



**Registration of a Charge**

Company Name: **BUCHAN 1 LIMITED**

Company Number: **SC643850**



Received for filing in Electronic Format on the: **19/12/2023**

XCIPHQAZ

**Details of Charge**

Date of creation: **15/12/2023**

Charge code: **SC64 3850 0003**

Persons entitled: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED (AS SECURITY AGENT)**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **PINSENT MASONS LLP**



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

Company number: 643850

Charge code: SC64 3850 0003

The Registrar of Companies for Scotland hereby certifies that a charge dated 15th December 2023 and created by BUCHAN 1 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th December 2023 .

Given at Companies House, Edinburgh on 19th December 2023

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



**Companies House**



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

**DATED 15 December 2023**

**(1) THE CHARGORS**

**(2) HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED  
(as Security Agent)**

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**DEBENTURE**

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THIS DEED is made on 15 December 2023

**BETWEEN:-**

- (1) **THE COMPANIES** whose names and registered offices are set out in Schedule 1 (together with each company which becomes a party to this Deed by executing a Deed of Accession, each a "**Chargor**" and together the "**Chargors**"); and
- (2) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED** as agent and trustee for itself and each of the Secured Parties (as defined below) (the "**Security Agent**").

**INTRODUCTION**

- (A) The Lenders have agreed to make credit facilities available to certain of the Obligors (as defined in the Facility Agreement (as defined below)) on the terms and conditions set out in the Facility Agreement.
- (B) The Chargors have agreed to enter into this Deed to provide Security over their assets to the Security Agent to hold on trust for itself and the other Secured Parties.

**IT IS AGREED** as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:-

<b>"Account"</b>	means any account now or at any time (and from time to time) opened, owned, operated, held or maintained by any Chargor (or in which any Chargor has an interest) at any bank or financial institution in any jurisdiction (and includes any replacement account, subdivision or sub-account of that account) and all moneys from time to time standing to the credit (including any interest thereon) of such accounts
<b>"Assigned Contracts"</b>	means any contract designated as such in writing by the Parent and the Security Agent.
<b>"Assigned Insurances"</b>	means the Insurances (if any) specified in Schedule 4 ( <i>Assigned Insurances</i> ) by the Security Agent (including any renewal, substitution or replacement of such Insurance)
<b>"Blocked Account"</b>	means any Account agreed by the Security Agent and the Parent to be a Blocked Account provided that such Account is located in England
<b>"Charged Account"</b>	means (provided that such an account is located in England) any Account agreed by the Security Agent and the Parent in writing to be a Charged Account

<b>"Declared Default"</b>	has the meaning given to that term in the Facility Agreement
<b>"Deed of Accession"</b>	means a deed substantially in the form of Schedule 5 ( <i>Deed of Accession</i> ) executed, or to be executed, by a person becoming a Chargor
<b>"Default"</b>	has the meaning given to that term in the Facility Agreement
<b>"Default Rate"</b>	means the rate specified in Clause 13.4 ( <i>Default Interest</i> ) of the Facility Agreement
<b>"Event of Default"</b>	has the meaning given to that term in the Facility Agreement
<b>"Facility Agreement"</b>	means the facility agreement originally dated 20 December 2019 as amended pursuant to subsequent accession deeds dated 14 May 2020, an amendment letter dated 18 June 2020, and amendment and restatement agreements dated 25 October 2021 and 08 February 2023 and a further accession deed dated 09 February 2023 between, inter alios, Buchan 1 Limited (as Parent), the Original Borrowers, the Original Guarantors and the Original Lenders (each as defined therein), Clydesdale Bank plc, HSBC UK Bank plc and The Royal Bank of Scotland plc, as Arrangers, HSBC Bank Plc as Agent and HSBC Corporate Trustee Company (UK) Limited as Security Agent
<b>"Group"</b>	has the meaning given in the Facility Agreement
<b>"Insurances"</b>	means any contracts and policies of insurance or assurance taken out by or on behalf of any Chargor or (to the extent of its interest) in which any Chargor has an interest excluding, in each case, contracts and policies of insurance or assurance which relate to liabilities to third parties
<b>"Intellectual Property"</b>	means any of the following:- <ul style="list-style-type: none"> <li>(a) all interests in respect of any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents (including supplementary protection certificates), trade marks, service marks, registered designs and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above;</li> <li>(b) any brand and trade names, domain names, invention, copyright, design right or performance right;</li> <li>(c) any trade secrets, database right, know-how and confidential information; and</li> <li>(d) the benefit of any agreement or licence for the use of any such right,</li> </ul>

and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above together with any registrations, extensions, renewals or applications of or for the same, now or at any time hereafter (and from time to time) owned or held by any Chargor or (to the extent of its interest) in which any Chargor has an interest

**"Land"** has the meaning given to that term in section 205(1) of the LPA but for these purposes **"Land"** excludes heritable property situated in Scotland

**"LPA"** means the Law of Property Act 1925

**"Monetary Claims"** means all book and other debts, rentals, royalties, fees, VAT and monetary claims now or in the future owing to each Chargor (whether alone or jointly with any other person), whenever payable and whether liquidated or unliquidated, certain or contingent including, without limitation, credit balances on any Account, together with all cheques, bills of exchange, negotiable instruments, indemnities, credits and securities at any time given in relation to, or to secure payment of, any such debt

**"NS&IA"** means the National Security and Investment Act 2021

**"Parent"** means Buchan 1 Limited a company registered in Scotland with company number SC643850

**"Party"** means a party to this Deed

**"Plant and Equipment"** means all plant, machinery or equipment (including office equipment, computers, vehicles and other equipment) of each Chargor of any kind and the benefit of all licences, warranties and contracts relating to the same

**"Receiver"** means any receiver, receiver and manager or, to the extent permitted by law, an administrative receiver (whether appointed pursuant to this Deed or any statute, by a court or otherwise) of the whole or any part of the Secured Assets

**"Related Rights"** means in relation to any Secured Asset:-

- (a) the proceeds of sale of all or any part of that Secured Asset;
- (b) allotments, rights, money or property arising from that Secured Asset, by way of conversion, exchange, redemption, bonus, preference, option or otherwise;
- (c) all rights under any licence, agreement for sale or agreement for lease in respect of that Secured Asset;
- (d) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of



	that Secured Asset; and
	(e) any moneys and proceeds or income paid or payable in respect of that Secured Asset
<b>"Scottish Assets"</b>	means, in respect of any Chargor, its assets located in Scotland or governed by the laws of Scotland
<b>"Secretary of State"</b>	has the meaning given to such term in Schedule 1 to the Interpretation Act 1978
<b>"Secured Assets"</b>	means all the assets and undertaking of the Chargors which from time to time are, or purport to be, the subject of the Security created in favour of the Security Agent by or pursuant to this Deed
<b>"Secured Finance Documents"</b>	means the Finance Documents (as defined in the Facility Agreement)
<b>"Secured Parties"</b>	has the meaning given to such term in the Facility Agreement (and <b>"Secured Party"</b> means any one of them)
<b>"Secured Obligations"</b>	means all monies, liabilities, and obligations, whether actual or contingent and whether owed jointly or severally or as principal debtor, guarantor, cautioner, surety or otherwise, which are now or may at any time hereafter (whether before or at any time after demand) be or become due in any manner by any Obligor to the Secured Parties under the Finance Documents
<b>"Securities"</b>	means all or any stocks, shares (other than any Shares) or other financial instruments (as defined in the UK Financial Collateral Regulations) including those held via a nominee, trustee or clearing system
<b>"Security"</b>	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
<b>"Security Period"</b>	means the period beginning on the date of this Deed and ending on the date which:-  (a) all of the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and  (b) no Secured Party has any further commitment, obligation or liability under or pursuant to the Secured Finance Documents
<b>"Shares"</b>	means:-  (a) all of the shares in the capital of each of the companies specified in Schedule 3 ( <i>Details of Shares</i> ); and  (b) any shares in the capital of any other member of the Group owned by any Chargor or held by

any nominee on behalf of any Chargor at any time

**"Transaction Security"** means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents

**"Transaction Security Documents"** has the meaning given in the Facility Agreement

**"UK Financial Collateral Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I.2003/3226) as amended by the Financial Collateral Arrangements (No. 2) Regulations 2003 (Amendment) Regulations 2009 (S.I.2009/2462), the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010, the European Union (Withdrawal) Act 2018 (as amended) and the Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019 (S.I.2019/341) and "UK Financial Collateral Regulation" means any of them

## 1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facility Agreement or in any other Secured Finance Document shall have the same meanings in this Deed.

## 1.3 Interpretation

1.3.1 The principles of interpretation set out in clauses 1.2 (*Construction*) and 1.5 (*Third Party Rights*) of the Facility Agreement apply to this Deed insofar as they are relevant to it.

1.3.2 Unless the context otherwise requires, a reference to a "**Secured Finance Document**" or any other agreement, deed or instrument is a reference to that Secured Finance Document or other agreement, deed or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Secured Finance Document or other agreement, deed or instrument.

1.3.3 The liabilities of the Chargors under this Deed are joint and several.

## 1.4 Acknowledgement

Each Chargor acknowledges that the Security Agent enters into this Deed for itself and as agent and trustee for the Secured Parties who is entitled to the full benefit of this Deed.

## 1.5 Effect as a deed

This Deed takes effect as a deed even if it is executed under hand on behalf of the Security Agent.

## 1.6 **Law of Property (Miscellaneous Provisions) Act 1989**

The terms of the other Secured Finance Documents and of any side letters between any parties in relation to any Secured Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition of an interest in Land contained in this Deed is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## 1.7 **Third party rights**

1.7.1 Each Secured Party, any Receiver and their respective officers, employees and agents may enforce any term of this Deed which purports to confer a benefit on that person, but no other person who is not a Party has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.7.2 Notwithstanding any term of any Secured Finance Document, the Parties and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of any person who is not a Party.

## 1.8 **Nominees**

If the Security Agent causes or requires Shares or any other asset to be registered in the name of its nominee, any reference in this Deed to the Security Agent will, if the context permits or requires, be construed as a reference to the Security Agent and its nominee.

## 1.9 **Conflicts**

If there is any conflict between the provisions of this Deed and the provisions of the Facility Agreement, the provisions of the Facility Agreement prevail.

## 2. **COVENANT TO PAY**

### 2.1 **Secured Obligations**

Each Chargor covenants that it will pay and discharge the Secured Obligations when due, for payment or discharge in accordance with the Facility Agreement and the other Finance Documents.

### 2.2 **Interest**

Each Chargor covenants to pay interest at the Default Rate to the Security Agent on any sum not paid in accordance with Clause 2.1 (*Secured Obligations*) until payment (both before and after judgment).

## 3. **CHARGES**

### 3.1 **Land**

Each Chargor charges:

3.1.1 by way of first legal mortgage all Land (if any) described in Schedule 2 (*Details of Land*); and

3.1.2 by way of first fixed charge:-

- (a) all Land vested in any Chargor on the date of this Deed to the extent not effectively mortgaged by Clause 3.1.1;
- (b) all licences to enter upon or use Land and the benefit of all other agreements relating to Land; and
- (c) all Land acquired by any Chargor after the date of this Deed.

### 3.2 **Shares**

Each Chargor mortgages or (if or to the extent that this Deed does not take effect as a mortgage) charges by way of fixed charge the Shares and all Related Rights under or in connection with the Shares.

### 3.3 **Securities**

Each Chargor mortgages or (if or to the extent that this Deed does not take effect as a mortgage) charges by way of first fixed charge the Securities and all Related Rights under or in connection with the Securities.

### 3.4 **Intellectual Property**

Each Chargor charges by way of first fixed charge the Intellectual Property and all Related Rights under or in connection with the Intellectual Property.

### 3.5 **Monetary Claims**

Each Chargor charges by way of first fixed charge the Monetary Claims and all Related Rights under or in connection with the Monetary Claims.

### 3.6 **Charged Accounts**

Each Chargor charges by way of first fixed charge:-

- 3.6.1 all amounts standing to the credit of the Charged Accounts; and
- 3.6.2 all Related Rights under or in connection with the Charged Accounts.

### 3.7 **Plant and Equipment**

Each Chargor charges by way of first fixed charge:-

- 3.7.1 the Plant and Equipment (to the extent not effectively charged by Clauses 3.1.1 or 3.1.2) other than any Plant and Equipment which is for the time being part of any Chargor's stock-in-trade or work-in-progress; and
- 3.7.2 all Related Rights under or in connection with the Plant and Equipment.

### 3.8 **Goodwill**

Each Chargor charges by way of first fixed charge its present and future goodwill.

**3.9 Uncalled capital**

Each Chargor charges by way of first fixed charge its uncalled capital.

**3.10 Authorisations**

Each Chargor charges by way of first fixed charge the benefit of all licences, consents, agreements and Authorisations held by or used in connection with the business of such Chargor or the use of any of its assets.

**3.11 Letters of credit**

Each Chargor charges by way of first fixed charge any letter of credit issued in its favour and all bills of exchange and other negotiable instruments held by it.

**3.12 Assigned Contracts**

Each Chargor assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Obligations, all its right, title and interest from time to time in:-

3.12.1 the Assigned Contracts to which it is a party; and

3.12.2 all Related Rights under or in connection with the Assigned Contracts to which it is a party.

**3.13 Assigned Insurances**

Each Chargor assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Obligations, all its right, title and interest from time to time in:

3.13.1 the Assigned Insurances to which it is a party; and

3.13.2 all Related Rights under or in connection with the Assigned Insurances to which it is a party.

**3.14 Scottish Assets**

The provisions of Clauses 3.1 (*Land*) to 3.13 (*Assigned Insurances*) do not apply to any Scottish Assets.

**3.15 Floating Charge**

3.15.1 Each Chargor (other than the Parent) charges by way of first floating charge all of its present and future business, undertaking and assets wherever situated, which are not for any reason effectively mortgaged, charged or assigned by way of fixed security by this Deed, including, without limitation, any Scottish Assets.

3.15.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by this Deed.

**3.16 Trust**

If or to the extent that for any reason the assignment or charging of any Secured Asset is prohibited, the relevant Chargor will:-

- 3.16.1 hold it on trust for the Security Agent as security for the payment and discharge of the Secured Obligations; and
- 3.16.2 take such steps as the Security Agent may require to remove the impediment to assignment or charging it.

### 3.17 **Nature of Security created**

The Security created under this Deed is created:

- 3.17.1 as a continuing security to secure the payment and discharge of the Secured Obligations and will not be released or discharged by any intermediate payment or settlement of all or any of the Secured Obligations;
- 3.17.2 in favour of the Security Agent as agent and trustee for the Secured Parties; and
- 3.17.3 with full title guarantee.

## 4. **CRYSTALLISATION OF FLOATING CHARGE**

### 4.1 **Crystallisation: By Notice**

- 4.1.1 Subject to Clause 4.4 (*Crystallisation: Moratorium*), the Security Agent may at any time by notice in writing to any Chargor convert the floating charge created by Clause 3.15 (*Floating Charge*) into a fixed charge with immediate effect as regards any property or assets specified in the notice if:-
  - (a) the Security created by or pursuant to this Deed becomes enforceable in accordance with Clause 13.1 (*Enforcement*); or
  - (b) the Security Agent considers that any Secured Asset may be in jeopardy or in danger of being seized, attached, charged, taken possession of or sold under any form of distress, sequestration, execution or other process or otherwise be in jeopardy; or
  - (c) the Security Agent considers that it is necessary in order to protect the priority of the Security created by or pursuant to this Deed.
- 4.1.2 If no specific assets subject to the floating charge in Clause 3.15 (*Floating charge*) are identified in the notice referred to in Clause 4.1.1 then the crystallisation will take effect over all of the assets subject to the floating charge in Clause 3.15 (*Floating charge*).

### 4.2 **Crystallisation: Automatic**

Subject to Clause 4.4 (*Crystallisation: Moratorium*), the floating charge created by a Chargor under Clause 3.15 (*Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets of that Chargor subject to the floating charge:-

- 4.2.1 if that Chargor creates any Security (other than Permitted Security (as defined in the Facility Agreement over any of the Secured Assets; or
- 4.2.2 if any person levies any distress, execution or other process against any of the Secured Assets; or
- 4.2.3 if the Security Agent receives notice of an intention to appoint an administrator of that Chargor; or

- 4.2.4 if any step is taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of that Chargor, over all or any part of its assets, or if such person is appointed; or
- 4.2.5 on the crystallisation of any other floating charge over the Secured Assets; or
- 4.2.6 in any other circumstance provided by law.

#### 4.3 **Assets acquired post-crystallisation**

Any assets acquired by a Chargor after crystallisation has occurred (and that are not effectively charged by way of legal mortgage or fixed charge, or assigned under Clause 3 (*Charges*)), will become subject to the floating charge created by Clause 3.15 (*Floating charge*) so that the crystallisation will be effective as if such assets were owned by the Chargor at the date of crystallisation.

#### 4.4 **Crystallisation: Moratorium where directors propose voluntary arrangement**

- 4.4.1 The floating charge created by Clause 3.15 (*Floating Charge*) may not be converted into a fixed charge solely by reason of:
  - (a) the obtaining of a moratorium; or
  - (b) anything done with a view to obtaining a moratorium, under Schedule A1 to the Insolvency Act 1986.

#### 4.5 **Partial crystallisation**

The giving of a notice by the Security Agent pursuant to Clause 4.1 (*Crystallisation: By Notice*) in relation to any class of assets of any Chargor may not be construed as a waiver or abandonment of the rights of the Security Agent to serve similar notices in respect of any other class of assets or of any other right of the Security Agent and/or the Secured Parties.

#### 4.6 **De-crystallisation of floating charge**

Any charge that has crystallised under this Clause may by notice in writing (given at any time by the Security Agent to the relevant Chargor), be reconverted into a floating charge in relation to the assets or class of assets specified in that notice.

### 5. **PERFECTION OF SECURITY**

#### 5.1 **Notices of assignment**

- 5.1.1 The Chargors must deliver notices of assignment in relation to each Secured Asset which is subject to an assignment under this Deed:-
  - (a) Assigned Contracts: on the date on which the assignment is granted, by signing a notice in the form set out in Schedule 7 (*Form of notice of assignment of Assigned Contract*) addressed to the relevant counterparty;
  - (b) Assigned Insurances:
    - (i) subject to clause 5.1.1(c) below, promptly following any request by the Security Agent at any time after the

assignment is granted, by issuing a notice in the form set out in Schedule 6 (*Form of notice of assignment of Assigned Insurance*) addressed to the relevant insurer; and

- (ii) subject to clause 5.1.1(c) below, if any Chargor renews, substitutes or replaces any Assigned Insurance, promptly following a request by the Security Agent at any time after such renewal, substitution or replacement, by issuing a notice in the form set out in Schedule 6 (*Form of notice of assignment of Assigned Insurance*) addressed to the relevant insurer.

- (c) The Security Agent may not serve any notice provided under sub-clauses (i) or (ii) above until the occurrence of an Event of Default which is continuing. Following the occurrence of an Event of Default which is continuing the Security Agent will be entitled to immediately serve any notice provided under sub-clauses (i) or (ii).

5.1.2 Subject to clause 5.1.1(c) above, the Chargors will use reasonable endeavours to procure that, within 20 Business Days of the date of the each notice of assignment delivered pursuant to Clause 5.1.1(b) above, each notice of assignment is acknowledged by the party to whom it is addressed. If the relevant Chargor has used its reasonable endeavours to obtain such an acknowledgement but it has not been able to, the obligation to obtain such acknowledgement will cease on the expiry of 20 Business Days after the date on which the relevant notice was issued.

5.1.3 Each Chargor will deliver to the Security Agent:-

- (a) a copy of each notice of assignment, within 5 Business Days of delivery to the relevant counterparty; and
- (b) a copy of each acknowledgment of a notice of assignment, within 5 Business Days of receipt from the relevant counterparty.

## 5.2 Documents of Title

### 5.2.1 Land

If requested by the Security Agent and subject to the Agreed Security Principles, the Chargors will following the execution of this Deed or any Deed of Accession, and following the acquisition by any Chargor of any interest in any Land deliver (or procure delivery) to the Security Agent of all deeds, certificates and other documents relating to such Land (which the Security Agent will be entitled to hold and retain at the expense and risk of the Chargors).

### 5.2.2 Shares

The Chargors will upon the execution of this Deed or any Deed of Accession (or, if later, promptly upon the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Shares) and upon the acquisition by any Chargor of any interest in any Shares deliver (or procure delivery) to the Security Agent of:

- (a) all stock and share certificates and other documents of or evidencing title to the Shares;



- (b) signed and undated transfers (or other instruments of transfer) in respect of the Shares, completed in blank on behalf of the applicable Chargor and, if the Security Agent so requires, pre-stamped; and
- (c) any other documents which the Security Agent may from time to time require for perfecting its title, or the title of any purchaser, in respect of the Shares,

all of which the Security Agent is entitled to hold at the expense and risk of the Chargors.

### 5.2.3 **Securities**

As soon as any Securities are registered in, or transferred into the name of, a Chargor, or held by or in the name of the Security Agent or a nominee (and in any event as soon as the Security Agent so requests), such Chargor will deposit with the Security Agent, in respect of or in connection with those Securities:

- (a) all stock and share certificates and other documents of or evidencing title to the Securities;
- (b) signed and undated transfers (or other instruments of transfer) in respect of the Securities, completed in blank on behalf of the applicable Chargor and, if the Security Agent so requires, pre-stamped; and
- (c) any other documents which the Security Agent may from time to time require for perfecting its title, or the title of any purchaser, in respect of the Securities,

all of which the Security Agent is entitled to hold at the expense and risk of the Chargors.

## 5.3 **Application to the Land Registry**

If requested by the Security Agent and subject to the Agreed Security Principles, each Chargor and the Security Agent will apply to the Land Registry for the following to be entered on the registered title to any Land now or in the future owned by it:-

### 5.3.1 a restriction in the following terms:-

"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 *[insert date]* in favour of *[insert name of Security Agent]* referred to in the charges register (Form P)"

### 5.3.2 a notice that:-

"*[details of the lenders]* are under an obligation to make further advances on the terms and subject to the conditions of the Secured Finance Documents and the security created by the charge dated *[insert date]* in favour of *[insert name of Security Agent]* (as agent and trustee for the Secured Parties referred to in that charge) has been created for the purpose of securing such further advances."

## 6. COVENANTS

### 6.1 Further assurance

6.1.1 Subject to the Agreed Security Principles, each Chargor will, from time to time and at its own expense, promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominees):-

- (a) to perfect the Security created intended to be created by this Deed or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;
- (b) to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of each Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
- (c) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Deed.

6.1.2 Subject to the Agreed Security Principles, 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 on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

6.1.3 The obligations of the Chargors under this Clause 6.1 are in addition to the covenants for further assurance deemed to be included by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

### 6.2 Negative pledge

Each Chargor undertakes that it will not create or permit to subsist any Security over any Secured Assets, nor do anything else prohibited by clause 26.18 (*Negative pledge*) of the Facility Agreement except as expressly permitted under the terms of the Secured Finance Documents.

### 6.3 Disposals

Each Chargor undertakes that it will not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of any Secured Assets except as permitted by clause 26.19 (*Disposals*) of the Facility Agreement.

### 6.4 Land

Each Chargor will promptly notify the Security Agent in writing if it intends to acquire any estate or interest in Land, subject to the Agreed Security Principles, and will promptly on request by the Security Agent (at the cost of that Chargor) execute a legal mortgage in favour of the Security Agent of that property in any form which the Security Agent may require. If the title to any such estate or interest is registered (or required to be registered) at the Land Registry, the relevant Chargor will procure the registration of the legal mortgage at the Land Registry.

## **7. SHARES AND SECURITIES**

### **7.1 Shares: before a Declared Default**

Prior to the occurrence of a Declared Default, the Chargors will:-

- 7.1.1 subject to the terms of the Facility Agreement, be entitled to receive all dividends, interest and other moneys arising from the Shares;
- 7.1.2 exercise all voting rights in relation to the Shares for any purpose not inconsistent with the terms of the Secured Finance Documents;
- 7.1.3 promptly upon receipt, forward to the Security Agent copies of all notices and other communications received in connection with the Shares;
- 7.1.4 promptly comply with (and copy to the Security Agent) 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 in any articles of association or other constitutional documents relating to any Shares; and
- 7.1.5 comply with all other conditions and obligations assumed by it in respect of any of the Shares where failure to do so could adversely effect the interests of the Secured Parties.

### **7.2 Shares: after a Declared Default**

After the occurrence of a Declared Default, the Security Agent may at its discretion (in the name of any Chargor or otherwise and without any further consent or authority from any Chargor):-

- 7.2.1 exercise (or refrain from exercising) any voting rights in respect of the Shares;
- 7.2.2 apply all dividends, interest and other moneys arising from the Shares in accordance with Clause 15 (*Application of Moneys*);
- 7.2.3 transfer the Shares into its name or the name of its nominee(s); and
- 7.2.4 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Shares, including the right, in relation to any company whose shares or other securities are included in the Secured Assets, to concur or participate in:-
  - (a) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence of such reconstruction, amalgamation, sale or other disposal);
  - (b) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
  - (c) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in such manner and on such terms as the Security Agent may think fit, and the proceeds of any such action will form part of the Secured Assets.

### 7.3 **Securities and Shares: payment of calls**

The Chargors will pay when due all calls or other payments which may be or become due in respect of any of the Securities and Shares which are not fully paid (unless reasonably contested), and in any case of default by any Chargor in such payment lasting longer than 10 Business Days, the Security Agent may, if it thinks fit, make such payment on behalf of such Chargor in which case any sums paid by the Security Agent will be reimbursed by the Chargor to the Security Agent on demand and will bear interest from the date of payment by the Security Agent until reimbursed at the rate notified to the Chargor by the Security Agent.

### 7.4 **Securities: exercise of rights**

The Chargors will not exercise any of their respective rights and powers in relation to any of the Securities in any manner which, in the opinion of the Security Agent, would prejudice the effectiveness of, or the ability of the Security Agent to realise, the Security created by or pursuant to this Deed.

## 8. **INTELLECTUAL PROPERTY**

Subject to the Agreed Security Principles, each Chargor will, if requested by the Security Agent and at such Chargor's cost, execute all such further assignments, transfers, charges or other documents in such form as the Security Agent may require and do all acts that the Security Agent may require to perfect the Security taken by, or to record the interest of, the Security Agent in any registers relating to any registered Intellectual Property.

## 9. **MONETARY CLAIMS**

9.1 The Chargors will get in and realise the Monetary Claims in the ordinary course of business and pay the proceeds of those Monetary Claims into an Account.

9.2 The Chargors may not at any time during the subsistence of this Deed, without the prior written consent of the Security Agent or otherwise as permitted pursuant to the terms of the Secured Finance Documents, sell, factor, discount, transfer, assign, lend or otherwise dispose of any of the Monetary Claims or enter into any agreement to do so.

9.3 If and to the extent that the Security Agent so specifies, at any time after the Security created under this Deed has become enforceable, each Chargor will pay the proceeds of payment or realisation of its assets comprising temporary and other investments, book and other debts, royalties, fees and income of like nature or other moneys received by that Chargor as the Security Agent may require into such Account(s) as the Security Agent may from time to time specify and pending such payment will hold all such receipts on trust for the Security Agent.

## 10. **ACCOUNTS**

### 10.1 **Charged Accounts: before a Declared Default**

- (a) The Chargors are, prior to the occurrence of a Declared Default, be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Charged Account (other than any Blocked Account).
- (b) Save as permitted pursuant to the terms of the Secured Finance Documents, the Chargors may not make any withdrawal from any Blocked Account without the prior written consent of the Security Agent (in its capacity as such).

- (c) If and to the extent necessary to enable, and for the sole purpose of enabling:
  - (i) the Chargors to comply with their obligations to make repayments of the Secured Obligations arising under the Secured Finance Documents; or
  - (ii) the Agent to apply the proceeds thereof in or towards repayment of the Secured Obligations in accordance with the terms of the Secured Finance Documents,

the Security Agent will release from the Security created by this Deed the whole or any part of the sums standing to the credit of any Blocked Account.

#### 10.1.2 **Charged Accounts: after a Declared Default**

- (a) The Security Agent will, upon the occurrence of a Declared Default be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any Charged Account in or towards the payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 15 (*Application of Moneys*).
- (b) After the occurrence of a Declared Default, the Chargors will not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Charged Account except with the prior consent of the Security Agent (in its capacity as such).

### 11. **ASSIGNED CONTRACTS AND ASSIGNED INSURANCES**

11.1 Subject to the terms of the Secured Finance Documents, each Chargor will:-

- 11.1.1 deliver to the Security Agent, promptly following a request from the Security Agent, such documents relating to the Assigned Contracts and the Assigned Insurances as the Security Agent may reasonably require;
- 11.1.2 perform all its obligations under the Assigned Contracts and Assigned Insurances in a diligent and timely manner; and
- 11.1.3 notify the Security Agent of any material breach of or default under an Assigned Contract or Assigned Insurance by it or any other party and any right that arises entitling it or any other party to terminate or rescind an Assigned Contract or Assigned Insurance, promptly upon becoming aware of the same.

11.2 Subject to the Agreed Security Principles, the Chargors may not, without the prior written consent of the Security Agent:

- 11.2.1 amend, supplement, supersede or waive any provision (or agree to do to any of the foregoing) of any Assigned Contract or Assigned Insurance;
- 11.2.2 exercise any right to rescind, cancel, terminate or release any counterparty from any obligations (or agree to do to any of the foregoing) in respect of any Assigned Contract or Assigned Insurance; or
- 11.2.3 assign, transfer, charge or otherwise deal with or dispose of any Assigned Contract or Assigned Insurance or any of the Chargors' rights, title, interest and benefits in, to and in respect of any Assigned Contracts or Assigned Insurances,

except as permitted by the terms of the Secured Finance Documents.

- 11.3 Save as expressly restricted pursuant to the terms of the Secured Finance Documents, while no Event of Default is continuing, the relevant Chargor may exercise all its rights in respect of the Assigned Contracts to which it is a party (other than the Structural Intra-Group Loans) including receiving and exercising all rights relating to proceeds of those Assigned Contracts (other than the Structural Intra-Group Loans).
- 11.4 While no Event of Default is continuing, the relevant Chargor may exercise all its rights in respect of the Assigned Insurances to which it is a party including receiving and exercising all rights relating to proceeds of those Assigned Insurances to the extent permitted pursuant to the terms of the Secured Finance Documents.
- 11.5 Each Chargor which is the borrower of a Structural Intra-Group Loan by its execution of this Deed or a Deed of Accession acknowledges receipt of notice of assignment under Clause 3.12 (*Assigned Contracts*) of the relevant Structural Intra-Group Loan.

## 12. PROTECTION OF SECURED ASSETS

### 12.1 Insurance

12.1.1 The Chargors will at all times during the subsistence of this Deed:-

- (a) keep the Secured Assets insured in accordance with the terms of the Secured Finance Documents;
- (b) immediately following the occurrence of a Declared Default cause each Insurance relating to the Secured Assets (other than any Insurances which are Assigned Insurances) to contain (in form and substance satisfactory to the Security Agent) a note of the interest of the Security Agent and an endorsement naming the Security Agent as sole loss payee in respect of all claims;
- (c) promptly, and in any event no later than their due date, pay all premiums and other moneys payable under all its Insurances or procure that such is done and promptly upon request, produce to the Security Agent a copy of each policy and evidence (acceptable to the Security Agent) of the payment of such sums (or procure that such is done);
- (d) comply with the terms of all Insurances relating to the Secured Assets and renew each policy in good time prior to its expiry date;
- (e) if any Insurances relating to the Secured Assets become void or voidable, immediately, at its own cost, effect a new Insurance of the same value as the void or voidable policy;
- (f) if required by the Security Agent or the Secured Finance Documents, provide a copy of all Insurances relating to the Secured Assets to the Security Agent; and
- (g) ensure that all moneys received in respect of any Insurances in respect of the Secured Assets are applied in accordance with the terms of the Secured Finance Documents.

12.1.2 If any Chargor defaults in complying with Clause 12.1.1, the Security Agent may (but shall not be obliged to) effect or renew any such Insurance on such terms, in such name(s) and in such amount(s) as it considers appropriate, and all moneys expended by the Security Agent in doing so will be

reimbursed by the Chargors to the Security Agent on demand and shall bear interest from the date of payment by the Security Agent until reimbursed at the rate specified in Clause 2 (*Covenant to Pay*).

## 12.2 **Application of Insurance Proceeds**

- 12.2.1 All moneys received under any Insurance relating to the Secured Assets will, prior to the occurrence of a Declared Default, be applied in accordance with the terms of the Secured Finance Documents.
- 12.2.2 After the occurrence of a Declared Default the Chargors will hold such moneys upon trust for the Security Agent pending payment to the Security Agent for application in accordance with Clause 15 (*Application of Moneys*) and each Chargor waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Secured Assets.

## 12.3 **Power to remedy**

If any Chargor fails to comply with any of its obligations in relation to any of its assets subject to Security pursuant to this Deed, or the Security Agent reasonably considers that a Chargor has failed to comply with any such obligations, the Security Agent may, if it thinks fit (but without any obligation) take such steps as it deems appropriate to remedy such failure (including, without limitation, the carrying out of repairs, the putting in place of insurance or the payment of costs, charges or other expenses) and the Chargors will co-operate with and will grant the Security Agent or its agents or contractors such access as the Security Agent may require to the relevant assets or otherwise in order to facilitate the taking of such steps.

## 13. **DEMAND AND ENFORCEMENT**

### 13.1 **Enforcement**

- 13.1.1 The Security created by this Deed will become enforceable upon:-
  - (a) the occurrence of a Declared Default;
  - (b) any request being made by a Chargor to the Security Agent for the appointment of a Receiver or an administrator, or for the Security Agent to exercise any other power or right available to it; or
  - (c) the occurrence of any event causing, or purporting to cause, the floating charge created by this Deed to become fixed in relation to any Secured Asset.
- 13.1.2 Subject to clause 13.1.3 and clause 13.2 below, after this Security has become enforceable, the Security Agent may exercise (in the name of the relevant Chargor and without any further consent or authority on the part of the relevant Chargor) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Shares or Securities, any person who is the holder of any Shares or Securities or otherwise.
- 13.1.3 The Security Agent shall not be entitled to exercise any voting rights or any other powers or rights under clause 13.1.2 above if and to the extent that:
  - (a) a notifiable acquisition would, as a consequence, take place under section 6 of the NS&IA and any regulations made under the NS&IA; and
  - (b) either:

- (i) the Secretary of State has not approved that notifiable acquisition in accordance with the NS&IA; or
- (ii) the Secretary of State has approved that notifiable acquisition in accordance with the NS&IA but there would, as a consequence, be a breach of the provisions of a final order made in relation to that notifiable acquisition under the NS&IA.

### 13.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Security Agent may (without prejudice to any other rights and remedies and without notice to the Chargors) do all or any of the following:-

- 13.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 13.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Secured Assets, without the restrictions imposed by sections 99 and 100 of the LPA;
- 13.2.3 to the extent that any Secured Asset constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as defined in the UK Financial Collateral Regulations, appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Liability (including transferring the title in and to it to the Security Agent insofar as not already transferred, subject to paragraphs (1) and (2) of UK Financial Collateral Regulation 18), the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or, in any other case, such amount as the Security Agent determines in a commercially reasonable manner;
- 13.2.4 subject to Clause 14.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Secured Assets; and
- 13.2.5 appoint an administrator of any Chargor.

### 13.3 Disposal of the Secured Assets

In exercising the powers referred to in Clause 13.2 (*Powers on enforcement*), the Security Agent or any Receiver may sell or dispose of all or any of the Secured Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

### 13.4 Same rights as Receiver

Any rights conferred by any Secured Finance Document upon a Receiver may be exercised by the Security Agent, or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Security Agent has taken possession or appointed a Receiver of the Secured Assets.



## 14. **RECEIVERS**

### 14.1 **Method of appointment or removal**

Every appointment or removal of a Receiver, any delegate or any other person by the Security Agent under this Deed must be in writing under the hand of any officer or manager of the Security Agent (subject to any requirement for a court order in the case of the removal of an administrative receiver).

### 14.2 **Removal**

The Security Agent may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Secured Assets of which they are the Receiver and at any time (before or after any person has vacated office or ceased to act as Receiver in respect of any of such Secured Assets) appoint a further or other Receiver or Receivers over all or any part of such Secured Assets.

### 14.3 **Powers**

Every Receiver will have and be entitled to exercise all the powers:-

- 14.3.1 of the Security Agent under this Deed;
- 14.3.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA (in each case as extended by this Deed);
- 14.3.3 in relation to, and to the extent applicable to, the Secured Assets or any of them, of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 14.3.4 in relation to any Secured Assets, which they would have if they were the only beneficial owner; and
- 14.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

### 14.4 **Receiver as agent**

The Receiver will be the agent of the relevant Chargor (and that Chargor will be solely liable for the Receiver's acts, defaults, remuneration, losses and liabilities) unless and until such Chargor goes into liquidation, from which time the Receiver will act as principal and will not become the agent of the Security Agent. No Secured Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

### 14.5 **Joint or several**

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

### 14.6 **Receiver's remuneration**

Every Receiver will be entitled to remuneration for their services at a rate to be fixed by the Security Agent and the maximum rate specified in section 109(6) of the LPA will not apply.

15. **APPLICATION OF MONEYS**

15.1 **Application of moneys**

All sums received by virtue of this Deed and/or any other Transaction Security Documents by the Security Agent or any Receiver will, subject to the payment of any claim having priority to this Deed, be paid or applied in accordance with Clause 31.37 (*Order of applications*) of the Facility Agreement and section 109(8) of the LPA will not apply to this Deed.

16. **POWER OF ATTORNEY**

16.1 **Appointment**

Each Chargor irrevocably and by way of security appoints:-

16.1.1 the Security Agent (whether or not a Receiver has been appointed);

16.1.2 any delegate or sub delegate of, or other person nominated in writing by, an officer of the Security Agent; and

16.1.3 (as a separate appointment) each Receiver,

severally as such Chargor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of such Chargor, which such Chargor could be required to do or execute under any provision of this Deed, or which the Security Agent in its sole opinion may consider necessary or desirable for perfecting its title to any of the Secured Assets or enabling the Security Agent or the Receiver to exercise any of its rights or powers under this Deed, such appointment to take effect immediately but the rights and powers of the attorney so appointed only to be exercisable upon the occurrence of an Event of Default which is continuing or if the Parent or the relevant Chargor has failed to comply with any obligation under this Deed for a period of 10 Business Days. For the avoidance of doubt such 10 Business Day period will commence on the date on which the obligation under this Deed becomes operative.

16.2 **Ratification**

Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 16.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 16.1 (*Appointment*).

17. **CONSOLIDATION**

17.1 **Combination of accounts**

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Security Agent and each Secured Party may at any time an Event of Default is continuing, without notice to the Chargor, combine or consolidate all or any accounts which it then has in relation to such Chargor (in whatever name) and any Secured Obligations owed by such Chargor to the Security Agent or such other Secured Party, and/or set-off or transfer any amounts standing to the credit of one or more accounts of such Chargor in or towards satisfaction of any Secured Obligations owed it on any other account or otherwise.

**17.2 Application**

The Security Agent's and each other Secured Party's rights under Clause 17.1 (*Combination of accounts*) apply:-

- 17.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;
- 17.2.2 whether or not any credit balance is immediately available or subject to any restriction;
- 17.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Security Agent and the relevant Secured Party may for the purpose of exercising its right elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00am on the date of conversion; and
- 17.2.4 in respect of any Secured Obligations owed by the relevant Chargor, whether owed solely or jointly, certainly or contingently, presently or in the future, as principal or surety, and howsoever arising.

**18. PROTECTION OF THIRD PARTIES****18.1 Statutory powers**

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Security Agent, as varied and extended by this Deed, and all other powers of the Security Agent, are deemed to arise (and the Secured Obligations are deemed due and payable for that purpose) immediately after the execution of this Deed.

**18.2 Purchasers**

No purchaser from or other person dealing with the Security Agent, any person to whom it has delegated any of its powers, or the Receiver will be concerned:-

- 18.2.1 to enquire whether any of the powers which the Security Agent or a Receiver have exercised has arisen or become exercisable;
- 18.2.2 to enquire whether the Secured Obligations remain outstanding or whether any event has happened to authorise the Receiver to act;
- 18.2.3 as to the propriety or validity of the exercise of those powers; or
- 18.2.4 with the application of any moneys paid to the Security Agent, any Receiver or to any other person,

and the title and position of a purchaser or such person will not be impeachable by reference to any of those matters.

**18.3 Receipts**

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation will apply to any person purchasing from or dealing with the Security Agent, any other Secured Party, any Receiver or any person to whom any of them have delegated any of their powers.

**19. PROTECTION OF THE SECURITY AGENT, THE SECURED PARTIES AND ANY RECEIVER**

**19.1 No liability**

None of the Security Agent, the other Secured Parties, any Receiver or any of their respective officers, employees or delegates will be liable in respect of any cost, liability, expense, loss or damage properly incurred as a result of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed. The Security Agent will have, in acting under this Deed, all the protections, exculpations and indemnities in its favour set forth in the Secured Finance Documents *mutatis mutandis*.

**19.2 Not mortgagee in possession**

Without prejudice to any other provision of this Deed, entry into possession of any Secured Assets will not render the Security Agent, any Receiver or any of their respective officers or employees liable:-

19.2.1 to account as mortgagee in possession;

19.2.2 for any loss on realisation; or

19.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Security Agent or any Receiver enters into possession of any Secured Assets it will be entitled at any time it or he thinks fit to relinquish possession.

**19.3 Interest**

Each Chargor will pay interest at the Default Rate on the sums payable under this Clause 19 (*Protection of the Security Agent, the Secured Parties and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

**19.4 Liability of Chargors related to Secured Assets**

Notwithstanding anything contained in this Deed or implied to the contrary, each Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Secured Assets. None of the Secured Parties, the Security Agent or any Receiver is under any obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

**19.5 Continuing protection**

The provisions of this Clause 19 (*Protection of the Security Agent, the Secured Parties and any Receiver*) will continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

**20. PROVISIONS RELATING TO THE SECURITY AGENT**

**20.1 Powers and discretions**

The rights, powers and discretions given to the Security Agent in this Deed:-

20.1.1 may be exercised as often as, and in such manner as, the Security Agent thinks fit;

20.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and

20.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

## **20.2 Certificates**

A certificate by an officer of the Security Agent:-

20.2.1 as to any amount for the time being due to the Secured Parties or any of them; or

20.2.2 as to any sums payable to the Security Agent under this Deed,

will (save in the case of manifest error) be conclusive and binding upon the Chargors for all purposes.

## **20.3 Trusts**

The perpetuity period for any trust constituted by this Deed is 125 years.

## **20.4 Secured Assets**

The Security Agent is not obliged to do any of the following in respect of the Secured Assets:

20.4.1 perform any obligation of any Chargor;

20.4.2 make any payment;

20.4.3 make any enquiry as to the nature or sufficiency of any payment received by it or any Chargor;

20.4.4 present or file any claim or take any other action to collect or enforce the payment of any amount to which it or any Chargor may be entitled; or

20.4.5 exercise any rights to which it or any Chargor may be entitled.

## **21. PRESERVATION OF SECURITY**

### **21.1 Continuing Security**

This Deed is a continuing security to the Security Agent and will remain in force until expressly discharged in writing by the Security Agent notwithstanding any intermediate settlement of account or other matter or thing whatsoever.

### **21.2 Additional Security**

This Deed is without prejudice and in addition to, and will not merge with, any other right, remedy or Security of any kind which the Security Agent or any other Secured Party may have now or at any time in the future for or in respect of any of the Secured Obligations.

### **21.3 Waiver of Defences**

Neither the Security created by this Deed nor the obligations of the Chargor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause,

would reduce, release or prejudice that Security or any of those obligations (whether or not known to it, the Security Agent or any other Secured Party) including:-

- 21.3.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 21.3.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 21.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of 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;
- 21.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 21.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Secured Finance Document or any other document or Security;
- 21.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Secured Finance Document or any other document; or
- 21.3.7 an insolvency, liquidation, administration or similar procedure.

#### 21.4 **Immediate recourse**

Each Chargor waives any right it may have of first requiring the Security Agent or any other Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from a Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Secured Finance Document to the contrary.

#### 21.5 **New accounts**

If the Security Agent or any other Secured Party receives notice (whether actual or otherwise) of any subsequent Security over or affecting any of the Secured Assets or if a petition is presented or a resolution passed in relation to the winding up of a Chargor, the Security Agent and the relevant Secured Party or Secured Parties may close the current account or accounts and/or open a new account or accounts for such Chargor. If the Security Agent or any other Secured Party does not open a new account or accounts immediately it will nevertheless be treated as if it had done so at the time when the relevant event occurred, and as from that time all payments made by such Chargor to the Security Agent or that Secured Party will be credited or be treated as having been credited the new account or accounts and will not operate to reduce the Secured Obligations.

#### 21.6 **Tacking**

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Security Agent confirms on behalf of the Secured Parties that the Secured Parties may make further advances to the Chargors on the terms and subject to the conditions of the Secured Finance Documents.

**21.7 Deferral of Chargor's rights**

During the Security Period and unless the Security Agent otherwise directs, no Chargor may exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed:-

- 21.7.1 to receive or claim payment from, or be indemnified by an Obligor;
- 21.7.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under the Secured Finance Documents;
- 21.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under any Secured Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Secured Finance Documents by any Secured Party;
- 21.7.4 to exercise any right of set-off against any Obligor; and/or
- 21.7.5 to claim or prove as a creditor of any Obligor in competition with any Secured Party.

**22. RELEASE****22.1 Release**

Upon the irrevocable and unconditional payment and discharge in full of the Secured Obligations and/or the termination of all facilities which might give rise to Secured Obligations the Security Agent will, or will procure that its appointees will, at the request and cost of the Chargors:-

- 22.1.1 execute such documents as may be required to release the Secured Assets from this Deed; and
- 22.1.2 re-assign the Secured Assets that has been assigned to the Security Agent under this Deed.

**22.2 Reinstatement**

If the Security Agent considers that (in its reasonable opinion) any amount paid or credited to any Secured Party under any Secured Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

- 22.2.1 that amount will not be considered to have been paid for the purposes of determining whether the Secured Obligations have been irrevocably and unconditionally paid and discharged; and
- 22.2.2 the liability of the relevant Chargor and the Security created by this Deed will continue as if that amount had not been paid or credited.

**22.3 Consolidation**

Section 93 of the LPA dealing with the consolidation of mortgages does not apply to this Deed.

**23. MISCELLANEOUS PROVISIONS**

**23.1 Severability**

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that will not affect:-

23.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

23.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

**23.2 Information**

The Security Agent may from time to time seek from any other person having dealings with the Chargors such information about the Chargors and their affairs as the Security Agent may reasonably think fit and each Chargor agrees to request any such person to provide any such information to the Security Agent and agrees to provide such further authority in this regard as the Security Agent or any such third party may from time to time reasonably require.

**23.3 Joint and separate liability**

Unless the context otherwise requires, all covenants, agreements, representations and warranties on the part of the Chargors contained in this Deed are given by them jointly and separately and will be construed accordingly.

**23.4 Counterparts**

This Deed 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 Deed.

**23.5 Deeds of Accession**

23.5.1 The Parent and each of the other Chargors will procure that each company which is required by the Secured Finance Documents to accede to this Deed will, within the timeframe allotted by the Secured Finance Documents, execute and deliver a Deed of Accession.

23.5.2 Each of the Parties agrees that:

- (a) each Deed of Accession is supplemental to this Deed and be binding on and enure to the benefit of all the parties to this Deed;
- (b) the execution of any Deed of Accession will not prejudice or affect the Security granted by each other Chargor under (and the covenants given by each of them in) this Deed or any previous Deed of Accession and that this Deed remains in full force and effect as supplemented by any such Deed of Accession; and
- (c) the property and assets mortgaged, charged or assigned to the Security Agent (whether by way of legal mortgage, assignment or fixed or floating charge) by or pursuant to any Deed of Accession forms part of the Secured Assets and references in this Deed to the Security created by or pursuant to the Deed will be deemed to



include the Security created by or pursuant to any Deed of Accession.

- 23.5.3 Delivery of a Deed of Accession constitutes confirmation by the New Chargor (as such term is defined in the relevant Deed of Accession) that the Repeating Representations are true and correct to the extent applicable to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

24. **NOTICES**

The provisions of Clause 37 (*Notices*) of the Facility Agreement apply to any notices issued under this Deed.

25. **GOVERNING LAW**

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

26. **ENFORCEMENT**

26.1 **Jurisdiction of English Courts**

- 26.1.1 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**").
- 26.1.2 The parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle disputes and accordingly no such party will argue to the contrary.
- 26.1.3 This Clause 26.1 is for the benefit of the Secured Parties only. As a result, no Secured Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

**EXECUTED AND DELIVERED AS A DEED** on the date set out at the beginning of this Deed.

**Schedule 1****THE CHARGORS****Chargors**

<b>Company name</b>	<b>Company Number</b>	<b>Address for service</b>
EMSC (UK) Limited	04209907	Glenugie Engineering Works, Peterhead, Aberdeenshire, Scotland, AB42 0YX
EMSC Global Limited	08479148	Glenugie Engineering Works, Peterhead, Aberdeenshire, Scotland, AB42 0YX
Buchan 1 Limited	SC643850	Blackwood House, Union Grove Lane, Aberdeen, Scotland, AB10 6XU

**Schedule 2**

**DETAILS OF LAND**

**REGISTERED LAND**

None at the date of this Deed.

**UNREGISTERED LAND**

None at the date of this Deed.

Schedule 3

Pinsent Masons LLP

DETAILS OF SHARES

Name of Company	Description and Number of Shares	Name of Shareholder
EMSC Global Limited	<del>20,866 Ordinary Shares of £1.00 each</del> 20,866 Ordinary Shares of £0.01 each	Buchan 1 Limited
EMSC (UK) Limited	100 Ordinary Shares of £1.00 each	EMSC Global Limited

**Schedule 4**

**DETAILS OF ASSIGNED INSURANCES**

None at the date of this Deed.

## Schedule 5

### DEED OF ACCESSION

**THIS DEED** is made on [ ]

**BETWEEN:-**

- (1) [ ] (the "**New Chargor**"), a company incorporated in England or Wales whose registered office is at [ ];
- (2) [ ] (the "**Company**") for itself and as agent for and on behalf of each of the other Chargors (as defined in the Debenture referred to below); and
- (3) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED** as the security agent for itself and each of the other Secured Parties (as defined in the Debenture (as defined below)).

**INTRODUCTION**

- (A) The New Chargor is, or will on the date of this Deed become, a [wholly-owned] Subsidiary of the Parent.
- (B) This Deed is supplemental to a deed dated [ ] (as supplemented and amended from time to time, the "**Debenture**") between, among others, the Parent, each of the companies named in the Debenture as Chargors, and HSBC Corporate Trustee Company (UK) Limited as agent and trustee for the Secured Parties.
- (C) The New Chargor at the request of the Parent and in consideration of the Secured Parties making or continuing to make facilities available to the Parent or any other member of its group has agreed to enter into this Deed and become a Parent under the Debenture.

**IT IS AGREED** as follows:-

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 Terms defined in the Debenture have the same meaning in this Deed.
- 1.2 The principles of interpretation set out in Clause 1.3 of the Debenture apply to this Deed insofar as they are relevant to it, as they apply to the Debenture.

2. **ACCESSION**

The New Chargor agrees to become a party to and to be bound by the terms of the Debenture with immediate effect and so that the Debenture is read and construed for all purposes as if the New Chargor had been an original party to it as a Chargor.

3. **SECURITY**

The New Chargor mortgages, charges and assigns to the Security Agent, as agent and trustee for the Secured Parties, all its business, undertaking and assets on the terms of Clause 3 of the Debenture, provided that:-

- 3.1 [the Land charged by way of legal mortgage is the Land referred to in Schedule 1 (*Land*);]

- 3.2 [the Shares mortgaged or (if or to the extent that the mortgage does not take effect as a mortgage) charged includes the Shares referred to in Schedule 2 (*Shares*);]
- 3.3 [the Assigned Insurances assigned includes the Assigned Insurances referred to in Schedule 3 (*Assigned Insurances*);]
- 3.4 [the Assigned Contracts assigned includes the Assigned Contracts referred to in Schedule 4 (*Assigned Contracts*);] [and]
- 3.5 [the Charged Accounts charged by way of fixed charge includes those referred to in Schedule 6 (*Charged Accounts*).]

4. **CONSENT OF EXISTING CHARGORS**

The Parent by its execution of this Deed confirms the consent of the existing Chargors to the terms of this Deed and their agreement that this Deed will in no way prejudice or affect their obligations under, or the covenants they have given, or the Security created by, the Debenture.

5. **EFFECT ON DEBENTURE**

- 5.1 The Debenture and this Deed shall be read and construed as one document so that references in the Debenture to "this Deed", "herein", and similar phrases will be deemed to include this Deed.
- 5.2 For the purposes of this Deed and the Debenture and with effect from the date of this Deed, the property and assets of the New Chargor mortgaged, charged or assigned to the Security Agent (whether by way of legal mortgage, assignment or fixed or floating charge) by or pursuant to this Deed will form part of the Secured Assets and references in the Debenture to the Security created by or pursuant to the Debenture will be deemed to include the Security created by or pursuant to this Deed.

6. **GOVERNING LAW**

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

**EXECUTED AS A DEED AND DELIVERED** on the date set out at the beginning of this Deed.

**[SCHEDULE 1**

**LAND]**

**[SCHEDULE 2**

**SHARES]**

**[SCHEDULE 3**

**ASSIGNED INSURANCES]**

**[SCHEDULE 4**

**ASSIGNED CONTRACTS]**

**[SCHEDULE 5**

**BLOCKED ACCOUNTS]**



SIGNATURE PAGES TO DEED OF ACCESSION

The New Chargor

EXECUTED as a Deed )  
by [NAME OF COMPANY] [LIMITED] [PLC] )  
acting by two Directors or a Director and its )  
Secretary:- )  
)

Director

Director/Secretary

Address: [ ]  
Facsimile number [ ]

OR

EXECUTED as a Deed by [NAME OF )  
COMPANY] [LIMITED] [PLC] )  
acting by [NAME OF DIRECTOR], a )  
Director, in the presence of:- )

Signature of witness: Director

Name of witness:

Address:

Occupation:

Address: [ ]  
Facsimile number [ ]

**The Parent**

**EXECUTED** (but not delivered )  
until the date hereof) **AS A DEED** )  
by [ ] **LIMITED** )  
acting by:- )

Director

Director/Secretary

**The Security Agent**

**SIGNED** for and on behalf of )  
**HSBC CORPORATE TRUSTEE COMPANY** )  
**(UK) LIMITED**

## Schedule 6

### FORM OF NOTICE OF ASSIGNMENT OF INSURANCE

**To be printed on the headed notepaper of the relevant Chargor**

To: [Insert name and address of relevant insurer]

Date: [ ]

Dear Sirs,

**[DESCRIPTION OF RELEVANT INSURANCE POLIC[Y][IES] INCLUDING POLICY NUMBER]  
(THE "POLIC[Y][IES]") [refer to an attached schedule if there are a number of policies]**

1. We give you notice that we have entered into a debenture dated [ ] in favour of HSBC Corporate Trustee Company (UK) Limited (the "**Security Agent**") (the "**Debenture**").
2. We give you notice that, pursuant to the terms of the Debenture, we have assigned (and, to the extent not validly or effectively assigned, we have charged by way of fixed charge) to the Security Agent by way of security all of our rights, title, interest and benefits in to or in respect of the Polic[y][ies] including the benefit of all claims and returns of premiums in respect thereof to which we are or may at any time become entitled.
3. With effect from the date of receipt of this notice, we instruct you to:
  - 3.1 promptly inform the Security Agent, without further approval from us, of any default in the payment of any premium or failure to renew [the][any] Policy;
  - 3.2 advise the Security Agent promptly of any proposed cancellation of [the][any] Policy and in any event at least 30 days before the cancellation is due to take place;
  - 3.3 if the insurance cover under [the][any] Policy is to be reduced or any insured risks are to be restricted, advise the Security Agent at least 30 days before the reduction or restriction is due to take effect; and
  - 3.4 disclose to the Security Agent, without further approval from us, such information regarding the Polic[y][ies] as the Security Agent may from time to time request and to send it copies of all notices issued by you under the Polic[y][ies].
4. Following the Security Agent's notification to you that the security created by the Debenture has become enforceable:-
  - 4.1.1 payments and claims under or arising from the Polic[y][ies] are to be made to the Security Agent to such account (or to its order) as it may specify in writing from time to time;
  - 4.1.2 remedies provided for in the Polic[y][ies] or available at law or in equity are to be exercisable by the Security Agent; and

4.1.3 rights to compel the performance of the Polic[y][ies] are to be exercisable by the Security Agent.

5. The authority and instructions contained in this notice cannot be revoked or varied by us without the prior written consent of the Security Agent.
6. This notice, and any dispute or claim arising out of or in connection with it, are governed by and shall be construed in accordance with English law.

Please acknowledge receipt of this notice and your acknowledgement of the matters and instructions set out above within [5] days of receipt by signing, dating and returning the enclosed copy of this letter directly to the Security Agent at [ ] marked for the attention of [ ].

Yours faithfully,

for and on behalf of  
[CHARGOR]

**Acknowledged:**

.....

For and on behalf of  
  
[Name of insurer]

## Schedule 7

### FORM OF NOTICE OF ASSIGNMENT OF ASSIGNED CONTRACT

To be printed on the headed notepaper of the relevant Chargor

To: [Insert name and address of relevant contract counterparty]

Date: [ ]

Dear Sirs,

#### [DESCRIPTION OF RELEVANT ASSIGNED CONTRACT] (THE "CONTRACT")

1. We give you notice that we have entered into a debenture dated [ ] in favour of HSBC Corporate Trustee Company (UK) Limited (the "**Security Agent**") (the "**Debenture**").
2. We give you notice that, pursuant to the terms of the Debenture, we have assigned (and, to the extent not validly or effectively assigned, we have charged by way of fixed charge) to the Security Agent by way of security all of our rights, title and interest from time to time in, and the full benefit of, the Contract and all rights, title and interest in any amounts payable to us under the Contract, including any claims for damages in respect of any breach of the Contract.
3. Following the Security Agent's notification to you that the security created by the Debenture has become enforceable:-
  - 3.1 [all payments to be made to us under or arising from the Contract should be made [to the Security Agent or to its order as it may specify in writing from time to time] [*specify bank account*];
  - 3.2 all remedies provided for in the Contract or available at law or in equity are exercisable by the Security Agent;
  - 3.3 you are authorised and instructed, without further approval from us, to comply with your obligations (including without limitation your payment obligations) under the Contract in accordance with the written instructions of the Security Agent from time to time (and to hold the money for any such payments to the Security Agent's order pending receipt of written instructions from the Security Agent); and
  - 3.4 subject to paragraph 5 below, you will allow the Security Agent to perform all the obligations assumed by us under the Contract.
4. You will not be released from your obligations under the Contract without the prior written consent of the Security Agent.
5. We remain liable to perform all our obligations under the Contract and the Security Agent is under no obligation of any kind whatsoever in respect of the Contract.

6. With effect from the date of receipt of this notice, we irrevocably and unconditionally instruct and authorise you, without requiring further approval from us, to:
  - 6.1 promptly disclose to the Security Agent such information relating to the Contract as the Security Agent may at any time request; and
  - 6.2 provide the Security Agent with copies of all notices given or received under the Contract promptly after they are given or received.
7. The authority and instructions contained in this notice cannot be revoked or varied by us without the prior written consent of the Security Agent.
8. By countersigning this letter, you confirm that:-
  - 8.1 you have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in this notice;
9. This notice, and any dispute or claim arising out of or in connection with it, are governed by and shall be construed in accordance with English law.

Please acknowledge receipt of this notice and your acknowledgement of the matters and instructions set out above within [5] days of receipt by signing, dating and returning the enclosed copy of this letter directly to the Security Agent at [ ] marked for the attention of [ ].

Yours faithfully,

for and on behalf of  
[CHARGOR]

**Acknowledged:**

.....

For and on behalf of

[Name of contract counterparty]

EXECUTION PAGES

THE CHARGORS

Executed as a Deed (but not delivered until the date of this Deed) by **BUCHAN 1 LIMITED** acting by

.. Anita McRobbie .....  
Full Name (Director)

DocuSigned by:  
[Redacted Signature]  
.....  
Signature of Director

.. COLIN WELSH .....  
Full Name (Director)

DocuSigned by:  
[Redacted Signature]  
.....  
Signature of Director

Executed as a Deed (but not delivered until the date of this Deed) by **EMSC (UK) LIMITED** acting by

.. David Seabridge .....  
Full Name (Director)

DocuSigned by:  
[Redacted Signature]  
.....  
Signature of Director

.. Solon Mardapittas .....  
Full Name (Director)

DocuSigned by:  
[Redacted Signature]  
.....  
Signature of Director

Executed as a Deed (but not delivered until the date of this Deed) by **EMSC GLOBAL LIMITED** acting by

.. David Seabridge .....  
Full Name (Director)

DocuSigned by:  
[Redacted Signature]  
.....  
Signature of Director

.. Steve Lockard .....  
Full Name (Director)

DocuSigned by:  
[Redacted Signature]  
.....  
Signature of Director

**THE SECURITY AGENT**

**SIGNED** for and on behalf of  
**HSBC CORPORATE TRUSTEE COMPANY**  
**(UK) LIMITED**

) { DocuSigned by:  
[Redacted Signature]