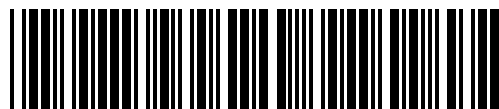




**Registration of a Charge**

Company Name: **BLACKRIDGE DEVELOPMENTS LIMITED**

Company Number: **SC515059**



Received for filing in Electronic Format on the: **16/08/2023**

XCA0WXHK

**Details of Charge**

Date of creation: **15/08/2023**

Charge code: **SC51 5059 0003**

Persons entitled: **FIDUCIAM NOMINEES LIMITED AS SECURITY AGENT AND TRUSTEE**

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: **MORTON FRASER LLP**



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

Company number: 515059

Charge code: SC51 5059 0003

The Registrar of Companies for Scotland hereby certifies that a charge dated 15th August 2023 and created by BLACKRIDGE DEVELOPMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th August 2023 .

Given at Companies House, Edinburgh on 16th August 2023

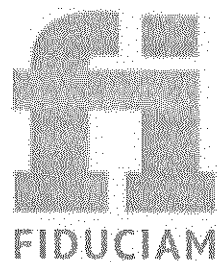
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



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



## **FLOATING CHARGE**

BETWEEN

BLACKRIDGE DEVELOPMENTS LIMITED

AND

FIDUCIAM NOMINEES LIMITED

**MORTON FRASER**  
LAWYERS

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THIS FLOATING CHARGE is dated, and for the purpose of clause 24 (Counterparts and delivery), delivered on 15 AUGUST 2023 and is made between:

#### Parties

- (1) **BLACKRIDGE DEVELOPMENTS LIMITED** incorporated and registered in Scotland with company number SC515059 whose registered office is at 19 Adelphi Adelphi, Merchant Quarter, Aberdeen, Scotland, AB11 5BL (**Borrower**).
- (2) **FIDUCIAM NOMINEES LIMITED** incorporated and registered in England and Wales with company number 09672341 whose registered office is at Josaron House, 2<sup>nd</sup> Floor, 5-7 John Prince's Street, London W1G 0JN as security agent and trustee for the Finance Parties (as defined below) (in this capacity, the **Security Agent**).

#### Background

- (A) The **Fiduciam Lender** (as defined below) has agreed, pursuant to the Facility Agreement, to provide the Borrower with loan facilities on a secured basis.
- (B) Under this Floating Charge, the Borrower provides security to the Security Agent for the loan facilities made available under the Facility Agreement and for all its present and future obligations and liabilities, also in respect of Other Financings (as defined below), to the Finance Parties.

#### Agreed terms

##### 1 Definitions and interpretation

##### 1.1 Definitions

Terms defined in the Facility Agreement shall, unless otherwise defined in this Floating Charge, have the same meaning in this Floating Charge. In addition, the following definitions apply in this Floating Charge:

**Administrator:** an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 9.8.

**Business Day:** a day other than a Saturday, Sunday or a public holiday in England and Scotland when banks in Edinburgh and London are open for business.

**Charged Assets:** the whole of the property (including uncalled capital), undertaking, assets and rights of the Borrower which is or may be from time to time, while this Floating Charge is in force, comprised in the property and undertaking of the Borrower (and all references to the Charged Assets shall include references to any part of them).

**Delegate:** any person appointed by the Security Agent or any Receiver pursuant to clause 14 and any person appointed as attorney of the Security Agent, Receiver or Delegate.

**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.

**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 Borrower, including any part of it and all spare parts, replacements, modifications and additions.

**Event of Default:** has the meaning given to that expression in the Facility Agreement.

**Facility Agreement:** the facility agreement dated on or around the same date as this Floating Charge and made between the Borrower, the Fiduciam Lender and the Security Agent for the provision of the loan facilities secured by this Floating Charge.

**Fiduciam Lender:** Fiduciam Nominees Limited.

**Finance Party:** has the meaning given to that expression in the Facility Agreement, and in the case of Other Financings, in the facility or loan agreements relating to such Other Financings.

**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).

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

**Intellectual Property:** the Borrower's present and future patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**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 Borrower, 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.

**Lender:** has the meaning given to that expression in the Facility Agreement, and in the case of Other Financings, in the facility or loan agreements relating to such Other Financings.

**Other Financings:** any other facilities or loan agreements from time to time made between the Fiduciam Lender, the Security Agent and the Borrower.

**Permitted Security:** security established by the Borrower for the benefit of a third party subject to the prior written consent of the Security Agent

**Properties:** all heritable and leasehold properties (whether registered or unregistered), now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest, and **Property** means any of them.

**Receiver:** a receiver or administrative receiver of any or all of the Charged Assets appointed by the Security Agent under clause 12.

**Secured Liabilities:** has the meaning given to that expression in the Facility Agreement.

**Security:** has the meaning given to that expression in the Facility Agreement, and in the case of Other Financings, in the facility or loan agreements relating to such Other Financings.

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

**Security Period:** the period starting on the date of this Floating Charge and ending on the date on which the Security Agent 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

The provisions of the Facility Agreement, and in the case of Other Financings, in the facility or loan agreements relating to such Other Financings, apply to this Floating Charge as if they were set out in full in this Floating Charge, except that each reference in that clause to the Facility Agreement shall be read as a reference to this Floating Charge.

## 1.3 Clawback

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

## 2 Undertaking to pay

2.1 The Borrower shall, on demand, pay to the Security Agent and discharge the Secured Liabilities when they become due, including but not limited to all monies borrowed under the Facility Agreement.

2.2 The Borrower undertakes to the Security Agent 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 Borrower) at the Default Interest 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 and discharge of the Secured Liabilities, the Borrower with absolute warrantice grants to the Security Agent, a first floating charge over all and each part of the Charged Assets.

#### **3.2 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.1.

#### **3.3 Security – general**

The security created under this Floating Charge:

- (a) is created in favour of the Security Agent;
- (b) is created over present and future assets of the Borrower;
- (c) is security for the payment of the Secured Liabilities;
- (d) is a continuing security for the liabilities of the Borrower under the Facility Agreement and under the facility or loan agreements of any Other Financings;
- (e) shall not be considered as satisfied or discharged until such time as all the Secured Liabilities have been irrevocably paid; and
- (e) is held by the Security Agent on trust for the Finance Parties.

#### **3.4 Ranking**

Unless otherwise agreed in writing by the Security Agent and, subject to Section 464(2) of the Companies Act 1985, this Floating Charge shall rank in priority to any Security created by the Borrower after its execution of this Floating Charge except any fixed security in favour of the Security Agent.

### **4 Liability of the Borrower**

#### **4.1 Liability not discharged**

The Borrower'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 Finance Parties that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 any Finance Party renewing, determining, varying or increasing any facility 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 Borrower.

#### 4.2 Immediate recourse

The Borrower waives any right it may have to require any Finance Party 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 Borrower.

### 5 Representations and warranties

#### 5.1 Representations and warranties

The Borrower makes the representations and warranties set out in this clause 5 to each Finance Party.

#### 5.2 Ownership of Charged Assets

The Borrower is the sole absolute owner of the Charged Assets.

#### 5.3 No Security

The Charged Assets are free from any security other than the Security created in favour of the Security Agent.

#### 5.4 No adverse claims

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

#### 5.5 No adverse undertakings or covenants

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

#### 5.6 No breach of laws

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

#### 5.7 No interference in enjoyment

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.

#### 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 Borrower or otherwise.

#### 5.9 Environmental compliance

The Borrower has, at all times, complied in all material respects with all applicable Environmental Law.

#### 5.10 Enforceable security

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

#### 5.11 Due incorporation

The Borrower:

5.11.1 is a duly incorporated limited liability company validly existing under the law of its jurisdiction of incorporation; and

5.11.2 has the power to own its assets and carry on its business as it is being conducted.

#### 5.12 Powers

The Borrower has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this Floating Charge and the transactions contemplated by it. No limit on its powers will be exceeded as a result of the grant of Security contemplated by this Floating Charge.

#### 5.13 Non-contravention

The entry into and performance by the Borrower of, and the transactions contemplated by, this Floating Charge do not and will not contravene or conflict with:

5.13.1 the Borrower's constitutional documents;

5.13.2 any agreement or instrument binding on it or its assets or constitute a default or termination event (however described) under any such agreement or instrument; or

5.13.3 any law or regulation or judicial or official order applicable to it.

#### 5.14 Authorisations

The Borrower has obtained all required or desirable authorisations to enable it to enter into, exercise its rights and comply with its obligations under this Floating Charge and to make it admissible in evidence in its jurisdiction of incorporation. Any such authorisations are in full force and effect.

#### 5.15 Binding obligations

5.15.1 The Borrower's obligations under this Floating Charge are legal, valid, binding and enforceable.

5.15.2 This Floating Charge creates:

- (a) valid, legally binding and enforceable Security for the obligations expressed to be secured by it; and
- (b) subject to registration pursuant to Part 25 of the Companies Act 2006, perfected Security over the Charged Assets;

in favour of the Security Agent, having the priority and ranking expressed to be created by this Floating Charge and ranking ahead of all (if any) security and rights of third parties, except those preferred by law.

#### 5.16 Registration

It is not necessary to file, record or enrol this Floating Charge (other than at Companies House) with any court or other authority or pay any stamp, registration or similar taxes in relation to this Floating Charge or the transactions contemplated by it.

#### 5.17 No default

5.17.1 No Event of Default or, on the date of this Floating Charge, event or circumstance which would, on the expiry of any grace period, the giving of notice, the making of any determination, satisfaction of any other condition or any combination thereof, constitute an Event of Default, has occurred and is continuing.

5.17.2 No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination, satisfaction of any other condition or any combination thereof, would constitute) a default or a termination event (however described) under any other agreement or instrument which is binding on it or to which any of its assets is subject which has or is likely to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this Floating Charge.

#### 5.18 Litigation

No litigation, arbitration or administrative proceedings are taking place, pending or, to the Borrower's knowledge, threatened against it, any of its directors or any of its assets, which might reasonably be expected to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under the Finance Documents

#### 5.19 Information

The information, in written or electronic format, supplied by, or on behalf of, the Borrower to the Finance Parties in connection with this Floating Charge, the Facility Agreement and Finance Documents was, at the time it was supplied or at the date it was stated to be given (as the case may be):

- 5.19.1 if it was factual information, complete, true and accurate in all material respects;
- 5.19.2 if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was arrived at after careful consideration;
- 5.19.3 if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and

5.19.4 not misleading in any material respect nor rendered misleading by a failure to disclose other information,

except to the extent that it was amended, superseded or updated by more recent information supplied by, or on behalf of, the Borrower to the relevant Finance Party.

5.20 Times for making representations and warranties.

The representations and warranties set out in clause 5.2 to clause 5.19 are made by the Borrower on the date of this Floating Charge and the representations and warranties contained in 5.2 to clause 5.19 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.

**6 General undertakings**

6.1 Negative pledge and disposal restrictions

The Borrower shall not at any time, except with the prior written consent of the Security Agent:

6.1.1 create, purport to create or permit to subsist any security on, or in relation to, any Secured Asset other than any Security created by this Floating Charge or any Permitted Security;

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 Charged Assets (except, in the ordinary course of business, Charged Assets that are only subject to an uncrystallised floating charge and); or

6.1.3 create or grant (or purport to create or grant) any interest in the Charged Assets in favour of a third party.

6.2 Preservation of Charged Assets

The Borrower 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 Security Agent, or materially diminish the value of any of the Charged Assets or the effectiveness of the security created by this Floating Charge.

6.3 Borrower's waiver of set-off

The Borrower waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Borrower under this Floating Charge).

6.4 Compliance with laws and regulations

6.4.1 The Borrower shall not, without the Security Agent's prior written consent, use or permit the Charged Assets to be used in any way contrary to law.

6.4.2 The Borrower shall:

(a) comply with the requirements of any law and regulation relating to or affecting the Charged 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 Charged 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 Charged Assets.

#### 6.5 Enforcement of rights

The Borrower shall use its best endeavours to:

- 6.5.1 procure the prompt observance and performance of the undertakings, covenants and other obligations imposed on the Borrower's counterparties (including each counterparty in respect of a Relevant Agreement and each insurer in respect of an Insurance Policy); and
- 6.5.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Assets that the Security Agent may require from time to time.

#### 6.6 Notice of misrepresentation and breaches

The Borrower shall, promptly on becoming aware of any of the same, notify the Security Agent in writing of:

- 6.6.1 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
- 6.6.2 any breach of any undertaking or covenant set out in this Floating Charge.

#### 6.7 Title documents

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

- 6.7.1 all deeds and documents of title relating to the Charged Assets that are in the possession or control of the Borrower (and if these are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title);
- 6.7.2 all Insurance Policies and any other insurance policies relating to any of the Charged Assets that the Borrower is entitled to possess; and
- 6.7.3 the Borrower shall register this Floating Charge as a charge at Companies House within 14 days from the date of this Floating Charge and shall use best endeavours to perfect such registration and in the alternative if the Security Agent agrees to register this Floating Charge at Companies House the Borrower shall also assist and ensure that such Floating Charge is registered at Companies House within 14 days of the date of this Floating Charge.

#### 6.8 Insurance

- 6.8.1 The Borrower shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms

of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Charged Assets against:

- (a) loss or damage by fire or terrorist acts;
- (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and
- (c) any other risk, perils and contingencies as the Security Agent may reasonably require and as set out in the Facility Agreement.

Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Security Agent, and must be for not less than the replacement value of the relevant Charged Assets.

6.8.2 The Borrower shall, if requested by the Security Agent, produce to the Security Agent each policy, certificate or cover note relating to the insurance required by clause 6.8.1 (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).

6.8.3 The Borrower shall, if requested by the Security Agent, procure that a note of the Security Agent's interest is endorsed upon each insurance policy maintained by it or any person on its behalf in accordance with clause 6.8.1 and that the terms of each such insurance policy require the insurer not to invalidate the policy as against the Security Agent by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Security Agent.

#### 6.9 Insurance premiums

The Borrower shall:

6.9.1 promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6.8.1 and do all other things necessary to keep that policy in full force and effect; and

6.9.2 (if the Security Agent so requires) produce to, or deposit with, the Security Agent the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 6.8.1.

#### 6.10 No invalidation of insurance

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6.8.1.

#### 6.11 Proceeds of insurance policies

All monies received or receivable by the Borrower under any insurance policy maintained by it in accordance with clause 6.8.1 (including all monies received or receivable by it

under any Insurance Policy) at any time (whether or not the security constituted by this Floating Charge has become enforceable) shall:

6.11.1 immediately be paid to the Security Agent;

6.11.2 if they are not paid directly to the Security Agent by the insurers, be held by the Borrower as trustee of the same for the benefit of the Finance Parties (and the Borrower shall account for them to the Security Agent); and

6.11.3 at the option of the Security Agent, 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.

#### 6.12 Information

The Borrower shall supply to the Security Agent:

6.12.1 all documents dispatched by the Borrower to its shareholders (or any class of them), or its creditors generally, at the same time as they are dispatched;

6.12.2 details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the Borrower as soon as it becomes aware of them and which might, if adversely determined, have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this Floating Charge or any document evidencing the Secured Liabilities; and

6.12.3 promptly, any further information about the financial condition, business and operations of the Borrower as the Security Agent may reasonably request.

#### 6.13 Payment of outgoings

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Charged Assets and, on demand, produce evidence of payment to the Security Agent.

#### 6.14 Appointment of accountants

6.14.1 The Borrower shall:

(a) at its own cost, if at any time so required by the Security Agent, or on any suspicion of fraud, appoint an accountant or firm of accountants nominated by the Security Agent to investigate the financial affairs of the Borrower and those of its subsidiaries and report to the Security Agent; and

(b) co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.

6.14.2 The Borrower authorises the Security Agent to make an appointment as it shall think fit at any time, without further authority from the Borrower. In every case, the Borrower shall pay, or reimburse the Security Agent for, the fees and expenses of those accountants.

#### 6.15 Notification of default

The Borrower shall notify the Security Agent of any Event of Default or event or circumstance which would, on the expiry of any grace period, the giving of notice, the making of any determination, satisfaction of any other condition or any combination thereof, constitute an Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

#### 6.16 Authorisations

The Borrower shall promptly obtain all consents and authorisations necessary (and do all that is needed to maintain them in full force and effect) under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this Floating Charge and to ensure the legality, validity, enforceability and admissibility in evidence of this Floating Charge in its jurisdiction of incorporation.

#### 6.17 Compliance with law

The Borrower shall comply in all respects with all laws to which it may be subject if failure to do so would materially impair its ability to perform its obligations under this Floating Charge.

#### 6.18 Change of business

The Borrower shall not make any substantial change to the nature or scope of its business as carried out on the date of this Floating Charge.

### 7 **Property undertakings**

#### 7.1 Maintenance

The Borrower shall keep all buildings and all fixtures on each Property in good and substantial repair and condition.

#### 7.2 Preservation of Property, fixtures and Equipment

The Borrower shall not, without the prior written consent of the Security Agent:

7.2.1 pull down or remove the whole, or any part of, any building forming part of any Property or permit the same to occur;

7.2.2 make or permit any material alterations to any Property, or sever or remove, or permit to be severed or removed, any of its fixtures; or

7.2.3 remove or make any material alterations to any of the Equipment belonging to, or in use by, the Borrower on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes).

#### 7.3 Conduct of business on Properties

The Borrower shall carry on its trade and business on those parts (if any) of the Properties as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business.



#### 7.4 Planning information

The Borrower shall:

- 7.4.1 give full particulars to the Security Agent of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (each a **Planning Notice**) that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice; and
- 7.4.2 at its own expense, immediately on request by the Security Agent, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Security Agent in making, any objections or representations in respect of that Planning Notice that the Security Agent may desire.

#### 7.5 Compliance with undertakings and payment of rent

The Borrower shall:

- 7.5.1 observe and perform all undertakings, covenants, stipulations, burdens, servitudes and conditions to which each Property, or the use of it, is or may be subjected, and (if the Security Agent so requires) produce evidence sufficient to satisfy the Security Agent that those covenants, stipulations and conditions have been observed and performed;
- 7.5.2 diligently enforce all undertakings, covenants, stipulations, burdens, conditions and servitudes benefiting each Property and shall not (and shall not agree to) waive, release or vary any of the same; and
- 7.5.3 (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants, undertakings and conditions.

#### 7.6 Payment of rent and outgoings

The Borrower shall:

- 7.6.1 where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and
- 7.6.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier.

#### 7.7 Maintenance of interests in Properties

The Borrower shall not, without the prior written consent of the Security Agent:

- 7.7.1 grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Property; or
- 7.7.2 in any other way dispose of, renounce, surrender, or create, or agree to dispose of, renounce, surrender or create, any charge, security or interest over or in relation to the whole or any part of any Property.

#### 7.8 Development restrictions

The Borrower shall not, without the prior written consent of the Security Agent or save as permitted under the terms of the Facility Agreement:

- 7.8.1 make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property; or
- 7.8.2 carry out, or permit, or suffer to be carried out on any Property any development as defined in the Town and Country Planning (Scotland) Act 1997 or change or permit or suffer to be changed the use of any Property.

#### 7.9 Environment

The Borrower shall:

- 7.9.1 comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property; and
- 7.9.2 obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law.

#### 7.10 No restrictive obligations

The Borrower shall not, without the prior written consent of the Security Agent, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit to arise any servitude or right whatever in or over the whole or any part of any Property.

#### 7.11 Proprietary rights

The Borrower shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property without the prior written consent of the Security Agent.

#### 7.12 Inspection

The Borrower shall permit the Security Agent, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice.

#### 7.13 Property information

The Borrower shall inform the Security Agent promptly of any acquisition by the Borrower of, or contract made by the Borrower to acquire, any heritable, leasehold or other interest in any property.

#### 7.14 VAT option to tax

The Borrower shall not, without the prior written consent of the Security Agent:

- 7.14.1 exercise any VAT option to tax in relation to any Property; or
- 7.14.2 revoke any VAT option to tax exercised, and disclosed to the Security Agent, before the date of this Floating Charge.

## 8 Intellectual Property undertakings

### 8.1 Preservation of rights

The Borrower shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants, undertakings and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

### 8.2 Registration of Intellectual Property

The Borrower shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Security Agent informed of all matters relating to each such registration.

### 8.3 Maintenance of Intellectual Property

The Borrower shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

### 8.4 Infringement and licensing

The Borrower shall use its best endeavours to maintain and protect its intellectual property rights and if the Borrower becomes aware of infringement of any of its intellectual property rights, the Borrower shall take all steps reasonably necessary, at the Borrower's discretion, to prevent any such infringement.

## 9 Powers of the Security Agent

### 9.1 Power to remedy

9.1.1 The Security Agent shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this Floating Charge.

9.1.2 The Borrower irrevocably authorises the Security Agent and its agents to do all things that are necessary or desirable for that purpose.

9.1.3 Any monies expended by the Security Agent in remedying a breach by the Borrower of its obligations contained in this Floating Charge shall be reimbursed by the Borrower to the Security Agent on a full indemnity basis and shall carry interest in accordance with clause 16.1.

9.1.4 In remedying any breach in accordance with this clause 9.1 the Security Agent, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Security Agent may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

### 9.2 Exercise of rights

9.2.1 The rights of the Security Agent under clause 9.1 are without prejudice to any other rights of the Security Agent under this Floating Charge.

9.2.2 The exercise of any rights of the Security Agent under this Floating Charge shall not make the Security Agent liable to account as a heritable or secured creditor in possession.

9.3 Power to dispose of chattels

9.3.1 At any time after the security constituted by this Floating Charge has become enforceable, the Security Agent or any Receiver may, as agent for the Borrower, dispose of any corporeal moveable property or produce found on any Property.

9.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 9.3.1, the Borrower shall indemnify the Security Agent and any Receiver against any liability arising from any disposal made under clause 9.3.1.

9.4 Security Agent 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 Security Agent in relation to any of the Charged Assets whether or not it has taken possession of any Charged Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

9.5 Conversion of currency

9.5.1 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 it under this Floating Charge (including the proceeds of any previous conversion under this clause 9.5) from their existing currencies of denomination into any other currencies of denomination that the Security Agent may think fit.

9.5.2 Any such conversion shall be effected at the Security Agent's bank's then prevailing spot selling rate of exchange for such other currency against the existing currency.

9.5.3 Each reference in this clause 9.5 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.

9.6 New accounts

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

9.6.2 If the Security Agent does not open a new account immediately on receipt of the notice, or deemed notice, under clause 9.6.1, then, unless the Security Agent gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Security Agent shall be treated as having been credited to a new account of the Borrower 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 Security Agent.

**9.7 Indulgence**

The Security Agent 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 Borrower) 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 Borrower for the Secured Liabilities.

**9.8 Appointment of an Administrator**

9.8.1 The Security Agent may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Floating Charge becomes enforceable.

9.8.2 Any appointment under this clause 9.8 shall:

- (a) be in writing signed by a duly authorised signatory of the Security Agent; and
- (b) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

9.8.3 The Security Agent may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 9.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

**9.9 Further advances**

The Security Agent undertakes to the Borrower that it shall perform its obligations to make advances under any document to which the Security Agent and the Borrower are a party (including any obligation to make available further advances at the Security Agent's absolute discretion pursuant and subject to the terms of the Facility Agreement).

**10 When security becomes enforceable**

**10.1 Security becomes enforceable on Event of Default**

The security constituted by this Floating Charge shall become immediately enforceable if an Event of Default occurs.

**10.2 Discretion**

After the security constituted by this Floating Charge has become enforceable, the Security Agent may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Charged Assets.

## 11 Enforcement of security

### 11.1 Access on enforcement

11.1.1 At any time after the Security Agent has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this Floating Charge or an Event of Default is continuing, the Borrower will allow the Security Agent or any Receiver or Delegate, 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 Security Agent or a Receiver or Delegate reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.

11.1.2 At all times, the Borrower must use its best endeavours to allow the Security Agent or its Receiver access to any premises for the purpose of clause 11.1.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

### 11.2 Prior Security

11.2.1 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 Security Agent 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.

11.2.2 The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower. All monies paid by the Security Agent to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Security Agent, be due from the Borrower to the Security Agent on current account and shall bear interest at the Default Interest Rate set out in the Facility Agreement and be secured as part of the Secured Liabilities.

### 11.3 Protection of third parties

No purchaser, security holder, mortgagee or other person dealing with the Security Agent, any Receiver or Delegate shall be concerned to enquire:

- 11.3.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- 11.3.2 whether any power the Security Agent, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- 11.3.3 how any money paid to the Security Agent, any Receiver or any Delegate is to be applied.

#### 11.4 No liability as heritable or secured creditor in possession

Neither the Security Agent, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Security Asset or for any other reason, to account as heritable or secured creditor in possession in respect of all or any of the Charged 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 Charged Assets for which a heritable or secured creditor in possession might be liable as such.

#### 11.5 Conclusive discharge to purchasers

The receipt of the Security Agent, 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 Charged Assets or in making any acquisition in the exercise of their respective powers, the Security Agent, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

#### 11.6 Right of appropriation

##### 11.6.1 To the extent that:

- (a) the Charged Assets constitute Financial Collateral; and
- (b) this Floating Charge and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement;

the Security Agent 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 Charged Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Security Agent may, in its absolute discretion, determine.

##### 11.6.2 The value of any Charged 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 Borrower'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 Security Agent may select (including independent valuation).

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

#### 12 Receiver

##### 12.1 Appointment

At any time after the security constituted by this Floating Charge has become enforceable, or at the request of the Borrower, the Security Agent may, without further notice, appoint by way of Floating Charge, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Charged Assets.

## 12.2 Removal

The Security Agent may, without further notice, from time to time, by way of Floating Charge, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

## 12.3 Remuneration

The Security Agent may (to the extent permitted by law) fix the remuneration of any Receiver appointed by it, and the remuneration of the Receiver shall be a debt secured by this Floating Charge, to the extent not otherwise discharged.

## 12.4 Power of appointment

The power to appoint a Receiver conferred by this Floating Charge shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986.

## 12.5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this Floating Charge or by statute) shall be, and remain, exercisable by the Security Agent despite any prior appointment in respect of all or any part of the Charged Assets.

## 12.6 Agent of the Borrower

Any Receiver appointed by the Security Agent under this Floating Charge shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Security Agent.

# 13 Powers of Receiver

## 13.1 General

13.1.1 Any Receiver appointed by the Security Agent under this Floating Charge shall (to the extent permitted by law), in addition to the powers conferred on him by statute (including those specified in Schedules 1 and 2 to the Insolvency Act 1986), have the powers set out in clause 13.2 to clause 13.22.

13.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Floating Charge individually and to the exclusion of any other Receiver.

13.1.3 Any exercise by a Receiver of any of the powers given by clause 13 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 13.15) or himself.

## 13.2 Repair and develop Properties

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development



consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

13.3 Renounce leases

A Receiver may grant, or accept renunciations or surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit.

13.4 Employ personnel and advisers

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower.

13.5 Make VAT elections

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit.

13.6 Remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Security Agent may prescribe or agree with him.

13.7 Realise Charged Assets

A Receiver may collect and get in the Charged Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Charged Assets with like rights.

13.8 Manage or reconstruct the Borrower's business

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower.

13.9 Dispose of Charged Assets

A Receiver may sell, exchange, convert into money and realise all or any of the Charged Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Charged Assets to be sold.

13.10 Sever fixtures and fittings

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Borrower.

#### 13.11 Valid receipts

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Assets.

#### 13.12 Make settlements

A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that he may think expedient.

#### 13.13 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Assets as he thinks fit.

#### 13.14 Improve the Equipment

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient.

#### 13.15 Make calls on Borrower members

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

#### 13.16 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 16, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this Floating Charge.

#### 13.17 Insolvency Act 1986

A Receiver may exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986 and all powers conferred on a receiver under Schedule 2 of the Insolvency Act 1986.

#### 13.18 Borrow

A Receiver may, for any of the purposes authorised by this clause 13, raise money by borrowing from the Security Agent (or from any other person) either unsecured or on the security of all or any of the Charged Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Security Agent consents, terms under which that security ranks in priority to this Floating Charge).

#### 13.19 Redeem prior Security

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

### 13.20 Delegation

A Receiver may delegate his powers in accordance with this Floating Charge.

### 13.21 Absolute owner

A Receiver may, in relation to any of the Charged Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute owner could exercise or do in the ownership and management of the Charged Assets or any part of the Charged Assets.

### 13.22 Incidental powers

A Receiver may do any other acts and things that he:

13.22.1 may consider desirable or necessary for realising any of the Charged Assets;

13.22.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Floating Charge or law; or

13.22.3 lawfully may or can do as agent for the Borrower.

## 14 Delegation

### 14.1 Delegation

The Security Agent 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 18.1).

### 14.2 Terms

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

### 14.3 Liability

Neither the Security Agent nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## 15 Application of proceeds

### 15.1 Order of application of proceeds

15.2 All monies received by the Security Agent, 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 accordance with the priority of payments specified in paragraph 16 of Part 6 of the Schedule to the Facility Agreement.

### 15.3 Appropriation

Neither the Security Agent, 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.

### 15.4 Suspense account

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

- 15.4.1 may, at the discretion of the Security Agent, Receiver or Delegate, be credited to any suspense or securities realised account;
- 15.4.2 shall bear interest, if any, at the rate agreed in writing between the Security Agent and the Borrower; and
- 15.4.3 may be held in that account for so long as the Security Agent, Receiver or Delegate thinks fit.

## 16. Costs and indemnity

### 16.1 Costs

The Borrower shall, within five Business Days of demand, pay to, or reimburse, the Security Agent 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 Finance Parties, any Receiver or any Delegate in connection with:

- 16.1.1 this Floating Charge or the Charged Assets;
- 16.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Security Agent's, a Receiver's or a Delegate's rights under this Floating Charge; or
- 16.1.3 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 Borrower) at the rate and in the manner specified in the Facility Agreement.

### 16.2 Indemnity

The Borrower shall indemnify the Security Agent, 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:

- 16.2.1 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 Charged Assets;
- 16.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Floating Charge; or
- 16.2.3 any default or delay by the Borrower in performing any of its obligations under this Floating Charge.

Any past or present employee or agent may enforce the terms of this clause 16.2 subject to and in accordance with the provisions of the Contract (Third Party Rights) (Scotland) Act 2017.

## **17 Further assurance**

- 17.1 The Borrower shall, at its own expense, take whatever action the Security Agent or any Receiver may reasonably require for:
  - 17.1.1 creating, perfecting or protecting the security intended to be created by this Floating Charge;
  - 17.1.2 facilitating the realisation of any Secured Asset; or
  - 17.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Security Agent or any Receiver in respect of any Secured Asset,
  - 17.1.4 including, without limitation (if the Security Agent or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Charged Assets (whether to the Security Agent or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **18 Power of attorney**

### **18.1 Appointment of attorneys**

The Borrower irrevocably appoints the Security Agent, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf, to execute any documents and do any acts and things that:

- 18.1.1 the Borrower is required to execute and do under this Floating Charge; or
- 18.1.2 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 Security Agent, any Receiver or any Delegate.

### **18.2 Ratification of acts of attorneys**

The Borrower 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 18.1.

**19 Release**

- 19.1 Subject to clause 26.3, on the expiry of the Security Period (but not otherwise), the Security Agent shall, at the request and cost of the Borrower, take whatever action is necessary to release the Charged Assets from the security constituted by this Floating Charge

**20 Assignment and transfer**

**20.1 Assignment by Security Agent**

20.1.1 At any time, without the consent of the Borrower, the Security Agent may assign or transfer any or all of its rights and obligations under this Floating Charge.

20.1.2 The Security Agent may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Charged Assets and this Floating Charge that the Security Agent considers appropriate.

**20.2 Assignment by Borrower**

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this Floating Charge.

**21 Set-off**

**21.1 Security Agent's right of set-off**

The Security Agent may at any time set off any liability of the Borrower to the Security Agent against any liability of the Security Agent to the Borrower, 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 Security Agent may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Security Agent of its rights under this clause 21 shall not limit or affect any other rights or remedies available to it under this Floating Charge or otherwise.

**21.2 No obligation to set off**

The Security Agent is not obliged to exercise its rights under clause 21.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

**21.3 Exclusion of Borrower's right of set-off**

All payments made by the Borrower to the Security Agent 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).

**22 Amendments, waivers and consents**

**22.1 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).

## 22.2 Waivers and consents

22.2.1 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.

22.2.2 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 Security Agent shall be effective unless it is in writing.

## 22.3 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.

## 23 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.

## 24 Counterparts and delivery

24.1 This Floating Charge may be executed in any number of counterparts and by each of the parties on separate counterparts, all as permitted by the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015.

24.2 Delivery where Floating Charge executed in counterpart

If executed in counterparts:

24.2.1 this Floating Charge will not take effect until each of the counterparts has been delivered; and

24.2.2 the date of delivery of this Floating Charge shall be inserted where indicated on the first page of this agreement.

**24.3 Delivery where Floating Charge is not executed in counterpart**

Where not executed in counterparts, this agreement shall be delivered and become effective on the date agreed between the parties as evidenced by the date inserted on the front page of this Floating Charge or, if no such date is inserted, the date on which the Borrower signed this Floating Charge.

**25 Third party rights**

Except as expressly provided in this agreement, a person which who is not a party to this Floating Charge has no right 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.

**26 Further provisions**

**26.1 Independent security**

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

**26.2 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 Security Agent discharges this Floating Charge in writing.

**26.3 Discharge conditional**

Any release, discharge or settlement between the Borrower and the Security Agent shall be deemed conditional on no payment or security received by the Security Agent 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:

26.3.1 the Security Agent 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 Charged Assets, for any period that the Security Agent deems necessary to provide the Security Agent with security against any such avoidance, reduction or order for refund; and

26.3.2 the Security Agent may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

**26.4 Certificates**

A certificate or determination by the Security Agent as to any amount for the time being due to it from the Borrower under this Floating Charge shall be, in the absence of any manifest error, conclusive evidence of the amount due.



## **26.5 Small company moratorium**

Notwithstanding anything to the contrary in this Floating Charge, neither the obtaining of a moratorium by the Borrower under schedule A1 to the Insolvency Act 1986 nor the doing of anything by the Borrower with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

- 26.5.1 an event under this Floating Charge which causes the floating charge created by this Floating Charge to crystallise;
- 26.5.2 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 Borrower; or
- 26.5.3 a ground under this Floating Charge for the appointment of a Receiver.

## **27 Notices**

### **27.1 Delivery**

Any notice or other communication given to a party under or in connection with this Floating Charge shall be done so in accordance with the terms of the Facility Agreement.

### **27.2 Service of proceedings**

This clause 27 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **28 Governing law, jurisdiction and enforcement**

### **28.1 Governing law**

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.

### **28.2 Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales 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 Security Agent to take proceedings against the Borrower 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.

### **28.3 Other service**

The Borrower irrevocably consents to any process in any legal action or proceedings under clause 28.2 being served on it in accordance with the provisions of this Floating Charge relating to service of notices. Nothing contained in this Floating Charge shall affect the right to serve process in any other manner permitted by law.

28.4 Registration

The Borrower consents to the registration of this Floating Charge and/or any certificate or determination referred to in clause 26.4 for preservation and execution.

IN WITNESS WHEREOF these presents consisting of this and the 29 preceding pages are executed as follows:

SUBSCRIBED for and on behalf of **BLACKRIDGE DEVELOPMENTS LIMITED**

by ROBERT ANTONY KEANE

at ABERDEEN

on 4 AUGUST 2023



Director (Signature)

in the presence of this witness

Witness Signature  .....

Witness Full Name KLAUDYNA KNIĘCİK

Witness Address c/o 19 Adelpi, .....

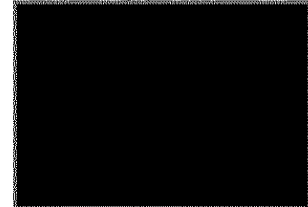
Aberdeen, AB11 5BL

SUBSCRIBED for and on behalf of  
**FIDUCIAM NOMINEES LIMITED** as Security Agent

by MORTON FRASER LLP acting as its attorney (*itself acting by member*)

at EDINBURGH

on 11 AUGUST 2023



Authorised Signatory  
(Signature) ROSS GRAHAM CALOWELL

in the presence of this witness:-

Witness Signature



Witness Full Name

AINSLIE, LEID

Witness Address

QUARTER MILE TWO

2 LISTER SQUARE, EDINBURGH