



Registration of a Charge

Company Name: **WEE GEMS LIMITED**

Company Number: **SC277901**



Received for filing in Electronic Format on the: **27/10/2022**

XBFILEEX

Details of Charge

Date of creation: **24/10/2022**

Charge code: **SC27 7901 0007**

Persons entitled: **ARES MANAGEMENT LIMITED (AS SECURITY AGENT)**

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: **SHEPHERD AND WEDDERBURN LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 277901

Charge code: SC27 7901 0007

The Registrar of Companies for Scotland hereby certifies that a charge dated 24th October 2022 and created by WEE GEMS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th October 2022 .

Given at Companies House, Edinburgh on 27th October 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**



SHEPHERD+ WEDDERBURN

Execution Version

SUPPLEMENTAL FLOATING CHARGE

by

WEE GEMS HOLDINGS LIMITED

and Others

as Chargors

in favour of

ARES MANAGEMENT LIMITED

as Security Agent

Shepherd and Wedderburn LLP

5th Floor, 1 Exchange Crescent

Conference Square

Edinburgh

EH3 8UL

DX 551970 Edinburgh 53

T 0131 228 9900

F 0131 228 1222

www.shepwedd.com

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FLOATING CHARGE

PARTIES

- (1) **WEE GEMS HOLDINGS LIMITED**, a company incorporated in Scotland (Company Number SC451899) and having its registered office at Glen Drummond Limited Argyll House, Quarrywood Court, Livingston, West Lothian, EH54 6AX (a "**Chargor**");
- (2) **WEE GEMS LIVINGSTON LIMITED**, a company incorporated in Scotland (Company Number SC382148) and having its registered office at Argyll House, Quarrywood Court, Livingston, Scotland, EH54 6AX (a "**Chargor**");
- (3) **WEE GEMS LIMITED**, a company incorporated in Scotland (Company Number SC277901) and having its registered office at Argyll House, Quarrywood Court, Livingston, Scotland, EH54 6AX (a "**Chargor**");
- (4) **WEE GEMS CORSTORPHINE LIMITED**, a company incorporated in Scotland (Company Number SC473868) and having its registered office at Glen Drummond Limited, Argyll House, Quarrywood Court, Livingston, West Lothian, EH54 6AX (a "**Chargor**");
- (5) **WEE GEMS ARMADALE LIMITED**, a company incorporated in Scotland (Company Number SC470850) and having its registered office at Argyll House, Quarrywood Court, Livingston, West Lothian, EH54 6AX (a "**Chargor**");
- (6) **CROILEAGAN NURSERIES LIMITED**, a company incorporated in Scotland (Company Number SC288750) and having its registered office at Argyll House, Quarrywood Court, Livingston, Scotland, EH54 6AX (a "**Chargor**");
- (7) **PILRIG CHILDREN'S NURSERY LIMITED**, a company incorporated in Scotland (Company Number SC264779) and having its registered office at Argyll House, Quarrywood Court, Livingston, Scotland, EH54 6AX (a "**Chargor**");
- (8) **CHILDREN'S HOUR LIMITED**, a company incorporated in Scotland (Company Number SC310714) and having its registered office at Argyll House, Quarrywood Court, Livingston, Scotland, EH54 6AX (a "**Chargor**");
- (9) **PEAR TREE NURSERIES LTD.**, a company incorporated in Scotland (Company Number SC293380) and having its registered office at Argyll House, Quarrywood Court, Livingston, Scotland, EH54 6AX (a "**Chargor**");
- (10) **BONNINGTON HOUSE NURSERY SCHOOL LTD**, a company incorporated in Scotland (Company Number SC507692) and having its registered office at Argyll House, Quarrywood Court, Livingston, West Lothian, Scotland, EH54 6AX (a "**Chargor**"); and
- (11) **THE PUMPKIN PATCH NURSERY (SCOTLAND) LIMITED**, a company incorporated in Scotland (Company Number SC374491) and having its registered office at Argyll House, Quarrywood Court, Livingston, West Lothian, Scotland, EH54 6AX (a "**Chargor**" and together with each other Chargor noted above, the "**Chargors**");
in favour of
- (12) **ARES MANAGEMENT LIMITED**, a company incorporated in England & Wales (Company Number 05837428), having its registered office at C/O Tmf Group 8th Floor, 20 Farringdon Street, London, United Kingdom, EC4A 4AB as agent and trustee for the Secured Parties (the "**Security Agent**").

BACKGROUND

- (A) Pursuant to (i) an Accordion Request dated on or about 5 October 2022 from Oakley Early Years Midco Limited to the Agent and (ii) an Increase Commitment Notice dated on or about 6 October 2022 from the Original Lenders to the Agent and Oakley Early Years Midco Limited (for and on behalf of each other Obligor), the parties thereto have agreed, *inter alia*, to establish a new accordion facility under the terms of the Facilities Agreement (the "**October 2022 Accordion Facility**"); and
- (B) This Supplemental Floating Charge is granted in connection with the Finance Documents.

IT IS AGREED as follows:

1. Definitions and interpretation

1.1 Definitions

Unless otherwise provided in this Supplemental Floating Charge, terms defined in the Facilities Agreement shall have the same meaning where used in this Supplemental Floating Charge.

In addition, in this Supplemental Floating Charge, unless the context otherwise requires, the following words shall have the following meanings:

"Administrator" means a person appointed in accordance with Schedule B1 Insolvency Act 1986 to manage a Chargor's affairs, business and property;

"Charged Assets" means the whole of the property (including uncalled capital) which is or may be from time to time while this Supplemental Floating Charge is in force comprised in the property and undertaking of each Chargor, excluding the Excluded Property;

"Declared Default" means an Event of Default which has resulted in the Agent exercising any of its rights under clause 24.19 (*Acceleration*) of the Facilities Agreement;

"Excluded Property" means any leasehold property held by a Chargor under a lease which precludes either absolutely or conditionally (including requiring the consent of any third party) that Chargor from creating any security over its leasehold interest in that property;

"Existing Security Documents" means any floating charge, share pledge, standard security or other security agreement with an effective date dated on or before the effective date of this Supplemental Floating Charge granted by a Chargor in favour of the Security Agent pursuant to the terms of the Facilities Agreement;

"Facilities Agreement" means the facilities agreement originally dated 28 June 2021 and made between, amongst others, Oakley Early Years Midco Limited (formerly Thunder UK Midco Limited), Oakley Early Years Bidco Limited (formerly Thunder UK Bidco Limited) and the Security Agent relating to certain loan and other banking facilities;

"Party" means a party to this Supplemental Floating Charge;

"Property" means all estates or interests in any heritable and long leasehold properties (whether registered or unregistered) now or at any time hereafter (and from time to time) owned by any Chargor;

"Receiver" means any receiver or administrative receiver of all or any part of the Charged Assets of a Chargor (whether pursuant to this Supplemental Floating Charge, pursuant to any statute, by a court or otherwise) and includes joint receivers;

"Secured Liabilities" means all present and future liabilities and obligations at any time due, owing or incurred by each Obligor to any Secured Party under or in connection with the Finance Documents, both actual and contingent and whether incurred solely or jointly, as principal or surety and/or in any other capacity; and

"Security Period" means the period starting on the effective date of this Supplemental Floating Charge and ending on the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

1.2 Construction

- (a) Unless otherwise provided in this Supplemental Floating Charge, the provisions of clause 1.2 (*Interpretation*) and clause 1.3 (*Currency symbols and definitions*) of the Facilities Agreement apply to this Supplemental Floating Charge as though they were set out in this Supplemental Floating Charge, *mutatis mutandis*.
- (b) In this Supplemental Floating Charge (unless the context requires otherwise) any reference to:
 - (i) any Chargor, any Obligor, any Secured Party, any Securities Issuer, any Administrator or Receiver or any other person shall be construed so as to

include their successors in title, permitted assigns, permitted transferees and (in the case of any Administrator or Receiver) lawful substitutes and/or replacements;

- (ii) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended (however fundamentally, including any amendment providing for any increase in the amount of any facility or other liability) from time to time with the agreement of the relevant parties and (where such consent is, by the terms of any Finance Document or the relevant document, required to be obtained as a condition to such amendment being permitted) the prior consent of the Security Agent;
 - (iii) "**assets**" includes present and future properties, revenues and rights of every description;
 - (iv) the Security constituted by this Supplemental Floating Charge becoming "**enforceable**" shall mean that the Security created under this Supplemental Floating Charge has become enforceable under Clause 9.1 (*Enforcement events*);
 - (v) a Declared Default is "**continuing**" if the acceleration notice under clause 24.9 (*Acceleration*) of the Facilities Agreement has not been withdrawn;
 - (vi) an Event of Default is "**continuing**" if it has not been remedied or waived;
 - (vii) "**owned**" includes having legal or equitable title to or a right to have legal or equitable title transferred;
 - (viii) "**law**" includes the common law, any statute, bye-law, regulation or instrument and any kind of subordinate legislation, and any order, requirement, code of practice, circular, guidance note, licence, consent or permission made or given pursuant to any of the foregoing;
 - (ix) a provision of law is a reference to that provision as amended or re-enacted from time to time;
 - (x) a time of day is a reference to London time;
 - (xi) any gender includes a reference to the other genders;
 - (xii) the singular includes a reference to the plural and *vice versa*; and
 - (xiii) a Clause is to a clause of this Supplemental Floating Charge.
- (c) Clause headings are for ease of reference only.
- (d) Notwithstanding anything to the contrary in this Supplemental Floating Charge the terms of this Supplemental Floating Charge shall not operate or be construed so as to prohibit or restrict any transaction, matter or other step not prohibited by the Facilities Agreement and the Intercreditor Agreement or where the required consent has been obtained, the relevant Secured Party shall promptly enter into such documentation and/or take such other action as is required by a Chargor (acting reasonably) in order to facilitate any such transaction, matter or other step, including by way of executing any confirmation, consent to dealing, release or other similar or equivalent document, provided that any costs and expenses incurred by the Secured Party entering into such documentation and/or taking such other action at the request of a Chargor pursuant to this Clause shall be for the account of the relevant Chargor, in accordance with the costs and expenses provisions set out in clause 18 (*Cost and Expenses*) of the Facilities Agreement.

1.3 Secured Liabilities

References in this Supplemental Floating Charge to the Secured Liabilities shall be construed in relation to the Finance Documents so as to include (i) any increase or reduction in any amount made available thereunder and/or any alteration and/or addition to the purposes for which any such amount, or increased or reduced amount, may be used, (ii) any ancillary facilities provided in substitution for or in addition to the facilities originally made available

thereunder, (iii) any rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing and (iv) any combination of any of the foregoing, including (but not limited to) all present and future liabilities and obligations at any time due, owing or incurred by each Obligor to any Secured Party under or in connection with the October 2022 Accordion Facility.

1.4 **Conflict with Facilities Agreement**

If there is any conflict between the provisions of this Supplemental Floating Charge and the provisions of the Facilities Agreement, the provisions of the Facilities Agreement shall prevail.

1.5 **Existing Security Documents**

- (a) This Supplemental Floating Charge is in addition, and without prejudice, to the Existing Security Documents. The Parties agree that:
 - (i) each Existing Security Document continues in full force and effect and continues to secure the Secured Liabilities; and
 - (ii) they are entering into this Supplemental Floating Charge in case, notwithstanding their agreement set out in Clause 1.5(a)(i), any Existing Security Document is or becomes ineffective in any way.
- (b) In the event of any inconsistency between an Existing Security Document and this Supplemental Floating Charge (other than in respect of this Clause 1.5), the Existing Security Document shall prevail.
- (c) The satisfaction of any obligation of a Chargor under an Existing Security Document shall, where it is also contained in this Supplemental Floating Charge, be deemed to satisfy the same obligation of that Chargor under this Supplemental Floating Charge.

2. Undertaking to pay; Further advances

2.1 **Undertaking to pay**

Each Chargor hereby undertakes to the Security Agent (as trustee for the Secured Parties) that it will on demand pay and discharge all Secured Liabilities owing or incurred from or by any Obligor to the Secured Parties when the same become due in accordance with the terms of the Finance Documents, whether by acceleration or otherwise.

2.2 **Potential invalidity**

Neither the undertaking to pay in Clause 2.1 (*Undertaking to pay*) nor the Security constituted by this Supplemental Floating Charge shall extend to or include any liability or sum which would, but for this Clause, cause such undertaking or Security to be unlawful under any applicable law.

2.3 **Further advances**

This Supplemental Floating Charge secures further advances made under or pursuant to the terms of the Finance Documents and the Lenders are, subject to and upon the terms and conditions of the Finance Documents, under an obligation to make further advances.

3. Grant of security

3.1 **Floating Charge**

As a continuing security for the payment and discharge of the Secured Liabilities, each Chargor hereby grants in favour of the Security Agent (as trustee for the Secured Parties) a floating charge over the Charged Assets.

3.2 **Qualifying floating charge**

Schedule B1 para 14 Insolvency Act 1986 (as inserted by s.248 of, and Schedule 16 Enterprise Act 2002) applies to the floating charge created by this Supplemental Floating Charge.

4. Ranking

4.1 Fixed securities in favour of the Security Agent

Any fixed security granted by a Chargor in favour of the Security Agent shall rank in priority to the floating charge created by this Supplemental Floating Charge.

4.2 Securities in favour of third parties

In the event that a Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 5 (*Restrictions on Dealings*) or with the consent of the Security Agent but with no written agreement of the Security Agent as to the ranking of them, the floating charge created by this Supplemental Floating Charge shall rank in priority to that fixed security or floating charge.

5. Restrictions on dealing

Each Chargor hereby undertakes to the Security Agent that it will not at any time except in accordance with the terms of the Facilities Agreement or with the prior consent of the Security Agent:

- 5.1 create or purport to create or permit to subsist any Security on or in relation to the Charged Assets; or
- 5.2 enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, surrender, part with possession or otherwise dispose of or cease to exercise control of all, or part of, any interest in any Charged Assets.

6. Property

6.1 Property acquisitions

Each Chargor hereby undertakes with the Security Agent that if it acquires any Property after the effective date of this Supplemental Floating Charge it will:

- (a) inform the Security Agent promptly of such acquisition;
- (b) immediately on request by the Security Agent and at the cost of the relevant Chargor, execute and deliver to the Security Agent a standard security in favour of the Security Agent (as trustee for the Secured Parties) over that Property in such form as the Security Agent may require (or such other Security in the jurisdiction where such property is located as the Security Agent may require); and
- (c) comply with all registration requirements resulting from the acquisition of such Property and the creation of Security over such Property pursuant to this Supplemental Floating Charge and the standard security (or other Security) referred to above.

7. Representations and warranties

7.1 Representations and warranties

Each Chargor represents and warrants to the Security Agent, on the effective date of this Supplemental Floating Charge, as follows:

- (a) it has not received or acknowledged notice of any adverse claim by any person in respect of the Charged Assets or any interest in them;
- (b) there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever which materially and adversely affect the Charged Assets; and
- (c) no facility necessary for the enjoyment and use of the Charged Assets is subject to terms entitling any person to terminate or curtail its use.

7.2 Repetition

The representations and warranties set out in Clause 7.1 (*Representations and warranties*) will be deemed to be repeated by each Chargor on the date of each Drawdown Request and the first day of each Interest Period by reference to the facts and circumstances then existing.

7.3 Notice of breach

Each Chargor will promptly upon becoming aware of the same give the Security Agent notice in writing of any breach of any representation or warranty set out in Clause 7.1 (*Representations and warranties*).

8. Power to remedy

- 8.1 If a Chargor is at any time in breach of any of its obligations contained in this Supplemental Floating Charge, the Security Agent shall be entitled (but shall not be bound) to remedy such breach and the each Chargor hereby irrevocably authorises the Security Agent and its agents to do all things necessary in connection therewith.
- 8.2 The rights of the Security Agent contained in this Clause 8 are without prejudice to any other rights of the Security Agent hereunder and the exercise by the Security Agent of its rights under this Clause shall not make the Security Agent liable to account as a heritable creditor in possession.

9. Enforcement

9.1 Enforcement events

The security constituted by this Supplemental Floating Charge shall become immediately enforceable upon the occurrence of a Declared Default which is continuing.

9.2 No obligation to enquire

No person dealing with the Security Agent, any Administrator or any Receiver appointed hereunder, or its agents or brokers, shall be concerned to enquire:

- (a) whether the security constituted by this Supplemental Floating Charge has become enforceable;
- (b) whether any power exercised or purported to be exercised has become exercisable;
- (c) whether any money remains due under the Finance Documents;
- (d) as to the necessity or expediency of the stipulations and conditions subject to which any sale of any Charged Assets shall be made, or otherwise as to the propriety or regularity of any sale of any of the Charged Assets; or
- (e) how any money paid to the Security Agent, Administrator or Receiver, or its agents or brokers is to be applied.

9.3 No liability as heritable creditor in possession

None of the Security Agent, any Administrator or any Receiver shall be liable:

- (a) to account as heritable creditor in possession in respect of all or any part of the Charged Assets; or
- (b) for any loss upon realisation of, or for any neglect or default of any nature whatsoever in connection with, all or any of the Charged Assets for which a heritable creditor in possession might as such be liable.

9.4 Redemption of prior Security

At any time after the security constituted by this Supplemental Floating Charge shall have become enforceable the Security Agent may:

- (a) redeem any prior Security;
- (b) procure the transfer thereof to itself; and/or
- (c) settle and pass the accounts of the prior encumbrancer and any account so settled and passed shall be conclusive and binding on the relevant Chargor and all monies

paid by the Security Agent to the prior encumbrancer in accordance with such accounts shall as from such payment be due from the relevant Chargor to the Security Agent on current account and shall bear interest and be secured as part of the Secured Liabilities.

10. Administrator and Receiver

10.1 Appointment of Administrator or Receiver

At:

- (a) any time after the security constituted by this Supplemental Floating Charge becomes enforceable;
- (b) any time after any corporate action or any other steps are taken or legal proceedings started by or in respect of any Obligor with a view to the appointment of an Administrator; or
- (c) the request of the relevant Chargor,

the Security Agent may, subject to Paragraph 14 of Schedule B1 to the Insolvency Act 1986 and without further notice:

- (a) appoint any person or persons to be an Administrator of the relevant Chargor; or
- (b) appoint any person or persons to be a Receiver of all or any part of the Charged Assets of the relevant Chargor; and
- (c) (subject to s.45 Insolvency Act 1986) from time to time remove any person appointed to be a Receiver and appoint another in his place.

10.2 Moratorium

Unless s.A52(4) Insolvency Act 1986 allows, the Security Agent is not entitled to appoint a Receiver solely by reason of:

- (a) the obtaining of a moratorium; or
- (b) anything done with a view to obtaining a moratorium (including any preliminary decision or investigation),

under Part A1 Insolvency Act 1986.

10.3 More than one appointment

Where more than one person is appointed Administrator or Receiver, they will have power to act separately (unless the appointment by the Security Agent specifies to the contrary).

10.4 Additional powers

- (a) The powers of appointing an Administrator or a Receiver conferred by this Supplemental Floating Charge shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986 or otherwise.
- (b) The power to appoint an Administrator or a Receiver (whether conferred by this Supplemental Floating Charge or by statute) shall be and remain exercisable by the Security Agent notwithstanding any prior appointment in respect of all or any part of the Charged Assets.

10.5 Agent of the Chargor

- (a) Any Administrator or Receiver shall be the agent of the relevant Chargor and the relevant Chargor shall be solely responsible for his acts and remuneration as well as for any defaults committed by him.
- (b) No Secured Party will incur any liability (either to the relevant Chargor or to any other person) by reason of the appointment of an Administrator or Receiver.

10.6 Powers of Administrator and Receiver

A Receiver shall have (and shall be entitled to exercise), in relation to the Charged Assets over which he is appointed, and an Administrator shall have in addition to the powers he enjoys

under Sched B1 Insolvency Act 1986, the following powers (as the same may be varied or extended by the provisions of this Supplemental Floating Charge):

- (a) (in respect of a Receiver) all of the powers of an administrative receiver set out in Sched 1 Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (b) all of the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which any relevant Chargor itself could do or omit to do; and
- (c) the power to do all things which, in the opinion of the Administrator or Receiver (as appropriate) are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Administrator or Receiver pursuant to this Supplemental Floating Charge or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the relevant Chargor; the collection and/or realisation of Charged Assets in such manner and on such terms as the Administrator or Receiver sees fit; and the execution of documents in the name of the relevant Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the relevant Chargor)).

11. Amounts received

11.1 Application of proceeds

The Receiver shall apply all monies received by him (other than insurance monies):

- (a) first in paying all rents, taxes, duties, rates and outgoings affecting any Charged Assets;
- (b) secondly in paying all costs, charges and expenses of and incidental to his appointment and the exercise of his powers and all outgoings paid by him;
- (c) thirdly in paying his remuneration (as agreed between him and the Security Agent);
- (d) fourthly in or towards discharge of the Secured Liabilities in such order and manner as provided for in the Finance Documents; and
- (e) finally in paying any surplus to the relevant Chargor or any other person entitled to it.

11.2 Currencies of denomination

For the purpose of or pending the discharge of any of the Secured Liabilities the Security Agent may convert any monies received, recovered or realised by the Security Agent under this Supplemental Floating Charge from their existing denominations and/or currencies of denomination into such other denominations and/or currencies of denomination as the Security Agent may think fit and any such conversion shall be effected at the Security Agent's then prevailing spot selling rate of exchange.

11.3 Suspense account

All monies received recovered or realised by the Security Agent under this Supplemental Floating Charge may at the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account and may be held in such account for so long as the Security Agent thinks fit pending the application from time to time (as the Security Agent shall be entitled to do as it may think fit) of such monies and accrued interest thereon (if any) in or towards the discharge of any of the Secured Liabilities.

11.4 New accounts

If the Security Agent receives notice of any subsequent charge or other interest affecting all or part of the Charged Assets, the Security Agent may open a new account or accounts for the relevant Chargor in its books and (without prejudice to the Security Agent's right to combine accounts) no money paid to the credit of the relevant Chargor in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities. If the Security Agent does not open a new account or accounts immediately on receipt of such notice then unless the Security Agent gives express notice to the contrary to the relevant Chargor as from the time of receipt of such notice by the Security Agent all payments made by the relevant Chargor to the Security Agent in the absence of any express appropriation by the relevant

Chargor to the contrary shall be treated as having been credited to a new account of the relevant Chargor and not as having been applied in reduction of the Secured Liabilities.

11.5 Security Agent set-off rights

If the Security Agent shall have more than one account for a Chargor in its books the Security Agent may at any time after the security constituted by this Supplemental Floating Charge has become enforceable or the Security Agent has received notice of any subsequent charge or other interest affecting all or any part of the Charged Assets not permitted by the Facilities Agreement and without prior notice forthwith transfer all or any part of the balance standing to the credit of any such account to any other such account which may be in debit but the Security Agent shall notify the relevant Chargor of the transfer having been made.

12. Power of attorney and delegation

12.1 Power of attorney

Each Chargor irrevocably appoints the Security Agent and (jointly and severally) each and every Administrator or Receiver of this Supplemental Floating Charge to be the attorney of that Chargor and in its name and on its behalf and as its act and deed or otherwise and at any time after a Declared Default which has occurred and is continuing, or if the relevant Chargor is in breach of any of its obligations under Clause 13.5 (*Further assurance*) (other than if the breach is capable of remedy and is remedied within five Business Days of the earlier of (i) the Security Agent giving written notice to the relevant Chargor of the Breach and (ii) the relevant Chargor becoming aware of the breach), to sign, execute, seal, deliver, complete any blanks in and otherwise perfect any deed, transfer, assurance, agreement, instrument, notice or act which such Administrator or Receiver or the Security Agent may consider expedient in the exercise of any of his or its powers or in respect of the relevant Chargor's obligations under this Supplemental Floating Charge.

12.2 Ratification

Each Chargor ratifies and confirms and agrees to ratify and confirm:

- (a) all lawful transactions entered into by the Security Agent and/or any Administrator or Receiver in the proper exercise of its or their powers in accordance with this Supplemental Floating Charge; and
- (b) all lawful transactions entered into by the Security Agent and/or any Administrator or Receiver in signing, sealing, delivering and otherwise perfecting any assignment, assignation, mortgage, standard security, charge, security, document or other act.

Subject to the terms of the Facilities Agreement, the Security Agent and any Administrator or Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Supplemental Floating Charge (including the power of attorney), on such terms and conditions as it or he shall see fit which shall not preclude exercise of these powers, authorities or discretions by it or him or any revocation of the delegation or subsequent delegation.

13. Protection of security and further assurance

13.1 Independent security

This Supplemental Floating Charge shall be in addition to and independent of every other security or guarantee that the Security Agent or any other Secured Party may at any time hold for any of the Secured Liabilities. No prior security held by the Security Agent or any other Secured Party over the whole or any part of the Charged Assets shall merge in the security created by this Supplemental Floating Charge.

13.2 Continuing security

This Supplemental Floating Charge shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or discharge in whole or in part.

13.3 No waivers; rights cumulative

No failure to exercise, nor delay in exercising, on the part of the Security Agent or any Secured Party, any right or remedy under this Supplemental Floating Charge shall operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise, or the exercise of any other right or remedy. The rights and remedies of the Security Agent and each Secured Party provided in this Supplemental Floating Charge are cumulative and not exclusive of any rights or remedies provided by law.

13.4 No Chargor set-off

Each Chargor waives any right of set-off it may have now or at any time in the future in respect of the Secured Liabilities (including sums payable by a Chargor under this Supplemental Floating Charge).

13.5 Further assurance

- (a) Each Chargor shall, as soon as reasonably practicable upon request by the Security Agent or any Receiver or Administrator, at its own expense, take whatever action the Security Agent or a Receiver or Administrator may reasonably require for:
 - (i) creating, perfecting or protecting any security intended to be created by or pursuant to this Supplemental Floating Charge;
 - (ii) at any time after a Declared Default which is continuing facilitating the realisation of any Charged Asset;
 - (iii) exercising any right, power or discretion conferred on the Security Agent, or any Receiver or any Administrator or any of their respective delegates or sub-delegates in respect of any Charged Asset; or
 - (iv) creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by this Supplemental Floating Charge) over any assets of a Chargor located in any jurisdiction outside of Scotland.
- (b) This includes:
 - (i) the re-execution of this Supplemental Floating Charge;
 - (ii) the execution of any standard security, legal mortgage, charge, transfer, conveyance, assignation, assignment or assurance of any property, whether to the Security Agent or to its nominee; and
 - (iii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent (or the Receiver or Administrator, as appropriate) may think expedient.

14. Costs and indemnity

- 14.1 The provisions of clauses 18 (*Costs and expenses*) of the Facilities Agreement are incorporated into this Supplemental Floating Charge as if set out in full *mutatis mutandis*.
- 14.2 Each Chargor hereby agrees to indemnify the Security Agent, any Administrator and any Receiver from and against all actions, claims, expenses, demands and liabilities, whether arising out of contract or in delict or in any other way, which may at any time be incurred by him or by any manager, agent, officer, servant or workman for whose debt, default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers pursuant to this Supplemental Floating Charge so long as such actions, claims, expenses, demands and liabilities did not arise as a consequence of the gross negligence or wilful default of the Security Agent, any Administrator and/or any Receiver.

15. Miscellaneous

15.1 Benefit of this Supplemental Floating Charge

The benefit of this Supplemental Floating Charge will be held by the Security Agent on and subject to the terms of the Finance Documents on trust for the benefit of itself and the other Secured Parties without preference or priority amongst themselves as security for the Secured Liabilities, except as provided under the Finance Documents.

15.2 Certificates conclusive

A certificate or determination by the Security Agent as to any amount or rate under this Supplemental Floating Charge shall be conclusive evidence of that amount or rate in the absence of any manifest error.

15.3 Financial collateral

- (a) To the extent that the Charged Assets constitute "financial collateral" and this Supplemental Floating Charge and the obligations of a Chargor under the Floating Charge constitutes a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)), the Security Agent shall have the right after the Security constituted by this Supplemental Floating Charge has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (b) For the purpose of Clause 15.3(a), the value of the financial collateral appropriated shall be:
 - (i) in the case of cash, its face value at the time of appropriation;
 - (ii) in the case of financial instruments or other financial collateral, other than shares in a Subsidiary of the Parent, their market value at the time of appropriation as determined by the Security Agent by reference to any recognised market index or other applicable generally recognised source or such other process or method as the Security Agent may reasonably select (including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Agent); and
 - (iii) in the case of shares in a Subsidiary of the Parent, as the Security Agent reasonably determines, having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.
- (c) Each Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable.

15.4 Severability

If any provision of this Supplemental Floating Charge is or becomes invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected or impaired thereby.

15.5 Third party rights

Save as expressly provided to the contrary in any Finance Document, a third party (being any person other than a Chargor and the Secured Parties and their successors and permitted assignees) has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Supplemental Floating Charge. Notwithstanding any term of any Finance Document, the consent of any such third party is not required to rescind or vary this Supplemental Floating Charge at any time.

16. Demands and notices

Any demand, notice, consent or communication to be made or given by or to a Chargor or the Security Agent under or in connection with this Supplemental Floating Charge shall be made and delivered as provided in clause 33 (*Notices*) of the Facilities Agreement. Any demand on a Chargor shall be validly made whether or not it contains an accurate statement of the amount of the Secured Liabilities.

17. Assignment and transfer

17.1 Assignment by Security Agent

The Security Agent may at any time without the consent of the Chargors, assign or transfer the whole or any part of its rights under this Supplemental Floating Charge to any person to which it can transfer its rights in accordance with the terms of the Finance Documents.

17.2 Assignment by Chargor

Each Chargor may not assign any of its rights or transfer any of its obligations under this Supplemental Floating Charge or enter into any transaction which would result in any of these rights or obligations passing to another person.

18. Release of Security

18.1 Release

Subject to Clause 18.3 (*Discharge conditional*), upon the expiry of the Security Period, or where the release of the Charged Asset is permitted by the terms of the Facilities Agreement (but not otherwise), the Security Agent shall at the request and cost of a Chargor, take whatever action is necessary to release the Charged Assets from the Security constituted by this Supplemental Floating Charge.

18.2 Avoidance of payments and reinstatement

If any payment by an Obligor or any discharge given by a Secured Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is (i) capable of being avoided or reduced (in the reasonable opinion of the Security Agent) or (ii) avoided or reduced in each case as a result of insolvency or any similar event, then:

- (a) the liability of each Obligor will continue as if the payment, discharge, avoidance or reduction had not occurred;
- (b) each Secured Party will be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred; and
- (c) the Security Agent shall be entitled to enforce this Supplemental Floating Charge subsequently as if such payment, discharge, avoidance or reduction had not occurred.

18.3 Discharge conditional

Any release, discharge or settlement between a Chargor and the Security Agent or any other Secured Party shall be deemed conditional upon no payment or security received by the Security Agent or such other Secured Party in respect of the Secured Liabilities being avoided or reduced or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership and, notwithstanding any such release, discharge or settlement:

- (a) the Security Agent or its nominee shall be at liberty to retain this Supplemental Floating Charge and the Security created by or pursuant to this Supplemental Floating Charge, including all certificates and documents relating to the Charged Assets or any part thereof, for such period as the Security Agent shall deem necessary to provide the Security Agent with security against any such avoidance or reduction or order for refund; and
- (b) the Security Agent shall be entitled to recover the value or amount of such security or payment from a Chargor subsequently as if such settlement, discharge or release had not occurred and each Chargor agrees with the Security Agent accordingly and charges the Charged Assets and the proceeds of sale thereof with any liability under this Clause, whether actual or contingent.

19. Security Period

Each obligation of a Chargor (other than a payment obligation) contained in this Supplemental Floating Charge must be complied with at all times during (and only during) the Security Period and is given for the benefit of the Security Agent and each other Secured Party.

20. Governing Law

This Supplemental Floating Charge and any non-contractual obligations arising out of or in connection with it are governed by Scots law.

21. Counterparts, Delivery and Effective Date

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

21.2 Where executed in counterparts:

- (a) this Supplemental Floating Charge will not take effect until each of the counterparts has been delivered;
- (b) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
- (c) the date of delivery may be inserted in the testing clause in the blank provided for the effective date of this Supplemental Floating Charge.

22. Consent to Registration

Each Chargor consents to the registration of this Supplemental Floating Charge and of any certificate referred to in Clause 15.2 (*Certificates conclusive*) for preservation and execution.

IN WITNESS WHEREOF these presents consisting of this and the 13 preceding pages have been executed in counterpart by the parties as undernoted, with an effective date of 24 October 2022:

The Chargors

SUBSCRIBED for and on behalf of
WEE GEMS HOLDINGS LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] ..Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
WEE GEMS LIVINGSTON LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
WEE GEMS LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
WEE GEMS CORSTORPHINE LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
WEE GEMS ARMADALE LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
CROILEAGAN NURSERIES LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
PILRIG CHILDREN'S NURSERY LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
CHILDREN'S HOUR LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
PEAR TREE NURSERIES LTD.

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
BONNINGTON HOUSE NURSERY SCHOOL LTD

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

SUBSCRIBED for and on behalf of
THE PUMPKIN PATCH NURSERY (SCOTLAND) LIMITED

At DERBY

On 12/10/22

By CLARE WILSON

Full Name

Director

In the presence of this witness:

[REDACTED] Witness

Kathryn Hicks Full Name

Derby Address

The Security Agent

SUBSCRIBED for and on behalf of
ARES MANAGEMENT LIMITED
 as Security Agent

At London

On 19-10-2022

By John Atherton

Full Name



Authorised Signatory

In the presence of this witness:

.....  Witness

..... MARIA PINTO Full Name

..... 10 New Burlington Street Address
London W1S 3BE