



Registration of a Charge

Company Name: **JAMES FLEMING & COMPANY LIMITED**

Company Number: **SC131587**



Received for filing in Electronic Format on the: **03/08/2023**

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Details of Charge

Date of creation: **03/08/2023**

Charge code: **SC13 1587 0005**

Persons entitled: **BNP PARIBAS COMMERCIAL FINANCE LIMITED**

Brief description: **1. BY WAY OF FIRST FIXED CHARGE: (A) THE FREEHOLD AND LEASEHOLD LAND OF THE COMPANY BOTH PRESENT AND FUTURE INCLUDING ANY LAND AND BUILDINGS SPECIFIED IN SECTION 3 OF THE SCHEDULE AND ALL TRADE FIXTURES AND FITTINGS AND ALL PLANT AND MACHINERY FROM TIME TO TIME IN OR ON ANY SUCH LAND OR BUILDINGS; (B) ALL EXISTING AND FUTURE RIGHTS AND INTERESTS OWNED BY THE COMPANY OR ARISING FROM ANY PRESENT OR FUTURE AGREEMENTS IN RELATION TO THE FOLLOWING: (I) PATENTS AND PATENT APPLICATIONS, TRADEMARKS AND TRADEMARK APPLICATIONS (AND ALL GOODWILL ASSOCIATED WITH THEM); (II) BRAND AND TRADE NAMES; (III) COPYRIGHTS AND RIGHTS IN THE NATURE OF COPYRIGHT OR REGISTERED DESIGNS, APPLICATIONS FOR REGISTERED DESIGNS AND INVENTIONS; AND (IV) TRADE SECRETS AND KNOW-HOW AND ALL OTHER INTELLECTUAL PROPERTY RIGHTS AND INTERESTS WHETHER REGISTERED OR UNREGISTERED.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED
AS PART OF THIS APPLICATION FOR REGISTRATION IS A
CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **PDT SOLICITORS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 131587

Charge code: SC13 1587 0005

The Registrar of Companies for Scotland hereby certifies that a charge dated 3rd August 2023 and created by JAMES FLEMING & COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd August 2023 .

Given at Companies House, Edinburgh on 4th August 2023

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



Companies House



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

DATED 3 August 2023

JAMES FLEMING & COMPANY LIMITED
TO
BNP PARIBAS COMMERCIAL FINANCE LIMITED

ALL ASSETS DEBENTURE
(Including Qualifying Floating Charge)

**WE HEREBY CERTIFY THIS TO BE
A TRUE COPY OF THE ORIGINAL**



PDT Solicitors LLP



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THIS DEBENTURE is made on the 3 day of August 2023
BETWEEN

- (1) the Company ("the Company") described in section 1 of the Schedule attached to and forming part of this debenture ("the Schedule"); and
- (2) BNP Paribas Commercial Finance Limited (a company registered in England and Wales with the number 2713317) of Windsor House, 6-10 Mount Ephraim Road, Tunbridge Wells, Kent, TN1 1EE ("BNPPCF") which expression shall include BNPPCF's successors and assignees).

1. MEANINGS OF EXPRESSIONS

1 In this debenture except where the context otherwise requires:

1.1 the following expressions shall have the meanings assigned to them below:

"the Act"	the Insolvency Act 1986;
"Agreement"	the agreement (details of which are contained in section 2 of the Schedule) made between the Company and BNPPCF for the purchase of Debts and any agreement made in addition to, variation of or substitution for such agreement;
"assignment"	in relation to any right governed by Scots law means "assignation" as that word is understood in Scots law and similarly references to "reassignment" shall be construed accordingly;
"Company's Account"	all amounts now or hereafter owing or becoming due to the Company by BNPPCF including any amount retained by BNPPCF under clause 10.5 or clause 21.2.2 of the Agreement;
"Default Interest"	the 3 month SONIA rate plus 5% (five percent) calculated at the time a Event of Default occurs;
"Encumbrance"	charge, mortgage, lien, pledge, standard security, hypothec, assignation or other security right or declaration of trust;
"Event of Default"	any of the events specified in clause 8.2;
"Fixed Assets"	<ol style="list-style-type: none">(i) all freehold and leasehold land and buildings of the Company both present and future including any land and buildings specified in section 3 of the Schedule and all trade fixtures and fittings and all plant and machinery from time to time in or on any such land or buildings;(ii) all goodwill and unpaid and/or uncalled capital of the Company;

	<ul style="list-style-type: none"> (iii) all stocks shares and securities and documents evidencing title to or the right to possession of any property at any time deposited with BNPPCF and the property mentioned in such documents; (iv) all Intellectual Property now owned or at any time hereafter to be owned by the Company;
"Fixed Charge Property"	such of the Property as for the time being shall be subject to the fixed charge created by clause 3.1 and any other of the Property in respect of which the floating charge created by clause 3.2 shall have crystallised;
"Floating Assets"	(i) all the Property other than such of the Property as shall for the time being be subject to the fixed charge created by clause 3.1 and (ii) whether or not subject to the fixed charge created by clause 3.1, all the Property located in Scotland or governed by Scots law;
"Intellectual Property"	<p>means all existing and future rights and interests owned by the Company or arising from any present or future agreements in relation to the following:</p> <ul style="list-style-type: none"> (a) patents and patent applications, trademarks and trademark applications (and all goodwill associated with them); (b) brand and trade names; (c) copyrights and rights in the nature of copyright or registered designs, applications for registered designs and inventions; and (d) trade secrets and know-how and all other intellectual property rights and interests whether registered or unregistered;
"Obligations"	all monetary and other liabilities and obligations now or at any time hereafter owed or incurred by the Company to or in favour of BNPPCF, present or future, actual or contingent, liquidated or unliquidated, whether or not incurred jointly with any other person, whether arising in or by contract, tort, restitution, assignment or breach of statutory duty and whether arising under the Agreement or otherwise including any such liability of the Company by virtue of any assignment to BNPPCF of any indebtedness incurred or to be incurred by the Company for any supply of any goods or services to or any hiring by the Company;
"Other Debts"	all amounts of indebtedness (other than the Specified Debts and the Company's Account) now or at any time hereafter owing or becoming

due to the Company on any account whatsoever and their proceeds together with the Related Rights pertaining to such amounts of indebtedness and their proceeds;

"Property"

the undertaking and all the property rights and assets of the Company, whatsoever and wheresoever, both present and future, including the Company's stock in trade and its uncalled capital and the proceeds of such property rights and assets;

"SONIA"

or **"Sterling Overnight Index Average"** means on any day, the monthly average "sterling overnight indexed average" as quoted by the Bank of England on that day, or such other rate as agreed between the Parties from time to time and if that rate is less than zero, SONIA shall be deemed to be zero;

"Specified Debt"

any Debt (purchased or purported to be purchased by BNPPCF pursuant to the Agreement), of which the ownership fails to vest absolutely and effectively in BNPPCF for any reason, together with the proceeds of such Debt;

"Writing"

any form of communication that is accessible so that it may be recorded in a permanent form and used at any time after it has been made (and "written" is to be construed accordingly);

- 1.2 the expressions **"Debt"** and **"Related Rights"** have the meanings respectively assigned to them in the Agreement but so that for the purposes of the definition of **"Related Rights"** references to a **"Debt"** and to a **"Contract of Sale"** (where the context so requires) include respectively references to an Other Debt and a contract giving rise to an Other Debt;
- 1.3 the expression **"Schedule B1"** shall mean Schedule B1 to the Act, the expression **"Administrator"** shall have the meaning assigned to it in paragraph 1(1) of Schedule B1 to the Act and the expression **"Receiver"** shall have the meaning assigned to it in section 29(1)(a) of the Act (not being an administrative receiver as defined in section 29(2) of the Act);
- 1.4 the singular includes the plural and vice versa and any of the three genders includes either of the others;
- 1.5 references to clauses and sub-clauses are references to clauses and sub-clauses respectively of this debenture; the headings of clauses are for convenience only and do not affect or limit the meaning or extent of any clause;
- 1.6 the meaning of general words introduced by the word **"other"** are not limited by reference to any preceding word or enumeration indicating a particular class of acts matters or things;
- 1.7 the expressions **"including"** and **"includes"** do not limit or restrict any general words preceding either of them;

- 1.8 where BNPPCF has a right or option to do anything then the right or option is at its absolute discretion;
- 1.9 reference to any Act of Parliament is deemed to include such Act as amended or re-enacted from time to time and any order or regulation made under it;
- 1.10 where in connection with any legal jurisdiction outside England and Wales a word or phrase used in this debenture has no precise counterpart, then this debenture shall be interpreted as if that word or phrase referred to the closest equivalent in the jurisdiction concerned.

2. COVENANT TO PAY

2. The Company will:

- 2.1 on demand fully discharge by payment to BNPPCF without any deduction or set-off all or any monetary liabilities included in the Obligations; and
- 2.2 duly perform all the Obligations other than monetary liabilities.

3. CHARGING PROVISIONS

3 To secure payment and performance as provided for in clause 2 the Company hereby charges in favour of BNPPCF with full title guarantee:

- 3.1 by way of fixed charge, all Fixed Assets, all Specified Debts, the Company's Account and all Other Debts;
- 3.2 by way of floating charge (to which paragraph 14 of Schedule B1 applies), the Floating Assets.

4. THE FLOATING ASSETS

4. The Company shall be at liberty to sell any item included in the Floating Assets in the normal course of and for the purpose of carrying on its business (on terms not less favourable than those usual in a business of the nature of that carried on by the Company) until the crystallisation of the floating charge hereby created in respect of such item or of all the Floating Assets.

5. THE COMPANY'S CONTINUING OBLIGATIONS

5.1 Until the full discharge of all the Obligations and this debenture except with the prior written consent of BNPPCF the Company shall not:

- 5.1.1 except as provided in clause 4 or on the written directions of BNPPCF sell, part with possession of, create any encumbrance over or otherwise dispose of any of the Property nor, except as expressly provided for in this debenture release, exchange, compound, set off, grant time or indulgence in respect of any of the Property;
- 5.1.2 enter into any factoring or discounting agreement or any other agreement for the sale and purchase of debts except with BNPPCF.

5.2 Without prejudice to any other provision of this debenture, unless otherwise agreed in writing by BNPPCF and subject to section 464(2) of the Companies Act 1985:

- 5.2.1 the Company shall not create any fixed security or other floating charge over any part of the Property ranking in priority to or equally with the floating charge created by Clause 3.2 after its execution of this debenture except any fixed or floating security in favour of BNPPCF; and
- 5.2.2 the floating charge created by clause 3.2 shall rank in priority to any fixed security or other floating charge created by the Company after its execution of this debenture except any fixed security in favour of BNPPCF.
- 5.3 All the provisions of the Agreement relating to the Specified Debts contained in the Agreement shall apply to all Specified Debts as if such provisions were set out in this debenture in full and as if the ownership of all such Specified Debts were vested in, or held on trust for, BNPPCF in accordance with the Agreement. All the provisions of the Agreement relating to the rights to or ownership of goods included in the Related Rights shall apply to any goods included in the Property.
- 5.4 In addition to and without prejudice to the provisions of clause 5.3 until the charges contained in this debenture are fully discharged:
- 5.4.1 BNPPCF shall at all times have the sole right to collect any of the Other Debts and the Company shall assist BNPPCF in any way that it may require for that purpose and, if called upon to do so at any time by BNPPCF, at the Company's expense (including any applicable stamp duty) in such form as BNPPCF may prescribe the Company shall:
- 5.4.1.1 complete and execute a formal written assignment of any or all of the Other Debts and give written notice of such assignment to every person by whom any such Other Debt shall be owing; and
- 5.4.1.2 (whether or not such written assignment shall have been executed) give irrevocable instructions to such persons to make payment of all Other Debts (then owing or to become owing by such persons thereafter) direct to BNPPCF; and
- 5.4.2 BNPPCF may at any time apply any part of the Company's Account in the discharge of any part or the whole of the Obligations.
- 5.5 Without prejudice to BNPPCF's rights under clause 5.4 the Company shall for the benefit of BNPPCF:
- 5.5.1 collect in the Other Debts (except any Other Debts assigned to BNPPCF under clause 5.4) in the ordinary course of business (which expressions shall not include factoring or discounting or selling or otherwise disposing of the Other Debts in any other way);
- 5.5.2 promptly pay into such bank account as BNPPCF shall at any time specify in writing any moneys which the Company may receive in respect of the Other Debts and pending such payment hold such moneys in trust for BNPPCF in accordance with the Agreement.
- 5.6 The Company hereby undertakes in addition to and without prejudice to any other undertaking given elsewhere in this debenture:
- 5.6.1 at any time if so required by BNPPCF (at the Company's expense including any applicable stamp duty) to execute such documents and do such other things as may be requisite to perfect or complete to BNPPCF title to any of

the Property (other than the Specified Debts or Other Debts) or to enable BNPPCF to exercise any of its rights under this debenture including the execution of a legal mortgage of any of the freehold or leasehold land and buildings included in the Fixed Assets;

- 5.6.2 at all times during the continuance of this debenture to keep all such items included in the Property as are tangible in a good state of repair and proper working order;
 - 5.6.3 to keep all items included in the Property fully insured to their replacement value with an insurer approved by BNPPCF against all risks for which insurance cover is usual in a business of the nature of that carried on by the Company and promptly to pay all premiums and other sums payable for this purpose and if so required to produce the receipts for such payments to BNPPCF; and
 - 5.6.4 to hold on trust for BNPPCF all the rights of the Company and any sums received under any such policy of insurance and to keep such sums received separate from the Company's own monies and to pay them to BNPPCF on demand.
- 5.7 In the event that the Company shall fail to pay any insurance premium or other sum for which provision is made in clause 5.6.3 BNPPCF may pay such premium or sum and recover it from the Company.
- 5.8 At any time when the statutory power of sale or the right to appoint a Receiver is exercisable under the provisions of this debenture, whether or not such powers or right shall have been exercised, the benefits of all insurances relating to the Property shall vest in BNPPCF.
- 5.9 Until the charges contained in this debenture are fully discharged the Company shall not without the prior written consent of BNPPCF exercise any statutory or other power of granting or of agreeing to accept surrenders of leases or tenancies of any or any part of any freehold or leasehold land and buildings charged by clause 3(1).
- 5.10 **Governing Law of Intellectual Property**
- 5.10.1 The Company and BNPPCF acknowledge and agree by their execution of this debenture that any Intellectual Property charged by way of this debenture has been created in accordance with and is governed exclusively by the laws of England and Wales for the purpose of the security created by way of this debenture.
- 5.10.2 The Company undertakes to BNPPCF that any Intellectual Property acquired or otherwise owned by the Company after the date of this Debenture shall be created in accordance with, and governed by, the laws of England and Wales.

6. OTHER ENCUMBRANCES

6. The Company hereby warrants that except as stated in section 4 of the Schedule or as hitherto disclosed to BNPPCF in writing it is the beneficial owner (or, in the case of Property which is located in Scotland or governed by Scots law, the owner) of all items included in the Property and that all such items are free from any Encumbrance and that the Company is able to give a full title guarantee in respect of all of them. The Company shall not without the prior written consent of BNPPCF

create or permit to subsist any Encumbrance which affects or may affect the Property or any part of it.

7. POWER OF ATTORNEY

- 7 The Company hereby irrevocably appoints BNPPCF and the Directors and the Company Secretary for the time being of BNPPCF and any Receiver appointed by virtue of an appointment pursuant to clause 9 (each acting in their own respective interests) jointly and each of them severally to be the attorney of the Company to execute in the name of the Company such deeds and documents and to do such other things as may be requisite to perfect to BNPPCF title to any of the Property or to enable BNPPCF to exercise any of its rights under this debenture including its rights to enforce payment of and collect any of the Other Debts or Specified Debts and to realise any other of the Property and for the purpose of receiving all monies payable under any policy of insurance referred to in clause 5 and for compromising or compounding any claim under it.

8. ENFORCEMENT

- 8.1 Sections 93 and 103 of the Law of Property Act 1925 and the restriction in section 109(1) of that act shall not apply to this debenture and upon the occurrence of any Event of Default or at any time after it (except during a moratorium in relation to the Company as provided for in paragraphs 43 or 44 of Schedule B1) BNPPCF shall be entitled on demand to payment in full of all or any part of the monetary liabilities included in the Obligations and, without prejudice to BNPPCF's rights under the Agreement and any other of its rights under this debenture (whether or not BNPPCF shall have exercised any of those rights) BNPPCF may exercise any of the following rights:

8.1.1 to exercise any of BNPPCF's powers of possession and sale of any of the Fixed Charge Property;

8.1.2 to appoint any person to be a Receiver over any of the Fixed Charge Property;

8.1.3 by notice to the Company to crystallise the floating charge created by clause 3.2 in respect of all the Floating Assets or any item included in them and thereby to terminate the Company's right to deal with such assets or item in the ordinary course of business in accordance with the provisions of clause 4.

- 8.2 The Events of Default are as follows:

8.2.1 any breach of any of the Company's obligations and undertakings under this debenture;

8.2.2 the failure of the Company to pay any monetary liability included in the Obligations when it is due to be paid;

8.2.3 the calling by the Company of any meeting of its creditors;

8.2.4 the Company becoming unable to pay its debts within the meaning of Section 123 of the Act;

8.2.5 the levying or threat of execution or distress or diligence on any of the Property;

- 8.2.6 the appointment of a Receiver of any part of the Company's income or assets;
- 8.2.7 the serving or threat of a garnishee order nisi or other third party order on any debtor of the Company in relation to any judgement debt owing by the Company;
- 8.2.8 the presentation of a petition for the winding up of the Company;
- 8.2.9 in relation to the Company an administration application under paragraph 12 of Schedule B1 or the appointment of an administrator under paragraph 14 or paragraph 22 of Schedule B1 or the appointment of a provisional liquidator, judicial factor, trustee or similar officer;
- 8.2.10 a proposal for a voluntary arrangement between the Company and its creditors whether pursuant to the Act or otherwise;
- 8.2.11 the cessation of the Company's business or a threat by the Company of such cessation;
- 8.2.12 a resolution of the members of the Company for its winding up;
- 8.2.13 any event which in the opinion of BNPPCF jeopardises any part of the security afforded by this debenture;
- 8.2.14 any event (other than any event mentioned in this clause) which gives BNPPCF the right to give notice for immediate termination of the Agreement in accordance with the terms thereof whether or not BNPPCF shall have exercised any such right;
- 8.2.15 the occurrence of any event analogous to any of the events referred to above in any jurisdiction to which the Company is subject
- 8.3 Without prejudice to the rights of BNPPCF contained in clause 8.1 the floating charge created by clause 3.2 shall crystallise automatically, without the requirement for any notice or other act by BNPPCF, in respect of any item charged by such charge upon which distress or execution is levied or threatened.
- 8.4 In the event that the floating charge created by clause 3.2 shall have crystallised as to part only of the Floating Assets the Company shall be at liberty to deal with the remainder of the Floating Assets in accordance with the provisions of clause 4 without prejudice to the rights of BNPPCF pursuant to clause 8.1 in relation to such remainder of the Floating Assets.
- 8.5 Any provision in this debenture in respect of crystallisation of the floating charge shall not apply to any Property situated in Scotland or governed by Scots law and the floating charge created by clause 3.2 shall, in respect of Property situated in Scotland or governed by Scots law, be converted to a fixed charge only in accordance with Scots law.
- 8.6 Upon the appointment of an Administrator to the Company by any means every Receiver appointed under this debenture shall vacate office.
- 9. APPOINTMENT, POWERS AND AGENCY OF RECEIVERS AND INDEMNITY**
- 9.1 The power of appointing a Receiver under this debenture may be exercised in writing under the hand of any Director or the Company Secretary for the time being of BNPPCF or of any person authorised in writing by any of them. BNPPCF may

in like manner remove any such Receiver so appointed and (in the case of the removal or the vacation of office or the death of any such Receiver) appoint another person or persons in the place of such Receiver.

9.2 Every receiver so appointed shall have the power:

- 9.2.1 to take possession of, to enforce payment of and to collect or to realise any of the Charged Property in respect of which he shall have been appointed or any part thereof in such manner and upon such terms as he shall in his absolute discretion decide;
- 9.2.2 to make any arrangement or compromise as he may consider requisite on behalf of the Company with any other person in respect of any such Charged Property;
- 9.2.3 without any of the restrictions imposed by the Law of Property Act 1925 to sell and assign any of such Charged Property on such terms and to such persons as he may consider expedient;
- 9.2.4 to exercise all the powers provided for in the Law of Property Act 1925 as if the Receiver had been duly appointed under such Act;
- 9.2.5 to appoint solicitors managers and agents for any of the above purposes on such terms and for such periods as the Receiver shall think fit;
- 9.2.6 for any of the purposes hereby authorised to borrow from any bank or other person on the security of any of such Charged Property on such terms as the Receiver shall consider expedient including (if BNPPCF shall so consent) terms by which such security shall rank in priority to this charge;
- 9.2.7 to carry out and enforce performance of any contract (or any part of it) giving rise to any Specified Debt or any Other Debt;
- 9.2.8 to give effective receipts for all monies and other assets which may come into the Receiver's hands in the exercise of any power hereby conferred upon him which receipts shall exonerate any person paying or handing over such monies or assets from all liability to see to the application thereof or to enquire as to the propriety or regularity of the Receiver's appointment;
- 9.2.9 to do all such other acts or things which the Receiver may consider to be incidental or conducive to any other purposes authorised hereby and which he may lawfully do as agent for the Company;
- 9.2.10 to exercise all the powers conferred on Receivers by the Act (including, for the avoidance of doubt, the powers of a Scottish Receiver under Schedule 2 to the Act)

9.3 If two or more individuals shall hold office as Receiver of the same item included in the Property by virtue of an appointment in accordance with clause 9.1 such individuals shall have the right to exercise all or any of their powers severally as well as jointly.

9.4 Every Receiver appointed in accordance with clause 9.1 shall at all times be the agent of the Company and the Company shall alone be responsible for all acts defaults and omissions of such Receiver and for the payment of all his remuneration, costs and expenses. BNPPCF shall be under no liability to any such Receiver for his remuneration, costs, expenses or in any other way whatsoever.

9.5 Neither BNPPCF nor any Receiver appointed under this debenture shall be liable to account as mortgagee in possession in respect of all or any of the Property nor shall any of them be liable for loss on realisation or for any neglect or default of any nature in connection with the Property for which a mortgagee in possession may be liable as such.

9.6 The Company hereby undertakes to indemnify and hold harmless any Receiver appointed under this debenture against all actions, claims, expenses, costs and liabilities which may at any time and in any way may be incurred by him or by any person, for whose debt or default he may be answerable, in respect of anything done in the exercise or purported exercise of his powers in connection with this debenture.

10. APPLICATION OF PROCEEDS BY RECEIVER

10 All monies received by any Receiver appointed under this debenture shall be applied (subject to the claims of any creditor having priority to this debenture) for the following purposes in the following order:

10.1 in payment of all costs charges and expenses of and in relation to his appointment and the exercise of his powers and of any other expenses properly discharged by him;

10.2 in payment of his remuneration as agreed between him and the person who appointed him;

10.3 in payment of any costs relating to the realisation of any property;

10.4 in or on account of the discharge of the Obligations including any interest for which provision is made in this debenture; and

10.5 in payment of any surplus to the Company.

11. APPOINTMENT, POWERS AND DUTIES OF AN ADMINISTRATOR

11.1 Upon or at any time after the occurrence of any Event of Default (in addition to and without prejudice to the provisions of clauses 8 and 9) BNPPCF may, in accordance with the provisions of paragraphs 12 to 18 inclusive of Schedule B1, appoint any person who is qualified to act as an insolvency practitioner in relation to the Company as Administrator of the Company.

11.2 Every Administrator appointed under clause 11.1 shall have the status and all the powers and duties of an administrator for which provision is made in Schedule B1. BNPPCF shall be under no liability to any such Administrator for his remuneration, costs, expenses or in any other way whatsoever.

11.3 The functions of every Administrator appointed under clause 11.1, including the distribution of all monies received by him, shall be as provided in paragraphs 59 to 73 inclusive of Schedule B1.

11.4 The power of appointing an Administrator under this debenture may be exercised in writing under the hand of any Director or the Company Secretary for the time being of BNPPCF or of any person authorised in writing by any of them. In the case of the vacation of office or the death of any such Administrator BNPPCF may in like manner appoint another person so qualified in the place of such Administrator.

12. COSTS, EXPENSES AND INTEREST AND DETERMINATION OF COMPANY'S LIABILITY

12.1 All expenses charges and costs of any nature whatsoever incurred by BNPPCF in connection with the preparation or enforcement of this debenture or in the exercise of any powers or right conferred on BNPPCF hereby shall be payable by the Company on a full indemnity basis and any amount so payable shall be included in the Obligations.

12.2 If the Company shall fail to pay any monetary liability included in the Obligations it must immediately on demand by BNPPCF pay:

12.2.1 Default Interest on the amount unpaid and from time to time outstanding for the period beginning on its due date for payment and ending on the date BNPPCF actually receives payment, both before, on and after decree or judgment.

12.2.2 Such Default Interest (if unpaid) shall be compounded monthly but will remain immediately due and payable.

12.3 A written certificate from BNPPCF's company secretary or auditor of the amount of the monetary liabilities included in the Obligations at any time shall be conclusive evidence (save for manifest error) in any proceedings against the Company.

13. RECORDS AND DOCUMENTS AND ACCESS TO PREMISES

13.1 The Company shall keep proper books and records of account and shall make true and complete entries in them of all transactions relating to any of the Company's business and the Property.

13.2 Any duly authorised official of BNPPCF and any Receiver appointed by BNPPCF and any person authorised by such Receiver shall have the right at any time (except during a moratorium in relation to the Company as provided for in paragraphs 43 or 44 of Schedule B1) to enter upon any premises at which the Company carries on business and upon any other premises in which any part or all of the Property is situated or for the time being kept or stored for any of the following purposes:

13.2.1 gaining access to or inspecting or, following any Event of Default, taking possession of any of the Company's accounts books ledgers computer data and other records and documents included in the Fixed Charge Property;

13.2.2 taking copies of any of such accounts books ledgers data records and documents at the Company's expense;

13.2.3 inspecting and/or, after any Event of Default, taking possession of any of the Fixed Charge Property;

provided that the exercise of such right before an Event of Default shall be subject to entry being made during the Company's normal business hours and on reasonable notice.

13.3 The Company shall supply to BNPPCF, at the Company's expense, any information relating to the Company's business as BNPPCF may require.

14. BNPPCF'S ADDITIONAL RIGHTS

- 14.1 The grant by BNPPCF to the Company or to any other person, including any person for whose liability the Company is surety, of any time or indulgence or the making by BNPPCF with the Company or any such person of any arrangement composition or agreement not to sue shall not discharge or in any way affect any of BNPPCF's rights under this debenture.
- 14.2 BNPPCF may abstain from perfecting, completing or enforcing any securities, guarantees or other rights which it may now or at any time have from or against the Company or any other person and may substitute, release, alter or deal with the same in any way without affecting its rights under this debenture.
- 14.3 If BNPPCF receives or is deemed to have received notice of an Encumbrance which affects any of the Property and which is created subsequent to the date of this debenture then BNPPCF may open a new account with the Company. If BNPPCF does not at the time of such notice or deemed notice open a new account then BNPPCF will be treated as having opened a new account at that time. Any payments received by BNPPCF from the Company subsequent to the time of that notice or deemed notice will be credited or treated as having been credited to a new account. Consequently no such payment will operate to reduce any of the Obligations secured by this debenture until such time as BNPPCF is satisfied as to the priority of this debenture over such subsequent Encumbrance.
- 14.4 Any discharge given by BNPPCF to the Company in respect of this debenture or of any of the Obligations shall be deemed to be void and of no effect if any security taken from or payment made by the Company or any other person, which had been taken into account by BNPPCF in giving that discharge, is subsequently avoided or reduced by or in pursuance of any provision of law or of any determination of a court or tribunal of competent authority. The paper on which this debenture is written shall remain the property of BNPPCF notwithstanding any such discharge.
- 15. COMBINATION OF ACCOUNTS**
15. BNPPCF may at any time without notice or other formality combine any two or more accounts held by it in the name of the Company.
- 16. NOTICES**
16. Any notice or demand required or permitted to be served or made by BNPPCF shall be validly served or made if handed to any officer of the Company or if sent by first class post or delivered to the registered office of the Company or to its address stated in section 1 of the Schedule or its address last known to BNPPCF or to any address at which the Company carries on business or if transmitted by facsimile or e-mail to the facsimile number or e-mail address (as the case may be) of the Company as made known by the Company to BNPPCF at any time. Notices and demands served personally shall take effect upon such service and notices and demands sent by post shall be conclusively deemed to have been received within seventy-two hours of the time of posting and notices and demands transmitted by facsimile or e-mail shall be effective upon transmission.
- 17. INTERPRETATION AND GENERAL PROVISIONS**
- 17.1 The security created by this debenture shall be additional to and not in substitution for any other security created or which may hereafter be created in respect of the Obligations and it shall be a continuing security and it shall not be considered to be satisfied in whole or in part by any intermediate payment by the Company.

- 17.2 This deed shall be construed and take effect according to English law and the Company hereby submits to the non-exclusive jurisdiction of the English Courts. If any provision of this debenture shall be held to be invalid or unenforceable no other provision of it shall be affected and all such other provisions shall remain in full force and effect.
- 17.3 If any of the provisions of this debenture conflict with any provisions of the Agreement the provisions of the Agreement will prevail.
- 17.4 Where this deed is handed undated to BNPPCF, it is done so on the basis that it shall not be treated as being created until dated by BNPPCF. The Company hereby authorises BNPPCF as agent for the Company to date this Deed at any time after it is handed over. Upon such dating this deed shall be deemed to be delivered.
- 17.5 This Deed may consist of any number of documents, each in identical form, all of which together shall be deemed to constitute one Deed.

THE SCHEDULE

1 The Company

JAMES FLEMING & COMPANY LIMITED a company registered in Scotland with the number SC131587 of Mazars LLP, 100 Queen Street, Glasgow, G1 3DN.

2 The Agreement

The agreement for the factoring or discounting of Debts made between BNPPCF and the Company on 3 August 2023

3 Land and Buildings

4 Encumbrances Affecting the Property

IN WITNESS WHEREOF these presents have been duly executed as a Deed by the Company and have been signed on behalf of BNPPCF by an official duly authorised so to do on the day and year stated above:

COMPANY

SIGNED and Delivered as a Deed on the)
..... day of 2023)
by David Robert Amos)
as director for and on behalf of)
JAMES FLEMING & COMPANY LIMITED)
in the presence of:-)

Signature of witness:

Name of witness:

Address of witness:

Occupation of witness:

BNPPCF

SIGNED and Delivered as a Deed on the)
..... day of 2023)
by **NIRMAA DOOBAY**)
as director/attorney for and on behalf of)
BNP PARIBAS COMMERCIAL)
FINANCE LIMITED)
in the presence of:-)

Signature of witness:

Name of witness:

Address of witness:

Occupation of witness: