



Registration of a Charge

Company Name: **SIX BY NICO (HOLDINGS) LIMITED**

Company Number: **SC588879**



Received for filing in Electronic Format on the: **31/01/2022**

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Details of Charge

Date of creation: **26/01/2022**

Charge code: **SC58 8879 0003**

Persons entitled: **TC SECURITY TRUSTEE LIMITED AS SECURITY 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: **PINSENT MASONS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 588879

Charge code: SC58 8879 0003

The Registrar of Companies for Scotland hereby certifies that a charge dated 26th January 2022 and created by SIX BY NICO (HOLDINGS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st January 2022 .

Given at Companies House, Edinburgh on 1st February 2022

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

FLOATING CHARGE

by

SIX BY NICO (HOLDINGS) LIMITED

in favour of

**TC SECURITY TRUSTEE LIMITED acting as the Security Trustee of
the Secured Parties**



Pinsent Masons

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FLOATING CHARGE by

- (1) **SIX BY NICO (HOLDINGS) LIMITED** incorporated in Scotland (Company Number SC588879) whose registered office is at 227 West George Street, Glasgow, Scotland, G2 2ND (the "**Company**")

in favour of

- (2) **TC SECURITY TRUSTEE LIMITED** a company incorporated in England and Wales with registration number 12633574 whose registered office is situated at Unit 2 & 3 Charter Point Way, Ashby-De-La-Zouch, Leicestershire, England, LE65 1NF acting as the Security Trustee of the Secured Parties (the "**Security Trustee**")

BACKGROUND:

- (A) The Lender Members have agreed to provide Simeone Group Limited and Six by Nico (Holdings) Limited with loan facilities on a secured basis.
- (B) Under this Security, the Company provides security to the Security Trustee acting for and on behalf of the Secured Parties in respect of the Secured Liabilities.
- (C) The Security Trustee and the Secured Parties have agreed that the Security Trustee will hold the benefit of the Security Rights created under this Security on trust for itself and the Secured Parties.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalised terms used in this Security shall, except where the context otherwise requires and except where otherwise defined in this Security, have the meanings given to them in the ThinCats Lending Definitions as the same may be amended from time to time pursuant to any Loan Agreement, save that:

"Act"	means the Insolvency Act 1986 as amended
"Borrower"	means a "Borrower" under and as defined in any Loan Agreement
"Loan Agreement"	means any loan agreement dated on or around the date of this Security between, amongst others:- a) Simeone Group Limited and the Security Trustee; and b) Six by Nico (Holdings) Limited and the Security Trustee, and any other loan agreement between those parties entered into after the date of this Security (in each case as that loan agreement may be amended, novated, supplemented, extended, restated);
"Obligor"	means the Borrowers or any party who has entered into a Finance Document for the purpose of granting security and/or a guarantee of the performance of an obligation in respect of a Loan (as each term is defined in the

ThinCats Lending Definitions);

"Receiver"	means any receiver or administrative receiver appointed in respect of the Secured Assets under this Security (whether by the Company or the Court) and includes joint receivers
"Secured Assets"	means the whole of the property (including uncalled capital) which is or may from time to time, while this Security is in force, be comprised in the property and undertaking of the Company
"Secured Liabilities"	means all and any monies, obligations and liabilities of any Obligor to any of the Secured Parties, which may now or at any time in future be due, owing or incurred by an Obligor to the Secured Parties whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, together with all interest (including, without limitation, Default Interest) accruing in respect of those obligations or liabilities
"Security"	means these presents (and, as the context may require or imply, the floating charge hereby created) as amended, supplemented, novated, extended or restated from time to time
"Security Period"	means the period starting on the date of this Security and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding
"Thin Cats Lending Definitions"	means the ThinCats lending definitions appended to each Loan Agreement

1.2 Interpretation

Except where the context otherwise requires and except where otherwise defined in this Security, the interpretation provisions set out in the ThinCats Lending Definitions shall apply to this Security, save that a reference to this Security (or any provision of it) or to any other agreement or document referred to in this Security is a reference to this Security, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Security) from time to time.

2. FLOATING CHARGE

2.1 Payment

The Company shall, on demand, pay to the Security Trustee and discharge the Secured Liabilities when they become due and payable in accordance with the terms of the Finance Documents.

2.2 Floating Charge

In security for the payment and discharge of the Secured Liabilities, the Company hereby GRANTS a FLOATING CHARGE over the Secured Assets in favour of the Security Trustee.

2.3 Negative pledge and ranking

Unless otherwise agreed in writing by the Security Trustee and subject to Section 464(2) of the Companies Act 1985:

2.3.1 the Company shall not create any fixed security or other floating charge over any part of the Secured Assets after its execution of this Security except any fixed security in favour of the Security Trustee; and

2.3.2 this Security shall rank in priority to any fixed security or other floating charge created by the Company after its execution of this Security except any fixed security in favour of the Security Trustee.

3. PROTECTION OF SECURITY

3.1 Continuing security

This Security shall be a continuing security notwithstanding any intermediate payment or satisfaction of the Secured Liabilities and shall remain in force until expiry of the Security Period.

3.2 No prejudice

This Security shall be in addition to and shall not in any way prejudice or be prejudiced by any other security, right or remedy which the Security Trustee may now or at any time hereafter hold for all or any part of the Secured Liabilities.

3.3 No waiver

Failure or delay on the part of the Security Trustee in exercising any right, power or discretion under or pursuant to this Security shall not operate as a waiver thereof, nor will any single or partial exercise of any such right, power or discretion preclude any other or further exercise thereof. The rights, powers and discretions contained in this Security are in addition to and not substitution for any right of set-off, compensation, retention, combination of accounts, lien or other right or remedy provided by law.

3.4 Severability

The provisions of this Security shall be severable and distinct from one another and if at any time one or more of such provisions is or becomes or is declared void, invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Security shall not in any way be affected or impaired thereby.

3.5 Non impairment

The Company agrees that none of its obligations or the Security Trustee's rights, powers and discretions under this Security shall be reduced, discharged or otherwise adversely affected by:-

3.5.1 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any security or any right or remedy which the Security Trustee may have now or in the future from or against the Company or any other person in respect of any of the Secured Liabilities; or

3.5.2 any failure, act or omission by the Security Trustee or any other person in taking up, perfecting or enforcing any security or guarantee from or against the Company or any other person in respect of the Secured Liabilities; or

- 3.5.3 any increase in or waiver or discharge of the Secured Liabilities or any termination, amendment, variation, supplement, restatement, novation or replacement of the Loan Agreement; or
- 3.5.4 any grant of time, indulgence, waiver or concession to the Company or any other person; or
- 3.5.5 any of the administration, receivership, liquidation, winding-up, insolvency, bankruptcy, incapacity, limitation, disability, discharge by operation of law or any change in the constitution, name or style of the Company or any other person; or
- 3.5.6 any invalidity, illegality, unenforceability, irregularity or frustration of the Secured Liabilities; or
- 3.5.7 anything done or omitted to be done by the Security Trustee or any other person which but for this provision might operate to exonerate or discharge or otherwise reduce or extinguish the liability of the Company under this Security.

3.6 Further assurance

The Company shall promptly after being requested to do so by the Security Trustee do all such acts and things and execute and deliver all such documents as the Security Trustee may require for perfecting or protecting this Security or its priority or for creating such fixed security or charge over any of the Secured Assets as the Security Trustee may request or, following this Security becoming enforceable, for facilitating the realisation or application of the Secured Assets and the exercise of the rights, powers and discretions conferred on the Security Trustee or any Receiver under this Security.

3.7 New accounts

- 3.7.1 If the Security Trustee receives, or is deemed to have received, notice of any subsequent Security Right, or other interest, affecting all or part of the Secured Assets, the Security Trustee may open a new account for the Company in the Security Trustee's books. Without prejudice to the Security Trustee's right to combine accounts, no money paid to the credit of the Company in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 3.7.2 If the Security Trustee does not open a new account immediately on receipt of the notice, or deemed notice, under clause 3.7.1, then, unless the Security Trustee gives express written notice to the contrary to the Company, all payments made by the Company to the Security Trustee shall be treated as having been credited to a new account of the Company 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 Trustee.

4. POWER OF ATTORNEY

4.1 Appointment of attorneys

The Company irrevocably appoints the Security Trustee and every Receiver separately to be the attorney of the Company and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- 4.1.1 the Company is required to execute and do under this Security but has failed to execute or do timeously; or

- 4.1.2 any attorney deems proper in exercising any of the rights, powers, authorities and discretions conferred by this Security or by law on the Security Trustee or any Receiver.

4.2 Ratification of acts of attorneys

The Company 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 4.1.

4.3 Release

Subject to clause 9, at the end of the Security Period, the Security Trustee shall, at the request and cost of the Company, take whatever action is necessary to:

- 4.3.1 release the Secured Assets from the security constituted by this Security;
and

- 4.3.2 reassign the Secured Assets to the Company.

5. UNDERTAKINGS

The Company hereby undertakes to the Security Trustee that it will conduct its business and affairs in a proper and efficient manner and comply with all its obligations under the Loan Agreement and the other Finance Documents to which it is a party.

6. ENFORCEMENT

6.1 Enforceable

This Security shall be enforceable immediately upon, or at any time after:-

- 6.1.1 an Event of Default occurring which is continuing; or
6.1.2 the Company requesting the appointment of a Receiver or administrator.

6.2 Discretion

After the security constituted by this Security has become enforceable, the Security Trustee 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 Secured Assets.

6.3 Appointment of Receiver or administrator

- 6.3.1 At any time after this Security has become enforceable the Security Trustee shall be entitled:-

- (a) to appoint one or more persons as a Receiver or Receivers in respect of the Secured Assets, or apply to the Court for such appointment;
- (b) to appoint one or more persons as an administrator or administrators of the Company;
- (c) to make an administration application in respect of the Company;
or

- (d) to give notice of intention to appoint an administrator or administrators in respect of the Company.

6.3.2 The appointment of a Receiver or Receivers or an administrator or administrators, or the giving of notice of intention to appoint an administrator or administrators shall be effected by the Security Trustee by written instrument or notice in accordance with and in such form as may be prescribed under the Act. If any such person so appointed as Receiver or administrator is removed from office by the Court or otherwise ceases to act, the Security Trustee shall be entitled (subject to the provisions of the Act) to appoint a replacement in the same manner.

6.3.3 Paragraph 14 of Schedule B1 to the Act shall apply to this Security.

6.4 Powers of Receiver

A Receiver appointed under this Security shall have the following powers in addition to those specified in Schedule 2 to the Act:-

- 6.4.1 to promote or procure the incorporation of any new company (whether or not a subsidiary of the Company), to transfer any part of the Secured Assets to such company for any form of consideration (including shares, debentures, loan stock or loan capital in such company), and/or to subscribe for or otherwise acquire shares, debentures, loan stock or loan capital in such company in name of the Company, or the Receiver, or its or his/her nominee or trustee;
- 6.4.2 subject to the articles of association, to convene extraordinary general meetings of the Company;
- 6.4.3 generally, without prejudice to the other provisions of this Clause to exercise all the rights, powers and discretions in respect of the Secured Assets it would be entitled to exercise if it were the absolute owner thereof and to do all acts and things the Receiver may consider necessary or expedient for the realisation of the Secured Assets and the application of the proceeds in or towards satisfaction of or their retention as continuing security for the Secured Liabilities; and
- 6.4.4 in respect of any of the Secured Assets situated in England and Wales (or any other jurisdiction) to exercise in addition to the foregoing powers, all the powers conferred by the Act or any other enactment or rule of law on receivers or receivers and managers (or analogous officers) in that jurisdiction.

6.5 Agent of Company

A Receiver shall be the agent of the Company for all purposes of and in all respects arising under this Security and, except as otherwise provided by the Act, the Company alone shall be responsible for his/her acts, omissions, neglects and defaults and for all liabilities and obligations incurred by him/her, and his/her remuneration costs, charges and expenses.

6.6 Application of proceeds

All monies received or recovered by the Security Trustee or a Receiver under this Security or in connection with the realisation or enforcement of all or part of the security constituted by this Security, shall be applied in the following order of priority (but without prejudice to the Security Trustee's right to recover any shortfall from the Company):

- 6.6.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Security Trustee (and any Receiver, attorney or agent appointed by it) under or in connection with this Security, and of all remuneration due to any Receiver under or in connection with this Security;
- 6.6.2 in or towards payment of the Secured Liabilities in any order and manner that the Security Trustee determines; and
- 6.6.3 in payment of the surplus (if any) to the Company or other person entitled to it.

6.7 Monies on suspense account

All monies received by the Security Trustee or a Receiver under this Security:

- 6.7.1 may, at the discretion of the Security Trustee or Receiver, be credited to a suspense account;
- 6.7.2 shall bear interest, if any, at the rate agreed in writing between the Security Trustee and the Company; and
- 6.7.3 may be held in that account for so long as the Security Trustee or Receiver thinks fit.

6.8 Balance

The rights powers and discretions conferred on a Receiver under this Clause are subject only to his/her obligation to account to the Company or any other person entitled thereto for any balance of the Secured Assets or their proceeds remaining in his/her hands after the Secured Liabilities have been fully and unconditionally paid and discharged.

6.9 Third parties

- 6.9.1 No purchaser from or other person dealing with a Receiver in relation to the Secured Assets shall be concerned to enquire whether any of the powers exercised or purported to be exercised by him/her hereunder has become exercisable, whether any of the Secured Liabilities remains outstanding, or generally as to the propriety or validity of the exercise or purported exercise of any power hereunder.
- 6.9.2 The receipt or discharge of a Receiver shall be an absolute discharge to any purchaser or other person dealing with the Receiver in relation to the Secured Assets and any such purchaser or third party shall not have any obligation to enquire after or see to the application of any payments made by it to the Receiver or at his/her direction.

7. DISCHARGE

7.1 Discharge

When the Secured Liabilities have been fully and unconditionally paid or discharged the Security Trustee shall at the Company's request, and at its expense, discharge this Security. Any payment or realisation in respect of the Secured Liabilities which in the reasonable opinion of the Security Trustee is liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, shall not be regarded as having been irrevocably settled or discharged until the expiry of the period during which it may be challenged on any such ground.

7.2 Retention of Security

If any payment or realisation in respect of the Secured Liabilities is, in the Security Trustee's reasonable opinion, liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, the Security Trustee shall be entitled to retain this Security undischarged until the expiry of the period during which it may be challenged on any such ground.

7.3 Avoidance of payments

The Security Trustee's right to recover the Secured Liabilities in full shall not be affected or prejudiced by any payment or realisation which is avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, or by any release or discharge given by the Security Trustee on the faith of any such payment or realisation.

8. LIABILITY OF RECEIVER AND SECURITY TRUSTEE

A Receiver and the Security Trustee shall not in any circumstances be liable to the Company or any other person for any losses, damages, liabilities or expenses arising from or in connection with the application or enforcement of this Security or any realisation, appropriation or application of the Secured Assets or from any act, default or omission of the Receiver or the Security Trustee, or his/her or its officers, employees or agents in relation to the Secured Assets or otherwise in connection with this Security, except to the extent caused by the wilful neglect or default of the Receiver or the Security Trustee or his/her or its officers, employees or agents.

9. MISCELLANEOUS

9.1 Non compliance by Company

If the Company fails to make any payment or fulfil any obligation due by it under or pursuant to this Security, a Receiver or the Security Trustee, as the case may be, shall be entitled to do so on its behalf and in its name (or in his/her/its own name as it considers expedient) and/or to take such action to remedy or mitigate the consequences of such failure as he/she/it considers expedient, and the amount of any such payment and/or the costs incurred in fulfilling such obligation or mitigating the consequences of such failure, shall be repayable by the Company on demand, together with interest at the Default Rate from the date of demand until settlement and shall constitute Secured Liabilities.

9.2 Assignment

9.2.1 At any time, without the consent of the Company, the Security Trustee may assign or transfer any or all of its rights and obligations under this Security in accordance with the terms of the Finance Documents.

9.2.2 The Security Trustee may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Company, the Secured Assets and this Security that the Security Trustee considers appropriate.

9.2.3 The Company may not assign any of its rights, or transfer any of its rights or obligations, under this Security.

9.3 Certificate

A certificate signed by any authorised signatory on behalf of the Security Trustee shall, save in the case of manifest error, conclusively constitute the amount of the Secured Liabilities at the relevant time for all purposes of this Security.

9.4 Entire agreement

This Security constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Security.

9.5 Non-reliance

Each of the parties acknowledges and agrees that in entering into this Security it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) of any person (whether a party to this Security or not) other than as expressly set out in this Security.

9.6 Amendments

No amendment or variation of this Security shall be effective unless it is in writing and signed by or on behalf of each of the parties.

10. NOTICES

10.1 Each notice or other communication required to be given to a party under or in connection with this Security shall be in writing and delivered:

10.1.1 by hand; or

10.1.2 by pre-paid first-class post or other next working day delivery service; or

10.1.3 (in the case of any notice or other communication to be given by the Security Trustee to the Company only) by email; and

sent to:

10.1.4 the Company at:

Address: 227 West George Street, Glasgow, Scotland, G2 2ND

FAO: Graeme Sheils

Email: graeme@simeonegrouppltd.co.uk

or

10.1.5 the Security Trustee at c/o ThinCats, Unit 2/3 Charter Point Way, Ashby-de-la-Zouch, Leicestershire, England LE65 1NF, Attention: Securities Team,

or to any other address or email address as is notified in writing by one party to the other from time to time.

10.2 Any notice or other communication that the Security Trustee gives to the Company shall be deemed to have been received:

10.2.1 if delivered by hand, at the time it is left at the relevant address;

10.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; or

10.2.3 if sent by email address, at the time of transmission.

- 10.3 A notice or other communication given as described in clause 10.2.2 or 10.3.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.
- 10.4 Any notice or other communication given to the Security Trustee shall be deemed to have been received only on actual receipt.
- 10.5 This clause 10 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.
- 10.6 A notice or other communication given to the Security Trustee under or in connection with this Security is not valid if sent by fax.

11. GOVERNING LAW

This Security shall be governed by and construed in accordance with the law of Scotland and in so far as not already subject thereto the parties irrevocably submit to the non-exclusive jurisdiction of the Scottish Courts.

IN WITNESS WHEREOF these presents consisting of this and the 9 preceding pages are executed as follows:

SUBSCRIBED for and on behalf of
SIX BY NICO (HOLDINGS) LIMITED

at EDINBURGH
on the 26th day
of JANUARY 2022
by

[Redacted Signature]

Director

NICO CARLO SIMEONE Full Name

before this witness

[Redacted Signature]

Witness

MARTIN CLOSE Full Name

Address

DICKSON MINTO W.S.
Solicitors

16 CHARLOTTE SQUARE
EDINBURGH EH2 4DF