

# MR01

## Particulars of a charge



Companies House

Go online to file this information  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

A fee is payable with this form  
Please see 'How to pay' on the last page.

☒ **What this form is for**

You may use this form to register  
a charge created or evidenced by  
an instrument.

☒ **What this form is NOT for**

You may not use this form to  
register a charge where  
instrument. Use form M

This form **must** be delivered to the Registrar for registration  
21 days beginning with the day after the date of creation of the  
delivered outside of the 21 days it will be rejected unless it is accompanied by a  
court order extending the time for delivery.



You **must** enclose a certified copy of the instrument with this form. This will be  
scanned and placed on the public record. **Do not send the original.**



LD3 \*L7IQYC6J\* #86  
15/11/2018  
COMPANIES HOUSE

1

### Company details

Company number 0 8 8 5 0 1 6 4

Company name in full THE BEER BELLY COMPANY INCORPORATED LIMITED

For official use

→ **Filling in this form**

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

2

### Charge creation date

Charge creation date d 1 d 4 m 1 m 1 y 2 y 0 y 1 y 8

3

### Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge.

Name POPULOUS WORLD LTD

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below.

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge.

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## Particulars of a charge

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## Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Brief description

**FIXED AND FLOATING CHARGE OVER ALL ASSETS OF THE COMPANY**

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space.

5

## Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☒ **Yes**

☐ **No**

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## Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☒ **Yes** Continue

☐ **No** Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☒ **Yes**

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## Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ **Yes**

☐ **No**

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Trustee statement <sup>1</sup>

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)

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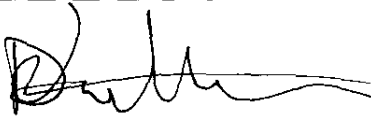
## Signature

Please sign the form here

Signature

Signature

X



DARREN  
WILLIAMS, X  
DIRECTOR  
POPULOUS WDW LTD

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



**Presenter information**

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name	DARREN WILLIAMS
Company name	POPULOUS WORLD LTD
Address	POPULOUS WORLD LTD, 5TH FLR, 57 BERKELEY SQUARE
Post town	LONDON
County/Region	
Postcode	W 1 J 6 E R
Country	UNITED KINGDOM
DX	
Telephone	08438496671



**Certificate**

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



**Checklist**

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



**Important information**

Please note that all information on this form will appear on the public record.



**How to pay**

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



**Where to send**

*You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:*

**For companies registered in England and Wales:**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff

**For companies registered in Scotland:**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

**For companies registered in Northern Ireland:**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N.R. Belfast 1.



**Further information**

For further information, please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**



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

Company number: 8850164

Charge code: 0885 0164 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th November 2018 and created by THE BEER BELLY COMPANY INCORPORATED LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th November 2018.

*P.*

Given at Companies House, Cardiff on 22nd November 2018



**Companies House**



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

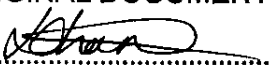
DATED 14<sup>TH</sup> NOVEMBER 2018

(1) THE BEER BELLY COMPANY INCORPORATED LIMITED

(2) POPULOUS WORLD LIMITED

## DEBENTURE

CERTIFIED TRUE COPY  
OF AN ORIGINAL DOCUMENT

SIGNED .....  
DATE .....15/11/2018.....

LOU CHAN  
MARKETING DIRECTOR  
14 AVONMORE ROAD  
LONDON W14 8RL

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**THIS DEED** is dated 14TH NOVEMBER 2018

**Parties**

- (1) THE BEER BELLY COMPANY INCORPORATED LIMITED incorporated and registered in England and Wales with company number 08850164 whose registered office is at Onega House, 112 Main Road, Sidcup, Kent, DA14 6NE (**Invoice Seller**)
- (2) POPULOUS WORLD LIMITED incorporated and registered in England and Wales with company number 10458726 whose registered office is at 11 Teal Court Abinger Grove, London, England, SE8 5UW (**Invoice Buyer**)

**BACKGROUND**

- (A) The Invoice Buyer has agreed to purchase the Assigned Trade Debts from the Invoice Seller on the terms set out in the Invoice Discounting Agreement.
- (B) Under this Deed, the Invoice Seller provides security to the Invoice Buyer for the performance of its obligations under the Invoice Discounting Agreement.

**AGREED TERMS**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Terms defined in the Invoice Discounting Agreement shall, unless otherwise defined in this Deed, have the same meaning in this Deed. In addition, the following definitions apply in this Deed:

**Administrator:** an administrator appointed to manage the affairs, business and property of the Invoice Seller pursuant to clause 14.15.

**Assigned Trade Debts:** the Assigned Trade Debts which the Invoice Buyer has agreed to purchase from the Invoice Seller pursuant to the Invoice Discounting Agreement.

**Book Debts:** all present and future book and other debts, and monetary claims due or owing to the Invoice Seller, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Invoice Seller in relation to any of them.

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

**Charged Property:** any freehold, leasehold or commonhold property the subject of the security constituted by this Deed and references to "**Charged Property**" shall include references to the whole or any part or part of it.

**Delegate:** any person appointed by the Invoice Buyer or any Receiver pursuant to clause 19 and any person appointed as attorney of the Invoice Buyer, Receiver or Delegate.

**Designated Account:** any account of the Invoice Seller nominated by the Invoice Buyer as a designated account for the purposes of this Deed.

**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.

**Environmental Licence:** any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets.

**Environmental Licence;** any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets.

**Equipment:** all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property owned by the Invoice Seller or in which it has an interest, including any part of it and all spare parts, replacements, modifications and additions.

**Event of Default:** an event entitling the Invoice Seller to terminate the Invoice Discounting Agreement by giving notice pursuant to clause 12.1 of the Invoice Discounting Agreement.

**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 Invoice Seller from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Charged Properties or the Equipment).

**Intellectual Property:** the Invoice Seller's present and future patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, 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 certificated shares, stock, debentures, bonds or other securities or investments (whether or not marketable) from time to time legally or beneficially owned by or on behalf of the Invoice Seller

**Invoice Discounting Agreement:** the invoice discounting agreement made between the Invoice Seller and the Invoice Buyer on or about the date of this Deed.

**LPA 1925:** the Law of Property Act 1925.

**Receiver:** a receiver, receiver and manager or administrative receiver appointed by the Invoice Buyer under clause 17.

**Relevant Agreement:** each agreement specified in Schedule 2.

**Replacement Value:** in the case of any premises on any Charged Property, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for shoring or propping up, demolition, site clearance and reinstatement with adequate allowance for inflation) and, in the case of any Charged Property, loss of rents payable by the tenants or other occupiers of any Charged Property for a period of at least three years, including provision for increases in rent during the period of insurance;

**Secured Assets:** all the assets, property and undertaking of the Invoice Seller which are, or are expressed to be, subject to the Security created by, or pursuant to, this Deed (and references to the Secured Assets shall include references to any part of them).

**Secured Liabilities:** all present and future obligations and liabilities of the Invoice Seller to the Invoice Buyer, 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 Invoice Discounting Agreement or this Deed (including, without limitation, those arising under clause 24), together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

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

**Security:** 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:** the period starting on the date of this Deed and ending on the date on which the Invoice Buyer 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.

**VAT:** value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 In this Deed:

- (a) the Schedules shall have effect as if set out in full in the body of this Deed, and any reference to this Deed includes the Schedules.

- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular and a reference to one gender shall include a reference to the other genders;
- (d) a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this Deed shall be binding on, and enure to the benefit of, the parties to this Deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- (e) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and includes all subordinate legislation made from time to time under that statute or statutory provision;
- (f) a reference to **writing** or **written** includes fax but not email;
- (g) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (h) a reference to **this Deed** (or any provision of it) or to any other agreement or document referred to in this Deed is a reference to this Deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Deed) from time to time;
- (i) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this Deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (j) clause, Schedule and paragraph headings shall not affect the interpretation of this Deed;
- (k) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (l) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- (m) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (n) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (o) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;

- (p) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
  - (q) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (r) a reference in this Deed to a **charge or mortgage of or over any Charged Property** includes:
    - (i) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of that Charged Property at any time;
    - (ii) the proceeds of the sale of any part of that Charged Property and any other monies paid or payable in respect of or in connection with that Charged Property;
    - (iii) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Invoice Seller in respect of that Charged Property, and any monies paid or payable in respect of those covenants;
    - (iv) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property.
  - (s) a reference to any **share, stock, debenture or other security or investment** includes:
    - (i) any dividend, interest or other distribution paid or payable in respect of that share, stock, debenture or other security or investment;
    - (ii) any right, money, shares or property accruing, offered or issued at any time in relation to that share, stock, debenture or other security or investment by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.
- 1.3 If the Invoice Buyer considers that an amount paid by the Invoice Seller in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Invoice Seller or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.4 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Invoice Discounting Agreement and of any side letters between any parties in relation to the Invoice Discounting Agreement are incorporated into this Deed.
- 1.5 If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

**2. COVENANT TO PAY AND GRANT OF SECURITY**

- 2.1 The Invoice Seller shall, on demand, pay to the Invoice Buyer and discharge the Secured Liabilities when they become due.
- 2.2 As a continuing security for the payment and discharge of the Secured Liabilities, the Invoice Seller with full title guarantee:
- (a) charges to the Invoice Buyer by way of a first legal mortgage, all estates or interests in any freehold, leasehold or commonhold property now owned by it, including the real property (if any) specified in Schedule I;
  - (b) charges to the Invoice Buyer by way of a first fixed charge:
    - (i) all present and future estates or interests of the Invoice Seller in, or over, any freehold, leasehold or commonhold property (other than any such property *effectively mortgaged under clause 2.2(a)*);
    - (ii) the benefit of all other contracts, guarantees, appointments and warranties relating to each Charged Property and other documents to which the Invoice Seller is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of any Charged Property or otherwise relating to any Charged Property (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them);
    - (iii) all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business or the use of any Secured Asset, and all rights in connection with them;
    - (iv) all its present and future goodwill;
    - (v) all its uncalled capital;
    - (vi) all the Equipment;
    - (vii) all the Intellectual Property;
    - (viii) all the Book Debts;
    - (ix) all the Investments;
    - (x) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account), together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);

- (xi) all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, to the extent not effectively assigned under clause (c)(c)(i); and
    - (xii) all its rights in respect of each Relevant Agreement and all other agreements, instruments and rights relating to the Secured Assets, to the extent not effectively assigned under clause 2.2(c)(ii).
  - (c) assigns to the Invoice Buyer, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:
    - (i) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and
    - (ii) the benefit of each Relevant Agreement and the benefit of all other agreements, instruments and rights relating to the Secured Assets.
  - (d) charges to the Invoice Buyer by way of first floating charge, all its undertaking, property, assets and rights not otherwise effectively mortgaged, charged or assigned under clause 2.2(a) to clause 2.2(c) inclusive.
- 2.3 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 2.2(d).
- 2.4 Subject to clause 2.4(a) to clause (c), the security created by clause 2.2 shall not apply to an Excluded Property until the Invoice Seller obtains any relevant consent, or waiver of any prohibition, to the creation of security over that Excluded Property.
- (a) In relation to each Excluded Property, the Invoice Seller undertakes to:
    - (i) apply for the relevant consent or waiver of prohibition within five Business Days of the date of this Deed, and to use its best endeavours to obtain that consent or waiver as soon as possible;
    - (ii) keep the Invoice Buyer informed of its progress in obtaining that consent or waiver; and
    - (iii) immediately on receipt of the consent or waiver, provide the Invoice Buyer with a copy of that consent or waiver.
  - (b) Immediately on receipt by the Invoice Seller of the relevant consent or waiver, that Excluded Property shall become the subject of a mortgage or charge (as appropriate) pursuant to clause 2.2.
  - (c) If required by the Invoice Buyer at any time following receipt of that consent or waiver, the Invoice Seller shall, at its own cost, prepare and execute any further documents and take any further action the Invoice Buyer may require, in its absolute discretion, for perfecting its security over that Excluded Property.

2.5 The floating charge created by clause 2.2(d) shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- (a) the Invoice Seller:
  - (i) creates, or attempts to create, without the prior written consent of the Invoice Buyer, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this Deed or the Invoice Discounting Agreement); or
  - (ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Invoice Seller.

2.6 The Invoice Buyer may, in its sole discretion, by written notice to the Invoice Seller, convert the floating charge created under this Deed into a fixed charge as regards any part of the Secured Assets specified by the Invoice Buyer in that notice if:

- (a) an Event of Default is continuing; or
- (b) the Invoice Buyer considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

2.7 Any asset acquired by the Invoice Seller after any crystallisation of the floating charge created under this Deed that, but for that crystallisation, would be subject to a floating charge under this Deed, shall (unless the Invoice Buyer confirms otherwise to the Invoice Seller in writing) be charged to the Invoice Buyer by way of first fixed charge.

### **3. LIABILITY OF THE INVOICE SELLER**

3.1 The Invoice Seller's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Invoice Buyer that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Invoice Buyer 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

- (c) any other act or omission that, but for this clause 3.1, might have discharged, or otherwise prejudiced or affected, the liability of the Invoice Seller.

3.2 The Invoice Seller waives any right it may have to require the Invoice Buyer to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Invoice Seller.

#### **4. REPRESENTATIONS AND WARRANTIES**

4.1 The Invoice Seller represents and warrants to the Invoice Buyer that:

- (a) the Invoice Seller is the sole legal and beneficial owner of, and has good, valid and marketable title to, the Secured Assets;
- (b) the Secured Assets are free from any Security other than Permitted Security and the Security created by this Deed;
- (c) the Invoice Seller has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them;
- (d) there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets;
- (e) there is no breach of any law or regulation that materially and adversely affects the Secured Assets;
- (f) no facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use;
- (g) nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Charged Property;
- (h) no Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Invoice Seller or otherwise;
- (i) there is no prohibition on assignment in any Insurance Policy or Relevant Agreement and the entry into this Deed by the Invoice Seller does not, and will not, constitute a breach of any Insurance Policy, Relevant Agreement or any other policy, agreement, document, instrument or obligation binding on the Invoice Seller or its assets;
- (j) the Invoice Seller has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences;
- (k) this Deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Invoice Seller, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms;
- (l) the Investments are fully paid and are not subject to any option to purchase or similar rights;
- (m) no constitutional document of an issuer of an Investment, nor any other agreement:

- (i) restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this Deed; or
- (ii) contains any rights of pre-emption in relation to the Investments.
- (n) the Invoice Seller has complied with all notices relating to all or any of the Investments received by it pursuant to sections 790D and 790E of the Companies Act 2006; and
- (o) no warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Investments.

4.2 The representations and warranties in clause 4.1 are made on the date of this Deed and deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

## 5. NOTICES TO BE GIVEN BY INVOICE SELLER

5.1 The Invoice Seller shall, on the execution of this Deed and as so requested by the Invoice Buyer from time to time:

- (a) give notice to each counterparty to a Relevant Agreement in the form set out in Part 1 of Schedule 3, and procure that each counterparty provides to the Invoice Buyer promptly an acknowledgement of the notice in the form set out in Part 2 of Schedule 3;
- (b) give notice to each insurer under an Insurance Policy in the form set out in Part 1 of Schedule 4, and procure that each insurer provides to the Invoice Buyer promptly an acknowledgement of the notice in the form set out in Part 2 of Schedule 4; and
- (c) give notice to each bank, financial institution or other person (other than the Invoice Buyer) with whom the Invoice Seller holds an account (including each Designated Account) in the form set out in Part 1 of Schedule 5, and procure that each such bank, financial institution or other person provides to the Invoice Buyer promptly an acknowledgement of the notice in the form of Part 2 of Schedule 5.

5.2 The Invoice Seller shall:

- (a) give the Invoice Buyer such information concerning the location, condition, use and operation of the Secured Assets as the Invoice Buyer may require;
- (b) permit any persons designated by the Invoice Buyer and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice;
- (c) promptly notify the Invoice Buyer in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Invoice Seller's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and

shall, subject to the Invoice Buyer's prior approval, implement those proposals at its own expense; and

- (d) promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Invoice Buyer.

## **6. GENERAL COVENANTS**

6.1 The Invoice Seller shall not at any time, except with the prior written consent of the Invoice Buyer:

- (a) 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 Deed;
- (b) 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 Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

6.2 The Invoice Seller 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 Invoice Buyer, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this Deed.

6.3 The Invoice Seller shall:

- (a) not, without the Invoice Buyer's prior written consent, use or permit the Secured Assets to be used in any way contrary to law;
- (b) comply with the requirements of any law or regulation relating to or affecting the Secured Assets or the use of it or any part of them;
- (c) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset;
- (d) 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 Secured Assets;
- (e) use its best endeavours to:
  - (i) procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Invoice Seller and forming part of the Secured Assets of the covenants and other obligations imposed on such

- counterparty (including each counterparty in respect of a Relevant Agreement and each insurer in respect of an Insurance Policy); and
- (ii) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Invoice Buyer may require from time to time;
- (f) promptly on becoming aware of any of the same, notify the Invoice Buyer in writing of:
- (i) any representation or warranty set out in this Deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
  - (ii) any breach of any covenant set out in this Deed.
- 6.4 as so required by the Invoice Buyer, deposit with the Invoice Buyer and the Invoice Buyer shall, for the duration of this Deed be entitled to hold:
- (a) all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Invoice Seller (and if these are not within the possession or control of the Invoice Seller, the Invoice Seller undertakes to obtain possession of all these deeds and documents of title);
  - (b) all Insurance Policies and any other insurance policies relating to any of the Secured Assets that the Invoice Seller is entitled to possess;
  - (c) all deeds and documents of title (if any) relating to the Book Debts as the Invoice Buyer may specify from time to time; and
  - (d) a copy of each Relevant Agreement, certified to be a true copy by either a director of the Invoice Seller or by the Invoice Seller's solicitors.

## 7. INSURANCE

The Invoice Seller shall:

- 7.1 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 Secured Assets for not less than the replacement value of the relevant Secured Assets with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Invoice Buyer against:
- (a) loss or damage by fire or terrorist acts, including any third party liability arising from such 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 Invoice Seller;
  - (c) property owners' public liability and third party liability insurance; and
  - (d) any other risk, perils and contingencies as the Invoice Buyer may reasonably require.

7.2 if requested by the Invoice Buyer:

- (a) produce to the Invoice Buyer each policy, certificate or cover note relating to any insurance as is required by clause 7.1 (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Invoice Seller is entitled to obtain from the landlord under the terms of the relevant lease); and  
procure that a note of the Invoice Buyer's interest is endorsed on each insurance policy (other than public liability and third party liability insurances) effected or maintained by it or any person on its behalf in accordance with clause 7 but without the Invoice Buyer having any liability for any premium in relation to those insurance policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy.

7.3 ensure that each insurance policy effected or maintained by it or any person on its behalf in accordance with clause 7.1 contains:

- (a) a loss payee clause under which the Invoice Buyer is named as first loss payee (other than in respect of any claim under any public liability and third party liability insurances);
- (b) terms ensuring that it cannot be avoided or vitiated as against the Invoice Buyer by reason of the act or default of any other insured party or any misrepresentation, non-disclosure or failure to make a fair presentation of risk by any other insured party;
- (c) a waiver of each insurer's rights of subrogation against the Invoice Seller, the Invoice Buyer and the tenants of any Charged Property other than any such rights arising in connection with any fraud or criminal offence committed by any of those persons in respect of any Charged Property or any insurance policy; and
- (d) terms ensuring that no insurer can repudiate, rescind or cancel it, treat it as avoided in whole or in part nor treat it as expired due to non-payment of premium without giving at least 30 days' prior written notice to the Invoice Buyer.

7.4 promptly pay all premiums in respect of each insurance policy as is required by clause 7.1 and do all other things necessary to keep that policy in full force and effect and (if the Invoice Buyer so requires) give to the Invoice Buyer copies of the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy as is required by clause 7.1 (or where, in the case of leasehold property, insurance is effected by the landlord, such evidence of the payment of premiums as the Invoice Seller is entitled to obtain from the landlord under the terms of the relevant lease).

7.5 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 as is required by clause 7.1.

7.6 apply monies payable under any insurance policy maintained by the Invoice Seller in accordance with clause 7.1 at any time (whether or not the security constituted by this Deed has become enforceable) in making good or recouping expenditure in respect of the loss or damage for which

those monies are received or, after the security constituted by this Deed has become enforceable and if the Invoice Buyer so directs, in or towards discharge or reduction of the Secured Liabilities.

## **8. PROPERTY COVENANTS**

The Invoice Seller shall:

- 8.1 keep all premises and fixtures and fittings on each Charged Property in good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings which have become worn out or otherwise unfit for use with others of a like nature and equal value.
- 8.2 not, without the prior written consent of the Invoice Buyer:
  - (a) pull down or remove the whole, or any part of, any building forming part of any Charged Property or permit the same to occur;
  - (b) make or permit to be made any material alterations to any Charged Property, or sever or remove or permit to be severed or removed, any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 8.1); or
  - (c) remove or make any material alterations to any of the Equipment belonging to, or in use by, the Invoice Seller on any Charged Property (except to effect necessary repairs or replace them with new or improved models or substitutes);
- 8.3 carry on its trade and business on those parts (if any) of the Charged 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;
- 8.4 give full particulars to the Invoice Buyer of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a **Notice**) that specifically applies to any Charged Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Notice;
- 8.5 (if the Invoice Buyer so requires) immediately, and at the cost of the Invoice Seller, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Invoice Buyer in making, any objections or representations in respect of that Notice that the Invoice Buyer thinks fit;
- 8.6 give full particulars to the Invoice Buyer of any claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to any Charged Property;

- 8.7 observe and perform all covenants, stipulations and conditions to which each Charged Property, or the use of it, is or may be subject, and (if the Invoice Buyer so requires) produce to the Invoice Buyer evidence sufficient to satisfy the Invoice Buyer that those covenants, stipulations and conditions have been observed and performed;
- 8.8 diligently enforce all covenants, stipulations and conditions benefiting each Charged Property and shall not (and shall not agree to) waive, release or vary any of the same;
- 8.9 where a Charged Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time;
- 8.10 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Charged Property or on its occupier;
- 8.11 not, without the prior written consent of the Invoice Buyer:
- (a) grant any licence or tenancy affecting the whole or any part of any Charged Property, or exercise the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925);
  - (b) in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of any Charged Property (or agree to dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Charged Property);
  - (c) let any person into occupation of or share occupation of the whole or any part of any Charged Property; or
  - (d) grant any consent or licence under any lease or licence affecting any Charged Property;
- 8.12 if the title to any Charged Property is not registered at the Land Registry, procure that no person (other than itself) shall be registered under the Land Registration Act 2002 as proprietor of all or any part of any Charged Property, without the prior written consent of the Invoice Buyer;
- 8.13 whether or not title to any Charged Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Invoice Seller's title to any Charged Property, immediately provide the Invoice Buyer with full particulars of the circumstances relating to such caution or notice;
- 8.14 if such caution or notice was registered to protect a purported interest the creation of which is not permitted under this Deed, immediately, and at its own expense, take such steps as the Invoice Buyer may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled;

- 8.15 be liable for the costs and expenses of the Invoice Buyer in lodging cautions against the registration of the title to the whole or any part of any Charged Property from time to time;
- 8.16 not, without the prior written consent of the Invoice Buyer:
- (a) make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of any Charged Property; or
  - (b) carry out or permit or suffer to be carried out on any Charged Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit or suffer to be changed the use of any Charged Property;
- 8.17 in respect of each Charged Property:
- (a) comply with all the requirements of Environmental Law; and
  - (b) obtain and comply with all Environmental Licences;
- 8.18 not, without the prior written consent of the Invoice Buyer, enter into any onerous or restrictive obligations affecting the whole or any part of any Charged Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Charged Property;
- 8.19 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 Charged Property without the prior written consent of the Invoice Buyer;
- 8.20 permit the Invoice Buyer, any Receiver and any person appointed by either of them to enter on and inspect any Charged Property on reasonable prior notice;
- 8.21 inform the Invoice Buyer promptly of any acquisition by the Invoice Seller of, or contract made by the Invoice Seller to acquire, any freehold, leasehold or other interest in any property;
- 8.22 not, without the prior written consent of the Invoice Buyer:
- (a) exercise any VAT option to tax in relation to any Charged Property; or
  - (b) revoke any VAT option to tax exercised, and disclosed to the Invoice Buyer, before the date of this Deed;

and the Invoice Seller consents to an application being made by the Invoice Buyer to the Land Registrar for the following restriction in Form P to be registered against its title to each Charged Property over which the Invoice Buyer has a legal mortgage:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in

favour of [INVOICE BUYER] referred to in the charges register or their conveyancer or specify appropriate details."

## **9. INVESTMENTS COVENANTS**

### **9.1 The Invoice Seller shall:**

- (a) on the execution of this Deed, deposit with the Invoice Buyer, or as the Invoice Buyer may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Invoice Seller at that time;
- (b) on the purchase or acquisition by it of Investments after the date of this Deed, deposit with the Invoice Buyer, or as the Invoice Buyer may direct, all stock or share certificates and other documents of title or evidence of ownership relating to those Investments;
- (c) at the same time as depositing documents with the Invoice Buyer, or as the Invoice Buyer may direct, in accordance with clause 9.1(a), also deposit with the Invoice Buyer, or as the Invoice Buyer may direct:
  - (i) all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Invoice Seller, but with the name of the transferee, the consideration and the date left blank; and
  - (ii) any other documents (in each case duly completed and executed by or on behalf of the Invoice Seller) that the Invoice Buyer may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments;

so that the Invoice Buyer may, at any time and without notice to the Invoice Seller, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration;

- (d) *terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:*
  - (i) does not exercise any rights in respect of any Investments without the prior written approval of the Invoice Buyer; and
  - (ii) immediately on receipt by it, forward to the Invoice Buyer all communications or other information received by it in respect of any Investments for which it has been so nominated;
- (e) *not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person in respect of any of the Investments;*

- (f) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Investments, for the transfer of the Investments to the Invoice Buyer or its nominee, or to a purchaser on enforcement of the security constituted by this Deed; and
- (g) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that the Invoice Buyer may require in order to permit the transfer of the Investments to the Invoice Buyer or its nominee, or to a purchaser on enforcement of the security constituted by this Deed.

9.2 Before the security constituted by this Deed becomes enforceable, the Invoice Seller may:

- (a) retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Invoice Buyer or any of its nominees, the Invoice Buyer will hold all those dividends, interest and other monies received by it for the Invoice Seller and will pay them to the Invoice Seller promptly on request; and
- (b) exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Invoice Buyer or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
  - (i) it shall not do so in any way that would breach any provision of the Invoice Discounting Agreement or this Deed or for any purpose inconsistent with the Invoice Discounting Agreement or this Deed; and
  - (ii) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Invoice Buyer's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Invoice Buyer's security under this Deed.

9.3 The Invoice Seller shall indemnify the Invoice Buyer against any loss or liability incurred by the Invoice Buyer (or its nominee) as a consequence of the Invoice Buyer (or its nominee) acting in respect of the Investments at the direction of the Invoice Seller.

9.4 The Invoice Buyer shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Invoice Buyer considers prejudicial to, or impairing the value of, the security created by this Deed.

9.5 After the security constituted by this Deed has become enforceable:

- (a) all dividends and other distributions paid in respect of the Investments and received by the Invoice Seller shall be held by the Invoice Seller on trust for the Invoice Buyer and immediately paid into a Designated Account or, if received by the Invoice Buyer, may be

applied by the Invoice Buyer in accordance with clause **Error! Reference source not found.**; and

- (b) all voting and other rights and powers attaching to the Investments may be exercised by, or at the direction of, the Invoice Buyer and the Invoice Seller shall, and shall procure that its nominees shall, comply with any directions the Invoice Buyer may give, in its absolute discretion, concerning the exercise of those rights and powers.
- 9.6 Notwithstanding the security created by this Deed, the Invoice Seller shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Invoice Seller acknowledges that the Invoice Buyer shall not be under any liability in respect of any such calls, instalments or other payments.
- 9.7 The Invoice Seller shall not, without the prior written consent of the Invoice Buyer, amend, or agree to the amendment of:
- (a) the memorandum or articles of association, or any other constitutional documents, of any issuer of the Investments that is not a public company; or
  - (b) the rights or liabilities attaching to, or conferred by, all or any of the Investments.
- 9.8 The Invoice Seller shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of any of the Investments (that is not a public company) shall not:
- (a) consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;
  - (b) issue any new shares or stock; or
  - (c) refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, the Invoice Buyer or the Invoice Seller in accordance with this Deed.
- 9.9 The Invoice Seller shall, promptly following receipt, send to the Invoice Buyer copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.
- 9.10 The Invoice Seller shall promptly send a copy to the Invoice Buyer of, and comply with, all requests for information which is within its knowledge and which are made under any law or regulation or any similar provision in any articles of association or other constitutional document, or by any listing or other authority, relating to any of the Investments. If it fails to do so, the Invoice Buyer may elect to provide such information as it may have on behalf of the Invoice Seller.

## 10. EQUIPMENT COVENANTS

The Invoice Seller shall:

- 10.1 maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- 10.2 at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and
- 10.3 not permit any Equipment to be:
  - (a) used or handled other than by properly qualified and trained persons; or
  - (b) overloaded or used for any purpose for which it is not designed or reasonably suitable;
- 10.4 promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Invoice Buyer;
- 10.5 if so requested by the Invoice Buyer, affix to and maintain on each item of Equipment in a conspicuous place, a clearly legible identification plate containing the following wording:

"NOTICE OF CHARGE

This [DESCRIBE ITEM] and all additions to it [and ancillary equipment] are subject to a fixed charge dated [DATE] in favour of [INVOICE BUYER]."
- 10.6 not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 10.5.

## **11. BOOK DEBTS COVENANTS**

The Invoice Seller shall:

- 11.1 as an agent for the Invoice Buyer, collect in and realise all Book Debts, pay the proceeds into a Designated Account immediately on receipt and, pending that payment, hold those proceeds in trust for the Invoice Buyer;
- 11.2 not, without the prior written consent of the Invoice Buyer, withdraw any amounts standing to the credit of any Designated Account;
- 11.3 if called on to do so by the Invoice Buyer, execute a legal assignment of the Book Debts to the Invoice Buyer on such terms as the Invoice Buyer may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred; and
- 11.4 not (except as provided by clauses 11.1 to 11.3 inclusive, or with the prior written consent of the Invoice Buyer) release, exchange, compound, set off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.

## **12. RELEVANT AGREEMENTS COVENANTS**

The Invoice Seller shall:

- 12.1 unless the Invoice Buyer agrees otherwise in writing, comply with the terms of each Relevant Agreement and any other document, agreement or arrangement comprising the Secured Assets; and
- 12.2 not, unless the Invoice Buyer agrees otherwise in writing:
- (a) amend or vary or agree to any change in, or waive any requirement of or its rights under;
  - (b) settle, compromise, terminate, rescind or discharge (except by performance); or
  - (c) abandon, waive, dismiss, release or discharge any action, claim or proceedings against any counterparty to a Relevant Agreement or other person in connection with,
- any Relevant Agreement or any other document, agreement or arrangement comprising the Secured Assets.

## **13. INTELLECTUAL PROPERTY COVENANTS**

The Invoice Seller shall:

- 13.1 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 and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings;
- 13.2 use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Invoice Buyer informed of all matters relating to each such registration; and
- 13.3 not permit any Intellectual Property to be abandoned, cancelled or to lapse.

## **14. POWERS OF THE INVOICE BUYER**

- 14.1 The Invoice Buyer shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Invoice Seller of any of its obligations contained in this Deed.
- 14.2 The Invoice Seller irrevocably authorises the Invoice Buyer and its agents to do all things that are necessary or desirable for that purpose.
- 14.3 Any monies expended by the Invoice Buyer in remedying a breach by the Invoice Seller of its obligations contained in this Deed shall be reimbursed by the Invoice Seller to the Invoice Buyer on a full indemnity basis and shall carry interest in accordance with clause 21.1.
- 14.4 The rights of the Invoice Buyer under clauses 14.1 to 14.3 inclusive are without prejudice to any other rights of the Invoice Buyer under this Deed.

- 14.5 The exercise of any rights of the Invoice Buyer under this Deed shall not make the Invoice Buyer liable to account as a mortgagee in possession.
- 14.6 At any time after the security constituted by this Deed has become enforceable, the Invoice Buyer or any Receiver may, as agent for the Invoice Seller, dispose of any chattels or produce found on any Charged Property.
- 14.7 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 14.6, the Invoice Seller shall indemnify the Invoice Buyer and any Receiver against any liability arising from any disposal made under clause 14.6.
- 14.8 To the extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this Deed has become enforceable, be exercised by the Invoice Buyer in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.
- 14.9 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Invoice Buyer may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this clause 14.9) from their existing currencies of denomination into any other currencies of denomination that the Invoice Buyer may think fit.
- 14.10 Any such conversion shall be effected at [APPROPRIATE REFERENCE BANK]] then prevailing spot selling rate of exchange for such other currency against the existing currency.
- 14.11 Each reference in clauses 14.9 and 14.10 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.
- 14.12 If the Invoice Buyer receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Invoice Buyer may open a new account for the Invoice Seller in the Invoice Buyer's books. Without prejudice to the Invoice Buyer's right to combine accounts, no money paid to the credit of the Invoice Seller in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 14.13 If the Invoice Buyer does not open a new account immediately on receipt of the notice, or deemed notice, under clause 14.12, then, unless the Invoice Buyer gives express written notice to the contrary to the Invoice Seller, all payments made by the Invoice Seller to the Invoice Buyer shall be treated as having been credited to a new account of the Invoice Seller 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 Invoice Buyer.

- 14.14 The Invoice Buyer 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 Deed (whether or not any such person is jointly liable with the Invoice Seller) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this Deed or to the liability of the Invoice Seller for the Secured Liabilities.
- 14.15 The Invoice Buyer may, without notice to the Invoice Seller, appoint any one or more persons to be an Administrator of the Invoice Seller pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Deed becomes enforceable.
- 14.16 Any appointment under clause 14.15 shall:
- (a) be in writing signed by a duly authorised signatory of the Invoice Buyer; and
  - (b) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986;
- 14.17 The Invoice Buyer may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with clause 14.15 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.
- 14.18 The Invoice Buyer covenants with the Invoice Seller that it shall perform its obligations to make advances under the Invoice Discounting Agreement (including any obligation to make available further advances).

**15. WHEN SECURITY BECOMES ENFORCEABLE**

- 15.1 The security constituted by this Deed shall become immediately enforceable if an Event of Default occurs.
- 15.2 After the security constituted by this Deed has become enforceable, the Invoice Buyer 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.

**16. ENFORCEMENT OF SECURITY**

- 16.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- 16.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall be immediately exercisable at any time after the security constituted by this Deed has become enforceable under clause 16.1.
- 16.3 Section 103 of the LPA 1925 does not apply to the security constituted by this Deed.

- 16.4 The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Invoice Buyer and any Receiver, at any time after the security constituted by this Deed has become enforceable, whether in its own name or in that of the Invoice Seller, to:
- (a) grant a lease or agreement for lease;
  - (b) accept surrenders of leases; or
  - (c) grant any option in respect of the whole or any part of the Secured Assets with whatever rights relating to other parts of it.
- whether or not at a premium and containing such covenants on the part of the Invoice Seller, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Invoice Buyer or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.
- 16.5 At any time after the Invoice Buyer has demanded payment of the Secured Liabilities or if the Invoice Seller defaults in the performance of its obligations under this Deed or the Invoice Discounting Agreement, the Invoice Seller will allow the Invoice Buyer or its Receiver, 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 Invoice Buyer or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Invoice Seller for, or by any reason of, that entry.
- 16.6 At all times, the Invoice Seller must use its best endeavours to allow the Invoice Buyer or its Receiver access to any premises for the purpose of clause 16.5 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.
- 16.7 At any time after the security constituted by this Deed has become enforceable, or after any powers conferred by any Security having priority to this Deed shall have become exercisable, the Invoice Buyer may:
- (a) redeem any prior Security over any Secured Asset;
  - (b) procure the transfer of that Security to itself; and
  - (c) settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Invoice Seller).
  - (d) The Invoice Seller shall pay to the Invoice Buyer immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this Deed as part of the Secured Liabilities.
- 16.8 No purchaser, mortgagee or other person dealing with the Invoice Buyer, any Receiver or any Delegate shall be concerned to enquire:

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
  - (b) whether any power the Invoice Buyer, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
  - (c) how any money paid to the Invoice Buyer, any Receiver or any Delegate is to be applied.
- 16.9 Each Receiver and the Invoice Buyer is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.
- 16.10 Neither the Invoice Buyer nor any Receiver or Delegate shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.
- 16.11 The receipt of the Invoice Buyer, 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 Secured Assets or in making any acquisition in the exercise of their respective powers, the Invoice Buyer, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.
- 16.12 To the extent that:
- (a) the Secured Assets constitute Financial Collateral; and
  - (b) this Deed and the obligations of the Invoice Seller under it constitute a Security Financial Collateral Arrangement,
- the Invoice Buyer shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Invoice Buyer may, in its absolute discretion, determine.
- 16.13 The value of any Secured Assets appropriated in accordance with clause 16.12 shall:
- (a) in the case of cash, be the amount standing to the credit of each of the Invoice Seller's accounts with any bank, financial institution or other person, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and
  - (b) in the case of Investments, be the market price of those Investments at the time the right of appropriation is exercised determined by the Invoice Buyer by reference to a recognised market index or by any other method that the Invoice Buyer may select (including independent valuation).
- 16.14 The Invoice Seller agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

## **17. RECEIVER**

- 17.1 At any time after the security constituted by this Deed has become enforceable, or at the request of the Invoice Seller, the Invoice Buyer may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.
- 17.2 The Invoice Buyer may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, 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.
- 17.3 The Invoice Buyer may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this Deed, to the extent not otherwise discharged.
- 17.4 The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of the Invoice Buyer under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.
- 17.5 The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be, and remain, exercisable by the Invoice Buyer despite any prior appointment in respect of all or any part of the Secured Assets.
- 17.6 Any Receiver appointed by the Invoice Buyer under this Deed shall be the agent of the Invoice Seller and the Invoice Seller 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 Invoice Seller goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Invoice Buyer.

## **18. POWERS OF RECEIVER**

- 18.1 Any Receiver appointed by the Invoice Buyer under this Deed shall, in addition to the powers conferred on it by statute, have the rights, powers and discretions set out in clause 18.2 to 18.5 inclusive.
- 18.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.
- 18.3 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

- 18.4 Any exercise by a Receiver of any of the powers given by clause 18 may be on behalf of the Invoice Seller, the directors of the Invoice Seller (in the case of the power contained in clause 18.5(p) ) or itself.
- 18.5 A Receiver may:
- (a) undertake or complete any works of repair, alteration, building or development on the *Charged 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;
  - (b) grant, or accept, surrenders of any leases or tenancies affecting any Secured Asset on any terms, and subject to any conditions, that it thinks fit;
  - (c) 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 it thinks fit;
  - (d) discharge any such person or any such person appointed by the Invoice Seller;
  - (e) make, exercise or revoke any VAT option to tax as it thinks fit;
  - (f) charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Invoice Buyer may prescribe or agree with it;
  - (g) take immediate possession of, get in and realise any Secured Asset;
  - (h) carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Invoice Seller;
  - (i) sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it 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 Secured Assets to be sold;
  - (j) sever and sell separately any fixtures or fittings from any Charged Property without the consent of the Invoice Seller;
  - (k) sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit;
  - (l) give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets;
  - (m) settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Invoice Seller or relating in any way to any Secured Asset;

- (n) bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit;
- (o) may make substitutions of, or improvements to, the Equipment as it may think expedient;
- (p) *make calls conditionally or unconditionally on the members of the Invoice Seller 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 Invoice Seller on its directors in respect of calls authorised to be made by them;*
- (q) if it thinks fit, but without prejudice to the indemnity in clause 21, 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 Invoice Seller under this Deed;
- (r) form a subsidiary of the Invoice Seller and transfer to that subsidiary any Secured Asset;
- (s) *for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Invoice Buyer consents, terms under which that security ranks in priority to this Deed);*
- (t) 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 Invoice Seller, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver;
- (u) delegate its powers in accordance with this Deed;
- (v) in relation to any of the Secured Assets, exercise all powers, authorisations and rights it would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do, in the ownership and management of the Secured Assets or any part of the Secured Assets; and  
do any other acts and things that it:
  - (i) may consider desirable or necessary for realising any of the Secured Assets;
  - (ii) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; or
  - (iii) lawfully may or can do as agent for the Invoice Seller.

## **19. DELEGATION**

- 19.1 The Invoice Buyer 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 Deed (including the power of attorney granted under clause 23.2).

- 19.2 The Invoice Buyer and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.
- 19.3 Neither the Invoice Buyer nor any Receiver shall be in any way liable or responsible to the Invoice Seller for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

**20. APPLICATION OF PROCEEDS**

- 20.1 All monies received or recovered by the Invoice Buyer, a Receiver or a Delegate under this Deed or in connection with the realisation or enforcement of all or part of the security constituted by this Deed (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Invoice Buyer's right to recover any shortfall from the Invoice Seller):
- (a) in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Invoice Buyer (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Deed, and of all remuneration due to any Receiver under or in connection with this Deed;
  - (b) in or towards payment of the Secured Liabilities in any order and manner that the Invoice Buyer determines; and
  - (c) in payment of the surplus (if any) to the Invoice Seller or other person entitled to it.
- 20.2 Neither the Invoice Buyer, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) 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.
- 20.3 All monies received by the Invoice Buyer, a Receiver or a Delegate under this Deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):
- (a) may, at the discretion of the Invoice Buyer, Receiver or Delegate, be credited to a suspense account;
  - (b) shall bear interest, if any, at the rate agreed in writing between the Invoice Buyer and the Invoice Seller; and
  - (c) may be held in that account for so long as the Invoice Buyer, Receiver or Delegate thinks fit.

**21. COSTS AND INDEMNITY**

21.1 The Invoice Seller shall, promptly on demand, pay to, or reimburse, the Invoice Buyer 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 Invoice Buyer, any Receiver or any Delegate in connection with:

- (a) this Deed or the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Invoice Buyer's, a Receiver's or a Delegate's rights under this Deed, or
- (c) 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, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of the Invoice Seller) at the rate and in the manner specified in the Invoice Discounting Agreement.

21.2 The Invoice Seller shall indemnify the Invoice Buyer, 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:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Deed or by law in respect of the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Deed; or
- (c) any default or delay by the Invoice Seller in performing any of its obligations under this Deed.

21.3 Any past or present employee or agent may enforce the terms of this clause 21 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

**22. ASSIGNMENT AND TRANSFER**

22.1 At any time, without the consent of the Invoice Seller, the Invoice Buyer may assign or transfer any or all of its rights and obligations under this Deed.

22.2 The Invoice Buyer may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Invoice Seller, the Secured Assets and this Deed that the Invoice Buyer considers appropriate.

- 22.3 The Invoice Seller may not assign any of its rights, or transfer any of its rights or obligations, under this Deed.

**23. MISCELLANEOUS AND GENERAL**

- 23.1 The Invoice Seller shall promptly, at its own expense, take whatever action the Invoice Buyer or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security created or intended to be created by this Deed;
- (b) facilitating the realisation of any Secured Asset; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Invoice Buyer or any Receiver in respect of any Secured Asset,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Invoice Buyer or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Invoice Buyer may consider necessary or desirable.

- 23.2 By way of security, the Invoice Seller irrevocably appoints the Invoice Buyer, every Receiver and every Delegate separately to be the attorney of the Invoice Seller and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) the Invoice Seller is required to execute and do under this Deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Invoice Buyer, any Receiver or any Delegate:

and the Invoice Seller 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 this clause;

- 23.3 Subject to clause 24.3, at the end of the Security Period, the Invoice Buyer shall, at the request and cost of the Invoice Seller, take whatever action is necessary to:

- (a) release the Secured Assets from the security constituted by this Deed; and
- (b) reassign the Secured Assets to the Invoice Seller.

- 23.4 The Invoice Buyer may at any time set off any liability of the Invoice Seller to the Invoice Buyer against any liability of the Invoice Buyer to the Invoice Seller, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Deed. If the liabilities to be set off are expressed in different currencies, the Invoice Buyer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Invoice

Buyer of its rights under this clause 23.4 shall not limit or affect any other rights or remedies available to it under this Deed or otherwise.

- 23.5 The Invoice Buyer is not obliged to exercise its rights under clause 23.4. If, however, it does exercise *those rights* it must promptly notify the Invoice Seller of the set-off that has been made.
- 23.6 All payments made by the Invoice Seller to the Invoice Buyer under this Deed 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).
- 23.7 No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).
- 23.8 A waiver of any right or remedy under this Deed or by law, or any consent given under this Deed, 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.
- 23.9 A failure or delay by a party to exercise any right or remedy provided under this Deed 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 Deed. No single or partial exercise of any right or remedy provided under this Deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Deed by the Invoice Buyer shall be effective unless it is in writing.
- 23.10 The rights and remedies provided under this Deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.
- 23.11 If any provision (or part of a provision) of this Deed 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 Deed.
- 23.12 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- 23.13 Transmission of the executed signature page of a counterpart of this Deed by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus

made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

- 23.14 No counterpart shall be effective until each party has executed and delivered at least one counterpart.
- 23.15 Except as expressly provided elsewhere in this Deed, a person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 23.16 The rights of the parties to rescind or agree any amendment or waiver under this Deed are not subject to the consent of any other person.

#### **24. FURTHER PROVISIONS**

- 24.1 The security constituted by this Deed shall be in addition to, and independent of, any other security or guarantee that the Invoice Buyer may hold for any of the Secured Liabilities at any time. No prior security held by the Invoice Buyer over the whole or any part of the Secured Assets shall merge in the security created by this Deed.
- 24.2 The security constituted by this Deed 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 Invoice Buyer discharges this Deed in writing.
- 24.3 Any release, discharge or settlement between the Invoice Seller and the Invoice Buyer shall be deemed conditional on no payment or security received by the Invoice Buyer in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:
- (a) the Invoice Buyer or its nominee may retain this Deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Invoice Buyer deems necessary to provide the Invoice Buyer with security against any such avoidance, reduction or order for refund; and
  - (b) the Invoice Buyer may recover the value or amount of such security or payment from the Invoice Seller subsequently as if the release, discharge or settlement had not occurred.
- 24.4 A certificate or determination by the Invoice Buyer as to any amount for the time being due to it from the Invoice Seller under this Deed and the Invoice Discounting Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.
- 24.5 The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this Deed.

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

- (a) an event under this Deed which causes any floating charge created by this Deed to crystallise;
- (b) an event under this Deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Invoice Seller; or
- (c) a ground under this Deed for the appointment of a Receiver.

## 25. NOTICES

25.1 Any notice or other communication given to a party under or in connection with this Deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and
- (c) sent to:

(i) the Invoice Seller at:

[ADDRESS]

Fax: [NUMBER]

Attention: [NAME]

(ii) the Invoice Buyer at:

[ADDRESS]

Fax: [NUMBER]

Attention: [NAME]

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

25.2 Any notice or other communication that the Invoice Buyer gives to the Invoice Seller shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address;
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- (c) if sent by fax, when received in legible form.

A notice or other communication given as described in clause 25.2(a) or clause 25.2(c) 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.

- 25.3 Any notice or other communication given to the Invoice Buyer shall be deemed to have been received only on actual receipt.
- 25.4 This clause 25 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.
- 25.5 A notice or other communication given under or in connection with this Deed is not valid if sent by email.

**26. GOVERNING LAW AND JURISDICTION**

- 26.1 This Deed 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 England and Wales.
- 26.2 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 Deed or its subject matter or formation. Nothing in this clause shall limit the right of the Invoice Buyer to take proceedings against the Invoice Seller 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.
- 26.3 The Invoice Seller irrevocably appoints [NAME] of [ADDRESS] [FAX NUMBER] as its agent to receive, on its behalf in England or Wales, service of any proceedings under clause 26.2 above, and such service shall be deemed completed on delivery to such agent (whether or not it is forwarded to and received by the Invoice Seller) and shall be valid until such time as the Invoice Buyer has received prior written notice from the Invoice Seller that such agent has ceased to act as agent.
- 26.4 If for any reason such agent ceases to be able to act as agent or no longer has an address in England or Wales, the Invoice Seller shall immediately appoint a substitute acceptable to the Invoice Buyer and deliver to the Invoice Buyer the new agent's name, address within England and Wales.
- 26.5 The Invoice Seller irrevocably consents to any process in any legal action or proceedings under clause 26.2 being served on it in accordance with the provisions of this Deed relating to service of notices.
- 26.6 Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law.

**THIS DOCUMENT** has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

**EXECUTED AND DELIVERED** as a Deed by the )  
Invoice Seller, acting by CRAIG RICHARDS )  
a director and by a director/its)  
secretary OR by a director in )  
the presence of: )

DocuSigned by  
Craig Richards  
1017055924C949D

Director

Director/Secretary

Witness signature: [Signature]

Witness name: Jeremy CARVALHO

Witness address: Farley court, Allsop

PI, Marylebone

Witness occupation: postgraduated student

**EXECUTED AND DELIVERED** as a Deed by the )  
Invoice Buyer, acting by DARREN WILLIAMS )  
a director and by a director/its)  
secretary OR by a director in )  
the presence of: )

DocuSigned by  
DARREN WILLIAMS  
278442B09F4A4F8

Director

Director/Secretary

Witness signature: [Signature]

Witness name: Jeremy CARVALHO

Witness address: Farley court, Allsop

PI, Marylebone

Witness occupation: postgraduated student

## **Schedule 1      Real Property**

### **Part 1   Registered Property**

[DETAILS OF REGISTERED PROPERTY, INCLUDING TITLE NUMBER]

### **Part 2   Unregistered Property**

[DETAILS OF UNREGISTERED PROPERTY]

### **Part 3   [Excluded Property]**

[DETAILS OF EXCLUDED PROPERTY, INCLUDING TITLE NUMBER IF REGISTERED]

## **Schedule 2      Relevant Agreements**

Type of contract: INVOICE DISCOUNTING AGREEMENT

Date:

Parties: INVOICE SELLER:

INVOICE BUYER: POPULOUS WORLD LIMITED

## **Schedule 3      Notice and acknowledgement - Relevant Agreement**

### **Part 1   Form of notice**

*[On the letterhead of the Invoice Seller]*

[NAME OF COUNTERPARTY]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear [NAME OF ADDRESSEE],

**Debenture (Debenture) dated [DATE] between [INVOICE SELLER] and [INVOICE BUYER]**

We refer to the [DESCRIBE RELEVANT AGREEMENT] (Contract).

This letter constitutes notice to you that under the Debenture (a copy of which is attached) we have charged or assigned, by way of security, to [INVOICE BUYER] (**Invoice Buyer**) all our rights in respect of the Contract.

We confirm that:

- We will remain liable under the Contract to perform all the obligations assumed by us under the Contract.
- Neither the Invoice Buyer nor any receiver or delegate appointed by the Invoice Buyer will at any time be under any obligation or liability to you under or in respect of the Contract.

Neither the Debenture nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Contract.

Subject to the above, we will remain entitled to exercise all our rights, powers and discretions under the Contract and you may continue to deal with us in relation to the Contract and give notices under the Contract to us unless and until you receive written notice to the contrary from the Invoice Buyer. Thereafter, all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Invoice Buyer or as it directs and we will cease to have any right to deal with you in relation to the Contract and you must deal only with the Invoice Buyer.

Please note that we have agreed that we will not amend or waive any provision of or terminate the Contract without the prior written consent of the Invoice Buyer.

The instructions in this notice may only be revoked or amended with the prior written consent of the Invoice Buyer.

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by sending the attached acknowledgement to the Invoice Buyer at [ADDRESS OF INVOICE BUYER], with a copy to us.

This notice, 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 England and Wales.

Yours sincerely,

.....

[NAME OF INVOICE SELLER]

**Part 2 Form of acknowledgement**

*{On the letterhead of the counterparty}*

[NAME OF INVOICE BUYER]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear [NAME OF ADDRESSEE],

**Debenture (Debenture) dated [DATE] between [INVOICE SELLER] and [INVOICE BUYER]**

We confirm receipt from [INVOICE SELLER] (**Invoice Seller**) of a notice (**Notice**) dated [DATE] of a charge or an assignment, by way of security, of all the Invoice Seller's rights under [DESCRIBE RELEVANT AGREEMENT] (**Contract**).

Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- We accept the confirmations and instructions contained in the Notice and agree to comply with the Notice.
- There has been no amendment, waiver or release of any rights or interests in the Contract since the date of the Contract.
- We will not cancel, avoid, release or otherwise allow the Contract to lapse without giving the Invoice Buyer at least 30 days' prior written notice.
- We have not, as at the date of this acknowledgement, received notice that the Invoice Seller has assigned its rights under the Contract to a third party, or created any other interest (whether by way of security or otherwise) in the Contract in favour of a third party.
- The Invoice Buyer will not in any circumstances have any liability in relation to the Contract.
- The Contract shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Invoice Buyer.

This letter, 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 England and Wales.

Yours sincerely,

.....

[COUNTERPARTY]

#### **Schedule 4 Notice and acknowledgement - Insurance Policy**

##### **Part 1 Form of notice**

*[On the letterhead of the Invoice Seller]*

[NAME OF INSURANCE COMPANY]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear [NAME OF ADDRESSEE],

**Debenture (Debenture) dated [DATE] between [INVOICE SELLER] and [INVOICE BUYER]**

We refer to the [DESCRIBE INSURANCE POLICY AND SPECIFY ITS POLICY NUMBER] (Policy).

This letter constitutes notice to you that under the Debenture (a copy of which is attached) we have charged or assigned, by way of security, to [INVOICE BUYER] (Invoice Buyer) all our rights in respect of the Policy (including all claims and all returns of premium in connection with the Policy).

We irrevocably instruct and authorise you to:

- Note the Invoice Buyer's interest on the Policy as [DESCRIBE NOTATION REQUIRED BY INVOICE BUYER TO BE ENDORSED ON POLICY, FOR EXAMPLE, "FIRST MORTGAGEE"] and first loss payee.
- Comply with the terms of any written instructions received by you from the Invoice Buyer relating to the Policy, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions.
- Hold all sums from time to time due and payable by you to us under the Policy to the order of the Invoice Buyer.
- Pay, or release, all monies to which we are entitled under the Policy to the Invoice Buyer, or to such persons as the Invoice Buyer may direct.
- Disclose information in relation to the Policy to the Invoice Buyer on request by the Invoice Buyer.

Neither the Debenture nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Policy.

Subject to the foregoing, you may continue to deal with us in relation to the Policy until you receive written notice to the contrary from the Invoice Buyer. Thereafter, we will cease to have any right to deal with you in relation to the Policy and you must deal only with the Invoice Buyer.

The instructions in this notice may only be revoked or amended with the prior written consent of the Invoice Buyer.

Please confirm that you agree to the terms of this notice and to act in accordance with its provisions by sending the attached acknowledgement to the Invoice Buyer at [ADDRESS OF INVOICE BUYER], with a copy to us.

This notice, 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 England and Wales.

Yours sincerely,

.....

[NAME OF INVOICE SELLER]

## Part 2 Form of acknowledgement

*[On the letterhead of the insurance company]*

[NAME OF INVOICE BUYER]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear [NAME OF ADDRESSEE],

### **Debenture (Debenture) dated [DATE] between [INVOICE SELLER] and [INVOICE BUYER]**

We confirm receipt from [INVOICE SELLER] (**Invoice Seller**) of a notice (**Notice**) dated [DATE] of a charge or an assignment, by way of security, of all the Invoice Seller's rights under [DESCRIBE INSURANCE POLICY AND ITS NUMBER] (**Policy**).

Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- We accept the instructions and authorisations contained in the Notice and agree to comply with the Notice.
- We have noted the Invoice Buyer's interest on the Policy as [DESCRIBE NOTATION REQUIRED BY INVOICE BUYER TO BE ENDORSED ON POLICY, FOR EXAMPLE, "FIRST MORTGAGEE AND FIRST LOSS PAYEE" OR AS "CO-INSURED"].
- There has been no amendment, waiver or release of any rights or interests in the Policy since the date the Policy was issued.

- We will not cancel, avoid, release or otherwise allow the Policy to lapse without giving the Invoice Buyer at least 30 days' prior written notice.
- We have not, as at the date of this acknowledgement, received notice that the Invoice Seller has assigned its rights under the Policy to a third party, or created any other interest (whether by way of security or otherwise) in the Policy in favour of a third party.
- The Invoice Buyer will not in any circumstances be liable for the premiums in relation to the Policy.
- The Policy shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Invoice Buyer.

This letter, 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 England and Wales.

Yours sincerely,

.....

[INSURER]

## **Schedule 5 Notice and acknowledgement - bank account**

### **Part 1 Form of notice**

*[On the letterhead of the Invoice Seller]*

[BANK, FINANCIAL INSTITUTION OR OTHER PERSON]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear [NAME OF ADDRESSEE].

**Debenture (Debenture) dated [DATE] between [INVOICE SELLER] and [INVOICE BUYER]**

This letter constitutes notice to you that under the Debenture (a copy of which is attached) we have charged, by way of first fixed charge, in favour of [INVOICE BUYER] (**the Invoice Buyer**) all monies from time to time standing to the credit of the account held with you and detailed below (**the Account**),

together with all other rights and benefits accruing to or arising in connection with the Account (including, but not limited to, entitlements to interest):

**Name of Account:** [NAME OF ACCOUNT]

**Sort code:** [SORT CODE]

**Account number:** [ACCOUNT NUMBER]

We irrevocably instruct and authorise you to:

- Disclose to the Invoice Buyer any information relating to the Account requested from you by the Invoice Buyer.
- Comply with the terms of any written notice or instructions relating to the Account received by you from the Invoice Buyer.
- Hold all sums from time to time standing to the credit of the Account to the order of the Invoice Buyer.
- Pay or release all or any part of the monies standing to the credit of the Account in accordance with the written instructions of the Invoice Buyer.

We acknowledge that you may comply with the instructions in this notice without any further permission from us.

We are not permitted to withdraw any amount from the Account without the prior written consent of the Invoice Buyer

The instructions in this notice may only be revoked or amended with the prior written consent of the Invoice Buyer.

This notice, 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 England and Wales.

Please acknowledge receipt of this notice and confirm that you agree to its terms and to act in accordance with its provisions by sending the attached acknowledgement to the Invoice Buyer at [ADDRESS OF INVOICE BUYER], with a copy to us.

Yours sincerely,

Signed.....

[NAME OF INVOICE SELLER]

## **Part 2 Form of acknowledgement**

*[On the letterhead of the bank, financial institution or other person]*

[INVOICE BUYER]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear [NAME OF ADDRESSEE],

**Debenture (Debenture) dated [DATE] between [INVOICE SELLER] and [INVOICE BUYER]**

We confirm receipt from [INVOICE SELLER] (**the Invoice Seller**) of a notice (**the Notice**) dated [DATE] of a charge (on the terms of the Debenture) over all monies from time to time standing to the credit of the account detailed below (**the Account**), together with all other rights and benefits accruing to or arising in connection with the Account (including, but not limited to, entitlements to interest).

We confirm that we:

- Accept the instructions contained in the Notice and agree to comply with the Notice.
- Have not received notice of the interest of any third party in the Account.
- Have neither claimed nor exercised, nor will claim or exercise any security interest, set-off, counter-claim or other right in respect of the Account.

The Account is:

**Name of Account:** [NAME OF ACCOUNT]

**Sort code:** [SORT CODE]

**Account number:** [ACCOUNT NUMBER]

This letter, 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 England and Wales.

Yours sincerely,

Signed.....

[NAME OF BANK, FINANCIAL INSTITUTION OR OTHER PERSON]

**EXECUTED AND DELIVERED** as a Deed by the )  
Invoice Seller, acting by )  
a director and by a director/its)  
secretary OR by a director in )  
the presence of: )

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

Witness signature: \_\_\_\_\_

Witness name: \_\_\_\_\_

Witness address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Witness occupation: \_\_\_\_\_