



## Registration of a Charge

LLP name: **GREYBULL CAPITAL LLP**

LLP number: **OC354497**



X79UZFQ3

Received for Electronic Filing: **10/07/2018**

## Details of Charge

Date of creation: **06/07/2018**

Charge code: **OC35 4497 0005**

Persons entitled: **DEUTSCHE BANK AG, LONDON BRANCH, WINCHESTER HOUSE, (1 GREAT WINCHESTER STREET, LONDON EC2N 2DB) (AS TRUSTEE FOR EACH OF THE SECURED PARTIES).**

Brief description:

**Contains fixed 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.**





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

LLP number: OC354497

Charge code: OC35 4497 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th July 2018 and created by GREYBULL CAPITAL LLP was delivered pursuant to Part 25 of the Companies Act 2006 as applied by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 on 10th July 2018 .

Given at Companies House, Cardiff on 12th July 2018

The above information was communicated by electronic means and authenticated  
by the Registrar of Companies under the Limited Liability Partnership  
(Application of the Companies Act 2006) Regulations 2009 SI 2009/1804



**Companies House**



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

DATED 06 JULY 2018

GREYBULL CAPITAL LLP  
AS ASSIGNOR

IN FAVOUR OF

DEUTSCHE BANK AG, LONDON BRANCH  
AS THE SECURITY AGENT

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SECURITY ASSIGNMENT OF CONTRACTUAL  
RIGHTS UNDER A SPECIFIC CONTRACT

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**THIS AGREEMENT** is made by way of deed on 06 July 2018

**BETWEEN**

- (1) **GREYBULL CAPITAL LLP** registered in England and Wales with company number OC354497 (the "**Assignor**"); and
- (2) **DEUTSCHE BANK AG, LONDON BRANCH** as trustee for the Secured Parties on the terms and conditions set out in the Security Agent Appointment Documents (the "**Security Agent**" which expression shall include any person for the time being appointed as trustee, or as an additional trustee, for the purposes of the Security Agent Appointment Documents).

**RECITALS:**

- (A) The Bank Senior Lenders and the Sparkwell Senior Lender have provided or will provide financing (the "**Financing**") to the Borrower (as defined below).
- (B) It is a condition to the Financing being made available under the Bank Senior Facility Agreement and the Sparkwell Senior Loan Agreement that the Chargor enters into this Agreement.
- (C) It is intended by the parties to this Agreement that this document will take effect as a deed despite the fact that a party may only execute this Agreement under hand.
- (D) The Security Agent is acting under and holds the benefit of the rights conferred upon it in this Agreement on trust for the Secured Parties.

**IT IS AGREED** as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In this Agreement:

**"Acceleration Event"** means a Bank Acceleration Event or a Sparkwell Acceleration Event.

**"Assigned Property"** means the rights and property expressed to be assigned by the Assignor in Clause 4 (*Assignment*).

**"Bank Senior Creditors"** means the Agent, each Bank Senior Lender and the Arranger from time to time party to the Bank Senior Facility Agreement.

**"Bank Senior Facility Agreement"** means the secured facility agreement originally dated 17 September 2015 (as amended and restated on or about the date of this Agreement) and made between, amongst others, the Borrower, Plessey Semiconductors Limited, Plessey Lighting Limited and Intellec Ltd. as guarantors, the Security Agent and Deutsche Bank AG, London Branch as arranger and agent.

**"Bank Senior Finance Documents"** has the meaning given to the term "Finance Documents" in the Bank Senior Facility Agreement.

**"Borrower"** means Plessey Group Holdings Limited, registered in England and Wales with company number 07125852.

**"Business Day"** means a day (other than a Saturday or a Sunday) on which banks are open for business in London, Cyprus and Jersey.

**"Collateral Rights"** means all rights, powers and remedies of the Security Agent provided by this Agreement or by law.

**"Contract"** means the shareholders agreement relating to the shares of the Borrower dated 21 November 2017 (as amended from time to time) and made between, amongst others, Plessey Jersey Limited, Plymouth Jersey II Limited, the Borrower, Sparkwell Limited, Greybull Capital LLP and X-FAB Semiconductor Foundries NG.

**"First Ranking Security"** means the security assignment of contractual rights under a specific contract dated 21 November 2017 entered into between the Assignor and the Security Agent.

**"Intercreditor Agreement"** means the intercreditor agreement originally dated 17 September 2015 (as amended and restated on or about the date of this Agreement) and made between, amongst others, the Borrower, Plessey Jersey Limited, Plymouth Jersey II Limited, Sparkwell Limited, Greybull Capital Limited, the Secretary of State for Business, Energy and Industrial Strategy and Deutsche Bank AG, London Branch as security agent.

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the business, operations, property or financial condition of the Assignor;
- (b) the ability of the Assignor to perform its obligations under this Agreement; or
- (c) the validity or enforceability of this Agreement or the rights or remedies of any Secured Party under this Agreement.

**"Notice of Assignment"** means a notice of assignment substantially in the form of the Schedule.

**"Obligors"** means:

- (a) the Borrower, registered in England and Wales with company number 07125852;
- (b) Plessey Semiconductors Limited, registered in England and Wales with company number 04129612;
- (c) Plessey Lighting Limited, registered in England and Wales with company number 07875755; and

- (d) Intellec Ltd., registered in England and Wales with company number 07636632.

**"Secured Obligations"** means all obligations owing to the Secured Parties or to the Security Agent (whether for its own account or as trustee for the Secured Parties) by the Obligors under or pursuant to the Senior Finance Documents including any liability in respect of any further advances made under the Senior Finance Documents, whether present or future, actual or contingent (and whether incurred by the Obligors alone or jointly, and whether as principal or surety or in some other capacity) except for any obligation or liability which, if it were included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful or prohibited by any applicable law.

**"Secured Parties"** means the Security Agent, any Receiver or Delegate, the Bank Senior Creditors and the Sparkwell Senior Creditors.

**"Security Agent Appointment Documents"** means the Bank Senior Facility Agreement, the Sparkwell Senior Loan Agreement and the Intercreditor Agreement.

**"Senior Finance Documents"** means the Bank Senior Finance Documents and the Sparkwell Senior Finance Documents.

**"Sparkwell Senior Creditors"** means the Sparkwell Senior Lenders.

**"Sparkwell Senior Loan Agreement"** means the loan agreement dated on or about the date of this Agreement and made between, amongst others, the Borrower and Sparkwell Limited as lender.

**"Sparkwell Senior Finance Documents"** has the meaning given to the term "Finance Documents" in the Sparkwell Senior Loan Agreement.

## 1.2 Terms defined in the Intercreditor Agreement

Unless defined in this Agreement or the context otherwise requires, a term defined in the Intercreditor Agreement has the same meaning in this Agreement or any notice given under or in connection with this Agreement.

## 1.3 Construction

- (a) This Agreement is subject to the terms of the Intercreditor Agreement. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Intercreditor Agreement including with regard to the rights, powers and obligations of the Security Agent, the terms of the Intercreditor Agreement will prevail.
- (b) In this Agreement:
- (i) Clauses 1.2 (*Construction*) and 1.3 (*Currency*) of the Intercreditor Agreement will apply as if incorporated in this Agreement or in any notice given under or in connection with this Agreement; and



- (ii) any reference to "**including**" and "**include**" shall mean including and include "without limitation" and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms.

#### **1.4 Third Party Rights**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy any benefit of any term of this Agreement.

#### **1.5 Security Agent**

In acting hereunder, the Security Agent does so pursuant to its terms of appointment under the Security Agent Appointment Documents and is entitled to the protections set out therein.

#### **1.6 Present and future assets**

- (a) A reference in this Agreement to any Assigned Property or other asset includes, unless the contrary intention appears, present and future Assigned Property and other assets.
- (b) The absence of or incomplete details of any Assigned Property shall not affect the validity or enforceability of any Security under this Agreement.

#### **1.7 Security Agent assumes no obligations**

The Security Agent shall not be under any obligation in relation to the Assigned Property as a consequence of this Agreement and the Assignor shall at all times remain liable to perform all obligations in respect of the Assigned Property.

#### **1.8 Existing Security**

Notwithstanding any other provision of this Agreement, the security interests created pursuant to this Agreement shall at all times be subject to the security created by the First Ranking Security until such time as the security interests created by or pursuant to the First Ranking Security have no, or cease to have, effect and, in circumstances where the security constituted by the First Ranking Security remains in force, any reference in this Agreement to:

- (a) an asset secured under the First Ranking Security being assigned; or
- (b) the security over any asset secured under this Agreement being secured with full title guarantee,

shall be construed accordingly.

### **2. LIMITED RECOURSE**

Notwithstanding any other provision of this Agreement or any Senior Finance Document, and save where the Assignor is in breach of any representation, warranty,

covenant, undertaking, indemnity or other obligation under this Agreement, it is expressly agreed and understood that:

- (a) the sole recourse of the Secured Parties to the Assignor under this Agreement (whether in respect of an obligation to pay or repay amounts of principal, interest, costs and expenses or other sums, any breach of representation, warranty, covenant, undertaking, indemnity or other term or condition of this Agreement) is to the Assignor's interest in the Assigned Property and the Secured Parties may not seek to recover any payment or repayment from the Assignor's other assets or undertaking; and
- (b) the liability of the Assignor to a Secured Party pursuant to or otherwise in connection with this Agreement shall be:
  - (i) limited in aggregate to an amount equal to that recovered as a result of enforcement of this Agreement with respect to the realisable value of the Assigned Property from time to time; and
  - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Assigned Property pursuant to this Agreement.

No director of the Assignor in its personal capacity as such shall under any circumstances have any obligation to the Secured Parties under this Agreement, whether to pay or repay any sum of money or to do or refrain from doing any act or otherwise nor shall they have any personal liability under or in connection with this Agreement.

### **3. COVENANT TO PAY**

The Assignor covenants with the Security Agent that it shall, on demand, pay, satisfy and discharge each of the Secured Obligations on their due date in accordance with their respective terms provided that the liability of such Assignor shall be limited to the realisable value of the Assigned Property from time to time to the extent set out in Clause 2 (*Limited Recourse*).

### **4. ASSIGNMENT**

#### **4.1 Assignment**

The Assignor assigns absolutely and with full title guarantee to the Security Agent all of its right, title and interest, present and future, in, under and to the Contract including, without limitation, all present and future claims, causes of action, payments and proceeds in respect thereof as continuing Security for the payment and discharge of all the Secured Obligations, but for the avoidance of doubt, until the occurrence of an Acceleration Event, the Assignor retains the ability to exercise any of its rights under the Contract.

#### **4.2 Security Agent Assumes No Obligations**

The Security Agent shall not be under any obligation in relation to the Assigned Property or the Contract as a consequence of this Agreement and the Assignor shall at

all times remain liable to perform all obligations expressed to be assumed by it in respect of the Assigned Property and the Contract.

#### **4.3 Release**

Upon the Security Agent being satisfied that the Secured Obligations have been irrevocably paid or discharged in full, and the Security Agent and the Secured Parties having no further actual or contingent obligations to make advances or provide other financial accommodation to the Obligors or any other person under the Senior Finance Documents, the Security Agent shall, at the request and cost of the Assignor promptly reassign to the Assignor the Assigned Property, subject to Clause 12.8 (*Avoidance of Payments*) and without recourse to, or any representation or warranty by, the Security Agent or any of its nominee(s).

#### **4.4 Custodians and nominees**

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to all or any part of the Assigned Property as the Security Agent may determine and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any such person or be bound to supervise the proceedings or acts of any such person.

### **5. NOTICE OF ASSIGNMENT**

The Assignor shall ensure delivery to the Security Agent on the date hereof of the Notice(s) of Assignment duly executed by or on behalf of the Assignor and shall ensure the Notice of Assignment is acknowledged by the relevant third party on the same day.

### **6. FURTHER ADVANCES**

Subject to the terms of the Senior Finance Documents the Senior Lenders are under an obligation to make further advances to the Obligors and that obligation shall be deemed to be incorporated into this Agreement as if set out in this Agreement.

### **7. ASSIGNOR'S REPRESENTATIONS AND UNDERTAKINGS**

#### **7.1 Representations**

The Assignor makes the following representations and warranties to the Security Agent and acknowledges that the Security Agent has become a party to this Agreement in reliance on these representations and warranties:

##### **(a) Status**

- (i) It is a corporation, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (ii) It and each of its subsidiaries has the power to own its assets and carry on its business as it is being conducted;

(b) ***Contract in force***

The Contract is in full force and effect, enforceable in accordance with their terms and at the date specified above it is not in breach of any term or condition of the Contract;

(c) ***No restrictions***

Subject to the First Ranking Security, there are no restrictions on the Assignor's ability to assign the Assigned Property, whether contained in the Contract or in any other document;

(d) ***Binding obligations***

Subject to the Legal Reservations, the obligations expressed to be assumed by it in this Agreement are legal, valid, binding and enforceable obligations; and, subject only to the First Ranking Security, create a first ranking security interest over the Assigned Property.

(e) ***Non-conflict with other obligations***

The entry into and performance by it of, and the transactions contemplated by, this Agreement do not and shall not:

(i) conflict with:

(A) any law or regulation applicable to it;

(B) its or any of its subsidiaries constitutional documents; or

(C) any agreement or instrument binding upon it, any of its subsidiaries or the Assigned Property where such conflict, default or termination event has or is reasonably likely to have a Material Adverse Effect; or

(ii) result in the existence of, or oblige it to create, any security over the Assigned Property other than as permitted under this Agreement.

(f) ***Ranking***

Subject only to the First Ranking Security, the Security created by this Agreement has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* security.

(g) ***Power and authority***

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated by this Agreement and that all necessary Authorisations to enable it to enter into this Agreement have been obtained and are in full force and effect.

(h) ***Ownership of the Assigned Property***

It is the sole legal and beneficial owner of the Assigned Property free and, subject to the First Ranking Security, clear of all security interests save as created by this Agreement and has not sold or disposed of or granted any interest in or rights in respect of any of its right, title and interest, in the Assigned Property (other than as permitted under the Senior Finance Documents) and the Assigned Property is not subject to any options to purchase, pre-emption rights or similar rights or other restrictions upon disposal which would operate to restrict in any way their disposal by the Security Agent should it come to enforce its security contained in this Agreement.

(i) ***Authorisations***

All Authorisations required:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Agreement; and
- (ii) to make this Agreement admissible in evidence in its jurisdiction of incorporation and the jurisdiction of incorporation of each relevant Obligor under the Contract,

have been obtained or effected and are in full force and effect.

(j) ***Choice of law***

Subject to the Legal Reservations, the choice of English law as the governing law of this Agreement and any judgement obtained in England in relation to this Agreement will be recognised and enforced in its jurisdiction of incorporation.

(k) ***Deduction of Tax***

It is not required to make any deduction for or on account of tax from any payment it may make under this Agreement.

(l) ***Winding-up***

No corporate actions, legal proceedings or other procedure or steps have been taken in relation to, or notice given in respect of, a composition, compromise, assignment or arrangement with any creditor of the Assignor or in relation to the suspension of payments or moratorium of any indebtedness, winding-up, dissolution, administration, reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) or bankruptcy of, or the appointment of an administrator or the Viscount to, the Assignor and no such step is intended by the Assignor (save for the purposes of any solvent re-organisation or reconstruction which has previously been approved by the Security Agent), other than any winding up petition which is frivolous or vexatious and is withdrawn, discharged, stayed or dismissed within fourteen days of

commencement or any reconstruction or amalgamation whilst solvent on terms previously approved by the Security Agent.

(m) ***Centre of main interests and establishments***

- (i) It has its "centre of main interests" (as that term is used in Article 3(1) of Regulation (EU) 2015/848 of 20 May 2015 on Insolvency Proceedings (Recast) (the "Regulation")) in England.
- (ii) It has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any jurisdictions other than England.

(n) ***Repetition***

The representations set out in paragraphs (a) (*Status*) to (m) (*Centre of main interests and establishments*) are deemed to be made by the Assignor by reference to the facts and circumstances then existing on the date of this Agreement, the date of each Utilisation Request, each Utilisation Date and the first day of each Interest Period.

## **7.2 Undertakings**

The Assignor shall:

(a) ***Authorisations***

Promptly:

- (i) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (ii) supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of any relevant jurisdiction to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability or admissibility in evidence in any relevant jurisdiction of this Agreement.

(b) ***Compliance with laws***

Comply in all respects with all laws to which it may be subject, if failure so to comply would impair its ability to perform its obligations under this Agreement.

(c) ***Disposals and Negative pledge***

Not enter into a single transaction or a series of transactions (whether related or not) and whether voluntarily or involuntarily, to sell, transfer or otherwise dispose of the whole or any part of the Assigned Property and will not create or permit to subsist any security interest on any part of the Assigned Property or otherwise deal with any part of the Assigned Property, save as may be

permitted under the Senior Finance Documents or pursuant to the First Ranking Security.

(d) ***Not Jeopardise***

Not do or permit to be done any act or thing which might jeopardise the rights of the Security Agent in the Assigned Property or which might adversely affect or diminish the value of the Assigned Property;

(e) ***Notify***

Promptly notify the Security Agent of any circumstances which give rise, or may reasonably be expected to give rise, to a claim on or in relation to the Assigned Property;

(f) ***No variation***

Not vary, rescind or amend the Contract except with the prior written consent of the Security Agent;

(g) ***Compliance with Contract***

Promptly comply with its obligations under the Contract; and

(h) ***No set off etc***

Not take or omit to take any action which might result in (i) the alteration or impairment of any rights in the Assigned Property; (ii) any default of any of its obligations under the Contract; (iii) any right to terminate the Contract becoming exercisable; or (iv) any counterclaims or rights of set-off arising under the Contract.

## **8. FURTHER ASSURANCE**

### **8.1 Extension of implied covenant**

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 8.2 (*Covenant for Further Assurance*) below.

### **8.2 Covenant for Further Assurance**

The Assignor will promptly at its own cost do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may specify (and in such form as the Security Agent may require in favour of the Security Agent or its nominee(s)) for the purpose of exercising the Collateral Rights or perfecting the Security created or intended to be created in respect of the Assigned Property (which may include the execution by the Assignor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Assigned Property) or for the exercise of the rights, powers and remedies of the Security Agent provided by or pursuant to this

Agreement or by law in each case in accordance with the rights vested in it under this Agreement.

### **8.3 Prescribed Wording**

The following covenants shall be implied in respect of any action taken by the Assignor to comply with its obligations under Clause 8.1 (*Covenant for Further Assurance*):

- (a) the Assignor has the right to take such action in respect of the Assigned Property; and
- (b) the Assignor will at its own cost do all that it reasonably can to give the Security Agent or its nominee the title and/or rights that it purports to give.

## **9. POWER OF ATTORNEY**

### **9.1 Appointment and Powers**

The Assignor, by way of security, irrevocably appoints the Security Agent and any Receiver severally to be its attorney with full power of substitution and following the occurrence of an Acceleration Event and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things that the attorney may consider to be required for:

- (a) carrying out any obligation imposed on the Assignor under this Agreement or any other agreement binding on the Assignor to which the Security Agent is a party including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the assets subject to the security; or
- (b) enabling the Security Agent to exercise, or delegate the exercise of, all or any of the Collateral Rights; or
- (c) enabling any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Agreement or by law,

such appointment to terminate upon the Security Agent being satisfied that the Secured Obligations have been irrevocably paid or discharged in full, and the Security Agent and the Secured Parties having no further actual or contingent obligations to make advances or provide other financial accommodation to the Obligors or any other person under the Senior Finance Documents.

### **9.2 Ratification**

The Assignor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of his powers.



## **10. SECURITY ENFORCEMENT**

### **10.1 Time for Enforcement**

On and at any time after the occurrence of an Acceleration Event or if the Assignor requests the Security Agent to exercise any of its powers under this Agreement or if a petition or application is presented for the making of an administration order in relation to any Assignor or if any person gives written notice of its intention to appoint an administrator of the Assignor or files such a notice with the court the Security is immediately enforceable and the Security Agent may without notice to the Assignor or prior authorisation from any court, in its absolute discretion:

- (a) secure and perfect its title to all or any part of the Assigned Property (including transferring the same into the name of the Security Agent or its nominee(s)) or otherwise exercise in relation to the Assigned Property all the rights of an absolute owner;
- (b) enforce all or any part of the Security (at the times, in the manner and on the terms it thinks fit) and appropriate, hold, sell, or otherwise dispose of all or any part of the Assigned Property (and any assets of the relevant Assignor which, when got in, would be part of the Assigned Property) at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration);
- (c) whether or not it has appointed a Receiver, exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Agreement) on chargees and by this Agreement on any Receiver or otherwise conferred by law on chargees or Receivers; and
- (d) collect, recover or compromise, and give good discharge for any moneys paid or payable to the Assignor under or in respect of the Assigned Property, and enforce (in any way whatsoever including, without limitation, by way of instituting proceedings in the Assignor's name) any rights or claims arising or in respect of the Assigned Property.

### **10.2 Power of sale**

- (a) The power of sale or other disposal conferred on the Security Agent and on the Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Agreement.
- (b) The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other security in existence at any time or to its power of sale, which powers may be exercised by the Security Agent without notice to the Assignor on or at any time after the Security created by or pursuant to this Agreement has become enforceable in accordance with Clause 10 (*Security enforcement*).

### 10.3 **Certificate**

A certificate in writing by an officer or agent of the Security Agent that the power of sale or disposal has arisen and is exercisable shall be conclusive evidence of that fact, in favour of a purchaser of all or any part of the Assigned Property.

### 10.4 **Assignee's liability**

Neither the Security Agent nor any Receiver will be liable to account as mortgagee or mortgagee in possession in respect of the Assigned Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Assigned Property for which a mortgagee or mortgagee in possession might as such be liable.

### 10.5 **Right of Appropriation**

To the extent that any part of the Assigned Property constitutes "financial collateral" and this Agreement and the obligations of the Assignor hereunder 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 (SI 2003 No. 3226), as amended, (the "**Regulations**") the Security Agent shall have the right to appropriate the relevant Assigned Property in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Assignor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the market price of the Assigned Property determined by the Security Agent by reference to such process as the Security Agent may select, including independent valuation. The parties further agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

### 10.6 **Statutory powers**

The powers conferred by this Agreement on the Security Agent are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law (as extended by this Agreement) and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Assigned Property. In the case of any conflict between the statutory powers contained in any such Acts and those conferred by this Agreement, the terms of this Agreement shall prevail.

## 11. **RECEIVERS**

### 11.1 **Appointment and Removal**

At any time after having been requested to do so by the Assignor or after this Agreement becomes enforceable in accordance with Clause 10 (*Security Enforcement*), the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent), without prior notice to the Assignor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Assigned Property;

- (b) appoint two or more Receivers of separate parts of the Assigned Property;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
- (d) appoint another person(s) as an additional or replacement Receiver(s).

## **11.2 Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 11.1 (*Appointment and Removal*) will be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) the agent of the Assignor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Security Agent or any Secured Party; and
- (c) entitled to remuneration for his services at a rate to be fixed by the Security Agent from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

## **11.3 Statutory powers of appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Agent under the Law of Property Act 1925 (as extended by this Agreement) or otherwise and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Assigned Property.

## **11.4 Powers of Receivers**

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Assignor) have and be entitled to exercise, in relation to the Assigned Property in respect of which he was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Assignor or in his own name and, in each case, at the cost of the Assignor):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Assignor itself could do or omit to do;
- (d) the power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement or any of the Senior Finance

Documents (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Receiver itself; and

- (e) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Assignor) which seem to the Receiver to be incidental or conducive to:
  - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
  - (ii) the exercise of any of the Collateral Rights (including realisation of all or any part of the Assigned Property); or
  - (iii) bringing to his hands any assets of the Assignor forming part of, or which when got in would be, the Assigned Property.

#### **11.5 Consideration**

The receipt of the Security Agent or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Assigned Property or making any acquisition, the Security Agent or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

#### **11.6 Protection of purchasers**

No purchaser or other person dealing with the Security Agent or any Receiver shall be bound to inquire whether the right of the Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Security Agent or such Receiver in such dealings.

#### **11.7 Discretions**

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

### **12. EFFECTIVENESS OF COLLATERAL**

#### **12.1 Collateral Cumulative**

The Security created by or pursuant to this Agreement and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Security Agent or any other Secured Party may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law and shall operate as an independent Security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security. No prior security held by the Security Agent or any of the other Secured Parties over the whole or any part of the Assigned Property shall merge into the Security created by this Agreement.

## **12.2 No Waiver**

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement or any Senior Finance Document. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy of the Security Agent. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## **12.3 Illegality, Invalidity, Unenforceability**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security intended to be created by or pursuant to this Agreement is invalid, unenforceable or ineffective for any reason, including as a result of any deficiencies in the Assignor's rights under any Contract, that shall not affect or impair any other part of the Security.

## **12.4 No liability**

None of the Security Agent, its nominee(s) or any Receiver appointed pursuant to this Agreement shall be liable by reason of (a) taking any action permitted by this Agreement or (b) any neglect or default in connection with the Assigned Property or (c) the taking possession or realisation of all or any part of the Assigned Property, except in the case of gross negligence or wilful default upon its part.

## **12.5 Implied Covenants for Title**

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 4 (*Assignment*).
- (b) It shall be implied in respect of Clause 4 (*Assignment*) that each Assignor is assigning the Assigned Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

## **12.6 Continuing security**

- (a) The Security from time to time constituted by this Agreement is a continuing security and will remain in full force and effect as a continuing security until released or discharged by the Security Agent.
- (b) No part of the Security from time to time constituted by this Agreement will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

## **12.7 Immediate recourse**

The Assignor waives any right it may have of first requiring the Security Agent or a Secured Party to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Assignor under this Agreement or enforcing the Security created by this Agreement. This waiver applies irrespective of any law or any provision of this Agreement to the contrary.

## **12.8 Avoidance of Payments**

Notwithstanding Clause 4.3 (*Release*) if the Security Agent considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Assignor under this Agreement and the Security constituted by this Agreement shall continue and that amount shall not be considered to have been irrevocably paid or credited.

## **12.9 Non-competition**

Until the irrevocable discharge of the Secured Obligations referred to in Clause 4.3 (*Release*), the Assignor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Agreement:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any guarantor of any Obligor's obligations under this Agreement or any other Senior Finance Document;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of the Security Agent under this Agreement or the Security Agent or any other Secured Party under any other guarantee or other Senior Finance Document or security taken pursuant to, or in connection with, this Agreement or any other Senior Finance Document by the Security Agent or any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor or other person to make any payment, or perform any obligation, in respect of which any Obligor or other person has given a guarantee, undertaking or indemnity under any Senior Finance Document;
- (e) to exercise any right of set-off against any Obligor or other person; and/or
- (f) to claim or prove as a creditor of any Obligor or other person in competition with any Secured Party.

## **12.10 Turnover Trust**

- (a) The Assignor shall not accept or permit to subsist any collateral from any Obligor or any other person in respect of any rights the Assignor may have arising out of this Agreement: if, despite this provision, any such collateral shall be accepted or subsisting the Assignor acknowledges that the Assignor's rights under such collateral shall be held on trust for the Security Agent, to the extent necessary to enable all amounts which may be or become payable to the

Security Agent and the Secured Parties by the Obligors under or in connection with the Senior Finance Documents to be repaid in full, and the Assignor shall if requested promptly transfer the same to, or to the order of, the Security Agent or as it may direct for application in accordance with Clause 14 (*Application of Proceeds*).

- (b) If the Assignor receives any benefit, payment or distribution relating to the rights mentioned in Clause 12.9 (*Non-competition*) above it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Security Agent and the Secured Parties by the Obligors under or in connection with the Senior Finance Documents to be repaid in full on trust for the Security Agent and the Secured Parties and shall promptly pay or transfer the same to, or to the order of, the Security Agent or as it may direct for application in accordance with Clause 14 (*Application of Proceeds*).

#### **12.11 Waiver of defences**

The obligations of the Assignor under this Agreement and this Security will not be affected by any act, omission, matter or thing which, but for this Clause 12.11 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under this Agreement and this Security and whether or not known to the Assignor or the Security Agent or any Secured Party including:

- (a) any time, waiver or consent granted to, or composition with, the Assignor, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) 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 Assignor, any Obligor or 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;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, the Assignor, any Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Senior Finance Document 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 Senior Finance Document or other documents and any amendment, variation, waiver or release of any of the Secured Obligations;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any document or security; or

(g) any insolvency or similar proceedings.

#### **12.12 Assignor intent**

Without prejudice to the generality of Clause 12.11 (*Waiver of Defences*), the Assignor expressly confirms that it intends that the Security created under this Agreement, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Senior Finance Documents and/or any facility or amount made available under any of the Senior Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### **12.13 Retention of Agreement**

The Security Agent may retain this Agreement, the Security constituted by or pursuant to this Agreement and all documents relating to or evidencing ownership of all or any part of the Assigned Property for a period of seven months after any discharge in full of the Secured Obligations **provided that** if at any time during that seven month period a petition or application is presented for an order for the winding-up (which is not discharged, dismissed, stayed or withdrawn within 14 days of its presentation or commencement) of, or the making of an administration order in respect of, the Assignor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Assignor or files such a notice with the court or the Assignor commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Security Agent may continue to retain such Security and such documents for such further period as the Security Agent may determine and the Security and such documents shall be deemed to have continued to be held as security for the Secured Obligations.

### **13. EXPENSES, STAMP TAXES, INDEMNITY**

#### **13.1 Expenses**

The Assignor shall promptly on demand pay the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by the Security Agent on a full indemnity basis together with any VAT thereon incurred by it in connection with the negotiation, preparation and execution of this Agreement and the completion of the transactions and perfection of the Security contemplated in this Agreement.

#### **13.2 Enforcement expenses**

The Assignor shall, within three Business Days of demand pay to the Security Agent all the costs and expenses (including legal fees) on a full indemnity basis incurred by it in connection with the exercise, preservation and/or enforcement of any of the rights, powers or remedies of the Security Agent or the Security or any proceedings



instituted by or against the Security Agent as a consequence of taking or holding the Security or of enforcing any rights, powers or remedies of the Security Agent.

### **13.3 Stamp Taxes**

The Assignor shall pay all stamp, registration and other taxes to which this Agreement, the Security or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Security Agent within five Business Days of demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

### **13.4 Indemnity**

The Assignor shall within five Business Days of demand, notwithstanding any release or discharge of all or any part of the Security created by or pursuant to this Agreement, indemnify the Security Agent, its attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Assignor of the provisions of this Agreement, the exercise or purported exercise of any of the rights and powers conferred on them by this Agreement or otherwise relating to the Assigned Property.

### **13.5 Interest on Demands**

If the Assignor fails to pay any sum on the due date for payment of that sum the Assignor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate of two per cent. per annum over the rate at which the Security Agent was being offered, by prime banks in the London Interbank Market, deposits in an amount comparable to such sums in the currency or currencies thereof for such period(s) as the Security Agent may from time to time select.

### **13.6 Payments Free Of Deduction**

All payments to be made to the Security Agent under this Agreement shall be made free and clear of and without deduction for or on account of tax unless the Assignor is required to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Assignor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to tax such deduction or withholding has been made receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

## **14. APPLICATION OF PROCEEDS**

All moneys received or recovered and any non-cash recoveries made or received by the Security Agent or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied

by the Security Agent (notwithstanding any purported appropriation by the Assignor) in accordance with Clause 16 (*Application of Proceeds*) of the Intercreditor Agreement.

## **15. OTHER SECURITY INTERESTS**

### **15.1 Additional Security**

The Security created by the Assignor under this Agreement and the Collateral Rights are in addition to and are not in any way prejudiced by any other guarantee or Security now or subsequently held by any Secured Party.

### **15.2 Redemption or transfer**

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking security in case of exercise by the Security Agent or any Receiver of any power of sale or right of appropriation or application under this Agreement the Security Agent may redeem such prior security or procure the transfer thereof to itself.

### **15.3 Accounts**

The Security Agent may settle and pass the accounts of the prior security and any accounts so settled and passed will be conclusive and binding on the Assignor.

### **15.4 Costs of redemption or transfer**

All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Assignor to the Security Agent on demand together with accrued interest thereon (after as well as before judgment) at the rate from time to time applicable to unpaid sums specified in the Intercreditor Agreement from the time or respective times of the same having been paid or incurred until payment thereof (after as well as before judgment).

### **15.5 Subsequent Interests**

If the Security Agent (acting in its capacity as trustee or otherwise) or any of the other Secured Parties at any time receives notice of any subsequent mortgage, assignment, charge or other interest affecting all or any part of the Assigned Property, all payments made by the Assignor to the Security Agent or any of the Secured Parties after that time shall be treated as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Obligations as at the time when the Security Agent received notice.

## **16. SUSPENSE ACCOUNTS**

All monies received, recovered or realised by the Security Agent under this Agreement (including the proceeds of any conversion of currency) may in the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account maintained with the Security Agent or any bank, building society or financial institution as it considers appropriate and may be held in such account for so long as the Security Agent may think fit pending their application from time to

time (as the Security Agent is entitled to do in its discretion) in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

## 17. CURRENCY CONVERSION

- (a) For the purpose of or pending the discharge of any of the Secured Obligations the Security Agent may convert any money received, recovered or realised or subject to application by it under this Agreement from one currency to another, as the Security Agent thinks fit and any such conversion shall be effected at the Security Agent's spot rate of exchange for the time being for obtaining such other currency with the first currency.
- (b) The obligations of the Assignor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

## 18. CALCULATIONS AND CERTIFICATES

### 18.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by the Security Agent are *prima facie* evidence of the matters to which they relate.

### 18.2 Certificates and Determinations

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

## 19. CURRENCY INDEMNITY

- (a) If any sum (a "**Sum**") owing by the Assignor under this Agreement or any order or judgment given or made in relation to this Agreement has to be converted from the Currency (the "**First Currency**") in which such Sum is payable into another currency (the "**Second Currency**") for the purpose of:
  - (i) making or filing a claim or proof against the Assignor;
  - (ii) obtaining an order or judgment in any court of other tribunal;
  - (iii) enforcing any judgment given or made in relation to this Agreement;  
or
  - (iv) applying the Sum in satisfaction of any Secured Obligations,

the Assignor shall as an independent obligation, in three Business Days of demand, indemnify the Security Agent and each other Secured Party to whom that Sum is due from and against any cost, loss or liability suffered or incurred as a result of any conversion including any discrepancy between (a) the rate of

exchange used for such purpose to convert such Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to the Security Agent at the time of such receipt of such Sum.

- (b) The Assignor waives any right it may have in any jurisdiction to pay any amount under this Agreement in a currency or currency unit other than that in which it is expressed to be payable.

## **20. ASSIGNMENT**

### **20.1 No assignments or transfers by Assignor**

The Assignor may not assign any of its rights or transfer any of its rights or obligations under this Agreement.

### **20.2 Assignment by the Security Agent**

The Security Agent may at any time assign or transfer all or any of its rights in relation to this Agreement to any person in accordance with the terms of the Intercreditor Agreement. The Security Agent shall be entitled to disclose such information concerning the Assignor and this Agreement as the Security Agent considers appropriate to any actual or proposed direct or indirect assignee or to any person to whom information may be required to be disclosed by any applicable law.

### **20.3 Permitted Successors**

Subject to Clause 20.2 (*Assignment by the Security Agent*) above, this Agreement shall be binding upon and shall inure to the benefit of each party and its direct or subsequent legal successors, permitted transferees and assigns.

### **20.4 Security Agent Successors**

This Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Security Agent. References to the Security Agent shall include (i) any transferee, assignee or successor in title of the Security Agent, (ii) any entity into which the Security Agent is merged or converted or with which it may be consolidated, (iii) any legal entity resulting from any merger, conversion or consolidation to which such Security Agent is a party and (iv) any other person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Security Agent under this Agreement or to which, under such laws, those rights and obligations have been transferred (such person described in (i) to (iv) being a successor to the Security Agent for all purposes under the Senior Finance Documents).

### **20.5 Disclosure**

The Security Agent shall be entitled to disclose such information concerning the Assignor and this Agreement as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by applicable law.

## **21. NOTICES**

### **21.1 Communications in Writing**

Each communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

### **21.2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with the Agreement is:

- (a) in the case of the Assignor, that identified with its name below;
- (b) in the case of the Security Agent, that identified with its name below,

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

### **21.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) 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 21.2 (*Addresses*) of this Agreement if addressed to that department or officer.

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

### **21.4 Electronic communication**

- (a) Any communication to be made between the Assignor and the Security Agent under or in connection with this Agreement may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and

- (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- (b) Any such electronic communication as specified in paragraph (a) above may only be made in that way to the extent that the Assignor and the Security Agent agree that, unless and until notified to the contrary, this is to be an accepted form of communication.
- (c) Any such electronic communication as specified in paragraph (a) above will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Assignor to the Security Agent only if it is addressed in such manner as the Security Agent shall specify for this purpose.
- (d) Any electronic communication which becomes effective, in accordance with paragraph (c) above, after 5:00 p.m. in the place in which the addressee of the relevant communication has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- (e) Any reference in this Agreement to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 21.4.

#### **21.5 English language**

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Security 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.

### **22. WAIVERS AND COUNTERPARTS**

#### **22.1 Waivers**

No waiver by the Security Agent of any of its rights under this Agreement shall be effective unless given in writing.

#### **22.2 Counterparts**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

## 23. **LAW**

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

## 24. **ENFORCEMENT**

### 24.1 **Jurisdiction of English Courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity) or any non-contractual obligations arising out of or in connection with this Agreement (a "**Dispute**").
- (b) The Assignor 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.
- (c) Notwithstanding paragraph (a) of this Clause 24.1, the Security Agent may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

### 24.2 **Service of process**

The Assignor agrees that the documents which start any proceedings in relation to any Senior Finance Document, and any other documents required to be served in connection with those proceedings, may be served on it by being delivered to Craig Thompson at Forsters LLP, 31 Hill Street, London, W1J 5LS, or to such other address in England and Wales as the Assignor may specify by notice in writing to the Security Agent. Nothing in this paragraph shall affect the right of any Secured Party to serve process in any other manner permitted by law. This Clause applies to proceedings in England and proceedings elsewhere.

**THIS AGREEMENT** has been executed as a deed by the Assignor and has been signed by the Security Agent.

**SCHEDULE 1**  
**FORM OF NOTICE OF ASSIGNMENT**

To: Plessey Group Holdings Limited

Date: [•] 2018

Dear Sirs,

1. We hereby give you notice that we have assigned to **Deutsche Bank AG, London Branch** (the "**Security Agent**") pursuant to (i) an assignment entered into by us in favour of the Security Agent dated 21 November 2017 and (ii) an assignment entered into by us in favour of the Security Agent dated [•] 2018 all our right, title and interest in and to the Shareholders' Agreement (the "**Contract**") including all monies which may be payable in respect of the Contract.
2. We shall continue to be solely responsible for the performance of our obligations under or in connection with the Contract and the Security Agent is under no obligation of any kind whatsoever under the Contract nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Contract.
3. With effect from the date of your receipt of this notice:
  - (a) you may continue to deal with Greybull Capital LLP in relation to the Contract until such time as you receive a notice of the occurrence of an Acceleration Event issued by the Security Agent. Thereafter, all payments by you to us under or arising from the Contract (the "**Payments**") shall be paid to, or at the direction of, the Security Agent, as it may specify in writing from time to time;
  - (b) all remedies provided for in the Contract or otherwise available shall be exercisable by, or at the direction of, the Security Agent;
  - (c) all rights to compel performance of the Contract shall be exercisable by, or at the direction of, the Security Agent; and
  - (d) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Contract shall belong to the Security Agent.
4. You are authorised and instructed, without requiring further approval from us, to provide the Security Agent with such information relating to the Contract as it may from time to time request and to send copies of all notices issued by you under the Contract to the Security Agent as well as to us.
5. These instructions may not be revoked, nor may the terms of the Contract be amended, varied, waived or terminated, without the prior written consent of the Security Agent.
6. Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Security Agent at [•] marked for the attention of [•].



7. 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  
**Greybull Capital LLP**

We confirm our agreement to the terms of this notice and instruct you, in accordance with paragraph 3 of this notice, and with effect from the date of your receipt of this notice, that:

- (a) the Payments shall be made to Greybull Capital LLP; and
- (b) all remedies provided for in the Contract (or otherwise available) and all rights to compel performance of the Contract shall be exercisable by Greybull Capital LLP.

in each case until you receive written notification from us to the contrary.

.....  
For and on behalf of the  
**Deutsche Bank AG, London Branch**

## Acknowledgement

On copy only:

To: **Deutsche Bank AG, London Branch**

We acknowledge receipt of a notice in the terms set out above and confirm that, other than the notice dated [●] in respect of the security assignment of contractual rights under a specific contract dated 21 November 2017 entered into between Greybull Capital LLP and the Security Agent, we have not received notice of any previous assignments or charges of or over any of the rights, interests and benefits in and to the Contract and that we will comply with the terms of the notice from Greybull Capital LLP.

We further confirm that:

- (a) we have not claimed or exercised and have no outstanding right to claim or exercise any right of set-off, counterclaim or other right relating to the Payments;
- (b) no amendment, waiver or release of any rights, interests and benefits in and to the Contract shall be effective without your prior written consent;
- (c) no termination of those rights, interests or benefits shall be effective unless we have given you thirty days written notice of the proposed termination, specifying the action necessary to avoid such termination;
- (d) Greybull Capital LLP will remain liable to perform all its obligations under the Contract and the Security Agent is under no obligation of any kind whatsoever under the Contract nor under any liability whatsoever in the event of any failure by Greybull Capital LLP to perform its obligations under the Contract; and
- (e) no breach or default on the part of Greybull Capital LLP of any of the terms of the Contract shall be deemed to have occurred unless we have given you notice of such breach specifying how to make good such breach.

We have not claimed or exercised, and waive all future rights to claim or exercise, any right of set-off, lien, counterclaim or other similar right now or in the future relating to amounts owed to us by Greybull Capital LLP.

We acknowledge receipt of instructions from you in connection with the assignment of the Contract and confirm that we shall act in accordance with them until we receive written notification from you to the contrary.

For and on behalf of Plessey Group Holdings Limited

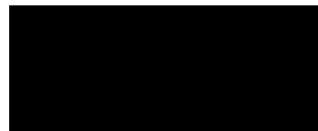
By: .....

Dated: .....

The Assignor

EXECUTED AS A DEED by  
GREYBULL CAPITAL LLP

)  
)



- SIGNATURE

ACTING BY A MEMBER:

~~By:~~

RICHARD PERLHAGEN - MEMBER

~~Name:~~

~~Title:~~ ~~Member.~~

~~By:~~ IN THE PRESENCE OF:

~~Name:~~

~~Title:~~ ~~Member~~



- SIGNATURE

- WITNESS

~~Address:~~

~~Fax:~~

~~Attention:~~

PA at GREYBULL CAPITAL LLP