



Registration of a Charge

Company name: **CHALLENGER PERFORMANCE OPTIMIZATION UK LIMITED**
Company number: **11448434**



X9C6SFWJ

Received for Electronic Filing: **25/08/2020**

Details of Charge

Date of creation: **19/08/2020**
Charge code: **1144 8434 0001**
Persons entitled: **LBC CREDIT AGENCY SERVICES, LLC**
Brief description: **THE INSTRUMENT CONTAINS A FIRST FIXED CHARGE OVER ALL INTELLECTUAL PROPERTY. FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**
Contains fixed charge(s).
Contains floating charge(s) .
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:

CHARLOTTE CHOULES



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11448434

Charge code: 1144 8434 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th August 2020 and created by CHALLENGER PERFORMANCE OPTIMIZATION UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th August 2020 .

Given at Companies House, Cardiff on 26th August 2020

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

DATE: 19th August 2020

DEBENTURE

Between

**CHALLENGER UK TOPCO LIMITED AND CHALLENGER PERFORMANCE
OPTIMIZATION UK LIMITED**
(as Chargors)

and

LBC CREDIT AGENCY SERVICES, LLC
(as Agent)

CMS Cameron McKenna Nabarro Olswang LLP
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THIS DEED is made on 19th August 2020

BETWEEN:

- (1) THE COMPANIES whose respective names and company numbers appear in schedule 1 (*The Chargors*) (collectively the “Chargors” and each a “Chargor”); and
- (2) LBC CREDIT AGENCY SERVICES, LLC of 555 East Lancaster Avenue, Suite 450, Radnor, 19087, as agent for the Finance Parties (as defined below) (the “Agent”).

WHEREAS:

- (A) Each Chargor enters into this Deed in connection with a credit agreement (the “Credit Agreement”) originally dated 31 August 2018 and as amended from time to time and made between (1) Challenger Performance Optimization, Inc. (the “Borrower”), (2) LBC Credit Agency Services, LLC as sole lead arranger (the “Arranger”), (3) the Lenders as defined in the Credit Agreement and (4) LBC Credit Agency Services, LLC as agent for the Finance Parties.
- (B) The Board of Directors of each Chargor is satisfied that the giving of the security contained or provided for in this Deed is in the interests of that Chargor and each Board has passed a resolution to that effect.

NOW IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

Definitions

- 1.1 Terms defined in the Credit Agreement shall, unless otherwise defined in this Deed, have the same meanings when used in this Deed and in addition in this Deed:

“**Authorisation**”: means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“**Business Day**”: means a day (other than a Saturday or Sunday) on which banks are open for general business in London.

“**Charged Property**”: means all the assets of each Chargor which from time to time are the subject of any security created or expressed to be created in favour of the Agent by or pursuant to this Deed.

“**Closing Date**”: means the date of the Credit Agreement.

“**Debt Proceeds**”: means any proceeds of any book debts and other debts or monetary claims (including any chose in action which may give rise to a monetary claim) owing to any Chargor (including, without limitation, any sums of money received by any Chargor from any of the assets charged under clause 3.1.6 (*Book debts*) and/or clause 3.1.7 (*Bank accounts and deposits*)).

“**Delegate**”: means any person appointed by the Agent or any Receiver pursuant to clauses 12.2 to 12.4 (*Delegation*) and any person appointed as attorney of the Agent and/or any Receiver or Delegate.

“**Expenses**”: means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Agent or any Receiver or Delegate at any time in connection with the Charged Property or the Secured Liabilities or in taking, holding or perfecting this Deed or in protecting,

preserving, defending or enforcing the security constituted by this Deed or in exercising any rights, powers or remedies provided by or pursuant to this Deed (including any right or power to make payments on behalf of any Chargor under the terms of this Deed) or by law in each case on a full indemnity basis.

“Excluded Property”: means with respect to a Chargor, (a) any fee-owned real property with a value of less than \$1,000,000 and any leasehold interests in real property; (b) assets to the extent that a security interest therein would be prohibited by law, rule or regulation; (c) assets of and equity interests in any Person (other than Wholly-Owned Subsidiaries) to the extent not permitted by the terms of such Person's organizational or joint venture documents; and (d) any lease, license or other agreement or any property subject to a purchase money security interest or similar arrangement to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money arrangement or create a right of termination in favour of, or require the consent of, any other party thereto (other than the Borrower or any other Chargor).

“Finance Parties”: means the Agent, the Arranger and each Lender from time to time party to the Credit Agreement.

“Insurances”: means all contracts and policies of insurance or assurance (including, without limitation, life policies and the proceeds of them) from time to time taken out by or for the benefit of any Chargor or in which any Chargor from time to time has an interest, together with all bonuses and other moneys, benefits and advantages that may become payable or accrue under them or under any substituted policy.

“Intellectual Property”: means, with respect to any Chargor, all patents, trademarks, trade names, trade styles, trade dress, service marks, logos and other business identifiers, copyrights, technology, know-how and processes, computer hardware and software and all applications and licenses therefor, used in or necessary for the conduct of business by such Chargor.

“Liability Period”: means the period beginning on the date of this Deed and ending on the date on which the Agent is satisfied, acting in good faith, that (a) all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full, (b) the Revolving Loan Commitment has been terminated or expired, and (c) to the extent required by Agent in its sole discretion, all Swap Contracts secured, in whole or in part, by any Collateral have expired, terminated or been cash collateralized (to the satisfaction of Agent).

“LPA”: means the Law of Property Act 1925.

“Material Adverse Effect”: means with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration or governmental investigation or proceeding), whether singly or in conjunction with any other event or events, act or acts, condition or conditions, occurrence or occurrences, whether or not related, a material adverse change in, or a material adverse effect upon, any of (i) the financial condition, business operations or properties of any Credit Party and Subsidiaries, taken as a whole, (ii) the rights and remedies of the Agent or the Lenders under any Financing Document, or the ability of any Credit Party to perform any of its payment obligations under any Financing Document to which it is a party, (iii) the legality, validity or enforceability of any Financing Document.

“Mortgaged Property”: means any freehold, commonhold or leasehold property the subject of the security constituted by this Deed and references to any **“Mortgaged Property”** shall include references to the whole or any part or parts of it.

“Premises”: means all buildings and erections from time to time situated on or forming part of any Mortgaged Property.

“Receiver”: means a receiver, receiver and manager or administrative receiver of the whole or any part or parts of the Charged Property.

“Related Rights”: means, in relation to the Securities, all dividends, interest, benefits, property, rights, accretions, moneys, advantages, credits, rebates, refunds (including rebates and refunds in respect of any tax, duties, imposts or charges) and other distributions paid or payable in respect of the Securities, whether by way of bonus, capitalisation, conversion, preference, option, substitution, exchange, redemption or otherwise.

“Secured Liabilities”: means all obligations, liabilities and indebtedness (monetary (including post-petition interest, whether or not allowed) or otherwise) of each Credit Party under the Credit Agreement or any other Financing Document (including this Deed), in each case howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, together with all Expenses and all interest under clause 2.2 (*Interest*).

“Securities”: means all stocks, shares, loan notes, bonds, certificates of deposit, depository receipts, loan capital indebtedness, debentures or other securities from time to time legally or beneficially owned by or on behalf of any Chargor, together with all property and rights of any Chargor in respect of any account held by or for that Chargor as participant, or as beneficiary of a nominee or trustee participant, with any clearance or settlement system or depository or custodian or sub-custodian or broker in the United Kingdom or elsewhere.

“Security”: means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset.

“Tax”: means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“VAT”: means:

(a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

(b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above or imposed elsewhere.

Construction

1.2 Any reference in this Deed to:

1.2.1 the **“Agent”**, any **“Chargor”**, any **“Finance Party”**, the **“Borrower”** or any other person shall be construed so as to include its successors in title, permitted assigns and

- permitted transferees and, in the case of the Agent, shall include any person for the time being appointed as an additional agent pursuant to any of the Financing Documents;
- 1.2.2 “assets” includes present and future properties, revenues and rights of every description;
- 1.2.3 “indebtedness” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.4 a “person” includes any natural person, corporation, limited liability company, professional association, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any Governmental Authority;
- 1.2.5 a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
- 1.2.6 a provision of law is a reference to that provision as amended or re-enacted.
- 1.3 Clause and schedule headings are for ease of reference only.
- 1.4 Any reference in this Deed to a mortgage, charge or assignment of any asset shall be construed so as to include:
- 1.4.1 the benefit of any covenants for title given or entered into by any predecessor in title of any Chargor in respect of that asset and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that asset;
- 1.4.2 the proceeds of sale of any part of that asset and any other moneys paid or payable in respect of or in connection with that asset; and
- 1.4.3 in respect of any Mortgaged Property, all Premises and all fixtures and fittings (including trade fixtures and fittings and tenants’ fixtures and fittings) from time to time in or on that Mortgaged Property.
- 1.5 Each term in any Financing Document is, to the extent not set out in or otherwise incorporated into this Deed, deemed to be incorporated into this Deed insofar as is necessary to comply with section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 but, except where stated otherwise, if there is any conflict between that incorporated term and any other term of this Deed that other term shall prevail.
- 1.6 Any reference in this Deed to any Financing Document or any other agreement or other document shall be construed as a reference to that Financing Documents or that other agreement or document as the same may have been, or may from time to time be, restated, varied, amended, supplemented, extended, substituted, novated or assigned, whether or not as a result of any of the same:
- 1.6.1 there is an increase or decrease in any facility made available under that Financing Document or other agreement or document or an increase or decrease in the period for which any facility is available or in which it is repayable;
- 1.6.2 any additional, further or substituted facility to or for such facility is provided;

- 1.6.3 any rate of interest, commission or fees or relevant purpose is changed;
 - 1.6.4 the identity of the parties is changed;
 - 1.6.5 the identity of the providers of any security is changed;
 - 1.6.6 there is an increased or additional liability on the part of any person; or
 - 1.6.7 a new agreement is effectively created or deemed to be created.
- 1.7 Any reference in this Deed to “**this Deed**” shall be deemed to be a reference to this Deed as a whole and not limited to the particular clause, schedule or provision in which the relevant reference appears and to this Deed as amended, novated, assigned, supplemented, extended, substituted or restated from time to time and any reference in this Deed to a “**clause**” or a “**schedule**” is, unless otherwise provided, a reference to a clause or a schedule of this Deed.
- 1.8 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.9 Where any provision of this Deed is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision.
- 1.10 It is intended that this document shall take effect as and be a deed of each Chargor notwithstanding the fact that the Agent may not execute this document as a deed.
- 1.11 Any change in the constitution of the Agent or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Deed.

Third Party Rights

- 1.12 Unless otherwise expressly provided to the contrary in a Financing Document, nothing in this Deed is intended to confer on any person any right to enforce or enjoy the benefit of any provision of this Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.
- 1.13 Notwithstanding any term of any Financing Document, the consent of any person who is not a party is not required to rescind or vary this deed at any time.
- 1.14 Any Receiver may enforce or enjoy the benefit of any clause which expressly confers rights on it subject to clause 1.13 above and the provisions of the Contracts (Rights of Third Parties) Act 1999.

2. COVENANT TO PAY

Covenant to Pay

- 2.1 Each Chargor covenants with the Agent (as trustee for the Finance Parties) that it shall pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with the terms of the Financing Documents or, in the absence of any such express terms, on demand.

Interest

- 2.2 Each Chargor covenants with the Agent to pay interest on any amounts due under clause 2.1 (*Covenant to Pay*) from day to day until full discharge (whether before or after judgment,

liquidation, winding-up or administration of that Chargor) at the rate and in the manner specified in the Credit Agreement, **provided that**, in the case of any Expense, such interest shall accrue and be payable as from the date on which the relevant Expense arose without the necessity for any demand being made for payment.

3. FIXED SECURITY

Charges

- 3.1 Each Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Agent (as trustee for the Finance Parties) by way of first fixed charge all of that Chargor's right, title and interest in and to the following assets (other than any Excluded Property), both present and future:
- 3.1.1 all estates or interests in any freehold, commonhold or leasehold property;
 - 3.1.2 all licences held by it to enter upon or use land and/or to carry on the business carried on upon that land and all agreements relating to land to which it is a party or otherwise entitled;
 - 3.1.3 all amounts owing to it by way of rent, licence fee, service charge, dilapidations, ground rent and/or rent charge in respect of any Mortgaged Property or Premises;
 - 3.1.4 all fixed and other plant and machinery, computers, vehicles, office equipment and other chattels in its ownership or possession (but excluding any of those items to the extent that they are part of its stock in trade);
 - 3.1.5 all Insurances, including all claims, the proceeds of all claims and all returns of premium in connection with Insurances;
 - 3.1.6 all book debts and all other debts or monetary claims (including all choses in action which may give rise to a debt or monetary claim), all proceeds thereof and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same;
 - 3.1.7 all moneys from time to time deposited in or standing to the credit of any bank account with the Agent or any other bank or financial institution (including, without limitation, any rent deposit given to secure liabilities in relation to land and any retention or similar sum arising out of a construction contract or any other contract (and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same));
 - 3.1.8 all Securities and their Related Rights;
 - 3.1.9 all of its goodwill and uncalled capital;
 - 3.1.10 all Intellectual Property;
 - 3.1.11 all Authorisations (statutory or otherwise) held in connection with its business or the use of any Charged Property and the right to recover and receive all compensation which may be payable in respect of them; and
 - 3.1.12 all of the following:
 - (a) agreements entered into by it or of which it has the benefit under which credit of any amount is provided to any person;

- (b) contracts for the supply of goods and/or services by or to it or of which it has the benefit,

including, in each case, but without limitation, the right to demand and receive all moneys whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them.

4. FLOATING CHARGE

Creation of Floating Charge

- 4.1 Each Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Agent (as trustee for the Finance Parties) by way of a first floating charge all of that Chargor's undertaking and all its other property, assets and rights whatsoever (excluding any Excluded Property), present and future, including all of its stock in trade and all of its property, assets and rights not otherwise validly and effectively mortgaged, charged or assigned (whether at law or in equity) by way of fixed security pursuant to clause 3 (*Fixed Security*).

Qualifying Floating Charge

- 4.2 The provisions of paragraph 14 of schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created pursuant to clause 4.1 (*Creation of Floating Charge*).

Conversion by Notice

- 4.3 The Agent may by notice in writing at any time to any Chargor convert the floating charge created by pursuant to clause 4.1 (*Creation of Floating Charge*) with immediate effect into a fixed charge (either generally or specifically as regards any assets of that Chargor specified in the notice) if:
- 4.3.1 the security constituted by this Deed becomes enforceable; or
 - 4.3.2 the Agent reasonably considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process or that it is necessary to do so in order to protect or preserve the security constituted by this Deed over any of the Charged Property and/or the priority of that security.

Automatic Conversion

- 4.4 Notwithstanding clause 4.3 (*Conversion by Notice*) and without prejudice to any law which may have a similar effect, each floating charge created by clause 4.1 (*Creation of Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to that floating charge if:
- 4.4.1 any Chargor creates or attempts to create any Security over any of the Charged Property (except as expressly permitted under the Credit Agreement);
 - 4.4.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or

- 4.4.3 a resolution is passed, or an order is made, for the winding-up, dissolution, administration or re-organisation of any Chargor or an administrator is appointed in respect of any Chargor.

5. PERFECTION OF SECURITY

Registration at HM Land Registry

- 5.1 For the purposes of panel 8 of each Form RX1 that may be required to be completed by the Agent in relation to any Mortgaged Property registered or required to be registered at HM Land Registry, each Chargor hereby consents to an application being made by the Agent to the Chief Land Registrar to enter the following restriction in Form P against that Chargor's title to such Mortgaged Property:

"No disposition of the registered estate by the proprietor of the registered estate [, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of [*insert full name of Agent*] referred to in the charges register [or its conveyancer [*or specify appropriate details*]]".

- 5.2 If the title to any Mortgaged Property of any Chargor is not registered at HM Land Registry, that Chargor shall ensure that no person (other than itself) shall be registered under the Land Registration Act 2002 as the proprietor of all or any part of that Mortgaged Property without the prior consent in writing of the Agent.
- 5.3 Whether or not the title to any of the Mortgaged Property is registered at HM Land Registry, in the event that any caution against first registration or any notice (whether agreed or unilateral) is registered against any Chargor's title to any Mortgaged Property, that Chargor shall immediately provide the Agent with full particulars of the circumstances relating to such registration or notice and, if such caution or notice shall have been registered in order to protect a purported interest the creation of which is not permitted under this Deed, that Chargor shall immediately and at its own expense take such steps as the Agent may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

Further Advances

- 5.4 Subject to the provisions of the Credit Agreement, each Lender is under an obligation to make further advances to the Borrower under the Credit Agreement and that obligation will be deemed to be incorporated into this Deed as if set out in this Deed.

Acquisition of New Land

- 5.5 In relation to any freehold, commonhold or leasehold property (in each case, other than any Excluded Property) which is acquired by or on behalf of any Chargor after the date of this Deed:
- 5.5.1 if the title to any such property is registered at HM Land Registry, that Chargor shall immediately apply to be registered as the proprietor of the registered estate acquired (or procure that such application is made on its behalf) and (for the purposes of panel 11 of Form AN1) hereby consents to an application being made by the Agent to the Chief Land Registrar for the registration of an agreed notice in Form AN1 to protect this Deed against that Chargor's title to that property;

- 5.5.2 if the title to any such property is required to be registered at HM Land Registry under the provisions of the Land Registration Act 2002, that Chargor shall immediately apply for first registration of the estate acquired in Form FR1 (or procure that such application is made on its behalf) and shall disclose or procure that the existence of this Deed is disclosed to HM Land Registry either in the Form DL accompanying such application or in panel 12 of Form FR1; and
- 5.5.3 if the title to any such property represents the transfer of either part of a commonhold unit or part of the common parts of land registered as a freehold estate in commonhold land under the Commonhold and Leasehold Reform Act 2002, that Chargor shall also procure that the application to register the transfer is accompanied by an application in Form CM3 to register the commonhold community statement that has been amended in relation to the transfer as required by Rule 15 or, as the case may be, Rule 16 of the Commonhold (Land Registration) Rules 2004,

and, in each such case, the relevant Chargor shall, immediately after registration of it as the proprietor of the relevant registered estate, provide the Agent with an official copy of the register recording the same.

Notices of Charge and Assignment

- 5.6 Each Chargor shall, promptly upon the request of the Agent from time to time, give or join the Agent in giving:
- 5.6.1 a notice in the form set out in part I of schedule 2 (*Form of Notice of Charge – Accounts not with the Agent*) or in such other form as the Agent may reasonably require to each bank or financial institution (other than the Agent) in respect of each account of that Chargor opened or maintained with it; and
- 5.6.2 a notice in the form set out in part I of schedule 3 (*Form of Notice of Charge – Insurances*) or in such other form as the Agent may reasonably require to each insurer in respect of any Insurance to which it is a party.
- 5.7 Each such notice shall be duly signed by or on behalf of the relevant Chargor and that Chargor shall use all reasonable endeavours to procure that each of the persons on whom any such notice is served promptly provides to the Agent a duly signed acknowledgement of that notice in the form set out in part II of schedule 2, or, as applicable, part II of schedule 3, or in such other form in any case as the Agent may reasonably require.

Acknowledgement of Notice

- 5.8 The execution of this Deed by the Chargors and the Agent shall constitute notice to the Agent of the charge created by this Deed over any account opened or maintained by any Chargor with the Agent.

Deposit of Securities

- 5.9 Each Chargor shall, in respect of any Securities which are in certificated form, promptly:
- 5.9.1 deposit with the Agent or as it may direct all stock and share certificates and other documents of title or evidence of ownership from time to time relating to such Securities; and

- 5.9.2 execute and deliver to the Agent all share transfers and other documents as the Agent may from time to time request in order to enable the Agent (or its nominee(s)) to be registered as the owner or otherwise obtain a legal title to or to perfect its security interest in such Securities, to the intent that the Agent may at any time without notice complete and present such transfers and documents for registration.
- 5.10 Each Chargor shall, in respect of any Securities which are in uncertificated form, promptly upon being requested to do so by the Agent, give or procure the giving of, in accordance with and subject to the facilities and requirements of the relevant system, all instructions necessary to effect a transfer of title to such Securities into an account in the name of the Agent (or its nominee(s)) and to cause the Operator to register on the relevant register of securities the transfer of such title.
- 5.11 For the purposes of clauses 5.9 and 5.10 above, the expressions “certificated”, “instruction”, “Operator”, “relevant system” and “uncertificated” shall have the meanings given to those terms in the Uncertificated Securities Regulations 2001.

Intellectual Property

- 5.12 In the event that any Chargor acquires title to any new or additional Intellectual Property, or rights thereto, such Chargor shall (when required by Section 4.1(j) of the Credit Agreement) give to the Agent written notice thereof and shall enter into new or additional security agreements to include any such new or additional Intellectual Property.

6. FURTHER ASSURANCE***Further Assurance***

- 6.1 Each Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Agent or any Receiver may reasonably specify (and in such form as the Agent or any Receiver may reasonably require in favour of the Agent or its nominee(s)) to:
- 6.1.1 perfect the security created or intended to be created in respect of the Charged Property (which may include the execution by that Chargor of a mortgage, charge, assignment or other Security over all or any of the assets forming part of, or which are intended to form part of, the Charged Property);
- 6.1.2 confer on the Agent Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Deed;
- 6.1.3 facilitate the exercise of any rights, powers and remedies of the Agent or any Receiver or Delegate provided by or pursuant to this Deed or by law;
- 6.1.4 facilitate the realisation of the assets which form part of, or are intended to form part of, the Charged Property; and/or
- 6.1.5 create any charge by way of legal mortgage over any freehold, commonhold or leasehold property which becomes vested in that Chargor after the date of this Deed.

Necessary Action

- 6.2 Each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Agent by or pursuant to this Deed.

Acquisition of New Land

- 6.3 Each Chargor shall immediately notify the Agent of any acquisition by it of any freehold, commonhold or leasehold property or of any agreement entered into by it or of which it has the benefit for the acquisition of any such property.

Implied Covenants for Title

- 6.4 Each of the mortgages, charges and assignments granted by each Chargor under this Deed are granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994, save that the covenants set out in section 2(1)(a), section 3 and section 4 of that Act shall extend to each Chargor without, in each case, the benefit of section 6(2) of that Act.

7. UNDERTAKINGS***General***

- 7.1 The undertakings in this clause 7 remain in force from the date of this Deed for so long as any amount is outstanding under this Deed.

Negative Pledge

- 7.2 No Chargor shall directly or indirectly create or extend or permit to arise or subsist any Security over the whole or any part of the Charged Property or enter into any arrangement or transaction as described in section 5.2 of the Credit Agreement in respect of any asset forming part of, or intended to form part of, the Charged Property, other than as expressly permitted under this Deed or the Credit Agreement.

Restriction on Disposals

- 7.3 No Chargor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of the whole or any part of the Charged Property, other than any disposal in the ordinary course of trading (as conducted by that Chargor at the date of this Deed) of any Charged Property which is subject only to the floating charge created by clause 4.1 (*Creation of Floating Charge*) or as expressly permitted under this Deed or the Credit Agreement.

Access

- 7.4 Each Chargor shall permit the Agent and any other person nominated by it free access at all reasonable times and on reasonable notice to enter upon and/or view the state and condition of the Charged Property (without, in any case, becoming liable to account as mortgagee in possession).

Insurance

- 7.5 Each Chargor shall maintain liability and casualty insurance (on all real and personal property covering the repair and replacement cost of all such property) in each case of the kinds

customarily carried or maintained by Persons of established reputation engaged in similar businesses and in amounts acceptable to the Agent. All such insurance shall be provided by insurers having an A.M. Best policyholders rating reasonably acceptable to the Agent.

7.6 Each Chargor shall:

7.6.1 deliver to the Agent and the Lenders:

- (a) a customary certificate from that Chargor's insurance broker dated such date showing the amount of coverage as of such date, and otherwise reasonably satisfactory to the Agent (it being agreed that the form of insurance certificates delivered to the Agent on or prior to the Closing Date are satisfactory to the Agent);
- (b) on an annual basis, and upon the request of any Lender through the Agent from time to time full information as to the insurance carried;
- (c) within five (5) days of receipt of notice from any insurer, a copy of any notice of cancellation, nonrenewal or material change in coverage from that existing on the date of this Deed;
- (d) forthwith, notice of any cancellation or nonrenewal of coverage by that Chargor.

7.6.2 In the event any Chargor fails to provide the Agent with evidence of the insurance coverage required by this Deed, the Agent may purchase insurance at that Chargor's expense to protect the Agent's interests in the Charged Property. This insurance may, but need not, protect that Chargor's interests. The coverage purchased by the Agent may not pay any claim made by any Chargor or any claim that is made against any Chargor in connection with the Charged Property. A Chargor may later cancel any insurance purchased by the Agent, but only after providing the Agent with evidence that such Chargor has obtained insurance as required by this Deed. If the Agent purchases insurance for the Charged Property, that Chargor will be responsible for the costs of that insurance to the fullest extent provided by law including interest and other charges imposed by the Agent in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Secured Liabilities. The costs of the insurance may be more than the cost of insurance any such Chargor is able to obtain on its own.

Proceeds of Insurance

7.7 All moneys received or receivable by each Chargor under any Insurances in respect of the Premises or any other Charged Property of an insurable nature shall be held on trust for the Agent (as trustee for the Finance Parties) and applied (subject to the rights and claims of any person having prior rights thereto):

- 7.7.1 in accordance with section 2.3(b) (*Casualty and Other Insurance Proceeds*) of the Credit Agreement and otherwise in accordance with the Credit Agreement; and
- 7.7.2 after the security constituted by this Deed has become enforceable and if the Agent so directs, in or towards satisfaction of the Secured Liabilities in accordance with clause 15.1 (*Order of Application*).

Authorisations

- 7.8 Each Chargor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect, and supply certified copies to the Agent of, any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this Deed and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of this Deed.

Compliance with Laws and Regulations

- 7.9 Each Chargor shall comply in all respects with all laws and regulations to which it or any Charged Property may be subject, if failure so to comply would materially impair its ability to perform its obligations under this Deed.

Voting Rights and Dividends relating to Securities

- 7.10 At any time before the security constituted by this Deed has become enforceable:
- 7.10.1 each Chargor shall be entitled to exercise all voting and other rights and powers in respect of the Securities or, if any of the same are exercisable by the Agent (or its nominee(s)), to direct in writing the exercise of those voting and other rights and powers, **provided that** no Chargor shall exercise or direct the exercise of any voting or other rights and powers in any manner which would breach the provisions of the Credit Agreement or would, in the opinion of the Agent, prejudice the value of the Securities or otherwise jeopardise the security constituted by this Deed; and
 - 7.10.2 each Chargor shall be entitled to retain and apply for its own use all dividends, interest and other moneys paid or payable in respect of the Securities and, if any of the same are paid or payable to the Agent (or its nominee(s)), the Agent will hold all such dividends, interest and other moneys received by it for the account of that Chargor and will pay such dividends to that Chargor promptly on request.
- 7.11 At any time after the Agent has notified the Chargors in writing that the security constituted by this Deed has become enforceable, the Agent may at its discretion (in the name of any Chargor or otherwise and without any further consent or authority from any Chargor):
- 7.11.1 exercise (or refrain from exercising) all voting and other rights and powers in respect of the Securities;
 - 7.11.2 apply all dividends, interest and other moneys arising from the Securities in accordance with clause 15.1 (*Order of Application*) and, if any of the same are paid or payable to any Chargor, that Chargor shall hold all such dividends, interest and other moneys on trust for the Agent (as trustee for the Finance Parties) and pay the same immediately to the Agent or as it may direct to be applied in accordance with clause 15.1 (*Order of Application*);
 - 7.11.3 if not already so transferred, transfer the Securities into the name of, or (as applicable) into an account in the name of, the Agent (or its nominee(s)); and
 - 7.11.4 in addition to any other power created under this Deed, exercise (or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities and, except as expressly provided for in the Deed, all the powers and discretions conferred on trustees by the Trustee Act 1925 and the Trustee

Act 2000, including, without limitation, the general power of investment set out in section 3 of the Trustee Act 2000, **provided that** the duty of care set out in section 1 (1) of the Trustee Act 2000 shall not apply to the exercise of any other power of investment (however conferred) by the Agent (or its nominee(s)) in respect of securities or property subject to a trust.

Calls and Other Obligations in respect of Securities

- 7.12 Each Chargor shall promptly pay all calls and other payments which may be or become due in respect of all or any part of the Securities and, if it fails to do so, the Agent may elect (but shall not be obliged) to make such payments on behalf of that Chargor. Any sums so paid by the Agent shall be reimbursed by the relevant Chargor to the Agent on demand and shall carry interest at the rate specified in clause 2.2 (*Interest*) from the date of payment by the Agent until reimbursed (after as well as before any judgment).
- 7.13 Each Chargor shall remain liable to observe and perform all of the other conditions and obligations assumed by it in respect of any of all or any part of the Securities.
- 7.14 Neither the Agent nor its nominee(s) shall be liable to make any payment in respect of any calls or other payments which may be or become due in respect of the Securities or be under any duty to make any enquiry into the nature or sufficiency of any payment received by it in respect of the Securities or to present or file or make any claim, take any action or do any other act or thing for the purpose of collecting and/or enforcing the payment of any amount to which it may be entitled in respect of the Securities.
- 7.15 Each Chargor shall copy to the Agent and comply with all requests for information which is within its knowledge and which are made under section 793 of the Companies Act 2006 or any similar provision contained in any articles of association or other constitutional documents relating to all or any part of the Securities and, if it fails to do so, the Agent may elect (but shall not be obliged) to provide such information as it may have on behalf of (and at the expense of) that Chargor.
- 7.16 No Chargor shall, without the prior written consent of the Agent, do or cause or permit to be done anything which shall require any company in which any of the Securities is held to treat any person who is not the registered holder of any of the Securities as entitled to enjoy or exercise any rights of a member in relation to the whole or any part of the Securities, except pursuant to the terms of this Deed.

Book Debts and other Debts

- 7.17 No Chargor shall at any time deal with its book debts and other debts and monetary claims except by getting in and realising them in the ordinary and usual course of its business and paying all Debt Proceeds into:
- 7.17.1 in the case of Challenger Performance Optimization UK Limited, its current account with Bank of America, N.A. or HSBC UK Bank plc or into such other account with a bank or financial institution in the United Kingdom as the Agent shall have approved in advance (such approval not to be unreasonably withheld or delayed); and
- 7.17.2 in the case of Challenger UK Topco Limited, its current account with Bank of America, N.A. or into such other account with a bank or financial institution in the United

Kingdom as the Agent shall have approved in advance (such approval not to be unreasonably withheld or delayed).

- 7.18 At any time before the security constituted by this Deed has become enforceable, each Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance which arises on any account of that Chargor with any bank or financial institution referred to in clause 7.17 above.

Bank Accounts

- 7.19 Each Chargor shall promptly deliver to the Agent, on the date of this Deed and, if any change occurs thereafter, on the date of such change, details of each account maintained by it with any bank or financial institution (other than the Agent).
- 7.20 Each Chargor undertakes that it shall not, without the Agent's prior written consent:
- 7.20.1 permit or agree to any variation of the rights attaching to any account referred to in clause 7.19 above; or
- 7.20.2 close any such account.

- 7.21 At any time after the Agent has notified the Chargors in writing that the security constituted by this Deed has become enforceable no Chargor shall be entitled to receive, utilise, transfer or withdraw any credit balance from time to time on any account except with the prior written consent of the Agent.

Premises, Plant and Machinery

- 7.22 Each Chargor shall at all times, to the Agent's satisfaction, repair and keep:
- 7.22.1 the Premises in good and substantial repair and condition; and
- 7.22.2 the fixtures, plant, machinery, implements and other effects and chattels owned by it and which are in or upon the Premises or elsewhere in a good state of repair and in good working order and condition.
- 7.23 No Chargor shall, without the prior written consent of the Agent, carry out or permit to be carried out any material demolition, rebuilding, reconstruction or structural alteration of any Premises.

Mortgaged Property

- 7.24 No Chargor shall, except as expressly permitted under the Credit Agreement or with the prior written consent of the Agent:
- 7.24.1 exercise any statutory or other power of leasing or letting, or accept or agree to accept surrenders of any leases, or enter into any agreement for lease or letting, in respect of any Mortgaged Property; or
- 7.24.2 create any licence in respect of any Mortgaged Property, or let any person into occupation of, or share occupation of, any Mortgaged Property or grant any other proprietary or other right or interest in any Mortgaged Property.
- 7.25 Each Chargor shall:
- 7.25.1 observe and perform all the terms on its part contained in any lease or agreement for lease comprised within the Mortgaged Property; and

- 7.25.2 duly and punctually perform and observe and indemnify the Agent for any breach of any covenants, stipulations and obligations (restrictive or otherwise) affecting the Mortgaged Property.
- 7.26 No Chargor shall:
- 7.26.1 enter into any onerous or restrictive covenants affecting the Mortgaged Property; or
- 7.26.2 sever or unfix or remove any of the fixtures from any Mortgaged Property (except for the purpose of effecting necessary repairs to any such items in accordance with clause 7.22 above).
- 7.27 Each Chargor shall punctually pay or cause to be paid (except when contested on reasonable grounds) and shall indemnify the Agent and any Receiver or Delegate on demand against all present and future rents, rates, Taxes, assessments and outgoings of whatsoever nature imposed upon or payable in respect of its Mortgaged Property or by the owner or occupier of its Mortgaged Property upon the same becoming due and payable or within any applicable grace period.
- 7.28 No Chargor shall, without the prior written consent of the Agent:
- 7.28.1 make or, insofar as it is able, permit others to make any application for planning permission in respect of any Mortgaged Property; or
- 7.28.2 carry out or permit to be carried out any development on any Mortgaged Property.

Intellectual Property

- 7.29 Each Chargor shall:
- 7.29.1 prosecute any material Intellectual Property application owned by such Chargor at any time pending;
- 7.29.2 make application for registration issuance of all new or additional Intellectual Property as reasonably deemed appropriate by such Chargor;
- 7.29.3 preserve and maintain all rights in the material Intellectual Property owned by such Chargor to the extent and in the manner determined by the Chargor in the exercise of the Chargor's reasonable business judgement; and
- 7.29.4 to the extent requested by the Agent after the occurrence and during the continuance of an Event of Default, use commercially reasonable efforts to obtain any consents, waivers or agreements necessary to enable the Agent to exercise its remedies with respect any and all material Intellectual Property.
- 7.30 No Chargor shall abandon any right to file a material Intellectual Property application nor shall any Chargor abandon any material pending Intellectual Property application, or material registered Intellectual Property.
- 7.31 Each Chargor hereby grants to the Agent a non-exclusive licence (to the extent such licence does not violate any applicable licence agreement) to use all Intellectual Property owned or used by such Chargor to the extent necessary to enable the Agent, effective upon the occurrence and during the continuance of any Event of Default, to realise on the Intellectual Property and any permitted successor or assign to enjoy the benefits of the Intellectual Property. This licence shall inure to the benefit of the Agent and its permitted successors, assigns and transferees, whether by

voluntary conveyance, operation of law, assignment, transfer, foreclosure, deed in lieu of foreclosure or otherwise. Such licence is granted free of charge, without requirement that any monetary payment whatsoever including, without limitation, any royalty or licence fee, be made to any Chargor or any other Person by the Agent or any Lender or any other Person.

Information

- 7.32 Each Chargor shall promptly supply to the Agent such information as the Agent may reasonably require about the Charged Property and its compliance with the terms of this Deed and such further information regarding its financial condition, assets and operations as the Agent may reasonably request.
- 7.33 Each Chargor shall promptly notify the Agent in writing of any action, claim or demand made by or against it in connection with all or any part of the Charged Property or of any fact, matter or circumstance which may with the passage of time give rise to such an action, claim or demand, together with that Chargor's proposals for settling, liquidating, compounding or contesting the same and shall, subject to the Agent's approval of such proposals, implement them at its own expense.

Notices relating to Charged Property

- 7.34 Each Chargor shall, within 14 days after the receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority with respect to the whole or any part of the Charged Property:
- 7.34.1 deliver a copy to the Agent;
 - 7.34.2 inform the Agent of the steps taken or proposed to be taken by it to comply with the relevant application, requirement, order or notice; and
 - 7.34.3 comply with any reasonable request by the Agent to take such action as the Agent may believe necessary to preserve or protect the Charged Property or the security constituted or intended to be constituted by this Deed.

Not Jeopardise Security

- 7.35 No Chargor shall do or cause or permit to be done anything which might in any way depreciate, jeopardise or otherwise prejudice the value to the Agent of the security constituted or intended to be constituted by this Deed, except to the extent expressly permitted by the terms of this Deed.

8. ENFORCEMENT OF SECURITY***When Security becomes Enforceable***

- 8.1 The security constituted by this Deed shall become immediately enforceable and the power of sale and other powers conferred by section 101 of the LPA, as varied or extended by this Deed, shall be immediately exercisable upon and at any time after the occurrence of an Event of Default which is continuing.
- 8.2 After the Agent has notified the Chargors in writing that the security constituted by this Deed has become enforceable, the Agent may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Charged Property.

Right of Appropriation

- 8.3 To the extent that any of the Charged Property constitutes “**financial collateral**” and this Deed and the obligations of any Chargor under this Deed constitute a “**security financial collateral arrangement**” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (the “**FCA Regulations**”)), the Agent shall have the right, at any time after the Agent has notified the Chargors in writing that the security constituted by this Deed has become enforceable, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral shall be (in the case of cash) the amount standing to the credit of each bank account of the relevant Chargor, together with any accrued but unpaid interest, at the time the right of appropriation is exercised and (in the case of Securities) the market price of such Securities determined by the Agent by reference to a public index or by such other process as the Agent may select, including independent valuation. In each case, the parties agree that the manner of valuation provided for in this clause 8.3 shall constitute a commercially reasonable manner of valuation for the purposes of the FCA Regulations.

Redemption of Prior Mortgages

- 8.4 At any time after the security constituted by this Deed has become enforceable, the Agent or any Receiver may:
- 8.4.1 redeem any prior Security over any Charged Property; or
 - 8.4.2 procure the transfer of that Security to the Agent; or
 - 8.4.3 settle and pass the accounts of the person or persons entitled to such Security (and any accounts so settled and passed shall be conclusive and binding on the relevant Chargor).
- 8.5 All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption or transfer shall be paid by the relevant Chargor to the Agent and every Receiver on demand and shall be secured by this Deed.

9. EXTENSION AND VARIATION OF THE LPA

General

- 9.1 For the purposes of all powers implied by the LPA, such powers shall arise (and the Secured Liabilities shall be deemed to have become due and payable for that purpose) on the date of this Deed.
- 9.2 Section 103 of the LPA (restricting the power of sale) and section 93 of the LPA (restricting the right of consolidation) shall not apply to the security constituted by this Deed.
- 9.3 The statutory powers of leasing conferred on the Agent are extended so as to authorise the Agent and any Receiver at any time after the security constituted by this Deed has become enforceable to make any lease or agreement for lease, accept surrenders of leases and/or grant options on such terms as it or he shall think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the LPA.

Privileges

- 9.4 Each Receiver and the Agent is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers.

10. APPOINTMENT OF RECEIVER AND ADMINISTRATOR

Appointment

- 10.1 At any time after the security constituted by this Deed has become enforceable or if an application is presented for the making of an administration order in relation to any Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of any Chargor or files such a notice with the court or if any Chargor so requests the Agent in writing (in which case, in each such case, the security constituted by this Deed shall become immediately enforceable), the Agent may without prior notice to any Chargor:
- 10.1.1 appoint free from the restrictions imposed by section 109(1) of the LPA either under seal or in writing under its hand any one or more persons to be a Receiver of the whole or any part or parts of the Charged Property in like manner in every respect as if the Agent had become entitled under the LPA to exercise the power of sale conferred under the LPA; or
- 10.1.2 appoint one or more persons to be an administrator of any one or more of the Chargors.

Removal

- 10.2 The Agent may by writing under its hand (or by an application to the court where required by law):
- 10.2.1 remove any Receiver appointed by it; and
- 10.2.2 appoint, whenever it deems it expedient, any one or more persons to be a new Receiver in the place of or in addition to any Receiver.

Statutory Powers of Appointment

- 10.3 The powers of appointment of a Receiver conferred by this Deed shall be in addition to all statutory and other powers of appointment of the Agent under the LPA (as extended by this Deed) or otherwise and such powers shall be and remain exercisable from time to time by the Agent in respect of any part or parts of the Charged Property.

Capacity of Receiver

- 10.4 Each Receiver shall be deemed to be the agent of the relevant Chargor for all purposes. Each Chargor alone shall be responsible for a Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him.
- 10.5 The agency of each Receiver shall continue until the relevant Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Agent.
- 10.6 If there is more than one Receiver holding office at the same time, each Receiver shall (unless the document appointing him states otherwise) be entitled to act (and to exercise all of the powers conferred on a Receiver under this Deed) individually or together with any other person appointed or substituted as Receiver.

Remuneration of Receiver

- 10.7 The Agent may fix the remuneration of any Receiver appointed by it without any restriction imposed by section 109(6) of the LPA and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately upon its being paid by the Agent.

11. POWERS OF RECEIVER

General

- 11.1 Each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out below in this clause 11 in addition to those conferred by law.
- 11.2 Without prejudice to the generality of this clause 11, each Receiver shall have all the rights, powers and discretions of an administrative receiver under schedule 1 to the Insolvency Act 1986 whether he falls within the statutory definition of an administrative receiver or not.

Specific Powers

- 11.3 Each Receiver shall have the following powers (and every reference in this clause 11.3 to the “Charged Property” shall be read as a reference to that part or parts of the Charged Property in respect of which that Receiver was appointed):
- 11.3.1 power to purchase or acquire land and purchase, acquire or grant any interest in or right over land as he thinks fit;
 - 11.3.2 power to take immediate possession of, get in and collect any Charged Property;
 - 11.3.3 power to carry on the business of any Chargor as he thinks fit;
 - 11.3.4 power (but without any obligation to do so) to:
 - (a) make and effect all repairs, alterations, additions and insurances and do all other acts which any Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Charged Property;
 - (b) commence or complete any building operations on the Charged Property;
 - (c) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence in respect of the Charged Property; and
 - (d) negotiate for compensation with any authority which may intend to acquire or be in the process of acquiring all or any part of the Charged Property and make objections to any order for the acquisition of all or any part of the Charged Property and represent any Chargor at any enquiry to be held to consider such objections or otherwise relating to any such acquisition,in each case as he thinks fit;
 - 11.3.5 power to appoint and discharge managers, officers, agents, advisers, accountants, servants, workmen, contractors, surveyors, architects, lawyers and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit and power to discharge any such persons appointed by any Chargor (and the costs

incurred by any Receiver in carrying out such acts or doing such things shall be reimbursed to that Receiver by the relevant Chargor on demand and until so reimbursed shall carry interest at the rate specified in clause 2.2 (*Interest*) from the date of payment by the Receiver until reimbursed (after as well as before any judgment));

- 11.3.6 power to raise and borrow money either unsecured or (with the prior consent of the Agent) on the security of any Charged Property either in priority to the security constituted by this Deed or otherwise and generally on any terms and for whatever purpose he thinks fit;
- 11.3.7 power to sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms as he thinks fit;
- 11.3.8 power to sever and sell separately any fixtures from the property containing them without the consent of any Chargor;
- 11.3.9 power to let any Charged Property for any term and at any rent (with or without a premium) as he thinks fit and power to accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender);
- 11.3.10 power 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 any Chargor or relating in any way to any Charged Property;
- 11.3.11 power to bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Charged Property or in relation to any Chargor which may seem to him to be expedient;
- 11.3.12 power to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising any Charged Property;
- 11.3.13 power to form a subsidiary of any Chargor and transfer to that subsidiary any Charged Property;
- 11.3.14 power to do all such acts as may seem to him to be necessary or desirable in order to initiate or continue any development of any Charged Property and for these purposes to appoint and to enter into such contracts with such building and engineering contractors or other contractors and professional advisers as he may think fit;
- 11.3.15 power to call any meeting of the members or directors of any Chargor in order to consider such resolutions or other business as he thinks fit;
- 11.3.16 power to exercise in relation to any Charged Property all the powers and rights which he would be capable of exercising if he were the absolute beneficial owner of the same;
- 11.3.17 power to do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed; and
- 11.3.18 power to exercise any of the above powers in the name of or on behalf of the relevant Chargor or in his own name and, in each case, at the cost of that Chargor.

Agent's Powers

- 11.4 To the fullest extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) upon a Receiver may after the security constituted by this Deed has become enforceable be exercised by the Agent in relation to any Charged Property, irrespective of whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

12. DISCRETIONS AND DELEGATION

Discretion

- 12.1 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Agent or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

Delegation

- 12.2 Each of the Agent and any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney).
- 12.3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Agent or any Receiver (as the case may be) shall think fit.
- 12.4 Neither the Agent nor any Receiver shall be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

13. POWER OF ATTORNEY

Appointment and Powers

- 13.1 Each Chargor, by way of security, irrevocably appoints the Agent, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed at any time after the security constituted by this Deed has become enforceable, to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:
- 13.1.1 carrying out any obligation imposed on any Chargor by this Deed; and/or
- 13.1.2 enabling the Agent or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Deed or by law (including the exercise of any right of an absolute legal or beneficial owner of the Charged Property).

Ratification

- 13.2 Each Chargor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under clause 13.1 (*Appointment and Powers*).

14. PROTECTION OF PURCHASERS***Consideration***

- 14.1 The receipt of the Agent or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property (including a disposal by a Receiver or Delegate to any subsidiary of any Chargor) or in making any acquisition in the exercise of their respective powers, the Agent, every Receiver and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

Protection of Third Parties

- 14.2 No person (including a purchaser) dealing with the Agent, any Receiver or any Delegate shall be bound to enquire:
- 14.2.1 whether the Secured Liabilities have become payable; or
 - 14.2.2 whether any power which the Agent or any Receiver or Delegate is purporting to exercise has arisen or become exercisable; or
 - 14.2.3 whether any money remains due under the Financing Documents; or
 - 14.2.4 how any money paid to the Agent or to any Receiver or Delegate is to be applied,
- or shall be concerned with any propriety, regularity or purpose on the part of the Agent or any Receiver or Delegate in such dealings or in the exercise of any such power.

15. APPLICATION OF PROCEEDS***Order of Application***

- 15.1 All moneys received or recovered by the Agent, any Receiver or any Delegate pursuant to this Deed, after the security constituted by this Deed has become enforceable, shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied (but without prejudice to the right of the Agent to recover any shortfall from any Chargor) in accordance with section 8.5 (*Application of Proceeds*) of the Credit Agreement.
- 15.2 Clause 15.1 (*Order of Application*) will override any appropriation made by any Chargor.

New Accounts

- 15.3 If the Agent (acting in its capacity as trustee for the Finance Parties or otherwise) or any other Finance Party at any time receives, or is deemed to have received, notice of any subsequent Security or other interest affecting any Charged Property, the Agent and/or any other relevant Finance Party may open a new account with any Chargor.
- 15.4 If the Agent and/or any other Finance Party does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, such notice. As from that time all payments made by or on behalf of the relevant Chargor to the Agent (whether in its capacity as trustee for the Finance Parties or otherwise) and/or any other Finance Party shall be credited or be treated as having been credited to the new account of that Chargor and not as having been applied in reduction of the Secured Liabilities.

Currency Conversion

- 15.5 For the purpose of or pending the discharge of any of the Secured Liabilities, the Agent and each other Finance Party may (in its absolute discretion) convert any moneys received or recovered by it or any Receiver or Delegate pursuant to this Deed or any moneys subject to application by it or any Receiver or Delegate pursuant to this Deed from one currency to another and any such conversion shall be made at the Agent's (or that Finance Party's) spot rate of exchange for the time being for obtaining such other currency with the first currency and the Secured Liabilities shall be discharged only to the extent of the net proceeds of such conversion realised by the Agent or that Finance Party. Nothing in this Deed shall require the Agent to make or shall impose any duty of care on the Agent or any other Finance Party in respect of, any such currency conversion.

16. NO LIABILITY AS MORTGAGEE IN POSSESSION

- 16.1 Neither the Agent nor any Receiver or Delegate shall in any circumstances (either by reason of entering into or taking possession of any Charged Property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to any Chargor for anything, except actual receipts, or be liable to any Chargor for any costs, charges, losses, liabilities or expenses arising from the realisation of any Charged Property or from any act, default or omission of the Agent, any Receiver, any Delegate or any of their respective officers, agents or employees in relation to the Charged Property or from any exercise or purported exercise or non-exercise by the Agent or any Receiver or Delegate of any power, authority or discretion provided by or pursuant to this Deed or by law or for any other loss of any nature whatsoever in connection with the Charged Property or the Financing Documents.

17. SET-OFF

- 17.1 Without limiting any other rights conferred on the Agent and/or any other Finance Party to the extent provided under the Credit Agreement, by law or by any other agreements entered into with any Chargor, the Agent and each other Finance Party may (but shall not be obliged to) set off any matured obligation due from any Chargor under this Deed (to the extent beneficially owned by the Agent or, as the case may be, that Finance Party) against any obligation (whether matured or not) owed by the Agent or, as the case may be, that Finance Party to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Agent or, as the case may be, that Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If the obligation owed by the Agent and/or any other Finance Party is unliquidated or unascertained, the Agent or, as the case may be, that Finance Party may set off in an amount estimated by it in good faith to be the amount of that obligation.

18. DECLARATION OF TRUST

- 18.1 The Agent hereby declares itself trustee of the security and other rights (including, but not limited to, the benefit of the covenants contained in this Deed), titles and interests constituted by this Deed and of all moneys, property and assets paid to the Agent or to its order or held by the Agent or its nominee(s) or received or recovered by the Agent or its nominee(s) pursuant to or in connection with this Deed with effect from the date of this Deed to hold the same on trust for itself and each of the other Finance Parties absolutely *pro rata* (save as may otherwise be agreed between the Agent and the other Finance Parties from time to time) to the moneys, obligations

and liabilities of each Chargor owed to all the Finance Parties (including the Agent) from time to time secured by this Deed.

- 18.2 All moneys, property and other assets received by the Agent or any Receiver or Delegate shall be held by it or him upon trust for the Agent and the other Finance Parties according to their respective interests to apply the same in the order specified in clause 15.1 (*Order of Application*).
- 18.3 The trusts in this Deed shall remain in force until whichever is the earlier of:
- 18.3.1 the expiration of a period of 125 years from the date of this Deed; or
- 18.3.2 receipt by the Agent of confirmation in writing from all of the Finance Parties that the Secured Liabilities are no longer outstanding.

19. EFFECTIVENESS OF SECURITY

Continuing Security

- 19.1 The security constituted by this Deed shall remain in full force and effect as continuing security for the Secured Liabilities, unless and until discharged by the Agent, and will extend to the ultimate balance of all the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

Cumulative Rights

- 19.2 The security constituted by this Deed and all rights, powers and remedies of the Agent provided by or pursuant to this Deed or by law shall be cumulative and in addition to, and independent of, any other Security now or subsequently held by the Agent or any other Finance Party for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Agent (whether in its capacity as trustee or otherwise) or any of the other Finance Parties over the whole or any part of the Charged Property shall be superseded by, or supersede or merge into, the security constituted by this Deed.

Reinstatement

- 19.3 If any discharge, release or arrangement (whether in respect of the obligations of the Borrower, any Chargor or any other Credit Party or any Security for those obligations or otherwise) is made by the Agent or any other Finance Party in whole or in part on the faith of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Chargor under, the security constituted by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.
- 19.4 The Agent may concede or compromise any claim that any payment or any discharge is liable to avoidance or restoration.

Waiver of Defences

- 19.5 Neither the obligations of any Chargor under this Deed nor the security constituted by this Deed nor the rights, powers and remedies of the Agent provided by or pursuant to this Deed or by law will be affected by an act, omission, matter or thing which, but for this clause 19.5, would reduce, release or prejudice any of its obligations under this Deed, any of that security or any of those

rights, powers and remedies (without limitation and whether or not known to it or the Agent or any other Finance Party) including:

- 19.5.1 any time, waiver or consent granted to, or composition with, the Borrower, another Chargor, any other Credit Party or any other person;
- 19.5.2 the release of the Borrower, another Chargor, any other Credit Party or any other person under the terms of any composition or arrangement with any creditor of any Credit Party;
- 19.5.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Borrower, another Chargor, any other Credit Party or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 19.5.4 any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status of, the Borrower, another Chargor, any other Credit Party or any other person;
- 19.5.5 any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement (in each case, however fundamental and of whatsoever nature and whether or not more onerous) or replacement of any Financing Documents or any other document or Security including without limitation any change in the purpose of, any extension of or any increase in, any facility or the addition of any new facility under any Financing Documents or any other document or Security;
- 19.5.6 any unenforceability, illegality or invalidity of any obligation of the Borrower, another Chargor, any other Credit Party or any other person under any Financing Documents or any other document or Security; or
- 19.5.7 any insolvency or similar proceedings.

Immediate Recourse

- 19.6 Each Chargor waives any right it may have of first requiring the Agent or any other Finance Party to proceed against or enforce any other rights or Security or claim payment from any person or file any proof or claim in any insolvency, administration, winding up or liquidation proceedings relating to any person before claiming from it under this Deed. This waiver applies irrespective of any law or any provision of any Financing Documents to the contrary.

Appropriations

- 19.7 Until (a) all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full, (b) the Revolving Loan Commitment has been terminated or expired, and (c) to the extent required by Agent in its sole discretion, all Swap Contracts secured, in whole or in part, by any Collateral have expired, terminated or been cash collateralized (to the satisfaction of Agent), the Agent may:
 - 19.7.1 without affecting the liability of any Chargor under this Deed:
 - (a) refrain from applying or enforcing any other moneys, Security or rights held or received by it in respect of the Secured Liabilities; or

- (b) apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and no Chargor shall be entitled to direct the appropriation of any such moneys, Security or rights or to enjoy the benefit of the same; and/or

19.7.2 hold in a suspense account any moneys received from any Chargor or on account of any Chargor's liability in respect of the Secured Liabilities. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Agent to be a fair market rate.

Deferral of Chargor's Rights

19.8 Until (a) all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full, (b) the Revolving Loan Commitment has been terminated or expired, and (c) to the extent required by Agent in its sole discretion, all Swap Contracts secured, in whole or in part, by any Collateral have expired, terminated or been cash collateralized (to the satisfaction of Agent), and unless the Agent otherwise directs, no Chargor shall exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

19.8.1 to be indemnified by the Borrower, another Chargor or any other Credit Party;

19.8.2 to claim any contribution from any other guarantor of the Borrower's, another Chargor's or any other Credit Party's obligations under the Financing Documents;

19.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Agent and/or any of the other Finance Parties under the Financing Documents or of any other Security taken pursuant to, or in connection with, the Financing Documents by the Agent or any other Finance Party;

19.8.4 to exercise any right of set-off against the Borrower, another Chargor or any other Credit Party; and/or

19.8.5 to claim or prove as a creditor of the Borrower, another Chargor or any other Credit Party or in its estate in competition with any Finance Party.

19.9 The rights of the Agent and/or any of the other Finance Parties under clause 19.8 above shall be free from any right of quasi-retainer or other rule or principle of fund ascertainment arising either at law or in equity.

19.10 If a Chargor receives any benefit, payment or distribution in relation to any rights referred to in clause 19.8 above, it shall hold that benefit, payment or distribution to the extent necessary to enable all the Secured Liabilities, and all amounts which may be or become due and payable in respect of the Secured Liabilities, to be repaid in full on trust for the Agent (as trustee for the Finance Parties) and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with clause 15.1 (*Order of Application*).

No Security held by Chargors

19.11 No Chargor shall take or receive any Security from the Borrower, another Chargor, any other Credit Party or any other person in connection with its liability under this Deed. However, if any such Security is so taken or received by any Chargor:

- 19.11.1 it shall be held by that Chargor on trust for the Agent (as trustee for the Finance Parties), together with all moneys at any time received or held in respect of such Security, for application in or towards payment and discharge of the Secured Liabilities; and
- 19.11.2 on demand by the Agent, the relevant Chargor shall promptly transfer, assign or pay to the Agent all Security and all moneys from time to time held on trust by it under this clause 19.11.

20. PAYMENTS

Manner of Payments

- 20.1 Each Chargor shall make all payments required to be made by it under this Deed available to the Agent (unless a contrary indication appears in this Deed) for value on the due date at the time and in such funds specified by the Agent as being customary at the time for settlement of transactions in the relevant currency in the place of payment. Payment shall be made in the currency in which the relevant indebtedness is denominated or, if different, is expressed to be payable and to such account in the principal financial centre of the country of that currency with such bank as the Agent specifies.

No Set-off by Chargors

- 20.2 All payments to be made by any Chargor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

Tax Gross-Up

- 20.3 Each Chargor shall make all payments to be made by it under this Deed without any deduction or withholding for or on account of Tax, unless such a deduction or withholding is required by law. Each Chargor, promptly upon becoming aware that it must make such a deduction or withholding (or that there is any change in the rate or the basis of such a deduction or withholding), shall notify the Agent accordingly.
- 20.4 If a deduction or withholding for or on account of Tax from a payment under this Deed is required by law to be made by a Chargor, the amount of the payment due from that Chargor shall be increased to an amount which (after making any such deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.
- 20.5 If a Chargor is required to make a deduction or withholding for or on account of Tax from a payment under this Deed, that Chargor shall make that deduction or withholding and any payment required in connection with that deduction or withholding within the time allowed and in the minimum amount required by law. Within thirty days of making such a deduction or withholding or any payment required in connection with that deduction or withholding, the relevant Chargor shall deliver to the Agent evidence reasonably satisfactory to the Agent that the deduction or withholding has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

21. EXPENSES, STAMP TAXES AND INDEMNITIES***Expenses***

- 21.1 Each Chargor shall promptly on demand pay to the Agent and each Receiver or Delegate the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and perfection of this Deed and any other documents referred to in this Deed and in responding to, evaluating, negotiating or complying with any request for an amendment, waiver or consent made by that Chargor in relation to this Deed.
- 21.2 Each Chargor shall, within three business days of demand, pay to the Agent and each Receiver or Delegate the amount of all costs and expenses (including legal fees) incurred by any of them in connection with the enforcement of, or the defence, protection and/or preservation of, any rights, remedies and powers under this Deed or the security constituted, or intended to be constituted, by this Deed and any proceedings instituted by or against the Agent as a consequence of taking or holding the security constituted, or intended to be constituted, by this Deed or enforcing any such rights, powers and remedies.

Stamp Taxes

- 21.3 Each Chargor shall pay, and shall promptly on demand indemnify the Agent and every Receiver or Delegate against any cost, loss or liability any of them incurs in relation to, all stamp duty, registration and similar Taxes payable in connection with the entry into, performance or enforcement, of this Deed, the security constituted by this Deed or any judgment given in connection with this Deed.

General Indemnity

- 21.4 Each Chargor shall, notwithstanding the release or discharge of all or any part of the security constituted by this Deed, promptly indemnify the Agent and every Receiver and Delegate against any cost, loss, liability or damage incurred by any of them as a result of:
- 21.4.1 any default or delay by that Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed;
 - 21.4.2 the taking, holding, protection or enforcement of the security constituted by this Deed; and
 - 21.4.3 the exercise of any of the rights, powers, discretions and remedies vested in the Agent and each Receiver and Delegate by this Deed or by law in respect of the Charged Property.

Currency Indemnity

- 21.5 If any sum owing by any Chargor under this Deed (a “Sum”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “First Currency”) in which that Sum is payable into another currency (the “Second Currency”) for the purpose of:
- 21.5.1 making or filing a claim or proof against that Chargor;
 - 21.5.2 obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, or

21.5.3 applying the Sum in satisfaction of any of the Secured Liabilities,

the relevant Chargor shall as an independent obligation, within three Business Days of demand, indemnify the Agent and each Receiver or Delegate to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between:

21.5.4 the rate of exchange used to convert that Sum from the First Currency into the Second Currency; and

21.5.5 the rate or rates of exchange available to that person at the time of its receipt of any amount paid to it in satisfaction, in whole or in part, of such claim, proof, order, judgment or award.

21.6 Each Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is denominated or, if different, is expressed to be payable.

Value Added Tax

21.7 Any cost or expense referred to in this clause 21 is exclusive of any VAT that might be chargeable in connection with that cost or expense. If any VAT is so chargeable, it shall be paid by the relevant Chargor at the same time as it pays the relevant cost or expense.

22. CERTIFICATES AND DETERMINATIONS

22.1 Any certificate or determination by the Agent of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

23. PARTIAL INVALIDITY

23.1 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired and, if any part of the security constituted, or intended to be constituted, by this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

24. REMEDIES AND WAIVERS

24.1 No failure to exercise, nor any delay in exercising, on the part of the Agent, any right, remedy or power under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right, remedy or power prevent any further or other exercise or the exercise of any other right, remedy or power. The rights, remedies and powers provided in this Deed are cumulative and not exclusive of any rights, remedies or powers provided by law.

24.2 Any amendment, waiver or consent by the Agent under this Deed must be in writing and may be given subject to any conditions thought fit by the Agent. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

25. NOTICES***Communications in writing***

- 25.1 Any communication to be made under or in connection with this Deed shall be made in writing including prepaid overnight courier, facsimile transmission, e-mail, electronic submissions or similar writing.

Addresses

- 25.2 The address, email address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Chargor and the Agent for any communication or document to be made or delivered under or in connection with this Deed is:

- 25.2.1 in the case of any Chargor, that identified with its name in schedule 1 (*The Chargors*);
and

- 25.2.2 in the case of the Agent, that identified with its signature below, with a copy to:

Goldberg Kohn Ltd.
55 East Monroe Street, Suite 3300
Chicago, Illinois 60603

Attention: Anne Marie Pisano
Facsimile: +1 (312) 863-7418
Email: annemarie.pisano@goldbergkohn.com

or any substitute address, fax number, email address or department or officer as any Chargor may notify to the Agent (or the Agent may notify to the Chargors, if a change is made by the Agent) by not less than five Business Days' notice.

Delivery

- 25.3 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

- 25.3.1 if by way of fax, when received in legible form; or

- 25.3.2 if by way of letter, when it has been left at the relevant address or five business days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 25.2 (*Addresses*), if addressed to that department or officer.

- 25.4 Any communication or document to be made or delivered to the Agent will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as it shall specify for this purpose).

English Language

- 25.5 Any notice or communication given or made under or in connection with this Deed must be in English.

- 25.6 All other documents provided under or in connection with this Deed must be:

25.6.1 in English; or

25.6.2 if not in English, and if so, required by the Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

26. COUNTERPARTS

26.1 This Deed may be executed in any number of counterparts and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

27. ASSIGNMENT

27.1 The Agent may assign, charge or transfer all or any of its rights under this Deed without the consent of any Chargor. The Agent may disclose any information about any Chargor, and this Deed as the Agent shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation.

28. RELEASES

28.1 Upon the expiry of the Liability Period (but not otherwise) and subject to clauses 19.3 and 19.4 (*Reinstatement*), the Agent shall, at the request and cost of the relevant Chargor, take whatever action is necessary to release the Charged Property of that Chargor from the security constituted by this Deed.

29. GOVERNING LAW

29.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

30. ENFORCEMENT

Jurisdiction

30.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a “Dispute”).

30.2 Each Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary or take proceedings relating to a Dispute in any other courts.

30.3 Clauses 30.1 and 30.2 above are for the benefit of the Agent only. As a result, the Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Agent may take concurrent proceedings in any number of jurisdictions.

- 30.4 Each Chargor irrevocably waives any right it may have to the trial by jury in any proceedings relating to a Dispute.

Waiver of Immunity

- 30.5 To the extent that any of the Chargors may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), that Chargor irrevocably agrees not to claim and irrevocably waives such immunity to the fullest extent permitted by the laws of that jurisdiction.

IN WITNESS of which this Deed has been entered into as a deed and is intended to be and is delivered on the day and year first before written.

**SCHEDULE 1
 THE CHARGORS**

Name	Company Number	Registered Office	Address for Notices	Fax Number	Email
Challenger UK Topco Limited	11447864	6 th Floor, Charlotte Building, 17 Gresse Street, London W1T 1QL	LABS House, 3 rd Floor, 15 – 19 Bloomsbury Way, London WC1A 2TH	None	None
Challenger Performance Optimization UK Limited	11448434	6 th Floor, Charlotte Building, 17 Gresse Street, London W1T 1QL	LABS House, 3 rd Floor, 15 – 19 Bloomsbury Way, London WC1A 2TH	None	None

SCHEDULE 2

FORM OF NOTICE OF CHARGE – ACCOUNTS NOT WITH THE AGENT

Part I
Form of Notice

To: [Name of relevant bank or financial institution]

Address: [] [Date]

Dear Sirs

LBC Credit Agency Services, LLC (the “Agent”) and [insert name of relevant Chargor] (“[Challenger Topco]/[Challenger Performance]”) HEREBY GIVE NOTICE that by a charge contained in a mortgage debenture dated [•] and made between, inter alios, [Challenger Topco]/[Challenger Performance] and the Agent (the “Debenture”) [Challenger Topco]/[Challenger Performance] charged to the Agent by way of first fixed charge all of its present and future right, title and interest in and to all moneys from time to time deposited in or standing to the credit of any bank account with any bank or financial institution, including the following account(s) (each a “Relevant Account”) maintained with you:

[Specify accounts: account name, account number, details of branch etc].

Accordingly, [Challenger Topco]/[Challenger Performance] hereby irrevocably and unconditionally instructs and authorises you:

- (a) to disclose to the Agent, without any reference to or further authority from [Challenger Topco]/[Challenger Performance] and without any enquiry by you as to the justification for such disclosure, such information relating to any of the Relevant Accounts and the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts as the Agent may at any time and from time to time request you to disclose to it;
- (c) to hold all moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts to the order of the Agent and to pay or release all or any part of such moneys in accordance with the written instructions of the Agent at any time and from time to time; and
- (d) to comply with the terms of any other written notice or instructions that you receive at any time and from time to time from the Agent in any way relating to the Debenture, any of the Relevant Accounts or the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts without any reference to or further authority from [Challenger Topco]/[Challenger Performance] and without any enquiry by you as to the justification for or validity of such notice or instructions.

The Agent has agreed that [Challenger Topco]/[Challenger Performance] may withdraw any moneys from any of the Relevant Accounts without any reference to or further authority from the Agent except to the extent that the Agent gives you notice to the contrary. Upon and after the giving of such notice, [Challenger Topco]/[Challenger Performance] shall cease to be entitled to make any such withdrawal to the extent specified in the notice.

The Borrower confirms that:

- (i) in the event of any conflict between communications received from it and from the Agent, the communication from the Agent shall prevail;

- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the “Notice”) can be revoked or varied in any way except with the Agent’s specific written consent; and
- (iii) any written notice or instructions given to you by the Agent in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Agent at [address] for the attention of [officer/department].

This Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

for and on behalf of

[insert name of relevant Chargor]

for and on behalf of

LBC Credit Agency Services, LLC

Part II
Form of Acknowledgement
[on duplicate]

To: LBC Credit Agency Services, LLC

Address: []

Attention: []

[Date]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We agree to and confirm the following:

- (a) we accept and will comply with the terms of the Notice;
- (b) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over or affecting any of the Relevant Accounts;
- (c) we have not claimed or exercised and will not claim or exercise (except with the Agent's prior written consent) any security interest, right of set-off, consolidation or counterclaim or any other right against or in respect of any of the Relevant Accounts, except in respect of our usual administrative and transactional fees and charges in relation to the Relevant Account in question; and
- (d) we shall not permit [Challenger Topco]/[Challenger Performance] to make any withdrawal from any of the Relevant Accounts after receipt by us of a notice from the Agent prohibiting such withdrawals to the extent specified in that notice.

Yours faithfully

.....

for and on behalf of

[name of relevant bank or financial institution]

SCHEDULE 3
FORM OF NOTICE OF CHARGE – INSURANCES

Part I
Form of Notice

To: [Name of relevant insurer]

Address: [] [Date]

Dear Sirs

LBC Credit Agency Services, LLC (the “Agent”) and [insert name of relevant Chargor] (“[Challenger Topco]/[Challenger Performance]”) HEREBY GIVE NOTICE that by a charge contained in a mortgage debenture dated [•] and made between, inter alios, [Challenger Topco]/[Challenger Performance] and the Agent (the “Debenture”) [Challenger Topco]/[Challenger Performance] charged to the Agent by way of first fixed charge all of its present and future right, title and interest in and to the following insurance policy:

[describe insurance policy]

Name of insured: [•]

Nature of policy: [•]

Policy number: [•]

Expiry date: [•]

(the “Policy”) including, but not limited to, the right to demand and receive all moneys whatsoever payable to or for the benefit of [Challenger Topco]/[Challenger Performance] under or arising from the Policy, and all other rights, interests and benefits whatsoever accruing to or for the benefit of [Challenger Topco]/[Challenger Performance] arising from the Policy.

- (a) All moneys payable by you to [Challenger Topco]/[Challenger Performance] pursuant to the Policy shall be paid into the following account of [Challenger Topco]/[Challenger Performance]:
- (b) Name of Account: [•]
- (c) Account Bank: [•]
- (d) Account Bank Address: [•]
- (e) Account No.: [•]
- (f) Sort Code: [•]

except to the extent that the Agent gives you notice to the contrary in writing.

All of the powers, discretions, remedies and other rights which would, but for the Debenture, be vested in us under and in respect of the Policy are exercisable by the Agent.

[Challenger Topco]/[Challenger Performance] confirms that:

- (i) in the event of any conflict between communications received from it and from the Agent, the communication from the Agent shall prevail;
- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the “Notice”) can be revoked or varied in any way except with the Agent’s specific written consent;

- (iii) you are authorised to disclose any information in relation to the Policy to the Agent at the Agent's request; and
- (iv) any written notice or instructions given to you by the Agent in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Agent at [address] for the attention of [officer/department].

This Notice and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours faithfully,

for and on behalf of

[insert name of relevant Chargor]

for and on behalf of

LBC Credit Agency Services, LLC

Part II
Form of Acknowledgement
[on duplicate]

To: LBC Credit Agency Services, LLC

Address: []

Attention: []

[Date]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We give any consent to the creation of the charge required pursuant to the Agreement and agree to and confirm that:


- (a) we will pay all moneys hereafter becoming due to [Challenger Topco]/[Challenger Performance] in respect of the Policy as directed in the Notice and accept and will comply with the terms of the Notice;
- (b) we will send to you copies of any notices which we may give to [Challenger Topco]/[Challenger Performance] under the Policy at the same time as we send them to [Challenger Topco]/[Challenger Performance];
- (c) if [Challenger Topco]/[Challenger Performance] is in breach of any of its obligations, express or implied, under the Policy or if any event occurs which would permit us to terminate, cancel or surrender the Policy we will:
 - (i) immediately on becoming aware of it, give you written notice of that breach; and
 - (ii) accept as an adequate remedy for that breach, performance by you of those obligations within 30 days of that notice;
- (d) we confirm that neither a waiver of any of [Challenger Topco]/[Challenger Performance]'s rights in, to, under, in respect of or derived from the Policy, nor an amendment, novation, rescission or other termination by [Challenger Topco]/[Challenger Performance] of the Policy, shall be effective without the prior written consent of the Agent;
- (e) we confirm that we shall not exercise any right of combination, consolidation or set-off which we may have in respect of any debt owed to us by [Challenger Topco]/[Challenger Performance] and we shall send you copies of all statements, orders and notices given by us relating to that debt; and
- (f) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over, or affecting, the Policy or any other notice relating to the Policy.

Yours faithfully

.....
for and on behalf of
[Name of relevant insurer]

EXECUTION PAGE

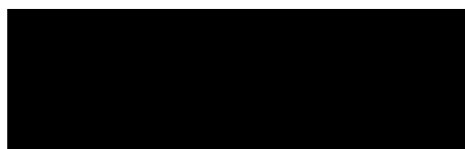
THE CHARGORS

Executed as a deed by)
CHALLENGER UK TOPCO LIMITED)
on being signed by:) .. 
Daniel Spradling) Director
.....)
in the presence of:)

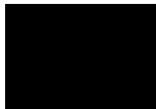
Signature of witness: Samantha Palamidessi

Name: Samantha Palamidessi

Address:



Occupation: Executive Assistant

Executed as a deed by)
CHALLENGER PERFORMANCE)
OPTIMIZATION UK LIMITED)
on being signed by:) 
Daniel Spradling) Director
.....)
in the presence of:)

Signature of witness: Amelia Silfverland

Name: Amelia Silfverland

Address:



Occupation: Executive Assistant

C/M/S/

Law, Tax

THE AGENT

LBC CREDIT AGENCY SERVICES, LLC

By: 

Address: 555 East Lancaster Avenue, Suite 450
Radnor, PA 19087

Telephone Number: +1 (215) 825-9251

Fax Number: +1 (215) 567-0138

For the Attention of: Account Manager – Challenger Performance Optimization, Inc.