of the Secured Liabilities, together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Chargor) at the Default Rate.

**12.2 Indemnity**

The Chargor shall indemnify the Bank, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- 12.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Floating Charge or by law in respect of the Secured Assets;
- 12.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Floating Charge; or
- 12.2.3 any default or delay by the Chargor in performing any of its obligations under this Floating Charge.

Any past or present employee or agent may enforce the terms of this clause 12.2 subject to and in accordance with the provisions of the Contract (Third Party Rights) (Scotland) Act 2017.

**13. FURTHER ASSURANCE**

**13.1 Further assurance**

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

- 13.1.1 creating, perfecting or protecting the security intended to be created by this Floating Charge;
- 13.1.2 facilitating the realisation of any Secured Asset; or
- 13.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Bank or any Receiver in respect of any Secured Asset, including, without limitation (if the Bank or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment, assignation or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Bank or to its nominee) and the giving of any notice, order or direction and the making of any registration.

**14. POWER OF ATTORNEY**

**14.1 Appointment of attorneys**

The Chargor irrevocably appoints the Bank, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and Floating Charge, to execute any documents and do any acts and things that:

- 14.1.1 the Chargor is required to execute and do under this Floating Charge; or

- 14.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Floating Charge or by law on the Bank, any Receiver or any Delegate.
- 14.2 **Ratification of acts of attorneys**  
The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 14.1.
15. **RELEASE**
- 15.1 Subject to clause 21.3, on the expiry of the Security Period (but not otherwise), the Bank shall, at the request and cost of the Chargor, take whatever action is necessary to release this Floating Charge.
16. **ASSIGNATION AND TRANSFER**
- 16.1 **Assignment by Bank**
- 16.1.1 At any time, without the consent of the Chargor, the Bank may assign or transfer any or all of its rights and obligations under this Floating Charge.
- 16.1.2 The Bank may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Chargor, the Secured Assets and this Floating Charge that the Bank considers appropriate.
- 16.2 **Assignment by Chargor**  
The Chargor may not assign any of its rights, or transfer any of its rights or obligations, under this Floating Charge.
17. **SET-OFF**
- 17.1 **Bank's right of set-off**  
The Bank may at any time set off any liability of the Chargor to the Bank against any liability of the Bank to the Chargor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Floating Charge. If the liabilities to be set off are expressed in different currencies, the Bank may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Bank of its rights under this clause 17 shall not limit or affect any other rights or remedies available to it under this Floating Charge or otherwise.
- 17.2 **No obligation to set off**  
The Bank is not obliged to exercise its rights under clause 17.1. If, however, it does exercise those rights it must promptly notify the Chargor of the set-off that has been made.
- 17.3 **Exclusion of Chargor's right of set-off**  
All payments made by the Chargor to the Bank under this Floating Charge shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
18. **AMENDMENTS, WAIVERS AND CONSENTS**
- 18.1 **Amendments**  
No amendment of this Floating Charge shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).
- 18.2 **Waivers and consents**
- 18.2.1 A waiver of any right or remedy under this Floating Charge or by law, or any consent given under this Floating Charge, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.



18.2.2 A failure to exercise, or a delay in exercising, any right or remedy provided under this Floating Charge or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Floating Charge. No single or partial exercise of any right or remedy provided under this Floating Charge or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Floating Charge by the Bank shall be effective unless it is in writing.

**18.3 Rights and remedies**

The rights and remedies provided under this Floating Charge are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

**19. SEVERANCE**

**19.1 Severance**

If any provision (or part of a provision) of this Floating Charge is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Floating Charge.

**20. THIRD PARTY RIGHTS**

**20.1 Third party rights**

Except as expressly provided elsewhere in this Floating Charge, a person who is not a party to this Floating Charge shall not have any rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce, or enjoy the benefit of, any term of this Floating Charge. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

**21. FURTHER PROVISIONS**

**21.1 Independent security**

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

**21.2 Continuing security**

The security constituted by this Floating Charge shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Bank discharges this Floating Charge in writing.

**21.3 Discharge conditional**

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

21.3.1 the Bank or its nominee may retain this Floating Charge and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Bank deems necessary to provide the Bank with security against any such avoidance, reduction or order for refund; and

21.3.2 the Bank may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

**21.4 Small company moratorium**

Notwithstanding anything to the contrary in this Floating Charge, neither the obtaining of a moratorium by the Chargor under schedule A1 to the Insolvency Act nor the doing of anything by the Chargor with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

21.4.1 an event under this Floating Charge which causes any floating charge created by this Floating Charge to crystallise;

21.4.2 an event under this Floating Charge which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Chargor; or

21.4.3 a ground under this Floating Charge for the appointment of a Receiver.

**21.5 Certificates**

Any account or certificate signed by a manager or other signing official authorised by the Bank as to the amount of the Secured Liabilities or any part of them shall, in the absence of obvious error, be conclusive and binding on the Chargor.

**22. NOTICES**

**22.1 Notices**

22.1.1 Any communication to be made under or in connection with this Floating Charge shall be made in writing.

22.1.2 Any communication, demand or notice given by the Bank to the Chargor under this Floating Charge may be made:

a. by letter addressed to the Chargor or any officer of the Chargor sent by first class post to or left at the Chargor's address last known to the Bank or at the Chargor's registered office; or

b. by fax or other electronic means to the Chargor's fax number or electronic mail address last known to the Bank.

If sent by post, the demand or notice will be deemed to have been received at 10.00 a.m. on the second Business Day following the day the letter was posted. If delivered by hand, the demand or notice will be deemed to have been received at the time it is left at the relevant address. If sent by fax or other electronic means, the demand or notice will be deemed to have been received at the time of transmission (provided that if the date of transmission is not a Business Day it shall be deemed to have been received at 9 a.m. on the next Business Day).

22.1.3 Unless otherwise advised by the Bank any notices given by the Chargor to the Bank under this Floating Charge shall be by letter and sent by first class post or delivered by hand to: the Company Secretary, Allica Bank Limited, Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS.

22.1.4 All communications to the Bank shall be effective only on actual receipt by the Bank.

22.1.5 The Bank may rely upon any communication by telephone or email purporting to be on behalf of the Chargor by anyone notified to the Bank as being authorised to do so, without enquiry by the Bank as to authority or identity. The Chargor agrees to indemnify the Bank against any liability incurred or sustained by the Bank as a result.

## **23. COUNTERPARTS**

### **23.1 Number of counterparts**

This Floating Charge may be executed in any number of counterparts and by the parties on separate counterparts.

### **23.2 Delivery**

23.2.1 Where executed in counterpart:

- a. this Floating Charge shall not take effect until all of the counterparts have been delivered;
- b. the parties may choose to evidence the date of delivery of this Floating Charge by inserting the date of delivery at the top of the first page of this Floating Charge.

23.2.2 If this Floating Charge is not executed in counterparts, this Floating Charge shall be delivered on the date inserted at the top of the first page of this Floating Charge or, if no such date is inserted, the date on which the last party signed this Floating Charge.

### **23.3 Nomination**

The parties to this Floating Charge, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the "Counterparts Act"), nominate the Bank's Scottish solicitors to take delivery of all counterparts of this Floating Charge. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Floating Charge.

### **23.4 Date of delivery**

The date of delivery of this Floating Charge is the date of delivery stated at the top of the first page of this Floating Charge. If no date of delivery is stated, the date of delivery is the date of signing stated below the signature of the Chargor.

### **23.5 Authority to insert date of delivery**

The Chargor and the Bank hereby authorise the Bank or its agent to insert the date of delivery of this Floating Charge at the top of the first page of this Floating Charge.

## **24. REGISTRATION**

### **24.1 Consent to Registration**

The Chargor consents to the registration of this Floating Charge and of each certificate referred to in clause 21.5 above for preservation and execution. Governing law and jurisdiction

### **24.2 Governing Law and Jurisdiction**

24.2.1 This Floating Charge and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Scotland.

24.2.2 Each party irrevocably agrees that, subject as provided below, the courts of Scotland shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Floating Charge or its subject matter or formation. Nothing in this clause shall limit the right of the Bank to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions,

whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

**IN WITNESS WHEREOF** these presents consisting of this and the preceding 17 pages together with the schedule annexed as relative hereto are executed as follows:

**CHARGOR**

**EXECUTED**

by **ABACUS AGENTS LIMITED**

by

)

)

)

Director

Director's Name Ben Taylor

In the presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

At:

**BANK**

**EXECUTED**

by **ALLICA BANK LIMITED**

by

)

)

)

Attorney

Attorney Name

In the presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

At:

On:

**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING FLOATING CHARGE BY  
ABACUS AGENTS LIMITED IN FAVOUR OF ALLICA BANK LIMITED**

**Definitions and Interpretation**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this Floating Charge:

**Administrator:** means any person appointed as an administrator pursuant to paragraph 14 of Schedule B1 to the Insolvency Act.

**Business Day:** means a day on which the Bank is open for normal banking business in England and Scotland.

**Charged Property:** all freehold, heritable and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Chargor, or in which the Chargor holds an interest, and references to "Charged Property" shall include references to the whole or any part of it.

**Default Rate:** means:

- a. the default interest rate set out in the document under which the relevant liability for the overdue amount initially arose; or
- b. if no default rate is set out in such document, 2% per annum above the Bank of England's Base Rate from time to time.

**Delegate:** any person appointed by the Bank or any Receiver pursuant to clause 10 and any person appointed as attorney of the Bank, Receiver or Delegate.

**Designated Account:** any account of the Chargor nominated by the Bank as a designated account for the purposes of this Floating Charge.

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

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

**Environmental Licence:** any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets.

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

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

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

**Fixed Security:** shall have the meaning given to it in section 486 of the Companies Act 1985.

**Insolvency Act:** means the Insolvency Act 1986.

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

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

- a. dividend, interest or other distribution paid or payable in relation to any of the Investments; and
- b. right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

**Loan Agreement:** the loan agreement dated on or about the date of delivery of this Floating Charge entered into by the Chargor and the Bank, as amended or amended and restated from time to time.

**Permitted Security means:-**

- a. any liens arising by operation of law and in the ordinary course of the Chargor's business and not as a result of any default or omission by the Chargor;
- b. any normal title retention arrangements included in a supplier's standard conditions of supply of goods acquired by the Chargor in the ordinary course of trade;
- c. Security granted by the Chargor in favour of the Bank;
- d. Security granted by the Chargor in favour of a third party in respect of which the Bank has given its prior written consent to the Chargor.

**Receiver:** means a receiver appointed under this Floating Charge of the whole or any part of the Secured Assets and that term will include any appointee made under a joint or several appointment.

**Schedule:** the schedule annexed as relative to this Floating Charge.

**Secured Assets:** the whole of the property, assets and rights (including any uncalled capital) which is or may be from time to time comprised in the property and undertaking of the Chargor.

**Secured Liabilities:** all present and future obligations and liabilities of the Chargor to the Bank, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity and whether or not the Bank was an original party to the relevant transaction and in whatever name or style, together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

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

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

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

## 1.2 Interpretation

In this Floating Charge:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this Floating Charge;
- 1.2.2 a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);

- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a party shall include that party's successors, permitted assignees and permitted transferees and this Floating Charge shall be binding on, and enure to the benefit of, the parties to this Floating Charge and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8 a reference to writing or written includes fax and email in respect of communications from the Bank to the Chargor but not in respect of communications from the Chargor to the Bank unless otherwise specified;
- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 a reference to this Floating Charge (or any provision of it) or to any other agreement or document referred to in this Floating Charge is a reference to this Floating Charge, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Floating Charge) from time to time;
- 1.2.11 unless the context otherwise requires, a reference to a clause or the Schedule is to a clause of, or the Schedule to, this Floating Charge and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.2.12 any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.13 a reference to an amendment includes a novation, re-enactment, supplement or variation (and amend and amended shall be construed accordingly);
- 1.2.14 a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.15 a reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 a reference to determines or determined means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- 1.2.17 a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

### **1.3 Clawback**

If the Bank considers that an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Floating Charge.

**Floating Charge – Limited Company**

THIS DOCUMENT CONTAINS IMPORTANT LEGAL OBLIGATIONS. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE FROM A SOLICITOR TO ENSURE THAT YOU FULLY UNDERSTAND THE NATURE AND EFFECT OF THE OBLIGATIONS CONTAINED IN IT. IF YOU DEFAULT IN YOUR OBLIGATIONS TO THE BANK, THE BANK MAY ENFORCE AGAINST ANY SECURITY PROVIDED FOR UNDER THIS DOCUMENT IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO IT.

This Floating Charge is delivered on 28/03/ 2022

**FLOATING CHARGE BY:**

- (1) **Chargor** : ABACUS AGENTS LIMITED incorporated and registered in Scotland with registered number SC130480 whose registered office is at Faraday Street, Dryburgh Industrial Estate, Dundee, Tayside, DD2 3UG;  
in favour of
- (2) **Bank** : ALLICA BANK LIMITED incorporated and registered in England and Wales with company number 07706156 whose registered office is at Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS.

**BACKGROUND**

- (1) Under this Floating Charge, the Chargor provides security to the Bank for all its present and future obligations and liabilities to the Bank.

**IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions and Interpretation**

The definitions and rules of interpretation set out in the Schedule apply in this Floating Charge.

**2. UNDERTAKING TO PAY**

**2.1 Undertaking to pay**

The Chargor undertakes to the Bank that it shall, on demand, pay to the Bank and discharge the Secured Liabilities when they become due.

**2.2 Interest**

The Chargor undertakes to the Bank to pay interest on any amounts due under clause 2.1 from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the Default Rate, provided that, in the case of any cost or expense, such interest shall accrue and be payable as from the date on which the relevant cost or expense arose without the necessity for any demand being made for payment.

**3. GRANT OF SECURITY**

**3.1 Floating charge**

As a continuing security for the payment, discharge and performance of the Secured Liabilities, the Chargor grants to the Bank a floating charge over the Secured Assets.

**3.2 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by clause 3.1.



### **3.3 Priority**

- 3.3.1 The floating charge created by clause 3.1 above shall rank in priority to any Fixed Security (other than any Fixed Security granted by the Chargor in favour of the Bank which shall rank in priority to the floating charge created by clause 3.1).
- 3.3.2 The Chargor shall not, without the prior written consent of the Bank or unless permitted in terms of the Facility Agreement, create or permit to exist any Fixed Security or floating charge over all or any part of the Secured Assets except for any Fixed Security granted by the Chargor in favour of the Bank.
- 3.3.3 In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in clause 3.3.2) or with the consent of Bank under clause 3.3.2 but with no written agreement of the Bank as to the ranking of the charges, this Floating Charge shall rank in priority to that Fixed Security or floating charge.

## **4. LIABILITY OF THE CHARGOR**

### **4.1 Liability not discharged**

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

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Bank that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Bank renewing, determining, varying or increasing any Loan or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Chargor.

### **4.2 Immediate recourse**

The Chargor waives any right it may have to require the Bank to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Floating Charge against the Chargor.

## **5. REPRESENTATIONS AND WARRANTIES**

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

The Chargor makes the representations and warranties set out in this clause 5 to the Bank on the date of delivery of this Floating Charge and the representations and warranties contained in this clause 5 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

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

The Chargor is the sole legal owner and, in respect of any Secured Assets located in England and Wales or otherwise governed by the laws of England and Wales, beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

### **5.3 No Security**

The Secured Assets are free from any Security other than Permitted Security.

### **5.4 No adverse claims**

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

**5.5 No adverse covenants**

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

**5.6 No breach of laws**

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

**5.7 No interference in enjoyment**

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

**5.8 Avoidance of security**

No Security expressed to be created under this Floating Charge is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise.

**5.9 Environmental compliance**

The Chargor has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

**5.10 Enforceable security**

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

**6. GENERAL UNDERTAKINGS**

**6.1 Negative pledge and disposal restrictions**

The Chargor shall not at any time, save in respect of any Permitted Security:

- 6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset;
- 6.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- 6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

**6.2 Preservation of Secured Assets**

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

**6.3 Compliance with laws and regulations**

6.3.1 The Chargor shall not, without the Bank's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

6.3.2 The Chargor shall:

- a. comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them;
- b. obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
- c. promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

#### **6.4 Enforcement of rights**

The Chargor shall use its best endeavours to:

- 6.4.1 procure the prompt observance and performance of the covenants, undertakings and other obligations imposed on the Chargor's counterparties (including each insurer in respect of an Insurance Policy); and
- 6.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Bank may require from time to time.

#### **6.5 Notice of misrepresentation and breaches**

The Chargor shall, promptly on becoming aware of any of the same, notify the Bank in writing of:

- 6.5.1 any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 6.5.2 any breach of any undertaking set out in this Floating Charge.

#### **6.6 Title documents**

The Chargor shall, as so required by the Bank, deposit with the Bank and the Bank shall, for the duration of this Floating Charge be entitled to hold:

- 6.6.1 all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Chargor (and if these are not within the possession or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title);
- 6.6.2 all Insurance Policies.

#### **6.7 Insurance**

6.7.1 The Chargor shall, unless it has a prior written waiver from the Bank, effect and maintain sufficient and appropriate policies of insurance of its business and assets as would be maintained by reasonably prudent persons carrying on the same class of business as the Chargor and shall supply copies of them to the Bank on written demand by the Bank and in any event within 30 days of the end of each calendar year. In the event that the Chargor fails to provide copies of its Insurance Policies to the Bank within 30 days of the end of each calendar year then the Bank may put in place such insurance policies as it sees fit in respect of the Secured Assets, the costs of which may be debited by the Bank to the Chargor's loan account. The Chargor must immediately on request by the Bank pay the costs and expenses of the Bank or its agents incurred in connection with any action taken by the Bank under this clause 6.7.1.

6.7.2 In addition to the obligation on the Chargor to maintain insurance generally in relation to its business and assets under clause 6.7.1 above, the Chargor shall, at all times, ensure that, in relation to any Charged Property of which it is the owner, it maintains in full force and effect, insurance which:

- a. insures its interest in any such Charged Property and the plant and machinery thereon (including fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed) as stated in the most recent valuation for the relevant Charged Property addressed to and satisfactory to the Bank plus VAT (where applicable);
- b. provides cover on (i) an index linked basis, in line with the then current insurance industry practice and (ii) such other terms acceptable to the Bank, acting reasonably; and

- c. provides cover against loss or damage by fire, storm, tempest, flood, earthquake, landslip, heave, subsidence, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage;
  - d. is with an insurer of good repute in the insurance market;
  - e. includes cover for loss of rent and for all rents payable in respect of any Charged Property for a period of two years;
  - f. contains a note of the Bank's interest duly noted by the insurer against the policy (but, for the avoidance of doubt, without the Bank having any liability for any premium in relation to those Insurance Policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy).
- 6.7.3 The Chargor shall ensure that, at all times, it:
  - a. complies with the terms of the Insurance Policies;
  - b. does not do or permit anything to be done which may make void or voidable any of the Insurance Policies;
  - c. pays each premium for the Insurance Policies promptly and in any event prior to the commencement of the period of insurance for which that premium is payable; and
  - d. does all other things necessary as to keep each of the Insurance Policies in force; and
  - e. promptly pays all premiums in respect of such Insurance Policies and provides such evidence of the same as the Bank may require.
- 6.7.4 The Chargor shall promptly notify the Bank of:
  - a. any termination, avoidance or cancellation of any of the Insurance Policies made or, to its knowledge, threatened or pending;
  - b. any claim, and any actual or threatened refusal of any claim, under any of the Insurance Policies; and
  - c. any event or circumstance which has led or may lead to a breach by the Chargor of any provision of this clause 6.7 of this Floating Charge.
- 6.7.5 All monies payable under any Insurance Policies shall:
  - a. be paid into a Designated Account;
  - b. if they are not paid into a Designated Account, be held, pending such payment, by the Chargor as trustee of the same for the benefit of the Bank; and
  - c. at the option of the Bank, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities.
- 6.8 **Information**  
 The Chargor shall:
  - 6.8.1 give the Bank such information concerning the location, condition, use and operation of the Secured Assets as the Bank may require;
  - 6.8.2 permit any persons designated by the Bank and any Receiver or Administrator to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and

- 6.8.3 promptly notify the Bank in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Bank's prior approval, implement those proposals at its own expense.
- 6.9 Payment of outgoings**  
The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Bank.
- 6.10 Appointment of accountants**
- 6.10.1 The Chargor shall:
- a. at its own cost, if at any time so required by the Bank, appoint an accountant or firm of accountants nominated by the Bank to investigate the financial affairs of the Chargor and those of its subsidiaries and report to the Bank; and
  - b. co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.
- 6.10.2 The Chargor authorises the Bank to make an appointment as it shall think fit at any time, without further authority from the Chargor. In every case, the Chargor shall pay, or reimburse the Bank for, the fees and expenses of those accountants.
- 7. POWERS OF THE BANK**
- 7.1 Power to remedy**
- 7.1.1 The Bank shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this Floating Charge.
- 7.1.2 The Chargor irrevocably authorises the Bank and its agents to do all things that are necessary or desirable for that purpose.
- 7.1.3 Any monies expended by the Bank in remedying a breach by the Chargor of its obligations contained in this Floating Charge shall be reimbursed by the Chargor to the Bank on a full indemnity basis and shall carry interest in accordance with clause 12.1.
- 7.2 Exercise of rights**
- 7.2.1 The rights of the Bank under clause 7.1 are without prejudice to any other rights of the Bank under this Floating Charge.
- 7.2.2 The exercise of any rights of the Bank under this Floating Charge shall not make the Bank liable to account as a mortgagee or heritable creditor in possession.
- 7.3 Bank has Receiver's powers**  
To the extent permitted by law, any right, power or discretion conferred by this Floating Charge on a Receiver may, after the security constituted by this Floating Charge has become enforceable, be exercised by the Bank in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.
- 7.4 Conversion of currency**
- 7.4.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Bank may convert any monies received, recovered or realised by it under this Floating Charge (including the proceeds of any previous conversion under

this clause 7.4) from their existing currencies of denomination into any other currencies of denomination that the Bank may think fit.

7.4.2 Any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange or such other bank's prevailing spot selling rate of exchange as the Bank in its sole discretion may select for such other currency against the existing currency.

7.4.3 Each reference in this clause 7.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **7.5 New accounts**

7.5.1 If the Bank receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Bank may open a new account for the Chargor in the Bank's books. Without prejudice to the Bank's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

7.5.2 If the Bank does not open a new account immediately on receipt of the notice, or deemed notice, under clause 7.5.1, then, unless the Bank gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Bank 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 Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Bank.

#### **7.6 Indulgence**

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

#### **7.7 Further advances**

This Floating Charge secures further advances and re-advances but the Bank is not obliged to make further advances.

### **8. ENFORCEMENT OF SECURITY**

#### **8.1 Enforcement**

8.1.1 The security constituted by this Floating Charge shall become immediately enforceable if:

- a. the Secured Liabilities, or any part of them, are not paid or discharged when due;
- b. the Chargor is in breach of any of its obligations under this Floating Charge;
- c. the Chargor enters into liquidation or any arrangement with creditors or a receiver, administrator or a trustee is appointed over a substantial part of the Chargor's assets or the Chargor is subject to similar proceedings in any jurisdiction;
- d. anyone seeks to, or takes possession of, or seeks to enforce, or enforces, any security affecting the Secured Assets or if anything else happens which might adversely affect the security given by this Floating Charge;
- e. any other event occurs that makes the security constituted by this Floating Charge (or any other security for the Secured Liabilities) enforceable;
- f. the Charged Property is compulsorily purchased or requisitioned;

- g. an Event of Default (as defined under the Loan Agreement) under the Loan Agreement occurs; or
  - h. any act of default (howsoever described) occurs entitling the Bank to declare the Secured Liabilities or any part of them due and payable or the Secured Liabilities or any part of them otherwise becomes due and payable.
- 8.1.2 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of delivery of this Floating Charge.
- 8.2 **Access on enforcement**
  - 8.2.1 At any time after the Bank has demanded payment of the Secured Liabilities or if the Chargor defaults in the performance of its obligations under this Floating Charge, the Chargor will allow the Bank or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Bank or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry.
  - 8.2.2 At all times, the Chargor must use its best endeavours to allow the Bank or its Receiver access to any premises for the purpose of clause 8.2.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.
- 8.3 **Prior Security**
  - 8.3.1 At any time after the security constituted by this Floating Charge has become enforceable, or after any powers conferred by any Security having priority to this Floating Charge shall have become exercisable, the Bank may:
    - a. redeem that or any other prior Security;
    - b. procure the transfer of that Security to it; and
    - c. settle and pass any account of the holder of any prior Security.
  - 8.3.2 The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Chargor. All monies paid by the Bank to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Bank, be due from the Chargor to the Bank on current account and shall bear interest at the Default Rate and be secured as part of the Secured Liabilities.
- 8.4 **Protection of third parties**

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

  - 8.4.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
  - 8.4.2 whether any power the Bank, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
  - 8.4.3 how any money paid to the Bank, any Receiver or any Delegate is to be applied.
- 8.5 **No liability as mortgagee or heritable creditor in possession**

Neither the Bank, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee or heritable creditor in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect

or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee or heritable creditor in possession might be liable as such.

**8.6 Conclusive discharge to purchasers**

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

**8.7 Right of appropriation**

8.7.1 To the extent that:

- a. the Secured Assets constitute Financial Collateral; and
- b. this Floating Charge and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

the Bank shall have the right, at any time after the security constituted by this Floating Charge has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Bank may, in its absolute discretion, determine.

8.7.2 The value of any Secured Assets appropriated in accordance with this clause shall be:

- a. in the case of cash, the amount standing to the credit of each of the Chargor's accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and
- b. in the case of Investments, the price of those Investments at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Bank may select (including independent valuation).

8.7.3 The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

**9. APPOINTMENT OF RECEIVER OR ADMINISTRATOR**

**9.1 Appointment and Removal**

Without prejudice to the provisions of the Insolvency Act, at any time after having been requested to do so by the Chargor in writing or if the Security created by this Floating Charge has become enforceable in accordance with clause 8.1 (Enforcement), the Bank may by instrument in writing, without prior notice to the Chargor:

- 9.1.1 (subject to section 72A of the Insolvency Act) appoint one or more persons to be a Receiver of the whole or any part of the Secured Assets;
- 9.1.2 remove (so far as it is lawfully able) any Receiver so appointed;
- 9.1.3 appoint another person(s) as an additional or replacement Receiver(s); and
- 9.1.4 appoint one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act.

Nothing in this clause 9.1 shall restrict the exercise by the Bank of any one or more of the rights of the Bank under Schedule B1 to the Insolvency Act and the rules thereunder or at common law.



**9.2 Receiver as agent of the Chargor**

A Receiver shall be the agent of the Chargor and, except as otherwise required by the Insolvency Act, the Chargor shall be solely responsible for his acts and defaults and liable on any contract or engagements made or entered into or adopted by him.

**9.3 Powers of Administrator or Receiver**

An Administrator shall have all the rights, the statutory powers and discretions conferred on an administrator under the Insolvency Act. A Receiver shall have (and be entitled to exercise in such manner and on such terms as he may in his absolute discretion think fit) in relation to the Secured Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Floating Charge):

- 9.3.1 all of the powers of a receiver set out in Schedule 2 to the Insolvency Act;
- 9.3.2 power to sell (whether by public auction or private contract or otherwise) all or any of the Secured Assets on any terms and for any consideration (including without limitation for deferred consideration or a consideration payable wholly or partly in instalments or consisting in whole or in part of shares or securities of any other company or of any other non-cash asset);
- 9.3.3 power to grant any lease or tenancy or right of or affecting the Secured Assets for any term or terms of years at any or no rent and with or without any premium and accept the surrender of any lease or tenancy or right and give a valid receipt for any premium payable on any such grant or surrender and to amend or vary any lease, licence agreement or other arrangement in any way relating to or affecting the Secured Assets;
- 9.3.4 power to grant options to sell, lease, licence or dispose of the Secured Assets;
- 9.3.5 power to enter on or otherwise take possession of the Secured Assets to repair, convert, manufacture, process, decorate, alter, renew, improve, add to or develop or to complete any development or building which may be unfinished and to settle, compound, compromise or submit to arbitration any accounts or claims arising out of the commencement, carrying on or completion of any such development or building;
- 9.3.6 power to redeem any mortgage, charge or other Security on, over or affecting the Secured Assets or any part of it;
- 9.3.7 power to repair, renew or improve plant, machinery, implements, furniture, equipment and other effects of the Chargor in or on the Secured Assets;
- 9.3.8 power to settle or compromise or submit to arbitration any claim or claims on or against the Secured Assets or claim or dispute arising out of the Secured Assets;
- 9.3.9 power to disclaim, abandon or disregard all or any of the outstanding contracts of the Chargor and to allow time for payment by or to the Chargor of any debts either with or without security;
- 9.3.10 power to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Secured Assets including, without limitation, all voting and other rights attaching to stocks, shares and other securities owned by the Chargor;
- 9.3.11 power to convene an extraordinary general meeting of the Chargor;
- 9.3.12 power to exercise all powers conferred by the Insolvency Act on receivers appointed in England and Wales in respect of any of the Secured Assets located in England and Wales;

- 9.3.13 power to manage and carry on or concur in managing or carrying on upon the Secured Assets any type of trade or business and to enter and perform such contracts and arrangements and incur any obligations in relation thereto;
  - 9.3.14 power to make or exercise an election pursuant to paragraphs 2 and 3 of Schedule 10 to the Value Added Tax Act 1994 in relation to the Secured Assets or exercise any option or right of election available to the Chargor or the Bank or the Receiver that the supplies made in respect of any lease or tenancy of any part of the Secured Assets shall be supplies chargeable or taxable for value added tax purposes at the standard or other applicable rate provided always that neither the Bank nor the Receiver shall be liable for any loss suffered by the Chargor as a result and to execute all documents, and perform such acts or things as a result and to execute all documents, and perform such acts or things as maybe necessary to permit any disposal of the Secured Assets to be zero-rated for the purposes of value added tax;
  - 9.3.15 power to exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Asset; and
  - 9.3.16 power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Floating Charge or upon receivers by the statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargor; the preservation, improvement, collection and/or realisation of Secured Assets; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).
- 9.4 **Discretions**  
Any liberty or power which may be exercised or any determination which may be made under this Floating Charge by the Bank or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.
- 9.5 **Powers may be restricted**  
The powers granted to a Receiver pursuant to this Floating Charge may be restricted by the instrument (signed by the Bank) appointing him but they shall not be restricted by any winding-up or dissolution of the Chargor.
- 9.6 **Several Power**  
Where more than one Receiver is appointed, each Receiver has the power to act severally unless the Bank specifies otherwise in the appointment of such Receiver.
- 9.7 **Powers Exercisable by the Bank**
- 9.7.1 The Bank may exercise all powers granted to a Receiver by this Floating Charge, whether as attorney of the Chargor or otherwise.
  - 9.7.2 The powers of an Administrator and a Receiver set out above are in addition to, and without prejudice to, all statutory and other powers of the Bank and so that, without limitation, such powers are and remain exercisable by the Bank in respect of that part of the Secured Assets in respect of which no appointment of an Administrator or a Receiver by the Bank is from time to time subsisting.
- 9.8 **Protection of the Bank and Receiver**  
Neither the Bank nor any Receiver or Administrator shall be liable to the Chargor in respect of any loss or damage which arises out of the exercise, the attempted exercise or

the failure to exercise any of their respective powers or for any other loss of any nature whatsoever, except in the case of gross negligence or wilful default.

## **10. DELEGATION**

### **10.1 Delegation**

The Bank or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Floating Charge (including the power of attorney granted under clause 14.1).

### **10.2 Terms**

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

### **10.3 Liability**

Neither the Bank nor any Receiver shall 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.

## **11. APPLICATION OF PROCEEDS**

### **11.1 Order of application of proceeds**

All monies received by the Bank, a Receiver or a Delegate pursuant to this Floating Charge, after the security constituted by this Floating Charge has become enforceable, shall (subject to the claims of any person having prior rights) be applied in the following order of priority:

11.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Bank (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Floating Charge, and of all remuneration due to any Receiver under or in connection with this Floating Charge;

11.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Bank determines; and

11.1.3 in payment of the surplus (if any) to the Chargor or other person entitled to it.

### **11.2 Appropriation**

Neither the Bank, any Receiver nor any Delegate shall be bound to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

### **11.3 Suspense account**

All monies received by the Bank, a Receiver or a Delegate under this Floating Charge:

11.3.1 may, at the discretion of the Bank, Receiver or Delegate, be credited to any suspense or securities realised account;

11.3.2 shall bear interest, if any, at the rate agreed in writing between the Bank and the Chargor; and

11.3.3 may be held in that account for so long as the Bank, Receiver or Delegate thinks fit.

## **12. COSTS AND INDEMNITY**

### **12.1 Costs**

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

12.1.1 this Floating Charge or the Secured Assets;

- 12.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Bank's, a Receiver's or a Delegate's rights under this Floating Charge; or
- 12.1.3 taking proceedings for, or recovering, any of the Secured Liabilities, together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Chargor) at the Default Rate.

## **12.2 Indemnity**

The Chargor shall indemnify the Bank, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- 12.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Floating Charge or by law in respect of the Secured Assets;
- 12.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Floating Charge; or
- 12.2.3 any default or delay by the Chargor in performing any of its obligations under this Floating Charge.

Any past or present employee or agent may enforce the terms of this clause 12.2 subject to and in accordance with the provisions of the Contract (Third Party Rights) (Scotland) Act 2017.

## **13. FURTHER ASSURANCE**

### **13.1 Further assurance**

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

- 13.1.1 creating, perfecting or protecting the security intended to be created by this Floating Charge;
- 13.1.2 facilitating the realisation of any Secured Asset; or
- 13.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Bank or any Receiver in respect of any Secured Asset, including, without limitation (if the Bank or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment, assignation or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Bank or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **14. POWER OF ATTORNEY**

### **14.1 Appointment of attorneys**

The Chargor irrevocably appoints the Bank, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and Floating Charge, to execute any documents and do any acts and things that:

- 14.1.1 the Chargor is required to execute and do under this Floating Charge; or

- 14.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Floating Charge or by law on the Bank, any Receiver or any Delegate.
- 14.2 Ratification of acts of attorneys**  
The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 14.1.
- 15. RELEASE**
- 15.1 Subject to clause 21.3, on the expiry of the Security Period (but not otherwise), the Bank shall, at the request and cost of the Chargor, take whatever action is necessary to release this Floating Charge.
- 16. ASSIGNATION AND TRANSFER**
- 16.1 Assignment by Bank**
- 16.1.1 At any time, without the consent of the Chargor, the Bank may assign or transfer any or all of its rights and obligations under this Floating Charge.
- 16.1.2 The Bank may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Chargor, the Secured Assets and this Floating Charge that the Bank considers appropriate.
- 16.2 Assignment by Chargor**  
The Chargor may not assign any of its rights, or transfer any of its rights or obligations, under this Floating Charge.
- 17. SET-OFF**
- 17.1 Bank's right of set-off**  
The Bank may at any time set off any liability of the Chargor to the Bank against any liability of the Bank to the Chargor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Floating Charge. If the liabilities to be set off are expressed in different currencies, the Bank may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Bank of its rights under this clause 17 shall not limit or affect any other rights or remedies available to it under this Floating Charge or otherwise.
- 17.2 No obligation to set off**  
The Bank is not obliged to exercise its rights under clause 17.1. If, however, it does exercise those rights it must promptly notify the Chargor of the set-off that has been made.
- 17.3 Exclusion of Chargor's right of set-off**  
All payments made by the Chargor to the Bank under this Floating Charge shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 18. AMENDMENTS, WAIVERS AND CONSENTS**
- 18.1 Amendments**  
No amendment of this Floating Charge shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).
- 18.2 Waivers and consents**
- 18.2.1 A waiver of any right or remedy under this Floating Charge or by law, or any consent given under this Floating Charge, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

18.2.2 A failure to exercise, or a delay in exercising, any right or remedy provided under this Floating Charge or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Floating Charge. No single or partial exercise of any right or remedy provided under this Floating Charge or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Floating Charge by the Bank shall be effective unless it is in writing.

**18.3 Rights and remedies**

The rights and remedies provided under this Floating Charge are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

**19. SEVERANCE**

**19.1 Severance**

If any provision (or part of a provision) of this Floating Charge is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Floating Charge.

**20. THIRD PARTY RIGHTS**

**20.1 Third party rights**

Except as expressly provided elsewhere in this Floating Charge, a person who is not a party to this Floating Charge shall not have any rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce, or enjoy the benefit of, any term of this Floating Charge. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

**21. FURTHER PROVISIONS**

**21.1 Independent security**

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

**21.2 Continuing security**

The security constituted by this Floating Charge shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Bank discharges this Floating Charge in writing.

**21.3 Discharge conditional**

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

21.3.1 the Bank or its nominee may retain this Floating Charge and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Bank deems necessary to provide the Bank with security against any such avoidance, reduction or order for refund; and

21.3.2 the Bank may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

**21.4 Small company moratorium**

Notwithstanding anything to the contrary in this Floating Charge, neither the obtaining of a moratorium by the Chargor under schedule A1 to the Insolvency Act nor the doing of anything by the Chargor with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

21.4.1 an event under this Floating Charge which causes any floating charge created by this Floating Charge to crystallise;

21.4.2 an event under this Floating Charge which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Chargor; or

21.4.3 a ground under this Floating Charge for the appointment of a Receiver.

**21.5 Certificates**

Any account or certificate signed by a manager or other signing official authorised by the Bank as to the amount of the Secured Liabilities or any part of them shall, in the absence of obvious error, be conclusive and binding on the Chargor.

**22. NOTICES**

**22.1 Notices**

22.1.1 Any communication to be made under or in connection with this Floating Charge shall be made in writing.

22.1.2 Any communication, demand or notice given by the Bank to the Chargor under this Floating Charge may be made:

- a. by letter addressed to the Chargor or any officer of the Chargor sent by first class post to or left at the Chargor's address last known to the Bank or at the Chargor's registered office; or
- b. by fax or other electronic means to the Chargor's fax number or electronic mail address last known to the Bank.

If sent by post, the demand or notice will be deemed to have been received at 10.00 a.m. on the second Business Day following the day the letter was posted. If delivered by hand, the demand or notice will be deemed to have been received at the time it is left at the relevant address. If sent by fax or other electronic means, the demand or notice will be deemed to have been received at the time of transmission (provided that if the date of transmission is not a Business Day it shall be deemed to have been received at 9 a.m. on the next Business Day).

22.1.3 Unless otherwise advised by the Bank any notices given by the Chargor to the Bank under this Floating Charge shall be by letter and sent by first class post or delivered by hand to: the Company Secretary, Allica Bank Limited, Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS.

22.1.4 All communications to the Bank shall be effective only on actual receipt by the Bank.

22.1.5 The Bank may rely upon any communication by telephone or email purporting to be on behalf of the Chargor by anyone notified to the Bank as being authorised to do so, without enquiry by the Bank as to authority or identity. The Chargor agrees to indemnify the Bank against any liability incurred or sustained by the Bank as a result.

## **23. COUNTERPARTS**

### **23.1 Number of counterparts**

This Floating Charge may be executed in any number of counterparts and by the parties on separate counterparts.

### **23.2 Delivery**

23.2.1 Where executed in counterpart:

- a. this Floating Charge shall not take effect until all of the counterparts have been delivered;
- b. the parties may choose to evidence the date of delivery of this Floating Charge by inserting the date of delivery at the top of the first page of this Floating Charge.

23.2.2 If this Floating Charge is not executed in counterparts, this Floating Charge shall be delivered on the date inserted at the top of the first page of this Floating Charge or, if no such date is inserted, the date on which the last party signed this Floating Charge.

### **23.3 Nomination**

The parties to this Floating Charge, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the "Counterparts Act"), nominate the Bank's Scottish solicitors to take delivery of all counterparts of this Floating Charge. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Floating Charge.

### **23.4 Date of delivery**

The date of delivery of this Floating Charge is the date of delivery stated at the top of the first page of this Floating Charge. If no date of delivery is stated, the date of delivery is the date of signing stated below the signature of the Chargor.

### **23.5 Authority to insert date of delivery**

The Chargor and the Bank hereby authorise the Bank or its agent to insert the date of delivery of this Floating Charge at the top of the first page of this Floating Charge.

## **24. REGISTRATION**

### **24.1 Consent to Registration**

The Chargor consents to the registration of this Floating Charge and of each certificate referred to in clause 21.5 above for preservation and execution. Governing law and jurisdiction

### **24.2 Governing Law and Jurisdiction**

24.2.1 This Floating Charge and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of Scotland.

24.2.2 Each party irrevocably agrees that, subject as provided below, the courts of Scotland shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Floating Charge or its subject matter or formation. Nothing in this clause shall limit the right of the Bank to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions,



whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

IN WITNESS WHEREOF these presents consisting of this and the preceding 17 pages together with the schedule annexed as relative hereto are executed as follows:

**CHARGOR**

EXECUTED )  
by ABACUS AGENTS LIMITED ) .....  
by ) Director

Director's Name .....

In the presence of:

Witness Signature: .....

Witness Name: .....

Witness Address: .....

Witness Occupation: .....

At: ..... On: .....

**BANK**

EXECUTED )  
by ALLICA BANK LIMITED ) .....  
by ) Attorney

Attorney Name ..... GAVIN BUCHAN .....

In the presence of:

Witness Signature: .....  .....

Witness Name: ..... ANN CLARK .....

Witness Address: ..... CALEDONIAN EXCHANGE, 19A CANNING STREET, EDINBURGH .....

Witness Occupation: ..... SENIOR PARALEGAL .....

At: ..... Edinburgh ..... On: ..... 28/03/2022 .....

**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING FLOATING CHARGE BY  
ABACUS AGENTS LIMITED IN FAVOUR OF ALLICA BANK LIMITED**

**Definitions and Interpretation**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions apply in this Floating Charge:

**Administrator:** means any person appointed as an administrator pursuant to paragraph 14 of Schedule B1 to the Insolvency Act.

**Business Day:** means a day on which the Bank is open for normal banking business in England and Scotland.

**Charged Property:** all freehold, heritable and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Chargor, or in which the Chargor holds an interest, and references to "Charged Property" shall include references to the whole or any part of it.

**Default Rate:** means:

- a. the default interest rate set out in the document under which the relevant liability for the overdue amount initially arose; or
- b. if no default rate is set out in such document, 2% per annum above the Bank of England's Base Rate from time to time.

**Delegate:** any person appointed by the Bank or any Receiver pursuant to clause 10 and any person appointed as attorney of the Bank, Receiver or Delegate.

**Designated Account:** any account of the Chargor nominated by the Bank as a designated account for the purposes of this Floating Charge.

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

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

**Environmental Licence:** any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets.

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

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

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

**Fixed Security:** shall have the meaning given to it in section 486 of the Companies Act 1985.

**Insolvency Act:** means the Insolvency Act 1986.

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

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

- a. dividend, interest or other distribution paid or payable in relation to any of the Investments; and
- b. right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

**Loan Agreement:** the loan agreement dated on or about the date of delivery of this Floating Charge entered into by the Chargor and the Bank, as amended or amended and restated from time to time.

**Permitted Security** means:-

- a. any liens arising by operation of law and in the ordinary course of the Chargor's business and not as a result of any default or omission by the Chargor;
- b. any normal title retention arrangements included in a supplier's standard conditions of supply of goods acquired by the Chargor in the ordinary course of trade;
- c. Security granted by the Chargor in favour of the Bank;
- d. Security granted by the Chargor in favour of a third party in respect of which the Bank has given its prior written consent to the Chargor.

**Receiver:** means a receiver appointed under this Floating Charge of the whole or any part of the Secured Assets and that term will include any appointee made under a joint or several appointment.

**Schedule:** the schedule annexed as relative to this Floating Charge.

**Secured Assets:** the whole of the property, assets and rights (including any uncalled capital) which is or may be from time to time comprised in the property and undertaking of the Chargor.

**Secured Liabilities:** all present and future obligations and liabilities of the Chargor to the Bank, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity and whether or not the Bank was an original party to the relevant transaction and in whatever name or style, together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

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

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

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

## 1.2 Interpretation

In this Floating Charge:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this Floating Charge;
- 1.2.2 a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);

- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a party shall include that party's successors, permitted assignees and permitted transferees and this Floating Charge shall be binding on, and enure to the benefit of, the parties to this Floating Charge and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8 a reference to writing or written includes fax and email in respect of communications from the Bank to the Chargor but not in respect of communications from the Chargor to the Bank unless otherwise specified;
- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 a reference to this Floating Charge (or any provision of it) or to any other agreement or document referred to in this Floating Charge is a reference to this Floating Charge, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Floating Charge) from time to time;
- 1.2.11 unless the context otherwise requires, a reference to a clause or the Schedule is to a clause of, or the Schedule to, this Floating Charge and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.2.12 any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.13 a reference to an amendment includes a novation, re-enactment, supplement or variation (and amend and amended shall be construed accordingly);
- 1.2.14 a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.15 a reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 a reference to determines or determined means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- 1.2.17 a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

### 1.3 **Clawback**

If the Bank considers that an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Floating Charge.