



Registration of a Charge

Company name: **T & W CIVIL ENGINEERING LIMITED**

Company number: **02888278**

Received for Electronic Filing: **02/03/2021**



Details of Charge

Date of creation: **01/03/2021**

Charge code: **0288 8278 0006**

Persons entitled: **PETER MARTIN WALES AND JILL PENELOPE WALES**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT 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: **IAN SHARROCK**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2888278

Charge code: 0288 8278 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st March 2021 and created by T & W CIVIL ENGINEERING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd March 2021 .

Given at Companies House, Cardiff on 3rd March 2021

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 1 MARCH 2021

- (1) THOSE ENTITIES LISTED IN SCHEDULE 1 (as Obligors)
- (2) PETER MARTIN WALES AND JILL PENELOPE WALES

COMPOSITE GUARANTEE AND DEBENTURE

Subject to the terms of the Intercreditor Deed (as defined herein) dated 1 MARCH 2021



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THIS DEED IS MADE ON

1 MARCH

2021

BETWEEN:

- (1) **THOSE ENTITIES** whose details are set out in Schedule 1 to this deed (each an "**Obligor**" and together the "**Obligors**"); and
- (2) **PETER MARTIN WALES and JILL PENELOPE WALES** of Whiston House, Whiston, Northampton NN7 1NN (each a "**Lender**" and together the "**Lenders**").

BACKGROUND:

- (A) Each Obligor enters into this deed in connection with the Facility Agreement.
- (B) The board of directors of each Obligor is satisfied that the giving of the guarantees and security contained or provided for in this deed is in the interests of that Obligor and has duly passed a resolution to that effect.

This witnesses as follows:

1 DEFINITIONS

- 1.1 Terms defined in the Facility Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed.

In addition, the following definitions apply in this deed:

"Assets" means all the assets, property and undertaking of an Obligor which are, or are expressed to be, subject to the Security created by, or pursuant to, this deed (and references to the Assets shall include references to any part of them).

"Business Day" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Event of Default" shall have the same meaning as defined in the Facility Agreement.

"Facility Agreement" means a £5,000,000 term loan facility agreement dated on or around the date of this deed between the Lenders and T & W Group Limited.

"Finance Document" shall have the same meaning as defined in the Facility Agreement.

"Guarantee" means the guarantee set out at clause 2.2 of this deed which is given subject to and with the benefit of the guarantee provisions in Schedule 2.

"Intercreditor Deed" means the intercreditor deed dated on or around the date of this Agreement between (i) National Westminster Bank PLC; (ii) the Lenders; and (iii) each Obligor.

"Investments" means all certified shares, stock, debentures, bonds or other securities or investment (whether or not marketable) from time to time legally or beneficially owned by or on behalf of an Obligor.

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

"Permitted Security" means any Security arising under:

- (a) this deed;
- (b) Security granted by an Obligor in favour of National Westminster Bank PLC and as permitted pursuant to the Intercreditor Deed;
- (c) any liens arising by operation of law and in the ordinary course of an Obligor's business and not as a result of any default or omission by an Obligor;
- (d) any normal title retention arrangements included in a supplier's standard conditions of supply of goods acquired by an Obligor in the ordinary course of trade;
- (e) any netting or set-off arrangement entered into by an Obligor in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances; and
- (f) Security created or outstanding with the Lenders' prior written consent.

"properties" means at any time any freehold, commonhold, heritable and/or leasehold properties of each of the Obligors at that time.

"Receiver" means an administrative receiver, receiver and manager or other receiver appointed pursuant to this deed in respect of an Obligor over all or any of the Assets charged by this deed.

"Release Date" means the date on which the Lenders releases the Obligors from the Guarantee in accordance with clause 19.

"Rights" any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise.

"Secured Liabilities" means all present and future obligations and liabilities of the Obligors to the Lenders, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Agreement or this deed, together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

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

"Security Period" means the period starting on the date of this deed and ending on the date on which the Lenders are 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 The provisions of clause 1.2 of the Facility Agreement apply to this deed as if they were set out in full in this deed, except that each reference in that clause to the Facility Agreement shall be read as a reference to this deed.

- 1.3 The terms of the documents under which the Secured Liabilities arise are incorporated into this deed to the extent required for any purported disposition of the Assets (or any of them) contained in this deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2 COVENANT TO PAY AND GUARANTEE

- 2.1 Each Obligor covenants with the Lenders that it will pay, perform and discharge the Secured Liabilities as and when the same fall due for payment in accordance with the terms of the Finance Documents or, in the absence of any such express terms, on demand.

- 2.2 Each Obligor irrevocably and unconditionally, jointly and severally:

2.2.1 guarantees to the Lenders punctual payment, performance and discharge by each other Obligor of the Secured Liabilities;

2.2.2 undertakes to the Lenders that whenever another Obligor does not pay any amount or perform or discharge any obligation in respect of the Secured Liabilities when due, that Obligor shall immediately on demand pay that amount or perform or discharge that obligation as if it was the principal obligor; and

2.2.3 agrees with the Lenders that if, for any reason, any amount claimed by the Lenders under this clause 2.2 is not recoverable on the basis of a guarantee, it will be liable as a principal debtor and primary obligor to indemnify the Lenders on demand against any cost, loss or liability the Lenders incur as a result of another Obligor not paying any amount or performing or discharging any obligation expressed to be payable by it or otherwise due from it in respect of the Secured Liabilities on the date when it is expressed to be due. The amount payable by an Obligor under this Indemnity will not exceed the amount it would have had to pay under this clause 2.2 if the amount claimed had been recoverable on the basis of a guarantee.

3 CHARGING PROVISIONS

- 3.1 Each Obligor with full title guarantee charges to the Lenders as a continuing security for the payment or discharge of the Secured Liabilities:

3.1.1 by way of a first legal mortgage all that Obligor's right, title and interest in the freehold, commonhold and/or leasehold property now vested in it together with all present and future buildings, fixtures (including trade and tenant's fixtures), plant and machinery which are at any time on any such property;

3.1.2 by way of a first fixed charge:

3.1.2.1 all estates or interests in any freehold, commonhold or leasehold property belonging to the Obligor now or at any time after the date of this deed (other than any property charged in terms of clause 3.1.1 above) together with all buildings, fixtures (including trade and tenant's fixtures), plant and machinery which are at any time on the property;

- 3.1.2.2 all present and future interests of the Obligor in or over land or the proceeds of sale of it and all present and future licences of the Obligor to enter upon or use land and the benefit of all other agreements relating to land to which it is or may become party or otherwise entitled and all fixtures (including trade and tenant's fixtures) which are at any time on any property charged under this deed;
- 3.1.2.3 all present and future plant and machinery not otherwise charged under this clause 3 and all other present and future chattels of the Obligor (excluding any of the same for the time being forming part of the Obligor's stock in trade or work in progress);
- 3.1.2.4 all the Investments;
- 3.1.2.5 all rights and interests in and claims under all policies of insurance and assurance held or to be held by or enuring to the benefit of the Obligor and the benefit of all rights and claims to which the Obligor is now or may be entitled under any contracts;
- 3.1.2.6 all patents, patent applications, trade marks, trade mark applications, trading names, brand names, service marks, copyrights, rights in the nature of copyright, moral rights, inventions, design rights, registered designs, all trade secrets and know-how, computer rights, programmes, systems, tapes, disks, software, all applications for registration of any of them and other intellectual property rights held or to be held by the Obligor or in which it may have an interest and the benefit of all present and future agreements relating to the use of or licensing or exploitation of any such rights (owned by the Obligor or others) and all present and future fees, royalties or similar income derived from or incidental to any of the foregoing in any part of the world;
- 3.1.2.7 all the Obligor's goodwill and uncalled capital for the time being;
- 3.1.2.8 all present and future book and other debts and monetary claims of the Obligor whether payable now or in the future and the benefit of all present and future rights and claims of the Obligor against third parties relating to them and capable of being satisfied by the payment of money (save as charged under clause 3.1.2.5); and
- 3.1.2.9 all present and future bank accounts, cash at bank and credit balances of the Obligor with any bank or other person whatsoever and all rights relating or attaching to them (including the right to interest); and
- 3.1.3 by way of floating charge all the Assets not effectively otherwise mortgaged, charged or assigned by this clause 3.

- 3.2 Subject to the right of an Obligor to redeem such assignment upon the irrevocable payment or discharge in full of the Secured Liabilities, each Obligor with full title guarantee assigns in favour of the Lenders, insofar as they are capable of being assigned by way of security all the right, title and interest of an Obligor in and to any agreement to which the Obligor is a party except to the extent that it is subject to any fixed charge created under any other provision of this deed.
- 3.3 To the extent that any such right, title and interest as is referred to in clause 3.2 is not assignable or capable of assignment, the assignment thereof purported to be effected by such clause shall operate as an assignment of any and all compensation, damages, income, profit or rent which the Obligor may derive therefrom or be awarded or entitled to in respect thereof, in each case as a continuing security for the payment or discharge in full of the Secured Liabilities.
- 3.4 Any mortgage, fixed charge or other fixed security created by an Obligor in favour of the Lenders shall have priority over the floating charge created by this deed, except insofar as the Lenders shall declare otherwise whether at or after the time of creation of such fixed security.
- 3.5 The Lenders may, by written notice to any Obligor, immediately convert the floating charge created under clause 3.1.3 into a fixed charge over any Assets specified in that notice and the floating charge will, without notice from the Lenders, automatically be converted with immediate effect into a fixed charge:
- 3.5.1 in respect of any Assets which become subject to a fixed charge in favour of any other person;
 - 3.5.2 in respect of all the Assets charged under clause 3.1.3 if and when the Obligor ceases to carry on business or to be a going concern; and
 - 3.5.3 in respect of all the Assets on the making of an order for the compulsory winding-up of the Obligor, on the convening of a meeting for the passing of a resolution for the voluntary winding-up of the Obligor or the taking of any steps (including, without limitation, the making of an application or the giving of any notice) by the Obligor or any other person for the appointment of an administrator in respect of the Obligor.
- 3.6 Each Obligor (as the context may require) shall apply to the Chief Land Registrar for a restriction to be entered on the Register of Title of all present and future registered freehold, commonhold and/or leasehold property of the Obligor in the following terms:
- "No disposition or charge of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge [date] in favour of [Chargee] referred to in the Charges Register or, if appropriate, signed on behalf of such proprietor by its authorised signatory".
- 3.7 Each Obligor will, immediately upon request of the Lenders, deliver to the Lenders (or as it shall direct) all certificates and other documents of title to the stocks, shares and other securities referred to in clause 3.1.2.4 together with stamped stock transfer forms in respect of the same executed in blank (except for the number and class of shares and the name of the transferor) and left undated. The Lenders may at any time after the date of this deed complete the instruments of transfer on behalf of the Obligors in favour of itself or such other person as it shall select.

3.8 Each Obligor (at its own cost) will on demand in writing by the Lenders execute and deliver in such form as the Lenders may reasonably require:

- 3.8.1 a legal mortgage of any freehold, commonhold or leasehold property of the Obligor which is not effectively charged by clause 3.1.1 and of any freehold, commonhold or leasehold property acquired by the Obligor after the date of this deed;
- 3.8.2 a standard security or other fixed security over the Obligor's heritable freehold, leasehold or other property;
- 3.8.3 a fixed charge or assignment in security of any Asset subject to a floating charge under clause 3.1.3;
- 3.8.4 a chattel mortgage over such chattels, plant and machinery as the Lenders may specify; and
- 3.8.5 a notice of any assignment of its right, title and interest to any of the agreements referred to in clause 3.2 above,

and each Obligor will execute such other deeds, documents, agreements and Instruments and will otherwise do and concur in all such other acts or things as the Lenders may deem necessary for perfecting, preserving or protecting the security created (or intended to be created) by this deed or for facilitating the realisation of the Assets or the exercise of any rights of the Lenders hereunder.

3.9 Each Obligor shall get in and realise its book and other debts and other monies, in the ordinary course of its business and hold the proceeds of the getting in and realisation upon trust for the Lenders.

3.10 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002) shall apply to any floating charge created pursuant to this deed.

4 CONTINUING SECURITY

4.1 The Security constituted by this deed will be a continuing security for the Secured Liabilities notwithstanding any intermediate payment or settlement of all or any part of the Secured Liabilities or other matter or thing whatsoever and will be without prejudice and in addition to any other right, remedy or security of whatever sort which the Lenders may hold at any time for the Secured Liabilities or any other obligation whatsoever and will not be affected by any release, reassignment or discharge of such other right remedy or security or the liquidation or other incapacity or any change in the constitution of any Obligor.

4.2 This deed is a continuing guarantee and will extend to the ultimate balance of all the Secured Liabilities.

4.3 This deed is in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or security which the Lenders may at any time hold for any of the Secured Liabilities.

4.4 Each Obligor waives any right it may have of first requiring the Lenders to proceed against or enforce any other rights or security or claim payment from any person before claiming from an Obligor under this deed.

5 **UNDERTAKINGS**

5.1 Each Obligor will:

- 5.1.1 at all times comply with the terms of this deed and of all agreements relating to the Secured Liabilities;
- 5.1.2 keep the Assets in good and substantial repair and in good working order and condition, ordinary wear and tear excepted;
- 5.1.3 preserve and maintain all intellectual property rights owned or used by the Obligor (including, without limitation, those referred to in clause 3.1.2.6);
- 5.1.4 comply in all material respects with the terms of all applicable laws and regulations including (without limitation) all environmental laws, legislation relating to public health, town & country planning, control and handling of hazardous substances or waste, fire precautions and health and safety at work;
- 5.1.5 promptly notify the Lenders of the acquisition by the Obligor of any estate or interest in any freehold, heritable or leasehold property;
- 5.1.6 ensure that all of the Assets that are Insurable, are insured with reputable insurance companies or underwriters to such extent and against such risks as is normal for prudent companies in businesses similar to those of the Obligor (or as otherwise requested in writing by the Lenders from time to time) and (without limitation to the generality of the foregoing):
 - 5.1.6.1 pay all premiums and other monies due and payable under all such insurances and, upon written request to do so by the Lenders, provide premium receipts or any other evidence of payment promptly; and
 - 5.1.6.2 If requested by the Lenders, ensure that the interest of the Lenders is noted on the policies in respect of such insurances;
- 5.1.7 at the written request of the Lenders, deposit with the Lenders all deeds, certificates and documents of title relating to the Assets or any part thereof charged by this deed and all policies of insurance and assurance;
- 5.1.8 promptly pay or cause to be paid all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever now or at any time in the future payable in respect of any of its properties (or any part thereof) or by the owner or occupier thereof;
- 5.1.9 not, without the prior written consent of the Lenders, make any structural or material alteration to or to the user of any of its properties or do or permit to be done anything which is a "development" within the meaning of the Town and Country Planning Acts from time to time (or any orders or regulations under such Acts) or do or permit to be done any act, matter or thing where to do so would have a material and adverse effect on the value of any of its properties or on the marketability of any of such properties;

- 5.1.10 not, without the prior written consent of the Lenders, grant any lease of, part with possession or share occupation of, the whole or any part of any of its properties or confer any licence, right or Interest to occupy or grant any licence or permission to assign, under-let or part with possession of the same;
- 5.1.11 not, without the prior written consent of the Lenders, vary, surrender, cancel or dispose of, or permit to be forfeit, any leasehold interest in any of its properties;
- 5.1.12 observe and perform all covenants, agreements and stipulations from time to time affecting its interest in any of its properties or contained in any lease, agreement for lease or tenancy agreement under which any part of such properties may be held;
- 5.1.13 notify the Lenders as soon as is reasonably practicable on it becoming aware of any creditor executing diligence against the Obligor or any distress or execution being levied or enforced against the Obligor or any third party debt order or freezing order being made and served on the Obligor;
- 5.1.14 notify the Lenders as soon as is reasonably practicable if any steps (including, without limitation, the making of any application or the giving of any notice) are taken by any person (including, without limitation, the Obligor) in relation to the administration, receivership, winding-up or dissolution of the Obligor;
- 5.1.15 not to allow any person other than itself to be registered under the Land Registration Act 1925 or the Land Registration Act 2002 (as appropriate) as proprietor of any of its properties (or any part thereof) or create or permit to arise any overriding interest (as specified in Section 70(1) of the Land Registration Act 1925) or (as specified in Schedule 1 or Schedule 3 to the Land Registration Act 2002) (as appropriate) affecting any such property; and
- 5.1.16 not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of its Assets.
- 5.2 No Obligor shall create or permit to subsist any Security over any of its Assets other than in favour of the Lenders and other than the Permitted Security.
- 5.3 No Obligor shall without the prior written consent of the Lenders:
 - 5.3.1.1 sell, transfer or otherwise dispose of any of its Assets (other than any Assets the subject of a floating charge (but not any fixed charge or mortgage) on arm's length terms in the ordinary course of trading);
 - 5.3.1.2 sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - 5.3.1.3 in any way dispose of the equity of redemption of any such Asset or any Interest in any such Asset;
 - 5.3.1.4 enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts (except in the ordinary course of its business); or
 - 5.3.1.5 enter into any other preferential arrangement having a similar effect.

6 SECURITY PROTECTIONS

- 6.1 If an Obligor fails to keep any of the Assets in good and substantial repair and in good working order and condition or does not take out and maintain such insurances as set out above or prove to the Lenders that the premiums and other moneys have been paid then the Lenders may (as it thinks fit) repair and keep in repair the Assets or any of them (and for that purpose it or any of its agents may enter upon the properties of the Obligors during normal working hours) or take out or renew any such insurance in any sum and on terms as the Lenders may think fit.
- 6.2 The Lenders will be entitled to be paid the proceeds of any policy of insurance of any Obligor (other than in respect of employers' or public liability) and each Obligor will promptly irrevocably instruct any insurer of a policy to pay the proceeds of it to the Lenders and undertakes to the Lenders to repeat that instruction if the Lenders requires.
- 6.3 All monies payable under any insurance policy maintained by an Obligor shall be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received and after the security constituted by this deed has become enforceable, and if the Lenders so directs, in or towards discharge or reduction of the Secured Liabilities.
- 6.4 Each Obligor will permit any authorised representative of the Lenders during normal working hours to enter upon any part of the properties of the Obligors and of any other property where any Obligor may be carrying out any contract or other works and to inspect any Obligor's books of account and other books and documents and those of its subsidiaries.
- 6.5 No statutory or other power of granting or agreeing to grant or of accepting or agreeing to accept surrenders of leases or tenancies of the whole or any part of the properties charged under this deed will be capable of being exercised by any Obligor without the previous written consent of the Lenders.
- 6.6 No Obligor will be entitled to part with possession (otherwise than on the determination of any lease, tenancy or licence) of any properties hereby charged, or to share the occupation thereof with any other person or persons, or to surrender or purport to surrender or permit to be forfeited the lease of any leasehold property hereby charged without the prior written consent of the Lenders.
- 6.7 The obligations of the Obligors under this deed will not be affected by any act, omission, circumstance, matter or thing which but for this provision might operate to release or otherwise exonerate it from any of its obligations hereunder in whole or in part, including (without limitation):
- 6.7.1 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Lenders may have now or in the future from or against any Obligor or any other person in respect of the Secured Liabilities;
 - 6.7.2 any act or omission by the Lenders or any other person in taking up, perfecting or enforcing any security or guarantee from or against an Obligor or any other person or the invalidity or unenforceability of any such security or guarantee;

- 6.7.3 any amendment, variation, restatement or supplement of or to, or novation, transfer or termination (in whole or in part) of, any document relating to the Secured Liabilities or any exercise by the Lenders (in its absolute discretion) of its rights to refuse, grant, continue, vary, review, determine or increase any credit or facilities to an Obligor;
- 6.7.4 any grant of time, indulgence, waiver or concession to an Obligor or any other person;
- 6.7.5 any arrangement or compromise entered into between the Lenders and any Obligor or any other person;
- 6.7.6 the administration, insolvency, bankruptcy, liquidation, winding-up, dissolution, incapacity, limitation, disability, discharge by operation of law or any change in the constitution, name and style of, any Obligor or any other person;
- 6.7.7 the invalidity, illegality, unenforceability, irregularity or frustration of the Secured Liabilities or any of the obligations of an Obligor; or
- 6.7.8 any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any other person resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order.

7 WHEN THE SECURITY BECOMES ENFORCEABLE

- 7.1 The security constituted by this deed shall become Immediately enforceable If an Event of Default occurs.
- 7.2 After the security constituted by this deed has become enforceable, the Lenders 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 Assets.

8 ENFORCEMENT

- 8.1 The security constituted by this deed shall become enforceable and the Lenders may exercise all the powers conferred on mortgagees by the Law of Property Act 1925 (as varied or extended by this deed), all the powers conferred on the holder of a qualifying floating charge (as defined in the Insolvency Act 1986) by the Insolvency Act 1986 and all or any of the rights and powers conferred by this deed without further notice to any Obligor upon and at any time after the occurrence of any Event of Default which is continuing.
- 8.2 Section 103 of the Law of Property Act 1925 will not apply to this deed but the statutory power of sale will as between the Lenders and a purchaser from the Lenders arise on and be exercisable at any time after the execution of this deed provided that the Lenders will not exercise the power of sale until payment of all or any part of the Secured Liabilities has been demanded or a Receiver has been appointed but this proviso will not affect a purchaser or put him upon inquiry whether such demand or appointment has been validly made.

8.3 The statutory powers of sale, leasing and accepting surrenders exercisable by the Lenders under this deed are extended so as to authorise the Lenders whether in its own name or in that of an Obligor to grant a lease or leases of the whole or any part or parts of the freehold, commonhold and/or leasehold property of any Obligor with whatever rights relating to other parts of it and containing whatever covenants on the part of an Obligor and generally on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) and whether or not at a premium as the Lenders thinks fit.

8.4 Section 93 of the Law of Property Act 1925 (consolidation of mortgages) will not apply to this deed.

9 **APPOINTMENT OF RECEIVER OR ADMINISTRATOR**

9.1 At any time after the security constituted by this deed has become enforceable the Lenders shall be and is entitled by instrument in writing to appoint any one or more persons as:

9.1.1 a Receiver of all or any of the Assets; and/or

9.1.2 an administrator of any Obligor,

in each case in accordance with and to the extent permitted by applicable laws.

9.2 Where more than one Receiver or administrator is appointed they will have power to act separately (unless the appointment of the Lenders specifies to the contrary).

9.3 Any appointment over part only of the Assets charged under this deed will not preclude the Lenders from making any subsequent appointment of a Receiver over any part of the Assets over which an appointment has not previously been made by it or an administrator.

9.4 The Lenders may from time to time determine the remuneration of the Receiver and may (subject to Section 45 of the Insolvency Act 1986) remove the Receiver from all or any part of the Assets of which he is the Receiver and at any time after any Receiver has vacated office or ceased to act, appoint a further Receiver over all or any part of those Assets.

9.5 The Receiver and administrator will be the agent of each Obligor (which will be solely liable for his acts, defaults and remuneration) and will have and be entitled to exercise in relation to any Obligor all the powers set out in Schedule 1 to the Insolvency Act 1986 and all the powers conferred from time to time on Receivers by statute and in particular by way of addition to but without prejudice to those powers (and those of the Lenders) the Receiver and administrator will have power:

9.5.1 to sell, let or lease or concur in selling, letting or leasing and to vary the terms or determine, surrender or accept surrenders of leases or tenancies of or grant options and licences over all or any part of the Assets and so that any such sale may be made for cash payable by instalments or for shares or securities of another company and the Receiver may promote or concur in promoting a company to purchase the Assets to be sold;

9.5.2 to sever any fixtures (including trade and tenant's fixtures) from the property of which they form part;

- 9.5.3 to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Assets, including, without limitation, all voting and other rights attaching to stocks, shares and other securities owned by any Obligor;
 - 9.5.4 to make and effect all repairs and improvements;
 - 9.5.5 to redeem any prior encumbrance and to settle and pass the accounts of the encumbrancer and any accounts so settled and passed will (subject to any manifest error) be conclusive and binding on each Obligor and the moneys so paid will be deemed to be an expense properly incurred by the Receiver or administrator;
 - 9.5.6 to promote the formation of a subsidiary or subsidiaries of an Obligor, including, without limitation, any such company formed for the purpose of purchasing, leasing, licensing or otherwise acquiring interests in all or any of the assets of any Obligor;
 - 9.5.7 to make any arrangement or compromise which the Lenders or the Receiver or the administrator may think fit;
 - 9.5.8 to make and effect all repairs, renewals, improvements, and insurances;
 - 9.5.9 to appoint managers, officers and agents for any of the purposes referred to in this clause 9 at such salaries as the Receiver or administrator may determine; and/or
 - 9.5.10 to do all other acts and things as may be considered by the Receiver or administrator to be incidental or conducive to the above or otherwise incidental or conducive to the preservation, improvement or realisation of the Assets.
- 9.6 No purchaser or other person dealing with the Lenders, any Receiver or administrator or any agent or delegate thereof shall be obliged or concerned to enquire whether the right of the Lenders or any Receiver or administrator to exercise any of the powers conferred by or referred to in this deed has arisen or become exercisable, whether any of the Secured Liabilities remain outstanding or be concerned with notice to the contrary or whether an event has occurred to authorise the Lenders or any Receiver or administrator to act or as to the propriety or validity of the exercise or purported exercise of any such power.

10 **POWER OF ATTORNEY**

Each Obligor irrevocably and by way of security appoints the Lenders (whether or not a Receiver or administrator has been appointed) and also (as a separate appointment) any Receiver or administrator severally as the attorney and attorneys of each Obligor, for each Obligor and in its name and on its behalf to execute and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which may be required of an Obligor under this deed or may be required or deemed proper in the exercise of any rights or powers conferred on the Lenders or any Receiver or administrator hereunder or otherwise for any of the purposes of this deed.

11 DELEGATION

11.1 The Lenders and 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 them or any of them by this deed (including the power of attorney granted under clause 10). Any such delegation may be made upon such terms and conditions (including the power of sub delegate) as the Lenders or any Receiver shall think fit. Neither the Lenders nor any Receiver shall be in any way liable or responsible to an Obligor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate.

11.1.1 first, in discharging any sums owing to the Lenders;

11.1.2 second, in discharging any sums owing to any Receiver, administrator or delegate (howsoever described);

11.1.3 third, to the extent that the same remain outstanding, in or towards payment of the debts or claims which are by statute payable in preference to the Secured Liabilities to the extent to which such debts or claims have such preference;

11.1.4 fourth, in and towards payment and discharge to the Second Liabilities; and

11.1.5 lastly, in payment of the surplus (if any) to an Obligor or other person entitled to such amounts.

12 APPLICATION OF SECURITY PROCEEDS

12.1 Any moneys received under the powers conferred by this deed will be paid or applied in the following order of priority:

12.1.1 firstly, in or towards satisfaction of all costs, charges and expenses incurred, and payments made, by the Lenders in connection with this deed and/or the Receiver or administrator appointed in accordance with this deed (including but not limited to the remuneration of the Receiver or administrator);

12.1.2 secondly, to the extent that they remain outstanding, in or towards payment of any debts or claims which are by statute payable in preference to the Secured Liabilities to the extent to which such debts or claims have such preference;

12.1.3 thirdly, in or towards satisfaction of the Secured Liabilities; and

12.1.4 lastly, as to the surplus (if any) to the Obligors or other person(s) entitled to it,

provided that the Receiver or administrator may retain any moneys in his hands for so long as he thinks fit, and the Lenders may, without prejudice to any other rights the Lenders may have at any time and from time to time, place and keep for such time as the Lenders may think prudent any moneys received, recovered or realised under or by virtue of this deed in a suspense account to the credit either of an Obligor or of the Lenders as the Lenders thinks fit without any intermediate obligation on the part of the Lenders to apply such moneys or any part of such moneys in or towards the discharge of the Secured Liabilities.

12.2 Subject to clause 12.1, any moneys received or realised by the Lenders from an Obligor or a Receiver under this deed or any administrator may be applied by the Lenders to any item of account or liability or transaction in such order or manner as the Lenders may determine.

12.3 All sums due and payable by any Obligor under this deed shall be made in full without set-off or counter-claim and free and clear of and without deduction for or on account of any future or present taxes unless an Obligor is required by any law to make any deduction or withholding from any sum payable by an Obligor to the Lenders hereunder and provided always that each Obligor must ensure the amount of any payment due under this deed is increased to an amount which (after making any such deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.

13 **COSTS AND EXPENSES**

Each Obligor shall pay or reimburse to the Lenders on demand (on a full indemnity basis) all costs, charges and expenses (including legal fees) incurred or to be incurred by the Lenders in the creation, registration, perfection, enforcement, discharge and/or assignment of this deed (including, without limitation, the costs of any proceedings in relation to this deed or the Secured Liabilities), which costs, charges and expenses shall form part of the Secured Liabilities.

14 **SET-OFF**

Each Obligor agrees that the Lenders may set off monies owing by the Lenders to the Obligor against any monies owing by that Obligor to Lenders under this deed.

15 **DEFERRAL OF OBLIGOR'S RIGHTS**

15.1 Until the Release Date and unless the Lenders otherwise directs, no Obligor shall exercise any rights which it may have by reason of performance by it of its obligations under or by reason of any amount being payable, or liability arising, under this deed:

15.1.1 to be indemnified by any other Obligor;

15.1.2 to claim any contribution from any other Obligor's obligations to the Lenders;

15.1.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lenders in respect of any other Obligor or of any other guarantee or Security taken by the Lenders;

15.1.4 to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any other Obligor has given a guarantee, undertaking or indemnity under clause 2.2;

15.1.5 to exercise any right of set-off against any Obligor; and/or

15.1.6 to claim or prove as a creditor of any Obligor in competition with the Lenders.

15.2 If any Obligor receives any benefit, payment or distribution in relation to the rights referred to in clause 15.1 or any Security as a result of any breach of clause 15.3, it shall:

- 15.2.1 hold that benefit, payment, distribution or Security to the extent necessary to enable all the Secured Liabilities to be repaid in full on trust for the Lenders; and
- 15.2.2 promptly pay or transfer the same to the Lenders or as the Lenders may direct for application in or towards discharge of the Secured Liabilities.
- 15.3 Until the Release Date and unless the Lenders otherwise directs, no Obligor shall have or take from any other Obligor or any other surety for any of the Secured Liabilities any Security in respect of any Obligor's liability under this deed or in respect of any other obligation or liability which any Obligor has, or may in future have, to any other Obligor.
- 15.4 This deed is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by the Lenders.

16 **INVESTIGATIONS**

If an Event of Default has occurred and is continuing the Lenders shall be entitled to initiate an investigation of, and/or instruct any report (accounting, legal valuation or other) on, the business and affairs of the Obligor and/or any other Obligor which the Lenders considers necessary to ascertain the financial position of the Obligor, all fees and expenses incurred by the Lenders in so doing being payable on demand by the Obligor on a full indemnity basis.

17 **NOTICES**

- 17.1 Any communication to be made under or in connection with this deed shall be made in writing and, unless otherwise stated, may be made by email or letter. For the avoidance of doubt, any communication given under or in connection with this deed shall not be valid if sent by fax.
- 17.2 The address of the Lenders for any communication or document under or in connection with this deed is its address first written above. The email address of the Lenders for any communication or document to be made or delivered under or in connection with this deed is the email address most recently provided to either Obligor by the Lenders.
- 17.3 The address of each Obligor for any communication or document under or in connection with this deed is its registered office at the time such communication or document is made or delivered. The email address of each Obligor for any communication or document to be made or delivered under or in connection with this deed is the email address most recently provided to the Lenders by the relevant Obligor.
- 17.4 Any communication made or document made or delivered by one person to another under or in connection with this deed will only be effective:
 - 17.4.1 if by way of email, at the time of transmission, or, if this time falls outside business hours of 9.00am to 5.00pm on a Business Day, when business hours resume; or
 - 17.4.2 if by way of letter, when it has been delivered to the relevant address or (if later) three Business Days after being deposited in the post (postage prepaid) in an envelope addressed to it at that address.
- 17.5 In proving service of any notice or communication given under this deed, it shall be sufficient:

- 17.5.1 In the case of sending by e-mail to prove that it has been sent and that no "undelivered" notification was generated upon being sent;
- 17.5.2 in case of delivery by hand, to prove that such notice or communication was properly delivered to the right address;
- 17.5.3 in case of posting, to prove that such notice or communication was properly stamped, addressed and placed in post; and
- 17.5.4 In case of sending by courier, to produce the tracking number provided by the relevant courier; and

18 **MISCELLANEOUS**

- 18.1 If at any time any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will be in any way affected or impaired.
- 18.2 No failure or delay by the Lenders in exercising any right or remedy under this deed shall operate as a waiver, and no single or partial exercise shall prevent further exercise, of any right or remedy.
- 18.3 The Lenders will be entitled to disclose to its advisors or to any regulatory authority confidential information concerning this deed or any arrangement made in connection with this deed, provided that before any such disclosure the Lenders shall make those persons aware of its obligations of confidentiality under this deed.
- 18.4 A certificate by any duly authorised officer of the Lenders as to the amount of the Secured Liabilities or any part of them shall, in the absence of manifest error, be conclusive and binding on the Obligors.

19 **RELEASE**

If the Lenders is satisfied that the Secured Liabilities have been unconditionally and irrevocably repaid or discharged in full, the Lenders will at the request and cost of the Obligors take whatever action is required in order to release the Assets from the security constituted by this deed and/or reassign the Assets to the Obligors.

20 **ASSIGNMENT AND TRANSFER**

- 20.1 At any time, without the consent of the Obligors, the Lenders may assign or transfer any or all of its rights and obligations under this deed to any replacement Lenders.
- 20.2 The Lenders may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Obligors, the Assets and this deed that the Lenders considers appropriate.
- 20.3 No Obligor may assign any of its rights, or transfer any of its rights or obligations, under this deed.

21 GOVERNING LAW & JURISDICTION

- 21.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed according to English law.
- 21.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed, its subject matter or formation (including non-contractual disputes or claims).

This deed has been executed and delivered by the Obligors and the Lenders as a deed the day and year stated at the beginning of this deed.

SCHEDULE 1
OBLIGORS

NAME	COMPANY NUMBER	REGISTERED OFFICE
T & W Group Limited	09769419	Charlotte House, 500 Charlotte Road, Sheffield, South Yorkshire, England, S2 4ER
T & W Holdings Limited	03045006	Charlotte House, 500 Charlotte Road, Sheffield, South Yorkshire, England, S2 4ER
T & W Civil Engineering Limited	02888278	Charlotte House, 500 Charlotte Road, Sheffield, South Yorkshire, England, S2 4ER
T & W Plant Hire Limited	03044992	Charlotte House, 500 Charlotte Road, Sheffield, South Yorkshire, England, S2 4ER

SCHEDULE 2
GUARANTEE PROVISIONS

- 1 This Guarantee is a continuing security and shall remain in full force and effect until all moneys, obligations and liabilities referred to in clause 2 of this deed have been paid, discharged or satisfied in full notwithstanding the liquidation or other incapacity or any change in the constitution of an Obligor or any settlement of account or other matter whatsoever.
- 2 This Guarantee is in addition to and shall not merge with or otherwise prejudice or affect or be prejudiced by any other right, remedy, guarantee, indemnity or security and may be enforced without first having recourse to the same or any other bill, note, mortgage, charge, pledge or lien now or hereafter held by or available to the Lenders.
- 3 If any purported obligation or liability of an Obligor to any of the Lenders which if valid would have been the subject of this Guarantee is not or ceases to be valid or enforceable against an Obligor on any ground whatsoever whether or not known to the Lenders (including but not limited to any defect in or want of powers of an Obligor or irregular exercise thereof or lack of authority by any person purporting to act on behalf of an Obligor or any legal or other limitation (whether under the Limitation Acts or otherwise), disability, incapacity or any change in the constitution of or any amalgamation, reconstruction or liquidation of an Obligor) each Obligor shall nevertheless be liable to the Lenders in respect of that purported obligation or liability as if the same were fully valid and enforceable and each Obligor was the principal debtor in respect thereof.
- 4 The liability of each Obligor shall not be affected nor shall this Guarantee be discharged or diminished by reason of:
 - 4.1 any present or future bill, note, guarantee, indemnity, mortgage, charge, pledge, lien or other security or right or remedy held by or available to the Lenders becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Lenders from time to time dealing with, exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or
 - 4.2 the Lenders compounding with, discharging, releasing or varying the liability of or granting any time, indulgence or concession to any Obligor or any other person or renewing determining, varying or increasing any bill, promissory note or other negotiable instrument (including the Secured Loan Note Instruments), facility or transaction in any manner whatsoever or concurring in, accepting or varying any compromise arrangement or settlement or omitting to claim or enforce payment from an Obligor or any other person; or
 - 4.3 any act or omission which would not have discharged or affected the liability of an Obligor had it been principal debtor instead of guarantor or by anything done or omitted which, but for this provision, might operate to exonerate an Obligor.
- 5 Each Obligor warrants to the Lenders that it has not taken or received and undertakes that it will not take or receive the benefit of any security from any other Obligor in connection with this Guarantee. If any such security is taken each Obligor declares that such security and all moneys at any time received in respect thereof shall be held on trust for the Lenders and as security for the Secured Liabilities.
- 6 Each Obligor shall pay interest to the Lenders on all sums demanded under this Guarantee from the date of demand until actual payment (as well after as before any judgment) at 6% per annum

calculated on a day to day basis. Such Interest shall be compounded monthly but without prejudice to the right of the Lenders to require payment of such interest.

- 7 Until the Secured Liabilities have been paid, discharged or satisfied in full, each Obligor waives all rights or subrogation and indemnity against all other Obligors and agrees not to share in any security held or moneys received by the Lenders on account of the Secured Liabilities or (unless so instructed by the Lenders) to claim or prove in competition with the Lenders in the liquidation of any Obligor in respect of any monies due or owing to an Obligor from another Obligor. If an Obligor receives any payment or other benefit or exercises any set-off or counterclaim or otherwise acts in breach of this clause anything so received and any benefit derived directly or indirectly by an Obligor therefrom shall be held in trust for the Lenders and as security for the Secured Liabilities.
- 8 Any release, discharge or settlement between an Obligor and the Lenders shall be conditional upon no security, deposit or payment to any of the Lenders by any Obligor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to bankruptcy, liquidation or insolvency or for any reason whatever and if such condition shall not be fulfilled the Lenders shall be entitled to enforce this Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.
- 9 No Lender shall be obliged before taking steps to enforce this Guarantee:
 - 9.1 to take action or obtain judgment in any court against any Obligor or any other person; or
 - 9.2 to make or file any claim in a liquidation of any Obligor or any other person; or
 - 9.3 to make, enforce or seek to enforce any claim against any Obligor or any other person under any security or other document, agreement or arrangement.
- 10 All sums due and payable by an Obligor under this deed shall be made in full without set-off or counter-claim and free and clear of and without deduction for or on account of any future or present taxes unless an Obligor is required by any law to make any deduction or withholding from any sum payable by an Obligor to the Lenders hereunder.

SIGNATURES

OBLIGORS

EXECUTED as a DEED and DELIVERED by)
T & W Group Limited acting by a director in)
the presence of:

[Redacted Signature]

.....
DIRECTOR

[Redacted Signature]
Witness Signature:
Adam Burchnall
Witness Name:
Witness Address:
.....
.....

EXECUTED as a DEED and DELIVERED by)
T & W Holdings Limited acting by a director)
in the presence of:

[Redacted Signature]

.....
DIRECTOR

[Redacted Signature]
Witness Signature:
Adam Burchnall
Witness Name:
Witness Address:
.....
.....

EXECUTED as a DEED and DELIVERED by)
T & W Civil Engineering Limited acting by a)
director in the presence of:

[Redacted Signature]

.....
DIRECTOR

[Redacted Signature]
Witness Signature:
Witness Name: Adam Burchnall
Witness Address:
.....
.....

EXECUTED as a DEED and DELIVERED by)
T & W Plant Hire Limited acting by a director)
in the presence of:

[Redacted Signature]

.....
DIRECTOR

[Redacted Signature]
Witness Signature:
Witness Name: Adam Burchnall
Witness Address:
.....
.....

LENDERS

EXECUTED as a DEED and DELIVERED by)
Peter Martin Wales in the presence of:)

[Redacted Signature]

[Redacted Signature]
Witness Signature:
Witness Name: Kate Wales
Witness Address:
[Redacted Address]
.....

EXECUTED as a DEED and DELIVERED by)
Jill Penelope Wales in the presence of:)

[Redacted Signature]

[Redacted Signature]
Witness Signature:
Witness Name: Kate Wales
Witness Address:
[Redacted Address]
.....