



Registration of a Charge

Company Name: **CXC GLOBAL EMEA UK LIMITED**

Company Number: **10401438**



Received for filing in Electronic Format on the: **27/01/2022**

XAWKXRD4

Details of Charge

Date of creation: **20/01/2022**

Charge code: **1040 1438 0001**

Persons entitled: **CAPITALFLOW DESIGNATED ACTIVITY COMPANY**

Brief description:

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **JOHN MACKEY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10401438

Charge code: 1040 1438 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th January 2022 and created by CXC GLOBAL EMEA UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th January 2022 .

Given at Companies House, Cardiff on 28th January 2022

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



Companies House



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

CXC GLOBAL EMEA UK LTD

CAPITALFLOW DESIGNATED ACTIVITY COMPANY

ALL CHARGE DEBENTURE
governed by the laws of England

I certify that, save for material redacted pursuant to S.8596 of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

John Mackay
20/1/2022

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THIS DEBENTURE is made on 20/01/2022.

BETWEEN:

- (1) **CXC GLOBAL EMEA UK LTD**, a company incorporated in England and Wales with registered number 10401438 with its registered office at 81A Bellgrove Road, Welling, Kent (the "**Chargor**"); and
- (2) **CAPITALFLOW DESIGNATED ACTIVITY COMPANY**, a company limited by shares incorporated under the laws of Ireland with registration number 568641 and whose registered office is at Second floor, Block A, The Crescent Building, Northwood Business Park, Santry, Dublin 9, D09 X8W3 (the "**Company**")

RECITALS:

- A. From time to time the Company has made, or will make, invoice discounting facilities ("**Facilities**" and each a "**Facility**") available, either to the Chargor, or to another person and the Chargor has guaranteed the obligations of that other person.
- B. It is one of the conditions of the availability of the Facilities that the Chargor executes and delivers this Deed and provides the Company with the Security Interests created by this Deed.
- C. The directors of the Chargor are satisfied that it is in the best interests of and for the corporate benefit of the Chargor to enter into this Deed.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Deed, including in the Recitals, except where the context otherwise requires, words and expressions defined in the Invoice Discounting Agreement shall have the same meaning when used in this Deed, and:

"**Account Bank**", [CF Bank account] or such other bank with which the Trust Account or any other Security Account is maintained from time to time;

"**Act**", the Law of Property Act 1925;

"**Agreement for Lease**" means an agreement to grant an Occupational Lease for all or part of the Property;

"**Assigned Assets**", the assets and property expressed to be assigned by way of security pursuant to Clause 4.3 (*Security Assignments*) and such expression shall include any part or parts of the Assigned Assets;

"Book Debts", all present and future book debts and other debts, rentals, sales proceeds, royalties, fees, revenues, value added tax and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, the Chargor (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with:

- (a) the benefit of all rights, guarantees, Security Interests and remedies relating to any of the foregoing (including claims for damages and other remedies for non-payment of the same, all entitlements to interest, negotiable and non-negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights);
- (b) all things in action which may give rise to a debt, revenue or claim and all other rights and remedies of whatever nature in respect of the same; and
- (c) all proceeds of any of the foregoing,

of the Chargor (including any VAT thereon);

"Business Day", a day (other than a Saturday, Sunday or public holiday) on which banks generally are open for business in London;

"Charged Investments", the Charged Securities and all present and future CS Related Rights accruing to all or any of the Charged Securities;

"Charged Securities":

- (a) the Shares; and
- (b) all other stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities now or in the future owned (legally or beneficially) by the Chargor or held by any nominee on its behalf or in which the Chargor has an interest at any time;

"Companies Act", the Companies Act 2006;

"CS Related Rights", in relation to any Charged Securities:

- (a) all dividends, distributions and other income paid or payable on the relevant Charged Securities or any asset referred to in paragraph (ii) below;
- (b) all rights, monies or property accruing or offered at any time in relation to the Charged Securities whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

"Debts", shall have the meaning given to it in the Invoice Discounting Agreement;

"Default Rate", the higher of (i) 7.5% per annum above three month LIBOR rate as administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate); if such rate shall be below 0.01%, LIBOR shall be deemed to be 0.01% or (ii) 7.5%;

"Equipment", the assets, equipment and chattels specified in Part 2 (Chattels) of Schedule 2 (Details of Security Assets) including, as the context admits, the whole or any part or parts thereof and all additions, alterations, accessories, replacements and renewals of component parts thereto;

"Finance Documents", the Invoice Discounting Agreement, each Security Document and each document including this Deed to which the Chargor and the Company are party at any time or pursuant to which assets are purchased by or assigned to the Company or pursuant to which any Facility is made available;

"Fixtures and Fittings", all present and future, fixed and moveable fixtures and fittings (including trade fixtures and fittings) and fixed plant, machinery, equipment, implements, motor vehicles and utensils from time to time on any freehold or leasehold property charged by or pursuant to this Deed or otherwise thereon or owned by the Chargor from time to time, including, but not limited to the fixtures, fittings, plant, machinery, equipment, implements, motor vehicles and utensils set out in Part 8 of Schedule 2 (Fixtures and Fittings);

"Floating Charge Property", the property, assets and undertaking charged pursuant to Clause 5 of this Deed;

"Guarantee", each document pursuant to which any person purports to guarantee, grant an indemnity in respect of, or stand as surety for any Secured Obligations;

"Guarantor", each person who grants a Guarantee at any time;

"Insolvency Act", the Insolvency Act 1986;

"Insurances", all policies of insurance (including, for the avoidance of doubt, all cover notes (including (but not limited to) those specified in Part 4 (Insurances) of Schedule 2 (Details of Security Assets)) which are at any time held by or written in favour of the Chargor or in which the Chargor from time to time has an interest (to the extent of such interest) and (including, in each case, all keyman policies) all claims, proceeds and returns of premiums of each such contract and policy;

"Intellectual Property", all present or future legal and/or equitable interests of the Chargor (including, without limitation, the benefit of all licences in any part of the world) in or relating to registered and unregistered trade marks and service marks, patents, registered designs, utility

models, applications for any of the foregoing, trade names, copyrights, design rights, unregistered designs, inventions, confidential information, know-how, registerable business names, database rights, domain names and any other rights of every kind deriving from or through the exploitation of any of the aforementioned rights of the Chargor and all fees, royalties and other rights and benefits of any kind deriving from any of the above and which now or at any time hereafter belong to the Chargor including but not limited to those listed in Part 5 of Schedule 2 (Intellectual Property);

"Invoice Discounting Agreement", each invoice discounting agreement entered into between the Chargor and the Company (as amended, varied, restated or replaced from time to time) including, but not limited to, the invoice discounting agreement dated on or about the date of this Deed between the Chargor and the Company and **"Invoice Discounting Agreements"** shall be construed accordingly;

"Lease Document":

- (a) an Agreement for Lease;
- (b) an Occupational Lease; or
- (c) any other document designated as such by the Company and the Chargor;

"Licences", all licences now or from time to time hereafter held by or on behalf of the Chargor and all licences pertaining to the Property, including but not limited to the licences specified in Part 9 of Schedule 2 (Licences), as the same may be amended, varied, extended, renewed or supplemented from time to time, including the benefit of any authorisation (statutory or otherwise) held in connection with the use of any of the Security Assets and the right to recover and receive compensation which may be payable to it in respect of any such authorisation and/or licence;

"Obligors", the Guarantors from time to time and the Chargor;

"Occupational Lease" means any lease or licence or other right of occupation or right to receive rent to which a Property may at any time be subject and includes any guarantee of a tenant's obligations under the same;

"Payment Obligations", all present and future debts (other than Debts and Book Debts) and monetary claims and all other amounts (whether ascertained or not) recoverable or receivable by the Chargor or due or owing to the Chargor;

"Permitted Disposal", any sale, transfer, lease, loan or other disposal at arm's length for full market value in the ordinary course of trading of any Security Asset not listed in Clause 4.2 (*Fixed Charges*) or Clause 4.3 (*Security Assignments*) and in respect of which the floating charge has not crystallised;

"Permitted Security Interest", any Security Interest created under this Deed or to which the Company has given its prior written consent;

"Planning Laws", all laws in any jurisdiction (whether criminal, civil or administrative) including common law, statute, statutory instruments, directives, regulations, bye-laws, orders, codes, judgments and other matters having the force of law concerning planning matters;

"Property", all estates and interests in freehold, leasehold and other immovable property (wherever situated) now or in the future belonging to the Chargor or in which the Chargor has an interest at any time (including, but not limited to, the registered and unregistered land (if any) in England and Wales specified in Part 1 (Property) of Schedule 2 (Details of Security Assets)) and:

- (a) all buildings and fixtures (including trade fixtures) and fixed plant and machinery at any time thereon;
- (b) all easements, servitudes, rights and agreements in respect thereof;
- (c) all proceeds of sale of that property; and
- (d) the benefit of all covenants given in respect thereof;

"Rate of Exchange", on a particular day, the rate of exchange which the Company or the Receiver as the case may be (or their respective agents or nominees) is able to obtain for purchasing or selling the relevant currency in order to convert it from or into Sterling as may be required in order to satisfy the relevant obligations;

"Receivables":

- (a) the Debts and all Related Rights;
- (b) Book Debts;
- (c) Payment Obligations; and
- (d) Refundables;

"Receiver", any receiver or administrator appointed by the Company pursuant to this Deed, any statute or otherwise;

"Refundables", all present and future amounts paid or payable to the Chargor in respect of, or entitlements to claim payment or repayment of, any Taxes, insurance premiums or other overpayments paid by or on behalf of the Chargor;

"Related Rights", shall have the meaning given to it in the Invoice Discounting Agreement;

"Relevant Contracts", each contract, agreement and instrument assigned or purported to be assigned pursuant to Clause 4.3.7 (as the same may be amended, substituted, supplemented or otherwise modified or replaced), and the other contracts, agreements and instruments, listed in Part 6 of Schedule 2 (Relevant Contracts);

"Relevant Jurisdiction", in relation to the Chargor:

- (a) its jurisdiction of incorporation;
- (b) any jurisdiction where any asset subject to or intended to be subject to the Security to be created by it is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it;

"Report on Title", any report on title in relation to the Property provided or to be provided by or on behalf of the Chargor to the Company;

"Secured Obligations":

- (a) all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone, as principal or surety, or in any other capacity whatsoever and whether the Company shall have been an original party to the relevant transaction or document) of the Chargor to the Company or an Affiliate (whether on its own account or on behalf of any other party) at any time (including all monies covenanted to be paid under this Deed);
- (b) all reasonable costs, charges and expenses properly incurred by the Company in connection with the preparation and negotiation of any Finance Document or any consent or waiver pursuant to, or amendment of, any Finance Document; and
- (c) all costs, charges and expenses incurred by the Company in connection with the protection, preservation or enforcement of its rights in respect of the Chargor, howsoever arising under any Finance Document,

"Security", the Security Interests constituted pursuant to this Deed;

"Security Account", the bank accounts in the name of the Chargor as more particularly listed in Part 10 of Schedule 2 (Security Accounts) and with the banks and bearing the account numbers set out therein, and any account or accounts replacing the same from time to time and the debt represented thereby;

"Security Assets", all property, undertaking, rights and assets from time to time of the Chargor (present and future) charged or assigned (or expressed to be charged or assigned) by or pursuant to this Deed and includes for the avoidance of doubt, the Chargor's rights and interest in the Assigned Assets, the Property and the Floating Charge Property;

"Security Documents", all documents executed by any person purporting to create a Security Interest in respect of any of the Secured Obligations at any time including, without limitation, this Deed and all Guarantees and including in each case, for the avoidance of doubt, all documents acceding to them;

"Security Interest", any mortgage, pledge, lien, charge, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement or any other security agreement securing any obligation of any person or any other agreement or arrangement having a similar effect;

"Security Period", the period beginning on the date of this Deed and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and
- (b) the Company has no further commitment, obligation or liability under or pursuant to the Finance Documents;

"Shares", the shares specified in Part 3 (Charged Securities) of Schedule 2 (Details of Security Assets);

"Sterling" or **"£"**, the lawful currency of the United Kingdom;

"Taxes", all present and future taxes, levies, imposts, duties, charges, fees, deductions and withholdings imposed or levied by any governmental, fiscal or other competent authority in Ireland, the United Kingdom of Great Britain and Northern Ireland or any other jurisdiction from which the Chargor makes payment, not being a tax on overall net income (and includes, for the avoidance of doubt and without limitation, any penalty payable in connection with any failure to pay or delay in paying any of the same) and **"Taxation"** shall be construed accordingly; and

"Termination Event", any event or circumstance specified in the Invoice Discounting Agreement which entitles the Company to terminate a Finance Document and/or demand immediate payment of all or any of the Secured Obligations at any time;

1.2 Interpretation

1.2.1 Unless a contrary indication appears, any reference in this Deed to:

- (a) "assets" includes any present and future properties, revenues and rights of every description and includes uncalled capital;
- (b) the "Chargor", a "Guarantor" and an "Obligor" shall be construed so as to include its successors in title, permitted assigns and permitted transferees (whether immediate or derivative);
- (c) any "Debts", "Book Debts", "Payment Obligations", "Refundables" or "Receivables", (in each case) any of the foregoing whether present or future, actual or contingent and includes, in each such case (to the extent appropriate):
 - (i) the benefit of all rights, guarantees, Security Interests and remedies relating to any of the same (including without limitation, claims for damages and other remedies for non-payment of the same, all entitlements to interest, negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights); and
 - (ii) all proceeds of any of the same;
- (d) "dispose", means to sell, transfer, grant, lease or otherwise dispose of and "disposal" is to be construed accordingly and "disposal" shall include a partial disposal;
- (e) "administrator", means an administrator appointed under the provisions of the Insolvency Act;
- (f) the "Company" shall mean the Company, its successors, assigns, participants and novatees and this Deed shall be enforceable notwithstanding any change in the constitution of the Company or the absorption of the Company in or its amalgamation with any other person or the acquisition of all or part of the undertaking of the Company by any other person;
- (g) a "person", includes any individual, company, government, state, agency, organisation, association, body, department, joint venture, consortium, trust, partnership (whether or not having separate legal personality) or any other entity of any description;

- (h) a "regulation", includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (i) the "winding up", "dissolution" or "administration" of a company shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which a company carries on business including, but not limited to, the seeking of liquidation, winding up, reorganisation, dissolution, administration, arrangements, adjustment, protection or relief of debtors;
- (j) "this Deed", any other "Finance Document" or any other document, agreement or instrument is a reference to this Deed or such other Finance Document or other document, agreement or instrument as amended, supplemented, restated, novated, extended and/or replaced from time to time (even if any of the same increases any Obligor's obligations or provides for further advances);
- (k) a Termination Event being "continuing", means it has not been remedied to the satisfaction of the Company or waived in writing by the Company;
- (l) "including" or "includes" means including without limitation;
- (m) "Secured Obligations" includes obligations and liabilities which would be treated as such but for the liquidation or dissolution of or similar event affecting an Obligor;
- (n) a provision of law is a reference to that provision as amended or re-enacted; and
- (o) the singular includes the plural and vice versa.

1.2.2 Unless the contrary intention appears, a reference to a "month" or "months" is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, or the calendar month in which it is to end, except that:

- (a) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that calendar month, if there is one, or if there is not, on the immediately preceding Business Day;

- (b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month; and
- (c) notwithstanding sub-clause (a) above, a period which commences on the last Business Day of a month will end on the last Business Day in the calendar month in which it is to end.

1.2.3 References to clauses, paragraphs and schedules are references to clauses, paragraphs and schedules of this Deed, unless otherwise stated, and references to this Deed include its schedules.

1.2.4 Clause and schedule headings are for ease of reference only and shall not affect the construction of this Deed.

1.2.5 Each undertaking of the Chargor (other than an obligation to pay) contained in this Deed must be complied with at all times during the Security Period and is given by the Chargor for the benefit of the Company.

1.2.6 If the Company considers that an amount paid by the Chargor to the Company under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.2.7 Notwithstanding anything to the contrary in this Deed, the obligations, liabilities and undertakings under this Deed shall be deemed not to be undertaken or incurred to the extent that the same would constitute a breach of Sections 197 to 200 of the Companies Act (or any analogous provision of any other applicable law).

1.2.8 A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

1.3 Certificates

Any certificate or determination of the Company as to any amounts owing under this Deed will be conclusive and binding on the Chargor, save in the case of manifest error.

2. Covenant to Pay

2.1 Covenant to Pay

2.1.1 For good and valuable consideration, the Chargor hereby unconditionally and irrevocably covenants with the Company that it will pay, discharge or perform the Secured Obligations from time to time when they fall due.

- 2.1.2 Every payment by the Chargor of a Secured Obligation which is made to or for the benefit of the Company is due and payable in accordance with the Finance Document under which such sum is payable shall operate in satisfaction pro tanto of the covenant contained in Clause 2.1.1.

2.2 Default Interest

- 2.2.1 Any amount which is not paid under this Deed when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full at the rate and in the manner agreed in the relevant Finance Document under which such sums are payable (if any), and, in the absence of such agreement, at the Default Rate.
- 2.2.2 Default interest will accrue from day to day and will be compounded at such intervals as the Company considers appropriate.

3. Grant of Security

3.1 All the Security is created by the Chargor:

- 3.1.1 in favour of the Company;
- 3.1.2 over all of the present and future assets of the Chargor; and
- 3.1.3 as a continuing security for the payment, discharge and performance of all of the Secured Obligations.

3.2 If the Chargor is prohibited from creating Security Interests over any of its assets (including for the avoidance of doubt, its rights under any document) without obtaining the consent of a third party:

- 3.2.1 the Chargor must notify the Company promptly upon it becoming aware of the same;
- 3.2.2 the fixed charge or assignment created by this Deed shall not take effect as regards the relevant asset until such consent is obtained, at which time that asset shall immediately become subject to such charge or assignment;
- 3.2.3 if applicable, the Security will secure all amounts which the Chargor may receive, or has received, under that document but exclude the document itself including, but not limited to, all damages, compensation, remuneration, profit, proceeds, rent or income derived therefrom; and

3.2.4 unless the Company otherwise requires, the Chargor must use its best endeavours to promptly obtain the consent of such third party to that asset being secured under this Deed.

4. Fixed Security

4.1 Legal Mortgage

As continuing security for the payment, performance and discharge of all of the Secured Obligations, the Chargor with full title guarantee and also in the case of registered land as registered owner (or the person entitled to be registered as owner) hereby CHARGES to the Company, by way of first LEGAL MORTGAGE ALL THAT AND THOSE its freehold, leasehold and commonhold property and all chattels both present and future, including, without prejudice to the generality of the foregoing, the Property, and all chattels both present and future, including its interest in all buildings, fixtures (including, without limitation, trade fixtures) and its fixed plant and machinery from time to time thereon.

4.2 Fixed Charges

Subject to Clause 31 (*Release*), the Chargor, with full title guarantee, and as continuing security for the payment, performance and discharge of all of the Secured Obligations hereby charges in favour of the Company, by way of first fixed charge, all its present and future rights, title, interest and benefit in and to:

4.2.1 all its estate, right, title and interest (save to the extent that it is subject to an effective fixed security pursuant to Clause 4.1) in any land, premises or buildings (including the Property) now belonging to the Chargor (whether or not the legal title is vested in the Chargor or registered in the name of the Chargor) and all future estate, right, title and interest of the Chargor in such land, premises or buildings and in any other immovable property in any part of the world (in each case whether freehold or leasehold and whether or not registered) vested in or held by or on behalf of the Chargor from time to time and the proceeds of sale thereof together in all cases (to the extent the same are not already subject to an effective Security Interest hereunder) all fixtures and fittings (including trade fixtures) and all fixed plant and machinery from time to time in or on such land, premises or buildings with the payment, performance and discharge of the Secured Obligations, and hereby assents to the registration of such charges as a burden on such freehold, leasehold and other immovable property (as applicable);

4.2.2 by way of first fixed charge:

(a) all other Property and all interests in Property (not charged by Clause 4.2.1 or elsewhere in this Deed);

- (b) the Licences; and
- (c) the Debts and all Related Rights.

4.2.3 by way of first fixed charge:

- (a) the assets (if any) specified in Part 2 (Chattels) of Schedule 2 (Details of Security Assets);
- (b) the Fixtures and Fittings;
- (c) all computers, vehicles, office equipment and other equipment; and
- (d) the benefit of all contracts, licences and warranties relating to the assets referred to in Clauses 4.2.3(a), 4.2.3(b) and 4.2.3(c),

(other than any which are for the time being part of the Chargor's stock-in-trade or work-in-progress);

4.2.4 by way of first fixed charge:

- (a) all the Charged Securities referred to in Part 3 (Charged Securities) of Schedule 2 (Details of Security Assets);
- (b) all other Charged Securities (not charged by Clause 4.2.4(a)),

in each case, together with (1) all CS Related Rights from time to time accruing to those Charged Securities and (2) all rights which the Chargor may have at any time against any clearance or settlement system or custodian in respect of any Charged Investments;

4.2.5 by way of first fixed charge, the Security Accounts and all monies standing to the credit of the Security Accounts from time to time and all other accounts with any bank, financial institution or other person, in each case together with all interest from time to time accrued or accruing on such monies and all rights to repayment of all of the foregoing;

4.2.6 by way of first fixed charge, any investment made out of any monies or account of the Chargor and all rights to repayment of any of the same;

4.2.7 by way of first fixed charge, all Intellectual Property;

4.2.8 to the extent that any of the Assigned Assets are not effectively assigned under Clause 4.3 (*Security Assignments*), by way of first fixed charge, those Assigned Assets;

4.2.9 by way of first fixed charge (to the extent not otherwise charged or assigned in this Deed):

- (a) the benefit of all licences, consents, agreements and authorisations held or used in connection with the business of the Chargor or the use of any of its assets; and
- (b) any letter of credit issued in favour of the Chargor and all bills of exchange and other negotiable instruments held by it;

4.2.10 by way of first fixed charge, all the goodwill and uncalled capital of the Chargor and all rights and claims to which the Chargor is now or may hereafter become entitled as a result of any calls made in relation thereto;

4.2.11 by way of first fixed charge, all rights and claims to which the Chargor is now or may hereafter become entitled in relation to or in connection with the Security Assets, including those against any manufacturer, supplier, installer, builder, contractor, professional adviser, lessee or licensee and any guarantor or surety for the obligations of any such person and, to the extent that any of the Security Assets are now or at any time hereinafter hired, leased or rented to any other person, the rights under the hiring, leasing or rental contract or agreement and any guarantee, indemnity or security for the performance of the obligations of such person and any other rights and benefits relating thereto; and

4.2.12 by way of first fixed charge all of its rights to be paid or receive compensation under any statute by reason of any compulsory acquisition or other exercise of compulsory powers or in respect of criminal damage pursuant to the Powers of Criminal Courts (Sentencing) Act 2000 in relation to the Property or any refusal, grant subject to conditions, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of the Property and so that the production of these presents to the person liable to pay such compensation shall be sufficient authority to it or him to pay such monies to the Company.

4.3 Security Assignments

Subject to Clause 4.4 (*Non-Assignable*) and Clause 31 (*Release*), the Chargor as legal and beneficial owner and as continuing security for the payment, performance and discharge of all of the Secured Obligations hereby assigns and agrees to assign absolutely all its present and future right, title, interest and benefit in and to (insofar as they are capable of assignment):

- 4.3.1 the Insurances, all claims under the Insurances and all proceeds of the Insurances and all rights and benefits in respect of the Insurances (including all claims relating to the Insurances and all returns of premiums in respect thereof); and
- 4.3.2 the Security Accounts and all monies at any time standing to the credit of the Security Accounts together with all interest from time to time accrued or accruing on such monies, and all rights to repayment of any of the foregoing; and
- 4.3.3 any investment made out of any monies or account of the Chargor and all rights to repayment of any of the same; and
- 4.3.4 (to the extent not otherwise assigned under Clause 4.3.1 or 4.3.2):
 - (a) the Debts and all Related Rights;
 - (b) the Book Debts;
 - (c) the Payment Obligation; and
 - (d) the Refundables;
- 4.3.5 the benefit of all intoxicating liquor licenses attaching to any part of the Property;
- 4.3.6 the benefit of:
 - (a) all rights of the Chargor to be paid or receive compensation under any statute by reason of any compulsory acquisition, requisition or other exercise of compulsory power in relation to the Property or any part thereof or any refusal, withdrawal or modification of planning permission or approval relative thereto or any control or restriction imposed or affecting the use of all or any part of the Property and so that the production of this Deed to the local authority, government body or agency or other person liable to pay such compensation shall be a sufficient authority to such local authority, government body or agency or other person to pay the same to the Company and the Company shall have power to give good receipt therefor; and
 - (b) any covenant or undertaking for the making of roads and footpaths, laying down of sewers or the provision of all other services including street lighting and the payment of road charges or other private street improvement of the Property and any indemnity against payment of such charges or expenses;

and hereby irrevocably appoints the Company to be its attorney and in its name and on its behalf to:

- (i) claim, assess, agree, recover any such compensation; and
- (ii) exercise any such right or to give any such notice or counter-notice concerning the Property as by or under any statute the Chargor may be entitled to exercise or give against or to any local or other competent or appropriate authority;

4.3.7 all of its rights and benefits (but not its obligations) in respect of:

- (a) the Lease Documents;
- (b) the Relevant Contracts (including all monies payable to the Chargor and all claims, awards and judgments in favour of or received or receivable by the Chargor under or in connection with any Relevant Contract);
- (c) all letters of credit issued in its favour; and
- (d) all bills of exchange and other replicable instruments held by it.

4.4 Non-Assignable

To the extent that any such right, title and interest described in Clause 4.3 (*Security Assignments*) is not assignable or capable of assignment:

4.4.1 the assignment purported to be effected by Clause 4.3 shall operate as:

- (a) in the case of the Insurances, an assignment of any and all present and future proceeds of the Insurances; and
- (b) in the case of the Relevant Contracts or letters of credit (as the case may be) an assignment of all present and future damages, compensation or monies which the Chargor may derive therefrom or be awarded or entitled to in respect thereof,

in each case as continuing security for the payment and performance of the Secured Obligations and the Chargor shall hold the benefit of any such right, title and interest in trust for the Company.

4.5 Notices of Assignment

Immediately upon execution of this Deed (and immediately upon the obtaining of any Insurance after the date of this Deed) the Chargor shall:

- 4.5.1 if so required by the Company in respect of any of the Insurances, deliver a duly completed notice of assignment to each of the other parties to that Insurance substantially in the form of the notice set out in Part A of Schedule 3 (*Notice of Assignment in respect of Insurances*), and use its best endeavours to procure that each such person executes and delivers to the Company an acknowledgement, substantially in the form of the acknowledgement set out in Part B of Schedule 5 (*Form of Acknowledgement of Notice of Assignment in respect of Insurances*);
- 4.5.2 if so required by the Company in respect of any Relevant Contract, deliver a duly completed notice of assignment to the counterparty of such Relevant Contract, substantially in the form of the notice set out in Part A of Schedule 4 (*Form of Notice of Assignment in respect of Relevant Contracts*) and use its best endeavours to procure that each such counterparty executes and delivers to the Company an acknowledgement, substantially in the form of the acknowledgement set out in Part B of Schedule 4 (*Form of Acknowledgement of Notice of Assignment in respect of Relevant Contracts*); and
- 4.5.3 deliver a duly completed notice of assignment or charge in respect of each Security Account to the bank with which each such Security Account is held, substantially in the form of the notice of assignment set out in Part A of Schedule 5 (*Form of Notice of Assignment and Charge in respect of Security Accounts*) and use its best endeavours to procure that each bank which receives a notice executed and delivered to the Company an acknowledgement of assignment and charge, substantially in the form of the acknowledgement set out in Part B of Schedule 5 (*Form of Acknowledgement of Notice of Assignment and Charge in respect of Security Accounts*).
- 4.5.4 Legal Assignment

Following the occurrence of a Termination Event which is continuing, the Chargor shall, if called upon to do so by the Company, execute and deliver to the Company a legal assignment of its then Book Debts, Receivables and Debts on such terms as the Company may require and give notice thereof to the debtors from whom the same are due owing or incurred and take any other steps as the Company may require to perfect such legal assignment.

4.6 Assigned Assets

The Company shall not be obliged to take any steps necessary to preserve any of the Assigned Assets or to make any enquiries as to the nature or sufficiency of any payment received by it pursuant to this Deed.

5. Floating Charge

5.1 The Chargor as beneficial owner as continuing security for the payment, performance and discharge of the Secured Obligations hereby charges and agrees to charge by way of first floating charge all of its undertaking and property, assets and rights whatsoever and wheresoever both present and future including but not limited to its property, assets and rights charged by way of first fixed mortgage or charge or assigned pursuant to the provisions of Clause 4.2 (*Fixed Charges*) or Clause 4.3 (*Security Assignments*) or any other provision of this Deed.

5.2 Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by this Deed to the extent that each floating charge shall be a "qualifying floating charge" within the meaning of that paragraph.

6. Conversion of Floating Charge

6.1 Conversion by Notice

The Company may at any time, by written notice to the Chargor, convert the floating charge created under this Deed into a fixed charge as regards all or any of the Chargor's assets specified in the notice if:

- 6.1.1 a Termination Event has occurred and is continuing; or
- 6.1.2 the Company (in its reasonable opinion) considers that all or a substantial part of 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; or
- 6.1.3 if an event occurs which the Company considers could affect the priority, enforceability or validity of the Security Interests.

6.2 Automatic Conversion

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge:

6.2.1 in relation to any of the Security Assets which are subject to a floating charge if:

- (a) the Chargor creates (or attempts or purports to create) any Security Interest other than a Permitted Security Interest on or over the relevant asset except as permitted under Clause 9.1 (*Restriction on Dealing*); or
- (b) the creation or attempted creation of any encumbrance over all or any part of the Floating Charge Property without the prior written consent of the Company or if any person levies or attempts to levy any distress, execution, sequestration, attachment or other legal process against any such asset (or any analogous event under the laws of any Relevant Jurisdiction);
- (c) the Chargor ceasing to carry on its business;
- (d) the presentation of a petition for the compulsory winding up of the Chargor (or any analogous event under the laws of any Relevant Jurisdiction);
- (e) the appointment by any person of a Receiver to the Chargor or any of its assets (or any analogous event under the laws of any Relevant Jurisdiction);
- (f) the presentation of a petition for the appointment of an administrator to the Chargor or any Affiliate (or any analogous event under the laws of any Relevant Jurisdiction); and
- (g) the issuance of a notice to the Chargor striking the Chargor off the register of companies or threatening such strike-off pursuant to Section 1000 of the Companies Act (or any analogous event under the laws of any Relevant Jurisdiction); and

6.2.2 over all the Security Assets which are subject to a floating charge, if an administrator is appointed in respect of the Chargor or any Affiliate.

6.3 Partial Conversion

The giving by the Company of a notice pursuant to Clause 6.1 (*Conversion by Notice*) in relation to any class of assets of the Chargor shall not be construed as a waiver or abandonment of the rights of the Company to serve similar notices in respect of any other class of assets or of any of the other rights of the Company.

7. After Acquired Property

If and whenever the Chargor shall acquire after the date of this Deed any freehold, leasehold or other immoveable property it shall forthwith inform the Company in writing of the acquisition and as soon as may be practicable if so required by the Company, deliver to the Company the deeds and documents in its possession relating to the property so acquired and the Chargor shall, if required by the Company at the Chargor's own expense, execute, deliver, sign and do all acts and deeds which shall be necessary to grant to the Company a first fixed charge on such property in such form as the Company shall require as further security for all monies intended to be hereby secured. Forthwith upon the acquisition of any land, the title to which is registered or required to be registered under the Land Registration Act 2002 (as amended from time to time), the Chargor shall give notice to the Company and shall furnish the Company with such information regarding such land as the Company may reasonably require and permit the Company to register a charge as a burden against such property.

8. Chargor's Liability Relating to Security Assets

8.1 Notwithstanding anything contained in this Deed or implied to the contrary:

- 8.1.1 the Chargor remains liable to observe and perform all of the conditions and obligations assumed by it in relation to the Security Assets (including under any contracts, agreements and other documents included in the Security Assets). The Company is under no obligation to perform or fulfil any such condition or obligation or make any payment in respect of any such condition or obligation;
- 8.1.2 the exercise by the Company of any of the rights hereunder shall not release the Chargor from any of its duties or obligations in relation to the Security Assets; and
- 8.1.3 the Company shall not have any obligation or liability under any such contracts, agreements or other documents included in the Security Assets by reason of this Deed, nor shall the Company be obligated to perform any of the obligations or duties or to discharge any of the liabilities of the Chargor thereunder or to make any payment or any enquiry as to the nature or sufficiency of any payment received by it or the Chargor or to take any action to collect or enforce any such contract, agreement or other document.

9. Undertakings by the Chargor

9.1 Restrictions on Dealing

At all times during and until the end of the Security Period, the Chargor will not exercise any rights or claims in respect of the Security Assets in a manner which would not be in compliance with the Finance Documents;

9.2 Security Assets Generally

At all times during and until the end of the Security Period, the Chargor will:

- 9.2.1 permit the Company (or its designated representatives), on reasonable notice:
- (a) access during normal office hours to the accounting records of the Chargor and to any documents and records relating to the Security Assets; and
 - (b) to inspect, take extracts from and make photocopies of, the same,
- and provide (at the expense of the Chargor) such clerical and other assistance which the Company may reasonably require to do this;
- 9.2.2 notify the Company within 7 days of receipt of every material notice, order or proposal given or made in relation to the Security Assets by any competent authority, and (if required by the Company) immediately provide it with a copy of the same and either (1) comply with the same or (2) make such objections to the same as the Company may require or approve;
- 9.2.3 duly and punctually pay all rates, rents, taxes, and other outgoings due by it in respect of the Security Assets (or any of them);
- 9.2.4 comply with all obligations in relation to the Security Assets under any present or future law, regulation, order or instrument or under any bye-laws, regulations or requirements of any competent authority or other approvals, licences or consents;
- 9.2.5 comply with all material covenants and obligations affecting any of the Security Assets (or the manner of use of any of them);
- 9.2.6 not, except with the prior written consent of the Company, (such consent not to be unreasonably withheld or delayed), enter into any onerous or restrictive obligation affecting any of the Security Assets;
- 9.2.7 unless the Company otherwise confirms in writing, deposit with the Company all deeds and documents of title relating to the Security Assets (which the Company may hold throughout the Security Period);
- 9.2.8 provide the Company with all information which it may reasonably request in relation to the Security Assets;
- 9.2.9 not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Security Assets (or make any omission which has such an effect); and

9.2.10 do all acts which the Company may reasonably require and which are practicable to evidence the interest of the Company in the Secured Assets or any of them.

9.3 Land, etc

At all times during and until the end of the Security Period:

9.3.1 the Chargor will:

- (a) maintain all buildings and erections forming part of the Security Assets in a good and substantial repair and condition; and
- (b) maintain all plant, machinery, fixtures, fittings and other effects for the time being owned by it in a good state of repair and proper working order and condition and will, immediately on request by the Company, affix to any such item in a prominent position a durable nameplate containing notice of this Deed (in any form required by the Company);

9.3.2 the Chargor will not, except with the prior written consent of the Company, confer on any person:

- (a) any lease or tenancy of any of the Property or accept a surrender of any lease or tenancy (whether independently or under any statutory power);
- (b) any right or licence to occupy any land or buildings forming part of the Property; or
- (c) any licence to assign or sub-let any part of the Property;

9.3.3 the Chargor will not carry out any development within the meaning of the Planning Laws in or upon any part of the Property without first obtaining such permissions as may be required under or by virtue of the Planning Laws and, in the case of development involving a substantial change in the structure or a change of use of any part of the Property, without first obtaining the written consent of the Company;

9.3.4 the Chargor shall observe and perform all of its obligations and all matters and things necessary or expedient to be done observed and performed and all of the obligations (if any) of the Chargor as landlord under any lease or tenancy for the time being of the Property or any part thereof;

9.3.5 the Chargor shall perform and observe all the covenants and provisions contained in the lease or leases (if any) under which the Chargor may hold the Property or in any fee farm grant conveyance or other deed affecting the Property;

- 9.3.6 the Chargor will not, except with the prior written consent of the Company, release or vary any of the terms of any lease or tenancy of any of the Property or exercise any power to determine or extend any such lease or tenancy;
- 9.3.7 the Chargor will not do or permit to be done anything as a result of which any lease may be liable to forfeiture or otherwise be determined;
- 9.3.8 the Chargor will:
- (a) notify the Company immediately upon the acquisition of any freehold or leasehold property; and
 - (b) on demand by the Company, execute and deliver to the Company a legal mortgage in favour of the Company of any freehold or leasehold Property which becomes vested in it after the date of this Deed (together with all fixtures and fittings thereon and fixed plant and machinery) to secure the payment of the Secured Obligations in any form which the Company reasonably requires. In the case of any leasehold Property in relation to which the consent of the landlord in whom the reversion of that lease is vested is required in order for the Chargor to perform any of its obligations under this Clause 9.3.8, the Chargor shall not be required to perform that particular obligation unless and until it has obtained the landlord's consent (which it shall use its reasonable endeavours to do);
- 9.3.9 the Chargor will permit the Company and any person nominated by it at all reasonable times with reasonable notice to enter any part of the Property and view the state of it;
- 9.3.10 the Chargor shall pay or cause to be paid where liable, all rent, rates, taxes, levies, assessments, impositions, duties and outgoings governmental, municipal or otherwise (the "**Outgoings**") imposed upon or payable in respect of the Property or any part thereof as and when the same shall become payable. The Chargor shall indemnify the Company against all Outgoings imposed upon or payable in respect of the Property or any parts thereof arising or due prior to the date hereof;
- 9.3.11 the Chargor shall, at its cost, if and when requested by the Company, execute a charge in the form satisfactory to the Company, together with such modifications as the Company may require over all of the Property which is registered or in the course of being registered in the Land Registry and will provide all appropriate assistance to the Company so as to enable that charge to be duly and promptly registered in the Land Registry as a burden affecting so much of the Property as is registered land;

- 9.3.12 the Chargor shall duly and punctually perform and observe or cause to be performed and observed all of the obligations of the Chargor or any occupier of the Property under any present or future statute or any regulation order notice or permission made or granted thereunder;
- 9.3.13 the Chargor will grant the Company on request all reasonable facilities within the power of the Chargor to enable the Company (or its lawyers) to carry out investigations of title to the Property and to make all enquiries in relation to any part of the Property which a prudent mortgagee might carry out. Those investigations shall be carried out at the expense of the Chargor;
- 9.3.14 immediately upon demand by the Company, the Chargor will at its own expense provide the Company with a report as to title of the Chargor to the Property (concerning those items which may properly be sought to be covered by a prudent mortgagee in a lawyer's report of this nature); and
- 9.3.15 the Chargor shall apply for and maintain such licences as are required to sell alcohol at any Property where such alcohol is sold or supplied or intended to be supplied and shall do so on terms properly required by the Company and such licences shall be held in the names approved by the Company or to the extent permitted by law as nominated by the Company.

9.4 Chattels

- 9.4.1 The Chargor covenants with the Company that at all times during and until the end of the Security Period:
- (a) it will use its reasonable endeavours to procure that, within a reasonable period and in any event within 10 days following receipt of a written request from the Company, written confirmation of the current general location of the Equipment is provided;
 - (b) it will procure that the Equipment is used in compliance with all applicable laws and in a careful and proper manner employing for the purpose only properly trained and competent persons in accordance with good industry standards and that the Equipment is not used for any purpose for which it is not designed or for any unlawful purpose;
 - (c) it will procure that there is in full force and effect, at no cost to the Company, all permissions, licences and other authorisations which may at any time be reasonably required in connection with the possession, ownership or use of the Equipment;

- (d) it will procure that all obligations imposed on the Chargor in relation to the Health and Safety at Work Act 1974 or by any regulations made, or improvement or prohibition notice served on the Chargor or in respect of any of its Property, thereunder are complied with;
- (e) it will ensure (in so far as the same is within its power) that the Equipment does not, for so long as the same is in the ownership of the Chargor, become a fixture and will, notwithstanding such covenant, notify the Company to which the Chargor owes or has incurred any Secured Obligations forthwith upon the Equipment (or any part thereof) becoming a fixture;
- (f) it will notify the Company to which the Chargor has owing or incurred any Secured Obligations of any material loss, theft, damage or destruction of or to the Equipment promptly upon becoming aware thereof; and
- (g) it will inform promptly upon becoming aware thereof the Company of any Termination Event or any event which may, with the giving of notice, lapse of time, determination of materiality or satisfaction of any other condition, become a Termination Event.

9.5 Insurance

The Chargor covenants that at all times during and until the end of the Security Period it will comply with the provisions of this Clause 9.5.

- 9.5.1 The Chargor will effect and maintain Insurances at its own expense in respect of all its assets and business (including assets taken on lease) with insurers previously approved in writing by the Company to which the Chargor has owing or incurred any Secured Obligations.
- 9.5.2 Such insurances must (in addition to complying with any other agreement as to maintenance of insurance made between the Chargor and the Company at any time):
 - (a) provide cover against (1) loss or damage by fire, (2) all risks which are normally and prudently insured against by other companies owning or possessing similar assets and carrying on similar businesses and (3) all other risks which the Company may from time to time specify;
 - (b) be in such amounts as would in the circumstances be prudent for such companies and shall include an entitlement to receive the full replacement or reinstatement value from time to time of any assets destroyed or

otherwise becoming a total loss, and in the case of any freehold or leasehold Property, providing for architects' and surveyors' fees, demolition costs and the costs of shoring up and three years' loss of rent, in each case subject to automatic index adjustment;

- (c) be either in the joint names of the Chargor and the Company or have the interest of the Company as mortgagee noted on the policies with effect from the date of this Deed; and
- (d) name the Company as sole loss payee.

9.5.3 The Chargor will:

- (a) promptly pay all premiums relating to the Insurances; and
- (b) supply to the Company on request copies of each policy of Insurance which is required to be maintained in accordance with this Clause 9.5, together with the current premium receipts relating to it.

9.5.4 The Chargor will ensure that each of the Insurances is on such terms and contains such clauses as the Company may reasonably require and in particular, but without limitation, on terms that the relevant insurer will inform the Company:

- (a) of any cancellation, alteration, termination or expiry of any such Insurance at least 30 days before it is due to take effect;
- (b) of any default in the payment of any premium or failure to renew the Insurance at least 30 days before the renewal date;
- (c) of any act, omission or event of which the insurer has knowledge which may make any Insurance void, voidable or unenforceable (in whole or in part).

and that the insurer agrees that the Insurance effected shall not be invalidated or prejudiced so far as the Company is concerned by any breach of the insuring conditions, any misrepresentation or other act or omission (including non-disclosure) unknown to or beyond the control of the Company on behalf of the Chargor or any tenant, lessee or licensee of any of the Security Assets.

9.5.5 The Chargor will not do or permit to be done or omit to do anything which may render any Insurance void, voidable or unenforceable (in whole or in part) and will not vary, amend or terminate any insurance policy.

- 9.5.6 If at any time the Chargor defaults in effecting or keeping up the Insurances referred to in this Clause 9.5, or in producing any insurance policy or receipt to the Company, the Company may take out or renew such policies of insurance in any sum which the Company may reasonably think expedient. All monies which are expended by the Company in doing so shall be deemed to be properly paid by the Company and shall be reimbursed by the Chargor on demand.
- 9.5.7 In relation to the proceeds of Insurances:
- (a) the Chargor will notify the Company if any claim arises or may be made under the Insurances;
 - (b) the Company shall have the sole right to settle or sue for any such claim and give any discharge for insurance monies;
 - (c) all claims and monies received or receivable under any Insurances must (subject to the rights or claims of any lessor or landlord of any part of the Security Assets) be applied in repairing, replacing, restoring or rebuilding the property damaged or destroyed or (after the occurrence of a Termination Event which is continuing) in permanent reduction of the Secured Obligations in such order as the Company sees fit.
- 9.6 Receivables and Security Accounts
- 9.6.1 The Chargor will, without prejudice to Clause 9.1 (*Restrictions on Dealing*) but in addition to the restrictions in that clause, not sell, assign, transfer, charge, factor, sub-participate or discount or in any other manner deal with any of the Receivables without the prior written consent of the Company.
- 9.6.2 The Chargor must:
- (a) collect all Receivables promptly and otherwise in the ordinary course of trading as agent for the Company;
 - (b) immediately upon receipt pay all monies which it may receive in respect of the Receivables into the Trust Account or such other designated account(s) in the name of the Chargor and/or the Company with such bank as the Company (or any person authorised by the Company) may from time to time direct (each such account together with all additions to or renewals or replacements thereof (in whatever currency) being a "**Security Account**"); and
 - (c) pending such payment into a Security Account, hold all monies so received upon trust for the Company.

- 9.6.3 The Chargor will not attempt or be entitled to withdraw (or direct any transfer of) all or any part of the monies in any Security Account without the prior written consent of the Company (or any person authorised by the Company) and the Company (or such person) shall be entitled in its absolute discretion to refuse to permit any such withdrawal.
- 9.6.4 The Chargor will deal with the Receivables (both collected and uncollected), the Trust Account and the Security Accounts in accordance with the terms of the Invoice Discounting Agreement and any directions given in writing from time to time by the Company (or any person authorised to give such directions on behalf of the Company) and, in default of and subject to such directions, in accordance with this Deed.
- 9.6.5 The Chargor hereby authorises the Company to make payments from the proceeds of Receivables or monies standing to the credit of the Trust Account or any other Security Account.
- 9.6.6 The Chargor will deliver to the Company such information as to the amount and nature of the Receivables as the Company may from time to time reasonably require.

9.7 Provisions Relating to Charged Securities

9.7.1 Dividends and Voting Rights

Until a Termination Event occurs the Chargor shall be entitled to:

- (a) receive and retain all dividends, distributions and other monies paid on or derived from the Charged Securities; and
- (b) exercise all voting and other rights and powers attaching to the Charged Securities provided that it must not do so in a manner which is prejudicial to the interests of the Company under this Deed (including, without limitation, exercising any voting and other rights and powers which has the effect of changing the terms of the Charged Securities (or any class of them) or of any CS Related Rights).

- 9.7.2 Upon the occurrence of a Termination Event, the Company may exercise (in the name of the Chargor and without any further consent or authority on the part of the relevant Chargor) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Charged Security or any CS Related Rights.

9.7.3 Authority to Complete Transfers

At any time following the occurrence of a Termination Event which is continuing the Company may complete the instrument(s) of transfer for the Charged Securities on behalf of the Chargor in favour of itself or such other person as it may select.

9.7.4 No Responsibility

At any time when any Charged Securities are registered in the name of the Company or its nominee, the Company will not be under any duty (1) to ensure that any dividends, distributions or other monies payable in respect of those Charged Securities are duly and promptly paid or received by it or its nominee or (2) to verify that the correct amounts are paid or received or (3) to take any action in connection with any CS Related Rights in respect of or in substitution for any of those Charged Securities.

9.8 Charged Investments

9.8.1 The Chargor will, by way of security for the Secured Obligations, in respect of all Charged Securities which are in certificated form immediately upon execution of this Deed deliver to the Company (or as it may direct):

- (a) all certificates and other documents of title or evidence of ownership to the Shares;
- (b) stock transfer form(s) or other instruments of transfer in respect of the Shares executed in blank and left undated and/or such other documents as the Company shall require to enable it or its nominees to be registered as the owner of or otherwise acquire a legal title to the Charged Securities;
- (c) an undated dividend mandate and an undated irrevocable proxy in respect of the Charged Securities, in such form as the Company may specify;
- (d) procure that the legal and beneficial owner of any share held by a nominee shareholder has executed a declaration of trust (in form and substance satisfactory to the Company) in favour of the Company; and
- (e) immediately upon receipt of any certificate or any other document of title to any other Charged Securities, deliver it to the Company together with instruments of transfer executed in blank and left undated or other documents required pursuant to Clause 9.8.1(b).

9.8.2 The Chargor will promptly pay all calls or other payments which may become due in respect of the Charged Investments. In the event of the Chargor failing to do so, the

Company may, but shall not be obliged, pay the calls or other payments on behalf of the Chargor. The Chargor must immediately on request reimburse the Company for any payment made by the Company in respect of the foregoing.

10. Representations and Warranties

10.1 Representations

The Chargor makes the representations and warranties set out in this Clause 10.1 to the Company:

10.1.1 the Security Assets are or when acquired will be beneficially owned by the Chargor free from any Security Interest other than:

- (a) as created by this Deed; and
- (b) Permitted Security Interests;

10.1.2 subject to the terms of the Finance Documents, the Chargor shall not, save with the prior written consent of the Company:

- (a) create or permit to subsist any Security Interest on any Security Asset save for any Permitted Security Interest; or
- (b) sell, transfer, assign, licence, lease, grant any option over, participate, sub-participate or otherwise dispose of any Security Asset or enter into any agreement to sell, transfer, assign, licence, lease, grant any option over or otherwise dispose of any Security Asset; or
- (c) enter into any arrangement under which money or the benefit of a bank account or other account may be applied, set-off or made subject to a combination of accounts;

10.1.3 this Deed creates the Security Interests which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or examination of the Chargor or otherwise;

10.1.4 the Chargor has the power and authority to enter into this Deed and to exercise its rights and perform and comply with its obligations hereunder;

10.1.5 the Chargor has the power and authority to own its assets and to conduct the business which it conducts and proposes to conduct;

10.1.6 all necessary resolutions of the directors and/or shareholders (as applicable) of the Chargor have been duly passed and other proceedings taken and conditions

complied with to make the creation and issue of this Deed and the execution thereof legal, valid and enforceable against the Chargor;

- 10.1.7 the Chargor is a company with limited liability duly incorporated and validly existing under the laws of England;
- 10.1.8 the entry by the Chargor into this Deed will not, nor will the exercise by the Chargor of its rights and/or performance of or compliance with its obligations under this Deed nor the carrying out by it of the transactions contemplated hereby violate any applicable law to which the Chargor is subject;
- 10.1.9 no litigation, arbitration or administrative or enforcement proceeding is currently taking place or threatened in relation to any of the Security Assets;
- 10.1.10 the Chargor is the sole legal and beneficial owner of all of the Security Assets specifically identified in Schedule 2 (*Details of Security Assets*) except in respect of those Charged Securities which are held by a nominee for the Chargor in which case the Chargor is the beneficial owner of those Charged Securities;
- 10.1.11 the Charged Securities are fully paid and the Charged Securities listed in Part 3 (*Charged Securities*) of Schedule 2 (*Details of Security Assets*) constitute the entire issued share capital of the company in which they are held;
- 10.1.12 in relation to the Property owned at the date this representation is made or repeated:
 - (a) Part 1 (*Property*) of Schedule 2 (*Details of Security Assets*) identifies all freehold and leasehold Properties which are legally and beneficially owned by the Chargor at the date of this Deed;
 - (b) all information provided to and used by the Chargor's legal advisers in preparation of any Report(s) on Title was and remains true and complete in all material respects;
 - (c) except as disclosed to the Company in any Report on Title:
 - (i) there is no breach of the Planning Laws or any other law or regulation which may materially affect the value or marketability of any Property;
 - (ii) there is no covenant, agreement, stipulation, reservation, condition, interest, right or other matter affecting the Property;
 - (iii) there is no overriding interest over the Property;

- (iv) no person has a right to terminate the use of a facility necessary for the enjoyment and use of the Property;
- (v) the Chargor is not aware of any adverse claim in respect of the ownership of, or any interest in, the Property;
- (vi) the Property is free from any tenancies or licences; and
- (vii) the Chargor has delivered to the Company all the title deeds and documents connected with the Property; and

10.1.13 the Chargor complies and shall comply with all Environmental Laws and Environmental Licences applicable from time to time to the Security Assets or any part thereof and does not permit and shall not permit any circumstances to arise which could lead to a competent authority or any third party taking action or making a claim under any Environmental Laws or the Chargor having to take action to avert the possibility of any such claim where such action or claim could have an adverse effect on the value of any of the Security Assets or on the ability of the Chargor to conduct any of its business or to perform its obligations under this Deed.

10.2 Matters Represented

The representations and warranties in Clause 10.1 (*Representations*) will be correct and complied with in all respects at all times during the Security Period with reference to the circumstances existing at the time at which they are repeated.

11. POWER OF SALE

11.1 The Secured Obligations shall become due and payable upon the occurrence of a Termination Event and the Company may forthwith without any further demand on or notice to the Chargor exercise the statutory power of sale conferred on mortgagees by the Act. Sections 93 and 103 of the Act shall not apply to the mortgages and charges hereby created. The statutory powers of leasing conferred on the Company are extended so as to authorise the Company to lease, make agreements for leases, accept surrenders of leases and grant options as it may think fit and without the need to comply with section 99 or 100 of the Act.

11.2 Immediately upon the occurrence of a Termination Event the Secured Obligations shall be deemed to have become due for the purposes of all powers implied by statute and this security shall immediately become enforceable and the power of sale and other powers conferred by the said Sections, as varied or extended by this Deed, and all other powers conferred upon the Company by this Deed shall be immediately exercisable.

- 11.3 The Chargor hereby covenants immediately to notify the Company in writing of the occurrence of a Termination Event or the occurrence of any event which, with the lapse of time or giving of notice or both would constitute a Termination Event.

12. APPOINTMENT OF RECEIVER AND/OR ADMINISTRATOR

- 12.1 Subject to the Insolvency Act, the Company may, following the occurrence of a Termination Event, appoint, by writing under the hand of any manager of the Company, (i) one or more persons to be an administrator of a Chargor and/or (ii) any person or persons (including an official of the Company) to be a Receiver of the Security Assets or any part or parts thereof (and, in the case of the latter, the powers herein conferred on a Receiver shall have the effect as though every reference to the Security Assets were a reference to the relevant part or parts of such assets) upon such terms as to remuneration (and the restrictions in Section 24(6) of the Act shall not apply) and otherwise as the Company may, from time to time, think fit and may similarly remove any Receiver and appoint another in his stead, and any Receiver so appointed shall be the agent of the Chargor for all purposes, and the Chargor shall be responsible for his contracts, engagements, acts, defaults, omissions and losses and for liabilities incurred by him, and for his remuneration and any such Receiver shall have the power, either in his own name or in the name of the Chargor (in the case of joint Receivers such powers being exercised jointly or severally):

- 12.1.1 to enter upon, take possession of, collect and get in, the Security Assets or any part thereof;
- 12.1.2 to carry on, manage or concur in carrying on or managing the business or any part thereof of the Chargor as he may think fit including (without limitation) power to perform, repudiate, rescind or vary any other contract or agreement to which the Chargor is party;
- 12.1.3 for the purpose of exercising any of the powers, authorities and discretions conferred on him by or pursuant to this Deed and/or defraying any costs, charges, losses or expenses (including his remuneration) which shall be incurred by him in the exercise thereof or for any other purpose, to make advances or to raise or borrow money either unsecured or secured on the Security Assets or any part thereof in priority to, *pari passu* with, or subsequent to, the security hereby constituted or otherwise and at such rate or rates of interest and generally on such terms and conditions as the Receiver may think fit;
- 12.1.4 to sell or exchange, or concur in selling, or exchanging, the Security Assets or any part thereof and to grant, or concur in granting or enter into any leases, tenancies, licences, options and rights of user for any term (without the need to observe any of

the provisions of section 103 of the Act) and to grant, or concur in granting, renewals and surrenders or accept, or concur in accepting, surrenders of any leases or tenancies at or for such considerations, rents and premiums and upon such terms and conditions (including provisions for the review of rent and the granting of long leases at a premium with or without a rent reserved) as the Receiver shall, in his absolute discretion, think fit and, without prejudice to the generality of the foregoing, he may do any of the aforementioned things for a consideration consisting of cash, debentures or other obligations, shares, stock or other valuable consideration, and any such consideration may be payable in a lump sum or by instalments spread over such period as he may think fit, and to carry into effect and complete any such transaction by executing any deeds or documents as may be necessary or appropriate in the name of, or on behalf of the Chargor. Sales of property may be by public auction, tender or private treaty with or without advertisement and in such lot or lots as the Receiver may, in his absolute discretion, think fit. Fixtures and/or plant and machinery may be severed and sold separately from the property containing them without the consent of the Chargor;

- 12.1.5 to promote the formation of a subsidiary company and/or companies of the Chargor with a view to such subsidiary company and/or companies purchasing, leasing, licensing or otherwise acquiring interests in all or any of the assets of the Chargor;
- 12.1.6 to make allowances to and re-arrangements with any lessees, tenants or other persons from whom any rents or profits may be receivable (including the granting of any licences and reviewing rent in accordance with the terms of, and varying the provisions of, any leases affecting the Security Assets);
- 12.1.7 to make and effect all such repairs, structural and other alterations, improvements, additions and developments in or to the Security Assets or any part thereof as he may consider fit, and to purchase or otherwise acquire any materials, articles or things and do anything else in connection with the said assets which the Receiver may think desirable for the purpose of making productive or increasing the letting or market value of the said assets or protecting the security constituted by this Deed and to develop or improve any property and in particular if any property is in the course of development or improvement to carry out and complete any such development or improvement and for that purpose a Receiver may (but shall not be bound to) adopt and enforce or repudiate, rescind or vary any contract already made by the Chargor in connection therewith and may acquire any right, easement or privilege for the benefit of any of the properties and apply for planning permissions and any other necessary statutory or other consents (or appeal against refusal thereof) in any case aforesaid as may seem to him to be necessary or desirable on such terms as he shall consider fit;

- 12.1.8 to arrange for or provide all the services (including, without prejudice to the generality of the foregoing, the lighting, heating and cleaning) which may be deemed proper for the efficient use or management of the Security Assets;
- 12.1.9 to reconstruct, alter, improve, decorate, furnish, complete and maintain the whole or any part of the buildings hereby charged;
- 12.1.10 to effect such insurances as he shall, in his absolute discretion, think fit;
- 12.1.11 to redeem any prior encumbrance and to settle and prove the accounts of the encumbrancer, and accounts so settled and proved shall be conclusive and binding on the Chargor and the money so paid shall be a receivership expense;
- 12.1.12 to exercise, or permit the Chargor or any nominees of the Chargor to exercise, any powers or rights incidental to the ownership of the Security Assets or any part thereof in such manner as he may think fit and in particular any voting rights conferred by the same and any rights of enforcing the same by foreclosure, sale or otherwise, and to call up all or any portion of the uncalled capital of the Chargor;
- 12.1.13 to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is, or claims to be, a creditor of the Chargor or which relate in any way to the Security Assets or any part thereof;
- 12.1.14 to bring, prosecute, enforce, defend and abandon all such actions, suits and proceedings in relation to the Security Assets or any part thereof as may seem to him to be expedient;
- 12.1.15 to appoint, hire and employ and to remunerate agents, managers, servants, attendants, workmen and others on such terms and generally in such manner as he shall think fit, either in connection with any exercise by him of any of the foregoing powers or otherwise for any purpose connected with the Security Assets or any part thereof and to discharge any person so appointed, hired or employed;
- 12.1.16 to take recover collect and get in all or any part of the book debts and other debts hereby charged and for that purpose to give such notice to the Chargor's debtors as may be required or to sue take any proceedings in the name of the Chargor or otherwise as may seem expedient and to sell assign or otherwise deal with all or any part of the book debts and other debts hereby charged in such manner and generally on such terms and conditions (and whether for a lump sum or for a consideration payable in instalments and whether for cash or for a consideration other than cash) as may seem to him to be expedient; and

12.1.17 to do all such other acts and things as he may consider necessary or desirable for the realisation of any of the Security Assets or any part thereof or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of these presents, and to exercise and do, in relation to the Security Assets or any part thereof, all such powers, authorities and things as he would be capable of exercising if he were the absolute beneficial owner of the same.

12.2 If at any time the Chargor does not comply with any of its obligations under this Deed the Company (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify the default. The Chargor irrevocably authorises the Company and its employees and agents by way of security to do all such things (including entering into the property of the Chargor) necessary or desirable to rectify the default. The exercise of the powers of the Company under this clause shall not render it liable as mortgagee in possession. The Chargor shall pay to the Company on demand any monies which are expended by the Company in doing so.

13. Application of Monies, etc

13.1 Application of Monies by Company

The Company shall hold the monies arising from any exercise of the powers of sale or conversion upon trust that it shall thereout in the first place pay or retain or provide for the payment or satisfaction of the costs and expenses and liabilities incurred in or about the execution of such powers or otherwise in relation to these presents and shall apply the residue of such monies in accordance with the following priorities:

13.1.1 in or towards the payment of all arrears of interest unpaid in respect of these presents;

13.1.2 in or towards the payment to the Company of all principal monies due on these presents;

13.1.3 in or towards the payment of any other monies owing to the Company on these presents; and

13.1.4 the balance thereof shall be paid to the Chargor.

13.2 Application of Monies by Receiver

The net profits of carrying on the said business and/or the net proceeds of any sale by the Receiver shall subject to any prior ranking claims thereon be applied by it as follows:

- 13.2.1 in payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise by him of all or any of the powers aforesaid including the remuneration of the Receiver and all outgoings properly paid by him; and
- 13.2.2 in or towards payment of any prior ranking claim;
- 13.2.3 in or towards payment to the Company of all arrears of interest unpaid in respect of these presents;
- 13.2.4 in or towards payment to the Company of all principal monies due on these presents;
- 13.2.5 in or towards payment to the Company of any other monies owing to the Company on these presents; and
- 13.2.6 any surplus shall be paid to the Chargor;

provided that if the Receiver shall be of the opinion that the Security may prove deficient payments may be made on account of unpaid principal monies before unpaid interest due under these presents but such alteration in the order of payment of principal monies and interest shall not prejudice the right of the Company to receive the full amount to which it would have been entitled if the primary order of payment had been observed or any less amount which the sum ultimately realised may be sufficient to pay.

13.3 Liability of the Company and Receiver

The Company and any Receiver appointed by the Company under this Deed shall not, in any circumstances, whether by reason of the Company or such Receiver entering into possession of the Security Assets or any part thereof or for any other reason whatsoever be liable to account as mortgagee in possession or on any basis whatsoever for anything except actual receipts or be liable for any loss arising from any realisation of the Security Assets or any part thereof or any default or omission in relation to the Security Assets or any exercise or non-exercise of any power, authority or discretion conferred on the Company or any Receiver in relation to the Security Assets or any part thereof by or pursuant to this Deed or the Act unless such loss or damage is caused by the gross negligence or wilful misconduct of the Company or such Receiver.

13.4 Receiver Agent of the Chargor

Any Receiver appointed hereunder shall be deemed to be the agent of the Chargor for all purposes and be in the same position as the Receiver duly appointed under the Act in connection with his powers and duties hereunder save so far as he shall be specifically authorised to engage the responsibility of the Company or shall expressly undertake personal liability which he shall not be deemed to do by entering into any contract as or in which he is described as Receiver and the Chargor shall be solely responsible for all acts and defaults of

the Receiver as agent of the Chargor and for such remuneration of the Receiver as the Company shall consider reasonable and be liable under any contracts or engagements made or entered into by him and the Company shall not in making the appointment or in consenting thereto incur any liability for any such acts or defaults or otherwise.

13.5 Section 109 of the Act

Section 109 of the Act shall not apply to the commission and/or remuneration of a Receiver appointed pursuant to this Deed. A Receiver shall be entitled to remuneration at a rate to be fixed by agreement between such Receiver and the Company (or failing such agreement to be fixed by the Company).

14. Continuing Security

14.1 Continuing Security

The Security is continuing and will extend to the ultimate balance of all the Secured Obligations regardless of any intermediate payment, settlement or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

14.2 Additional and Separate Security

This Deed is in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security Interest which the Company may at any time hold for any of the Secured Obligations or any rights, powers and remedies provided by law and shall not be in any way prejudiced thereby or by the invalidity thereof.

14.3 Right to Enforce

This Deed may be enforced against the Chargor without the Company first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it or any of them.

15. Appropriation and Suspense Account

15.1 Right of Appropriation

Subject to Clause 24.2 (*Currency Indemnity*), the Company may apply all payments received for the Secured Obligations to reduce any part of the Secured Obligations in accordance with this Deed. Any such appropriation shall override any appropriation by the Chargor.

15.2 Suspense Account

All monies received, recovered or realised by the Company under or in connection with this Deed may at the discretion of the Company be credited to any suspense account for so long

as the Company determines (with interest accruing thereon at such rate, if any, as the Company may determine for the account of the Chargor) without the Company having any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Obligations.

16. Consolidation of Accounts and Set-Off

16.1 Set-Off

In addition to any other rights of set-off or consolidation they may have at any time, the Company shall have the right at any time or times after the occurrence of a Termination Event which is continuing without notice to the Chargor (both before and after demand):

16.1.1 to combine or consolidate all or any sums of money now or in future standing to the credit of the then existing accounts (including each of the Security Accounts) of the Chargor with the Company with the liabilities to the Company of the Chargor; and

16.1.2 to set-off or transfer any sum or sums standing to the credit of any one or more of such accounts (including the Trust Account and each of the Security Accounts) in or towards satisfaction of any of the liabilities of the Chargor to the Company (or any other Affiliate) on any other account or in any other respect.

16.2 Consolidation

The statutory restrictions on the consolidation of mortgages contained in section 17 of the Act shall not apply to the Security constituted by this Deed.

16.3 Nature of Obligations

The liabilities referred to in this Clause 16 (*Consolidation of Accounts and Set-Off*) (1) may be actual, contingent, primary, collateral, several or joint liabilities and (2) may be owed to different branches or offices of the Company. The accounts, sums and liabilities referred to in this Clause 16 (*Consolidation of Accounts and Set-Off*) may be denominated in any currency and the Company is authorised to effect any necessary conversions at a market rate of exchange selected by it.

16.4 Amount

If the relevant obligation or liability is unliquidated or unascertained, the Company may set off the amount which it estimates (in good faith) will be the final amount of such obligation or liability once it becomes liquidated or ascertained.

17. Delegation

Each of the Company and any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by them under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Company nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

18. Further Assurance

18.1 Further Assurance

Whenever requested by the Company the Chargor shall forthwith, at its own expense, promptly execute any deeds or documents and take any action required by the Company:

- 18.1.1 to perfect, improve and protect the security created (or intended to be created) by or pursuant to this Deed; or
- 18.1.2 to secure the payment of all principal monies, interest and other sums for the time being and from time to time owing on the security of these presents or assured by the Chargor; or
- 18.1.3 to facilitate the realisation of any Security Asset or otherwise to enforce the security created by or pursuant to this Deed; or
- 18.1.4 to exercise any of the rights of the Company or any Receiver or any delegate or sub-delegate thereof under this Deed,

including (without limitation) (1) the execution of any transfer, conveyance, assignment or assurance of any Property or assets (whether to the Company or its nominees) and (2) the giving of any notice, order or direction and the making of any registration which, in any such case, the Company may think expedient.

18.2 Specific Obligations

Without limiting the generality of Clause 18.1 (*Further Assurance*), the Chargor will on demand execute, in favour of the Company and in such form as the Company shall reasonably require:

- 18.2.1 a valid mortgage or charge of any freehold or leasehold Property now or in the future belonging to the Chargor;

18.2.2 a legal assignment of all or any of the Receivables and give notice of such assignment to the persons liable to discharge those Receivables (whether as principal debtor or as surety); and

18.2.3 a valid fixed charge over any asset which is subject to the floating charge under this Deed.

18.3 Liability for Costs and Expenses

Any security document required to be executed by the Chargor pursuant to this Clause 18 (*Further assurance*) or Clause 19 (*Power of Attorney*) will be prepared at the cost of the Chargor and will contain terms and conditions which are no more onerous than those contained in this Deed.

19. Power of Attorney

19.1 The Chargor by way of security irrevocably appoints the Company (whether or not a Receiver has been appointed) and, also as a separate appointment, any Receiver or Receivers appointed hereunder to be its attorney and in its name and on its behalf and as its act and deed and at such time and in such manner as the attorney thinks fit, to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

19.1.1 carrying out any obligation imposed on the Chargor by this Deed (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of any of the Security Assets);

19.1.2 enabling any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of any of the Security Assets);

19.1.3 sign or execute (using the company seal where appropriate) any document, or take any action (including the execution and delivery of any deeds, charges, assignments or other security and any transfer of any of the Security Assets), in each case which the Chargor is obliged to sign, execute or take under this Deed (including under Clause 18 (*Further Assurance*)); and

19.1.4 following the occurrence of a Termination Event and for as long as the same is continuing, do all such acts or things as may be required by the Company or any Receiver under this Deed or in the exercise of any of their powers.

The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

20. Opening of New Accounts

20.1 If for any reason the Security ceases to be a continuing security (other than by way of discharge of such security), the Company may open a new account with or continue any existing account with the Chargor and the liability of the Chargor in respect of the Secured Obligations at the date of such cessation shall remain regardless of any payments in or out of any such account.

20.2 If the Company receives notice (whether actual or otherwise) of any subsequent Security Interest other than a Permitted Security Interest affecting any part of the Security Assets and/or the proceeds of sale thereof, it may open a new account or accounts for the Chargor in its books and no monies paid or carried to the credit of such new account shall be appropriated towards or have the effect of discharging any part of the amount owing on the Security at the date of such notice. If it does not open a new account, then, as from the time of receipt of such notice by the Company, all payments made by the Chargor to the Company shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

21. Payments

21.1 Payments

Subject to Clause 21.2 (*Gross-up*), all payments to be made by the Chargor in respect of this Deed must be made:

21.1.1 in immediately available funds to the credit of such account as the Company may designate; and

21.1.2 free and clear of, and without any deduction for, or on account of, any set-off or counterclaim or, except to the extent compelled by law, any deduction on account of any Taxes.

21.2 Gross-up

If the Chargor is compelled by law to make any deduction or withholding from any sum payable under this Deed to the Company, the sum so payable by the Chargor shall be increased so as to result in the receipt by the Company of a net amount equal to the full amount expressed to be payable under this Deed.

22. Costs and Expenses

22.1 Preparation Costs

The Chargor shall promptly on demand pay to the Company, on a full indemnity basis, the amount of all reasonable costs, charges and expenses (including, without limitation, reasonable legal fees, valuation, accountancy and consultancy fees (and any VAT or similar Tax thereon)) incurred by the Company in connection with:

22.1.1 the negotiation, preparation, printing, execution, registration and completion of this Deed or any of the documents referred to in this Deed; or

22.1.2 any actual or proposed amendment or extension of, or any waiver or consent under, this Deed.

22.2 Enforcement Costs

The Chargor shall promptly on demand pay to the Company and any Receiver, on a full indemnity basis, the amount of all costs, charges and expenses (including, without limitation, legal fees (and any VAT or similar Tax thereon)) incurred in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of their respective rights under this Deed or any of the documents referred to in this Deed (including all remuneration of the Receiver).

22.3 Default Interest

Any amount demanded under Clause 22.1 (*Preparation Costs*) or 22.2 (*Enforcement Costs*) shall bear interest at the Default Rate (both before and after judgment) from the day on which those monies were paid, incurred or charged by the relevant person and otherwise in accordance with Clause 2.2 (*Default Interest*).

23. Stamp Duty

23.1 The Chargor shall:

23.1.1 pay all present and future stamp, registration and similar Taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Deed or any judgment given in connection therewith; and

23.1.2 indemnify the Company and any Receiver on demand against any and all costs, losses or liabilities (including, without limitation, penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar Taxes or charges.

24. Currencies

24.1 Conversion

All monies received or held by the Company or any Receiver under this Deed may be converted from their existing currency into such other currency as the Company or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Rate of Exchange. The Chargor shall indemnify the Company against all costs, charges and expenses incurred in relation to such sale. Neither the Company nor any Receiver shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such sale.

24.2 Currency Indemnity

No payment to the Company (whether under any judgment or court order or in the liquidation or dissolution of the Chargor or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made, unless and until the Company shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Company shall have a further separate cause of action against the Chargor and shall be entitled to enforce the security constituted by this Deed to recover the amount of the shortfall.

25. Indemnity

25.1 The Chargor shall indemnify the Company, any Receiver and any attorney, agent or other person appointed by the Company under this Deed and the Company's officers and employees (each an "**Indemnified Party**") on demand against any cost, loss, liability or expense (however arising) incurred by any of the Indemnified Parties as a result of or in connection with:

25.1.1 anything done or omitted in the exercise or purported exercise of the powers contained in this Deed;

25.1.2 the Security Assets or the use or occupation of them by any person (including any environmental claim); or

25.1.3 any breach by the Chargor of any of its obligations under this Deed.

26. Waiver of Defences

26.1 The liability of the Chargor hereunder will not be affected by any act, omission, circumstance, matter or thing which but for this provision would release or prejudice any of its obligations hereunder or prejudice or diminish such obligations in whole or in part, including without limitation, and whether or not known to the Chargor or the Company:

- 26.1.1 any time, indulgence or waiver granted to, or composition with, the Chargor, any Obligor or any other person; or
- 26.1.2 the release of the Chargor, any Obligor or any other person under the terms of any composition or arrangement with any creditor of the Chargor; or
- 26.1.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect or take up or enforce any rights or remedies against, or any security over assets of, the Chargor, any Obligor or any other person or any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any other security; or
- 26.1.4 the winding-up, dissolution, administration, receivership or reorganisation of the Chargor (or equivalent process in any Relevant Jurisdiction);
- 26.1.5 any legal limitation, disability, incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status of or other circumstance relating to, the Chargor, any Obligor or any other person; or
- 26.1.6 any variation (however fundamental and whether or not involving any increase in the liability of the Chargor thereunder) or replacement of any Finance Document or any other document or security so that references to the Finance Documents or other documents or security in this Deed shall include each such variation or replacement; or
- 26.1.7 any unenforceability, illegality, invalidity or frustration of any obligation of the Chargor or any other person under any Finance Document or any other document or security, or any failure of the Chargor to become bound by the terms of a Finance Document whether through any want of power or authority or otherwise; or
- 26.1.8 any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of the Chargor under a Finance Document or any security granted therefor resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order, this Deed be construed as if there were no such circumstance,

to the intent that the Chargor's obligations under this Deed shall remain in full force, and this Deed shall be construed accordingly, as if there were no such circumstance, act, variation, limitation, omission, unenforceability, illegality, matter or thing.

- 26.2 The Company shall not be concerned to see or investigate the powers or authorities of the Chargor or its officers or agents, and monies obtained or Secured Obligations incurred in purported exercise of such powers or authorities or by any person purporting to act on behalf

of the Chargor shall be deemed to form a part of the Secured Obligations, and "**Secured Obligations**" shall be construed accordingly.

27. Protection of Purchaser

Where a conveyance is made in professed exercise of the power of sale applicable hereto the title of the purchaser (the "**Purchaser**") shall not be impeachable on the grounds that no case has arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly exercised and the Purchaser shall not either before or on conveyance be concerned to see or inquire whether a case has arisen to authorise the sale or due notice has been given or the power is otherwise than properly or regularly exercised but this provision shall not prejudice a claim for damages against the person exercising the power or any person indemnified by an unauthorised or improper or irregular exercise thereof.

28. Prior Mortgages/Charges

If there are any mortgages or charges (the "**Prior Mortgages/Charges**") upon the Security Assets specified in Schedule 3 then but not otherwise, this charge is and is hereby expressed to be subject to the Prior Mortgages/Charges and to principal interest and other monies hereby secured and in that case but not otherwise, the following provisions shall have effect:

28.1.1 any sale in exercise of the statutory and other powers and remedies to be made either subject to or discharged from the Prior Mortgages/Charges or upon such terms as to indemnity as the Company may think fit and the Company may settle and pass accounts of any person in whom the Prior Mortgages/Charges may for the time being be vested and any account so settled and passed shall be binding on the Chargor accordingly who hereby authorises such prior mortgagee/chargee to give to the Company all information and account relating to the Prior Mortgages/Charges; and

28.1.2 if the person entitled to the benefit of the Prior Mortgages/Charges shall call in the monies thereby secured or shall take any steps to enforce the Prior Mortgages/Charges the Company may thereupon pay off the Prior Mortgages/Charges and take a transfer of the benefit thereof and monies so expended by the Company and all costs of any interest incidental to the transaction incurred by the Company shall be added to the monies and liabilities hereby secured and shall gain interest at the Default Rate from the time of the same having been expended until payment and the same shall be charged on the Property.

29. Land Registry

29.1 The Chargor hereby assents and consents to the registration against the title to registered land of which it is the registered owner or, as applicable, the person entitled to be registered is registered owner as well as against the title to any further registered land of which it may from

time to time become the registered owner, or, as applicable, the person entitled to be registered as registered owner of:

- 29.1.1 the first ranking fixed mortgage and charge created by this Deed on the said land;
- 29.1.2 on crystallisation of the floating charge created by this Deed on the said land, such crystallised floating charge; and
- 29.1.3 the power of any Receiver appointed under this Deed to charge the said land.

29.2 The Chargor shall at its own cost and on request by the Company:

- 29.2.1 use all reasonable endeavours to obtain the consent of the relevant landlord (on terms acceptable to the Company) to the creation and continuing of this Deed; and
- 29.2.2 Register this Deed and/or title to the Property at the Land Registry or Land Charges Department.

29.3 The Chargor agrees that the Company may apply for a restriction to be registered on the register of any Property which is registered land and of which the Chargor is registered owner (present and future) in the following terms:-

"except under an order of the Registrar, no disposition or dealing by the Registered Owner of the land is to be registered without the written consent of the Registered Owner for the time being of the charge registered on the day of ".

30. Release

30.1 Obligation to Release

Upon the expiry of the Security Period (but not otherwise), the Company shall, at the request and cost of the Chargor, do all things necessary to release the Security Assets (without recourse or warranty) from the Security. Such release shall be subject to Clause 30.2 (*Reinstatement*).

30.2 Reinstatement

Where any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred. The Company may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

30.3 Partial Release

The Company may release any Security Assets from the Security at any time and any such release shall not in any way affect, prejudice or invalidate the Security over any other Security Assets, any other Security Document or the obligations of the Chargor under this Deed or any other Finance Document.

31. Amendments and Waivers

31.1 Any provision of this Deed may be amended only if the Company and the Chargor so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Company so agrees in writing. A waiver given or consent granted by the Company under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

31.2 No failure to exercise, nor any delay in exercising, on the part of the Company, any right, power or privilege under this Deed shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof, or the exercise of any other power or right.

31.3 A waiver by the Company of any breach of any of the terms, provisions or conditions hereof or the acquiescence by the Company in any act (whether commission or omission) shall not constitute a general waiver of such term, provision or condition or of any subsequent act contrary thereto

32. Assignment

32.1 This Deed shall be binding upon and inure to the benefit of each of the parties and their respective executors, administrators, successors and permitted assigns (as the case may be) and references in this Deed to any of them shall be construed accordingly.

32.2 The Chargor may not assign or transfer any of its rights, benefits or obligations under this Deed.

32.3 The Company may assign, transfer, novate or sub-participate all or any part of its rights, benefits and obligations under this Deed without the consent of the Chargor. The Chargor will, immediately upon being requested to do so by the Company, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

33. Disclosure of Information

The Chargor agrees that the Company may disclose to any other person:

- 33.1.1 to (or through) whom the Company assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Deed;
- 33.1.2 with (or through) whom the Company enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, this Deed or the Chargor; or
- 33.1.3 to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,

any information about the Chargor and the Finance Documents as the Company shall consider appropriate.

34. Notices

34.1 Communications in Writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by letter (but not by e-mail).

34.2 Addresses

The address of each party to this Deed for any communication or document to be made or delivered under or in connection with this Deed is that identified with the name of the relevant party above or any substitute address or number as the Chargor may notify to the Company (or the Company may notify to the Chargor if a change is made by the Company) by not less than five days' notice.

34.3 Delivery

- 34.3.1 Any communication or document made or delivered by the Company to the Chargor under or in connection with this Deed will be effective, if by way of letter, when it has been left at the relevant address or two days after being deposited in the post postage prepaid in an envelope addressed to it at that address.
- 34.3.2 Any communication or document to be made or delivered to the Company will be effective only when actually received by the Company and then only if it is expressly marked for the attention of the department or officer identified with the Company's signature below (or any substitute department or officer as the Company shall specify for this purpose).

35. Remedies Cumulative

The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

36. Preferential Claims

The Chargor shall procure that all debts and obligations to or in respect of persons employed by the Chargor which by law may have priority over the Security hereby created shall be punctually duly paid and discharged.

37. Indulgence

The Company shall be at liberty from time to time to give time for the payment of any bill or bills of exchange promissory note or other security or securities which may have been discounted for and received in account for the Chargor or on which the Chargor shall or may be liable as drawer or endorser or otherwise to any party or parties thereto or liable thereon as the Company shall in its discretion think fit without in any way releasing the Chargor or affecting the security hereby created.

38. Enforcement of Other Rights

The Chargor waives any right it may have of first requiring the Company to proceed against or enforce any other rights or security the Company may have or benefit from before enforcing the security constituted hereby.

39. Security Registration

The Chargor hereby irrevocably and unconditionally authorises the Company to do, at the cost and expense of the Chargor, all acts and sign on behalf of the Chargor all required documents and forms as the Company may consider necessary or desirable to procure compliance with the procedure under section 860 of the Companies Act in respect of this Deed. For the avoidance of doubt, this clause permits the Company to insert its or their employees respective e-mail addresses (or such other e-mail address as it or they may nominate) in any form or forms filed under Section 860 of the Companies Act for the purposes of receiving a certificate of registration of a charge from Companies House. In addition, the Chargor agrees and acknowledges that it is the Chargor's responsibility to comply with the requirements of and the procedures set out in section 860 the Companies Act that the Company has no liability or responsibility to the Chargor for any failure to comply in full or in part with any such requirement or procedure.

40. Counterparts

This Deed may be executed in any number of counterparts and by the parties to this Deed on separate counterparts, each of which, when executed and delivered, shall constitute an original, but all the counterparts shall together constitute but one and the same instrument.

41. Governing Law and Jurisdiction

41.1 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

41.2 Each of the parties to this Deed irrevocably agrees for the benefit of the Company that the courts of England are the most appropriate and convenient courts to settle disputes and accordingly no Party will argue to the contrary. The courts of England shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes which may arise out of, or in connection with, this Deed and, for such purposes, the parties hereto irrevocably submit to the jurisdiction of such courts.

41.3 The Chargor hereby agrees for the exclusive benefit of the Company that any legal action or proceeding (the "**Proceedings**") brought against him with respect to this Deed may be brought in the High Court of England or such other competent Court of England as the Company may elect and the Chargor waives any objection to the Proceedings being taken in such courts whether on the grounds of venue or on the ground that the Proceedings have been brought in an inconvenient forum. The Chargor undertakes to enter a memorandum of appearance within 14 days after the completion of any service or process of any Proceedings. The Chargor hereby consents to the service by post of any process issued in that jurisdiction. Nothing herein shall affect the Company's right to serve process in any other manner permitted by law.

41.4 Nothing in this Clause 41 shall limit the right of the Company to take Proceedings to any other court or competent jurisdiction nor shall the taking of Proceedings in any or more jurisdictions preclude the taking of Proceedings in any other jurisdiction (whether concurrently or not).

IN WITNESS of which this Deed has been duly executed by the Chargor as a deed and duly executed by the Company and has been delivered on the date written at the beginning of this Deed.

SCHEDULE 1

Capital Flow Companies

Name	Company No.	Registered Office
Capitalflow Designated Activity Company	568641	Second Floor, Block A, The Crescent Building, Northwood Business Park, Santry, Dublin 9.

SCHEDULE 2

Details of Security Assets

PART 1

Property

Part 1A

Registered Land

Address/Property description	County	Title Number
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Part 1B

Unregistered Land

Address	Document describing the Property
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Date	Document	Parties
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PART 2

Chattels

Description of Chattel (including make and model)	Serial or other Distinguishing features	Year of manufacture	Location number
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PART 3

Charged Securities

Name of company in which shares are held	Class of share	Number of shares held	Issued share capital
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PART 4

Insurances

Insurer	Policy no	Insured risk	Sums payable	Date of policy	Duration of cover
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PART 5

Intellectual Property

PART 6

Relevant Contracts

PART 7

Part 7A

Leases

Part 7B

Notice of Assignment of Occupational Lease

Part 7C

Notice of Assignment of Head Lease

PART 8

Fixtures & Fittings

PART 9

Licences

PART 10

Security Accounts

SCHEDULE 3

PART A

Notice of Assignment in respect of Insurances

(for attachment by way of endorsement to the Insurance Policies)

To: [Insurer Name]

[Insurer Address]

[Date]

We, [] (reg. no. []) hereby give notice that by a Debenture dated [] between us and Capitalflow DAC as Company (the "**Company**"), we have assigned to the Company the policies of insurance more particular details of which are set out in the Schedule to this Notice (the "**Policies**") and all our interest (including the benefit of all money owing or to become owing to us in respect of the Policies together with all interest thereon).

We hereby authorise you to issue a letter of undertaking, in the form attached, to the Company and to act on the instructions of the Company in the manner provided in that letter without any further reference to or authorisation from us.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England.

Yours faithfully

.....

(Authorised signatory)

[]

SCHEDULE

Insurance Policies

PART B

Letter of Undertaking

To: Capitalflow DAC
Second floor, Block A
The Crescent Building
Northwood Business Park
Santry
Dublin 9
D09 X8W3

[]

Dear Sirs,

Letter of Undertaking

In accordance with an assignment of the insurance policies referred to in the Schedule to this letter (the "**Policies**") made by [] (the "**Chargor**") we undertake:

1. to note your interest as sole loss payee on the Policies;
2. to disclose to you without any reference to or further authority from the Chargor such information relating to the Policies as you may at any time request;
3. not to release any of the Policies on request by the Chargor without your prior written consent;
4. following written notification from that the security created by the Chargor in respect of the Policies has become enforceable, to pay all claims payable under the Policies to you unless you otherwise agree in writing and save as obliged by law.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England.

Yours faithfully,

for and on behalf of

[Insurer]

SCHEDULE

Insurance Policies

SCHEDULE 4

Forms of Notice of Assignment in respect of Relevant Contracts

PART A

Notice to Counterparty

To: [Contract party]

[Date]

Dear Sirs

Debenture dated [] between [] and Capitalflow DAC (the "Company")

This letter constitutes notice to you that under the Debenture we have assigned by way of security to the Company, all our right, title and interest in and to [insert details of Contracts] (the "Contracts").

We confirm that:

1. we will remain liable under the Contracts to perform all the obligations assumed by us under the Contracts; and
2. none of the Company, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contracts.

We will also remain entitled to exercise all our rights, powers and discretions under the Contracts, and you should continue to give notices under the Contracts to us, unless and until you receive notice from the Company to the contrary stating that the security created under the Debenture has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given to, the Company or as it directs.

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

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England.

Please acknowledge receipt of this letter by sending the attached acknowledgement to the Company at Second floor, Block A, The Crescent Building, Northwood Business Park, Santry, Dublin 9, D09 X8W3 (FAO: []).

Yours faithfully

.....

(Authorised signatory)

[]

PART B

Acknowledgement of Counterparty

To: Capitalflow DAC
Second floor, Block A
The Crescent Building
Northwood Business Park
Santry
Dublin 9
D09 X8W3

Copy: [Chargor Name]

[Date]

Dear Sirs

We confirm receipt from [] of a notice (the "**Notice**") dated [] of an assignment on the terms of the Debenture dated [] of all the Chargor's right, title and interest in and to the Contracts/Leases identified in the Notice (the "**Contracts/Leases**").

We confirm that we will pay all sums due, and give notices, under the Contracts/Lease as directed in the Notice.

This letter and any non-contractual obligations arising out of or in connection with it are governed by the laws of England.

Yours faithfully



(Authorised signatory)

[Counterparty]

SCHEDULE 5

Form of Notice of Assignment and Charge in respect of Security Accounts other than the Trust Account

PART A

Notice to Bank

[On the letterhead of the Chargor]

To: [Account Bank]

[Date]

Dear Sirs

Debenture dated [] between [] and Capitalflow DAC (the "Company")

We give you notice that we have charged to the Company all of our right, title and interest in and to account number [] (account name []) (including any renewal or redesignation thereof) and all monies standing to the credit of that account from time to time (the "**Account**").

With effect from the date of your receipt of any notice from the Company that a Termination Event has occurred:

- (i) any existing payment instructions affecting the Account are to be terminated and all payments and communications in respect of the Account should be made, or sent, to the Company or as it shall direct;
- (ii) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Account belong to the Company.

Please accept this notice by signing the enclosed acknowledgement and returning it to the Company.

This notice and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England.

Yours faithfully

for and on behalf of
[]

PART B

Acknowledgement of Bank

[On the letterhead of the Account Bank]

To: Capitalflow DAC
Second floor, Block A
The Crescent Building
Northwood Business Park
Santry
Dublin 9
D09 X8W3

[Date]

Dear Sirs

We acknowledge receipt of the notice of assignment and charge dated [], on the terms attached, in respect of the Account (as described in those terms). We confirm that:

- we have not received notice of any previous assignments of, charges over or trusts in respect of, the Account and we will not, without the Company's prior written consent (a) exercise any right of combination, consolidation or set-off which we may have in respect of the Account or (b) amend or vary any rights attaching to the Account; and
- with effect from the date of receipt of a notice from the Company that a Termination Event has occurred we will act only in accordance with the instructions given by persons authorised by the Company and we shall send all statements and other notices given by us relating to the Account to the Company.

This acknowledgement and any non-contractual provisions arising out of or in connection with it shall be governed by the laws of England.

For and on behalf of []

By:

Execution page

EXECUTED and DELIVERED as a DEED by

CXC GLOBAL EMEA UK LTD acting by a single
director in the presence of:

Witness

Print name

Address

GIVEN under the common seal of
CAPITALFLOW DESIGNATED ACTIVITY
COMPANY
and DELIVERED as a DEED:

DocuSigned by:


93CFCE13EA1A428...

Director

Peter Oreb

Print name

Director

AUTHORISED SIGNATORY


Brian McCann

Print name

Director/Secretary

AUTHORISED SIGNATORY


D. MALONEY

Print name

WF-15538003-B