



Registration of a Charge

Company name: **CARLISLE UNITED ASSOCIATION FOOTBALL CLUB (1921) LIMITED**
Company number: **00175280**



X62EFVU1

Received for Electronic Filing: **17/03/2017**

Details of Charge

Date of creation: **15/03/2017**
Charge code: **0017 5280 0041**
Persons entitled: **THE EDINBURGH WOOLLEN MILL LIMITED**
Brief description: **BRUNTON PARK, WARWICK ROAD, CARLISLE, AND LAND ON THE WEST OF BRUNTON PARK, WARWICK ROAD, CARLISLE AND LAND ON THE NORTH SIDE OF WARWICK ROAD, CARLISLE UNDER TITLE NUMBERS CU119715, CU218033 AND CU288354.**
Contains fixed charge(s).
Contains floating charge(s) .
Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

**COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

**STUART FITZSIMMONS ON BEHALF OF MACLAY MURRAY &
SPENS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 175280

Charge code: 0017 5280 0041

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th March 2017 and created by CARLISLE UNITED ASSOCIATION FOOTBALL CLUB (1921) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th March 2017 .

Given at Companies House, Cardiff on 20th March 2017

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**

15 March 2017

DEBENTURE

between

**CARLISLE UNITED ASSOCIATION FOOTBALL CLUB (1921)
LIMITED
as Chargor**

and

**THE EDINBURGH WOOLLEN MILL LIMITED
as Lender**

(Note to the Land Registry. This Debenture contains (in Clause 26.1 (*Request to the Land Registry*)) an application to enter a restriction in the Proprietorship Register and (in Clause 26.2 (*Further Advances*)) an application to enter a notice on the Charges Register)

TABLE OF CONTENTS

Clause	Page No.
1. DEFINITIONS AND INTERPRETATION	1
2. COVENANT TO PAY	5
3. CREATION OF SECURITY	6
4. PROVISIONS AS TO SECURITY	9
5. PERFECTION OF SECURITY	10
6. RESTRICTION ON DEALINGS	11
7. INVESTMENTS	11
8. BOOK DEBTS	12
9. UNDERTAKINGS	13
10. WHEN SECURITY BECOMES ENFORCEABLE	15
11. ENFORCEMENT OF SECURITY	16
12. RECEIVERS AND ADMINISTRATORS	18
13. SET OFF	20
14. EXPENSES AND INDEMNITY	20
15. RELEASE OF SECURITY	21
16. AVOIDANCE OF PAYMENTS	21
17. CUMULATIVE REMEDIES AND WAIVERS	21
18. SEVERABILITY	21
19. EVIDENCE AND CALCULATIONS	21
20. APPLICATION OF PROCEEDS	22
21. NEW ACCOUNTS	22
22. SUSPENSE ACCOUNTS	22
23. POWER OF ATTORNEY	22
24. TRANSFERS	23
25. NOTICES	23
26. LAND REGISTRY	23
27. THIRD PARTIES	23
28. PERPETUITY PERIOD	24
29. FINANCIAL COLLATERAL	24
30. STAMP DUTY	24
31. COUNTERPARTS	24
32. GOVERNING LAW AND JURISDICTION	24
SCHEDULE 1 - Mortgaged Property	26
SCHEDULE 2 - Notice of assignment of Insurance Policy	29

THIS DEBENTURE is made as a deed on the 18th day of March 2017 between:

- (1) **CARLISLE UNITED ASSOCIATION FOOTBALL CLUB (1921) LIMITED** (Company Number 0175280) and having their Registered Office at Brunton Park, Warwick Road, Carlisle, Cumbria CA1 1LL (the "Chargor"); and
- (2) **THE EDINBURGH WOOLLEN MILL LIMITED** (Company Number SC024081) and having their Registered Office at c/o June Carruthers, The Edinburgh Woollen Mill Limited, Waverley Mills, Langholm, Dumfriesshire DG13 0EB (the "Lender").

WHEREAS:

- (A) The Lender has agreed to make available to the Borrower certain loan facilities pursuant to the Facility Agreement (as defined below).
- (B) In consideration for those facilities being made available the Chargor has agreed to enter into this Deed.

NOW THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Incorporation of definitions

Terms defined in the Facility Agreement, unless otherwise defined in this Deed or unless a contrary intention appears, bear the same meaning when used in this Deed.

1.2 Additional definitions

In this Deed:

"Administrator"	means any person appointed as an administrator pursuant to paragraph 14 of Schedule B1 to the Insolvency Act.
"Business Day"	means a day (other than a Saturday or a Sunday) on which banks are open for business in Edinburgh and London.
"Charged Assets"	means the assets, rights and undertaking of the Chargor from time to time mortgaged, charged or assigned to the Lender by or pursuant to this Deed.
"Deed"	means this debenture.
"Default Rate"	means any rate of interest specified in the Finance Documents as the rate applicable to unpaid sums under the Finance Documents or, if no such rate is specified, 2% over the base lending rate of the Bank of England from time to time.
"Encumbrance"	means any standard security, mortgage, charge, assignation, pledge, lien or other security right whatsoever.
"Event of Default"	has the meaning given to such term in the Facility Agreement.
"Facility Agreement"	means the facility agreement dated on or about the date hereof between the Chargor and the Lender.

"Finance Document"	<p>means any agreement or letter from time to time setting out the terms of or constituting the Secured Obligations including, without limitation:</p> <ul style="list-style-type: none"> (a) the Facility Agreement; (b) any guarantee; and (c) any document creating or conferring any Encumbrance, including this Deed, <p>which is in either case granted by any person in favour of the Lender in respect of the Secured Obligations.</p>
"Insolvency Act"	means the Insolvency Act 1986.
"Insurance Policy"	means any policy of insurance or assurance in which the Chargor may at any time have an interest.
"Intellectual Property Rights"	<p>means:</p> <ul style="list-style-type: none"> (a) all patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, know how and other intellectual property rights and any interests including by way of licence in any of the foregoing in each case whether registered or not; and (b) the benefit of all applications for and rights to use any such assets.
"Investments"	means all shares and stock in the capital of any company, debentures, securities, certificates or deposits, interests in collective investment schemes, warrants, options and any other rights to subscribe for or acquire any such investments hereafter owned by the Chargor or in which the Chargor has an interest together in all cases with all Related Rights.
"LPA"	means the Law of Property Act 1925.
"Mortgaged Property"	means the freehold property specified in Schedule 1 (<i>Mortgaged Property</i>) and includes all buildings and fixtures on that property, the proceeds of sale of any part of that property, any licence, agreement for sale or agreement for lease in relation to that property, the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property and any monies paid or payable in respect of those covenants.

"Permitted Security"

means:

- (a) Legal Charge created on 29 June 1995 by the Chargor in favour of Eden Properties Limited;
- (b) Rent Deposit Deed created on 3 October 2006 by the Chargor in favour of CGNU Life Assurance Limited;
- (c) Legal Charge created on 25 September 2007 by the Chargor in favour of Bank of Scotland plc (formerly The Governor and Company of the Bank of Scotland);
- (d) Deed of Charge over Deposit created on 7 November 2007 by the Chargor in favour of Bank of Scotland plc (formerly The Governor and Company of the Bank of Scotland) (the **"Deed of Charge Over Deposit"**); and
- (e) Legal Charge created on 30 January 2013 by the Chargor in favour of Cumberland Building Society.

"Planning Acts"

means the Town and Country Planning Act 1990, the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) Act 1990, the Planning (Hazardous Substances) (Scotland) Act 1997 and the Planning (Consequential Provisions) Act 1990 and all regulations made thereunder together with all other statutes governing or controlling the use or development of land and property.

"Real Property"

means the Mortgaged Property and any other present or future freehold or leasehold property in which the Chargor has an interest and includes all buildings and fixtures on that property, the proceeds of sale of any part of that property, any licence, agreement for sale or agreement for lease in relation to that property, the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property and any monies paid or payable in respect of those covenants.

"Receiver"

means a receiver or receiver and manager or an administrative receiver of the whole or any part of the Charged Assets, which term will include joint receivers and any substitute receiver, receiver and manager or administrative receiver whether appointed under this Deed or pursuant to statute.

"Related Rights"

means, in relation to any Investments, all rights derived from those Investments including rights to dividends, interest and other distributions paid or payable after the date of this Deed on all or any of those Investments and all stocks, shares or other securities (and dividends, interest and other distributions thereon) or other rights accruing or offered at any time by way of redemption, bonus, pre-emption or otherwise to or in respect of all or any of those Investments or in substitution or exchange for all or any of the Investments.

"Secured Obligations"

means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly or severally, as principal or surety or in any other capacity whatsoever) of the Chargor to the Lender (and whether originally owing to the Lender or purchased or acquired by the Lender), except for any obligation or liability which, if it were so included, would result in this Deed contravening any law.

1.3 **Implied covenants for title**

The obligations of the Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

1.4 **Modification of Law of Property (Miscellaneous Provisions) Act 1994**

The following provisions of the Law of Property (Miscellaneous Provisions) Act 1994 will not apply to Clause 3 (*Creation of security*), being:

- 1.4.1 the words "other than any charges, encumbrances or rights which that person does not and would not reasonably be expected to know about" in Section 3(1);
- 1.4.2 the words "except to the extent that" and all the words thereafter in Section 3(2); and
- 1.4.3 Section 6(2).

1.5 **Effect as a deed**

This Deed is intended to take effect as a deed notwithstanding that the Lender may have executed it under hand only.

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

To the extent necessary for any agreement for the disposition of the Charged Assets in this Deed to be a valid agreement under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the other Finance Documents and of any side letters between the parties to this Deed are incorporated into this Deed.

1.7 **Construction**

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

- (a) the "**Chargor**", "**Lender**", "or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

- (b) "**assets**" includes present and future properties, revenues and rights of every description;
- (c) the "**Facility Agreement**", a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as from time to time amended, novated, supplemented, replaced, extended or restated in whole or in part;
- (d) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (e) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (f) a provision of law is a reference to that provision as from time to time amended or re-enacted;
- (g) "**disposal**" includes a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary (and "**dispose**" shall be construed accordingly);
- (h) "**document**" includes any deed, instrument (including negotiable instrument) or other document of any kind;
- (i) any matter "**including**" specific instances or examples of such matter shall be construed without limitation to the generality of that matter (and references to "**include**" shall be construed accordingly);
- (j) the "**winding-up**", "**dissolution**" or "**administration**" of a person shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such person is incorporated or established, or any jurisdiction in which such person carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors; and
- (k) Clauses and Schedules are to the clauses and schedules to this Deed.

1.7.2 Clause headings are for ease of reference only.

1.7.3 Words in the singular shall import the plural and *vice versa*.

1.7.4 Words defined in the Companies Act 2006 have the same meanings in this Deed.

1.7.5 An Event of Default is "continuing" if it has not been waived.

2. COVENANT TO PAY

2.1 Covenant to pay

The Chargor, as principal debtor and not just as surety, covenants with the Lender to pay, discharge and satisfy the Secured Obligations when the same become due in terms of the Finance Documents whether by acceleration or otherwise.

2.2 Interest

The Chargor shall pay interest on any amount demanded from it in accordance with this Deed from the date of such demand until such amount is irrevocably discharged and paid in full (such interest to accrue on a daily basis after as well as before judgement or the liquidation or administration of the Chargor and to be payable on demand) at the Default Rate, save to the extent that such interest is charged on such amount pursuant to the relevant Finance Document and itself constitutes a Secured Obligation.

3. CREATION OF SECURITY

3.1 General

All the security created under this Deed:

- 3.1.1 is created in favour of the Lender;
- 3.1.2 is created over present and future assets of the Chargor;
- 3.1.3 is security for the payment of all the Secured Obligations; and
- 3.1.4 is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.2 Mortgage

The Chargor charges by way of first legal mortgage all its right title and interest in the Mortgaged Property.

3.3 Fixed charges

To the extent not validly and effectively charged by way of first legal mortgage pursuant to Clause 3.2 (*Mortgage*) or effectively assigned pursuant to Clause 3.5 (*Assignment by way of Security*), the Chargor charges by way of first fixed charge:

- 3.3.1 all estates or interests in any Real Property now or hereafter belonging to it;
- 3.3.2 all its rights under any agreement relating to the purchase of any freehold or leasehold property;
- 3.3.3 all its rights under any occupational lease, licence or other right of occupation;
- 3.3.4 all plant, machinery, computers, office equipment or vehicles owned by it and its interests in any plant, machinery or other items in its possession;
- 3.3.5 all monies standing to the credit of any account maintained by it with any person or (to the extent of its interest) in which it has an interest and the debts represented by them and all its rights in such accounts save that it is acknowledged that at the date of this Deed the Chargor has granted the Deed of Charge Over Deposit over its account numbered 06004236 held at Carlisle Corporate Centre;
- 3.3.6 all of its book debts and other debts, the proceeds of the same and all other moneys due and owing to it and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any of the foregoing;
- 3.3.7 all its rights under any interest rate hedging arrangements;

- 3.3.8 its goodwill;
- 3.3.9 its uncalled capital;
- 3.3.10 all its right, title and interest in any Investment including all rights which the Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Investment;
- 3.3.11 all its right, title and interest in any Intellectual Property Rights belonging to it or (to the extent of its interest) in which it has an interest;
- 3.3.12 the benefit of all licences, consents and authorisations (statutory or otherwise) held by it in connection with its business or the use of any Charged Asset specified in any other sub-paragraph in this Clause and the right to recover and receive all compensation which may be payable to it in respect of them; and
- 3.3.13 any beneficial interest, claim or entitlement it has to any assets of any pension fund.

3.4 **Exceptions to fixed security**

The fixed security from time to time created by this Deed does not extend to any asset situated outside England and Wales or the rights to which are governed by any law other than the laws of England and Wales to the extent that and for so long as any such fixed security would be unlawful or ineffective under the laws of the jurisdiction in which such asset is situated.

3.5 **Assignment by way of security**

To the extent not validly and effectively charged by way of first fixed charge pursuant to Clause 3.3 (*Fixed charges*), the Chargor assigns and agrees to assign absolutely all of its right, title and interest in:

- 3.5.1 the benefit of any agreement to which it is party, any letter of credit issued in its favour and any bill of exchange or other negotiable instrument held by it; and
- 3.5.2 all Insurance Policies taken out by it or on its behalf or (to the extent of its interest) in which it has an interest and the right to all claims and returns of premiums in respect of any such Insurance Policies.

3.6 **Floating charge**

The Chargor charges by way of first floating charge the whole of its property (including uncalled capital) comprised from time to time in its property and undertaking and all other property, assets and rights of whatever nature and wherever situated which are not otherwise effectively charged or assigned pursuant to the foregoing provisions of this Clause or, in relation to assets situated in Scotland, whether or not the same are effectively charged pursuant to the foregoing provisions of this Clause.

3.7 **Automatic crystallisation of floating charge**

The floating charge created by Clause 3.6 (*Floating charge*) shall (other than in respect of any Charged Assets situated in Scotland if and to the extent that a Receiver would not be capable of exercising his powers in Scotland in relation thereto under Section 72 of the Insolvency Act by reason of automatic conversion) immediately upon the occurrence of the relevant event convert into a fixed charge in respect of:

- 3.7.1 any Charged Asset which shall without the prior written consent of the Lender become subject to a fixed charge in favour of any person other than the Lender;
- 3.7.2 any Charged Asset in respect of which any person shall levy, or attempt to levy, any distress, diligence, execution, sequestration or other similar process;
- 3.7.3 all Charged Assets if an Administrator is appointed by the Lender or the Lender receives notice of an intention to appoint an Administrator; or
- 3.7.4 all Charged Assets on the convening of any meeting of the members of the Chargor to consider a resolution to wind up the Chargor (or not to wind up the Chargor).

3.8 Crystallisation on notice of floating charge

The Lender may at any time:

- 3.8.1 after the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*); or
- 3.8.2 if the Chargor fails to comply or takes or threatens to take any action which in the reasonable opinion of the Lender is likely to result in it failing to comply with its obligations under Clause 6 (*Restriction on dealings*); or
- 3.8.3 if the Lender considers that any of the Charged Assets are in danger of being seized or sold as a result of any legal process, or are otherwise in jeopardy; or
- 3.8.4 if the Lender considers that steps are being taken or have been taken which are likely or intended to lead to the appointment of an Administrator or the presentation of a petition for the winding-up of the Chargor,

by giving notice in writing to that effect to the Chargor convert the floating charge created by Clause 3.6 (*Floating charge*) into a fixed charge as regards any asset specified in such notice. The conversion shall take effect immediately upon the giving of the notice.

3.9 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by Clause 3.6 (*Floating Charge*) so that the floating charge created by Clause 3.6 (*Floating charge*) shall be a "qualifying floating charge" for the purposes of that paragraph.

3.10 Restrictions on the creation of security

If security cannot be created in respect of any asset of the Chargor without the consent of any third party:

- 3.10.1 the Chargor must notify the Lender promptly upon becoming aware of the same;
- 3.10.2 this Deed shall not create any security in respect of that asset except to the extent permitted without the consent of any third party but will secure all amounts which the Chargor may receive in respect of that asset;
- 3.10.3 unless the Lender otherwise agrees, the Chargor must use reasonable endeavours to obtain the consent of the third party to the creation of security over that asset pursuant to this Deed; and

- 3.10.4 on and from the date on which such consent is obtained, the security created by this Deed shall extend to and include that asset.

4. PROVISIONS AS TO SECURITY

4.1 Continuing security

- 4.1.1 The security from time to time created by this Deed is a continuing security and will remain in full force and effect as a continuing security until released or discharged by the Lender.
- 4.1.2 No part of the security from time to time created by this Deed will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

4.2 Additional security

This Deed shall be without prejudice and in addition to any other security which may at any time be held by the Lender from the Chargor or any other person in respect of the whole or any part of the Secured Obligations and may be enforced independently of any such other security.

4.3 No obligation to take other enforcement proceedings

The Lender shall not be obliged before exercising any of the rights conferred on it by this Deed or by law:

- 4.3.1 to make any demand of the Chargor or any other person other than that required by the terms of the Finance Documents;
- 4.3.2 to take any action, enforce any security, exercise any right of compensation or set-off or to obtain or enforce any judgement, decree or order in any court against the Chargor or any other person;
- 4.3.3 to make or file any claim or proof in a winding up, liquidation, administration or other insolvency proceedings of the Chargor or any other person; or
- 4.3.4 to enforce or seek to enforce any other security taken in respect of any of the obligations of the Chargor or any other person under the Finance Documents.

4.4 Waiver of defences

The obligations of the Chargor under this Deed will not be affected by any act, omission or circumstances which, but for this Clause 4.4 (*Waiver of defences*), might operate to release, discharge, impair or otherwise affect any of the obligations of the Chargor under this Deed or any of the rights, powers or remedies conferred upon the Lender by the Finance Documents or by law including (but without limitation) and whether or not known to the Chargor or the Lender:

- 4.4.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 4.4.2 the release of the Chargor or any other person from its obligations under any Finance Document or any security or guarantee granted in connection therewith;
- 4.4.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor 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;

- 4.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 4.4.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any 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 Finance Document or other document or security;
- 4.4.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security;
- 4.4.7 any insolvency or similar proceedings.

5. PERFECTION OF SECURITY

5.1 Notices of Assignment

The Chargor shall if requested by the Lender at any time deliver a duly completed notice to each insurance company which has issued an Insurance Policy and use all reasonable endeavours to procure that each such insurance company executes and delivers to the Lender an acknowledgement, in each case in the form set out in Schedule 2 (Notice of Assignment of Insurance Policy) (or in such other form as the Lender shall agree).

5.2 Investments

The Chargor shall, promptly following the acquisition of any Investment immediately deposit with the Lender, or as the Lender may direct, all certificates and other documents of title or evidence of ownership in relation to any Investment and execute and shall:

- 5.2.1 deliver to the Lender transfers (executed in blank and left undated and duly stamped if applicable) and such other documents as the Lender may reasonably require in order to enable the Lender (or its nominee) to be registered as the owner or otherwise obtain a legal title to any Investment; or
- 5.2.2 in the case of any Investment which is held in any clearance or settlement system or by any custodian, execute and deliver such documents as the Lender may reasonably require to perfect the security conferred over that Investment by this Deed.

5.3 Registration of Intellectual Property

The Chargor hereby agrees, if so requested by the Lender, to execute all such documents and do all acts that the Lender may reasonably require to record the interest of the Lender in any registers relating to any Intellectual Property Rights in which the Chargor has an interest.

5.4 Further assurance

- 5.4.1 The Chargor will promptly do all such acts and execute all such documents as the Lender may reasonably specify (and in such form as the Lender may reasonably require) to:

- (a) perfect or enhance the security created or intended to be created by this Deed (which may include the execution by the Chargor of a mortgage, charge, assignment or other form of fixed security over all or any of the Charged Assets) or for the exercise of the rights, powers and remedies of the Lender or any Receiver provided by or pursuant to this Deed or by law;
- (b) confer on the Lender security over any property or assets of the Chargor located in any jurisdiction outside England and Wales equivalent or similar to the security intended to be conferred by or pursuant to this Deed; and/or
- (c) after the security created by this Deed has become enforceable pursuant to Clause 10 (*When security becomes enforceable*) facilitate the realisation of the Charged Assets.

5.4.2 The obligations of the Chargor under this Clause 5.4 (*Further assurance*) are in addition to and not in substitution for the covenants for further assurance deemed to be included herein by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

6. RESTRICTION ON DEALINGS

Save for the Permitted Security and as expressly permitted by the Finance Documents, the Chargor will not create or permit to subsist any Encumbrance on any part of the Charged Assets or, otherwise than in the ordinary course of trading, dispose of or otherwise deal with any part of the Charged Assets.

7. INVESTMENTS

7.1 Rights prior to default

Prior to the security created by this Deed becoming enforceable in accordance with Clause 10 (*When security becomes enforceable*) the Chargor shall have the sole right to exercise all voting rights in relation to the Investments provided that the Chargor shall not exercise such voting rights in any manner which would alter the rights attached to the Investments or which, in the opinion of the Lender would prejudice the value of, or the ability of the Lender to realise, the security created by this Deed.

7.2 Rights during default

After the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*), the Lender may, at its discretion (without any further consent or authority from the Chargor):

- 7.2.1 register all or any of the Investments in the name of the Lender or its nominee and the Chargor shall, as and when required by the Lender, procure such registration;
- 7.2.2 exercise (or refrain from exercising) any voting rights in respect of the Investments; and
- 7.2.3 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Investments,

in such manner and on such terms as the Lender may think fit for the purpose of preserving the value of, or realising, the security enacted by this Deed.

7.3 Dividends prior to default

Prior to the security created by this Deed becoming enforceable in accordance with Clause 10 (*When security becomes enforceable*) the Chargor shall be entitled to receive all dividends, interest and other monies arising from the Investments.

7.4 Dividends during default

After the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*):

7.4.1 the Lender shall be entitled to receive all dividends, interest and other monies arising from the Investments and to apply the same in payment of the Secured Obligations; and

7.4.2 the Chargor shall take all necessary steps to ensure that all dividends, interest and other monies arising from the Investments are paid directly to the Lender and if the Chargor receives any dividends, interest and other monies arising from the Investments it shall promptly pay the same to the Lender and pending such payment shall hold the same on trust for the Lender.

7.5 Payment of calls

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Investments.

7.6 Performance by Lender

If the Chargor fails to perform any of the obligations relating to the Investments (including the payment of any call or other payment due in respect of any of the Investments), the Lender may, at its sole discretion, do so on its behalf and any cost or expenses incurred by the Lender in so doing shall be repaid by the Chargor to the Lender on demand together with accrued interest thereon at the Default Rate from the time or respective times of the same having been paid or incurred until payment thereof (as well as after as before judgement).

7.7 No liability for Lender

Notwithstanding the provisions of Clause 7.6 (*Performance by Lender*) the Lender shall not be obliged to perform any of the obligations of the Chargor in relation to the Investments nor shall it have any liability in respect of the Investments as a result of the grant of this Deed, the transfer of the Investments to it or its nominee or as a result of the performance or non-performance of any such obligation.

8. BOOK DEBTS

8.1 Collection of Book debts

The Chargor shall get in and realise:

8.1.1 any securities to the extent held by way of temporary investment;

8.1.2 book and other debts and other monies; and

8.1.3 royalties, fees and income of like nature in relation to Intellectual Property Rights,

in each case in the ordinary course of business and hold the proceeds of such getting in and realisation (until payment into the Collateral Account referred to below) upon trust for the Lender.

8.2 Collateral Account

- 8.2.1 The Chargor shall pay the proceeds of such getting in and realisation into such separate and denominated account or accounts as may be specified by the Lender in writing (collectively the "**Collateral Account**") and (until payment into the Collateral Account) hold the proceeds of such getting in and realisation on trust for the Lender.
- 8.2.2 After the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*) the Chargor shall not be entitled to withdraw from the Collateral Account all or any of the monies standing to the credit of the Collateral Account except with the prior consent of the Lender and the Lender may, at any time thereafter, apply all monies standing to the credit of the Collateral Account and interest thereon in and towards satisfaction of the Secured Obligations.

9. UNDERTAKINGS

9.1 Conflict with Facility Agreement

In the case of any conflict between the provisions of this Clause and the provisions of the Facility Agreement, the provisions of the Facility Agreement shall prevail.

9.2 General undertakings

The Chargor shall:

- 9.2.1 provide the Lender with such information relating to the business of the Chargor, its financial condition and the Charged Assets as the Lender may reasonably require from time to time;
- 9.2.2 comply with all laws, statutes and regulations (including those relating to the environment) which are applicable to it and obtain, effect, comply with and maintain in full force and effect all registrations, licences, consents, authorisations and exemptions required for the conduct of its business and the performance, validity and enforceability of this Deed and any document entered into pursuant to this Deed;
- 9.2.3 keep all the Charged Assets in good and substantial repair and condition and all fixtures (including trade fixtures and fittings) and fixed plant and machinery in a good state of repair and in good working order and condition;
- 9.2.4 make such registrations and pay such fees, registration taxes and similar amounts as are necessary to keep all intellectual property rights required for its business in full force and effect and take all other steps as are necessary or desirable to maintain and preserve its interest in those intellectual property rights;
- 9.2.5 notify the Lender immediately if any creditor executes diligence against the Chargor or any distress or execution is levied or enforced against the Chargor or any third party debt order or freezing order is made and served on the Chargor;
- 9.2.6 notify the Lender immediately if any steps (including, without limitation, the making of an application or the giving of any notice) are taken by any person (including, without limitation, the Chargor) in relation to the administration, receivership, winding-up or dissolution of the Chargor; and

- 9.2.7 maintain its centre of main interests (COMI), for the purposes of the Council Regulation (EC) No 1346/2000 on Insolvency Proceedings, in the United Kingdom.

9.3 Insurance undertakings

The Chargor shall:

- 9.3.1 maintain such insurances of such types, in such amounts, against such risks and with such companies as the Lender shall from time to time approve in writing and shall cause the name of the Lender to be endorsed on the policy as joint insured or otherwise as the Lender shall direct;
- 9.3.2 apply any monies received from any insurances in making good the loss or damage in respect of which the monies were received or at the option of the Lender in repayment of the Secured Obligations; and
- 9.3.3 hold any monies received from any insurances pending application in accordance with Clause 9.3.2 on trust for the Lender.

9.4 Property undertakings

The Chargor shall:

- 9.4.1 comply with all covenants, obligations and conditions relating to the freehold, heritable or leasehold property owned or occupied by the Chargor and indemnify the Lender in respect of any breach of those obligations, covenants and conditions;
- 9.4.2 at all reasonable times permit the Lender and its representatives access to any freehold, heritable or leasehold property owned by the Chargor from time to time and to take any action the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of any covenant, stipulation or term of this Deed;
- 9.4.3 perform all terms on its part in any lease, agreement for lease or other agreement or document which gives the Chargor a right to occupy or use any property;
- 9.4.4 not agree to the terms of any rent review or agree to or permit any alteration, variation or addition to the terms of any lease of the Mortgaged Property without the prior written consent of the Lender;
- 9.4.5 not do or allow to be done any act which would have a material adverse effect on the value of any freehold, heritable or leasehold property owned by the Chargor from time to time or as a result of which any lease of any property may become liable to forfeiture or otherwise be terminated;
- 9.4.6 deposit with the Lender all deeds and documents of title relating to any freehold, heritable or leasehold property owned by the Chargor from time to time and all local land charges, land charges and Land Registry search certificates and similar documents received by it or on its behalf;
- 9.4.7 notify the Lender promptly of the acquisition of any freehold, heritable or leasehold property;
- 9.4.8 grant the Lender and its representatives all facilities within its power to enable the Lender or its representatives to carry out investigations of title into any freehold, heritable or leasehold property owned by the Chargor from time to time;

- 9.4.9 not make or permit to make any application for planning permission in respect of any part of its freehold, heritable or leasehold property to carry out or permit to be carried out on any part of its freehold, heritable or leasehold property any development within the meaning of that expression in the Planning Acts and being a development for which the permission of the local planning authority is required;
- 9.4.10 use any freehold, heritable or leasehold property owned or occupied by the Chargor only for such purposes as may be authorised as the permitted use thereof under or by virtue of the Planning Acts;
- 9.4.11 as soon as reasonably practicable after receipt of any notice or order given, issued or made to the Chargor by any planning authority under or by virtue of the Planning Acts give full particulars thereof to the Lender and (without delay and at the cost of the Chargor) take all reasonable or necessary steps to comply with any such notice or order and/or make or join with the Lender in making such objections or representations against or in respect of any such notice or order as the Lender shall reasonably require;
- 9.4.12 promptly pay all rates, rents, taxes and other outgoings in respect of any freehold, heritable or leasehold property owned or occupied by the Chargor;
- 9.4.13 not agree to the compulsory purchase of the whole or any part of the freehold, heritable or leasehold property owned by the Chargor without the prior written consent of the Lender; and
- 9.4.14 not grant or enter into any easements, wayleaves, servitudes or similar arrangements in respect of any of the freehold, heritable or leasehold property owned by the Chargor without the prior written consent of the Lender.

9.5 **Intellectual Property Rights undertakings**

The Chargor shall:

- 9.5.1 make such registrations and pay such fees, registration taxes and similar amounts as are necessary to keep the Intellectual Property Rights required for its business in full force and effect;
- 9.5.2 take all other steps as are necessary or desirable to maintain and preserve its interest in the Intellectual Property Rights required for its business;
- 9.5.3 take all legal proceedings as are necessary (including the institution of legal proceedings) to prevent third parties infringing the Intellectual Property Rights required for its business; and
- 9.5.4 ensure that, except with the prior written consent of the Lender, none of the Intellectual Property Rights required for its business which is registered in its name is abandoned or cancelled, lapses or is liable to any claim of abandonment for non-use or otherwise.

10. **WHEN SECURITY BECOMES ENFORCEABLE**

The security created by this Deed will become immediately enforceable if.

- 10.1 an Event of Default has occurred which is continuing;
- 10.2 the Chargor has failed to pay all or any of the Secured Obligations following a demand for payment by the Lender;

- 10.3 any step is taken (including, without limitation, the making of an application or the giving of any notice) by the Chargor or by any other person to appoint an administrator in respect of the Chargor;
- 10.4 any step is taken (including, without limitation, the making of an application or the giving of any notice) by the Chargor or by any other person to wind up or dissolve the Chargor or to appoint a liquidator (whether provisional, interim or otherwise), trustee, receiver, administrative receiver or similar officer of the Chargor or any part of its undertaking or assets;
- 10.5 a request is made by the Chargor for the appointment of a Receiver or administrator;
- 10.6 the Chargor breaches any of the provisions of this Deed.

11. ENFORCEMENT OF SECURITY

11.1 Enforcement

After the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*), the Lender may in its absolute discretion without prior notice to the Chargor enforce all or any part of the security created by this Deed and take possession of or dispose of all or any of the Charged Assets in any manner it sees fit.

11.2 Powers of Lender

Any right, power or discretion conferred by this Deed or by law on a Receiver may after the security created by this Deed has become enforceable, to the extent permitted by law, be exercised by the Lender in relation to any Charged Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

11.3 Statutory Provisions

- 11.3.1 The rights, powers, privileges and immunities conferred on mortgagees or receivers by the LPA, the Insolvency Act, the Insolvency Rules 1986, the Insolvency (Scotland) Rules 1986 or by any other enactment now or at any time in force shall apply to the Lender and any Receiver except in so far as they are expressly or impliedly excluded and where there is any ambiguity or conflict between powers conferred by that legislation and those contained in this Deed the terms of this Deed shall prevail.
- 11.3.2 The Chargor shall not exercise or agree to exercise any of the powers of leasing or of accepting surrenders of leases conferred by sections 99 and 100 of the LPA or by common law or otherwise or grant or accept or agree to grant or accept any lease, tenancy or licence or share or agree to share possession or occupation of the Charged Assets but the Lender shall be entitled to grant and make agreements for leases at a premium or otherwise and accept surrenders of leases and grant options on such terms as the Lender shall consider expedient and without statutory or other restrictions.
- 11.3.3 For the purposes of Section 99 of the LPA, the expression "Mortgagor" will include any encumbrancers deriving title under the Chargor and Sub-section (18) of Section 99 of the LPA will not apply.
- 11.3.4 Section 93 of the LPA shall not apply to this Deed or to any sale made under it. The Lender shall have the right after the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*) to consolidate all or any of the security

created by or pursuant to this Deed with any other security in existence at anytime.

11.3.5 The Secured Obligations shall be deemed to have become due and payable on the date of this Deed for the purposes of section 101 of the LPA and the power of sale and other powers conferred by section 101 of the LPA (as varied or extended by this Deed) and all other powers shall be deemed to arise immediately after execution of this Deed.

11.3.6 Section 103 of the LPA (restricting the exercise of the power of sale) shall not apply to this Deed.

11.4 Protection of third parties

11.4.1 No purchaser from, or other person dealing with, the Lender or a Receiver shall be concerned to enquire whether any of the powers exercised or purported to be exercised has arisen or become exercisable, whether any of the Secured Obligations remains outstanding, whether the Lender or a Receiver is authorised to act or as to the propriety or validity of the exercise or purported exercise of any power and a certificate in writing by an officer or agent of the Lender or any Receiver that the power of sale or other disposal has arisen and is exercisable shall be conclusive evidence of that fact in favour of a purchaser of all or any of the Charged Assets.

11.4.2 The receipt of the Lender or a Receiver shall be an absolute discharge to a purchaser from, or other person dealing with, the Lender or a Receiver and shall relieve that purchaser of any obligation to see to the application of any monies paid to or at the discretion of Lender or a Receiver and in making any sale or disposal the Lender or a Receiver may do so for such consideration, in such manner and on such terms (including payment by instalments) as it thinks fit.

11.5 Protection of the Lender and Receiver

Neither the Lender nor any Receiver shall be liable to account to the Chargor as mortgagee in possession in respect of any Charged Asset or be liable to the Chargor in respect of any loss or damage which arises out of the exercise, the attempted or purported exercise or the failure to exercise any of their respective powers or for any other loss of any nature whatsoever.

11.6 Delegation

11.6.1 The Lender and any Receiver may from time to time delegate by power of attorney or otherwise to any person or corporation any of the powers and discretions of the Lender or the Receiver under this Deed whether arising by statute, the provisions hereof or otherwise upon such terms and for such periods of time as it may think fit and may determine any such delegation.

11.6.2 Neither the Lender nor any Receiver will be liable to the Chargor for any loss or damage arising from any act, default, omission or misconduct of any such delegate, and references in this Deed to the Lender or to any Receiver will where the context so admits include references to any delegates so appointed.

11.7 Prior charges

11.7.1 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 Lender or any Receiver of any power of sale under this

Charge the Lender may redeem such prior security or procure the transfer thereof to itself.

- 11.7.2 The Lender may settle and pass the accounts of the prior mortgagee, chargee or encumbrancer and any accounts so settled and passed will be conclusive and binding on the Chargor.
- 11.7.3 All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargor to the Lender on demand together with accrued interest thereon at the Default Rate from the time or respective times of the same having been paid or incurred until payment thereof (as well as after as before judgement).

12. RECEIVERS AND ADMINISTRATORS

12.1 Appointment and Removal

Without prejudice to the provisions of the Insolvency Act, at any time after having been requested to do so by the Chargor or after the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*), the Lender may by instrument in writing (under seal, by deed or otherwise under hand), without prior notice to any Chargor:

- 12.1.1 (subject to section 72A of the Insolvency Act) appoint one or more persons to be a Receiver of the whole or any part of the Charged Assets;
- 12.1.2 remove (so far as it is lawfully able) any Receiver so appointed;
- 12.1.3 appoint another person(s) as an additional or replacement Receiver(s); and
- 12.1.4 appoint one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act 1986.

12.2 Receiver as agent of the Chargor

A Receiver shall be the agent of the Chargor and, except as otherwise required by the Insolvency Act, the Chargor shall be solely responsible for his acts and defaults and liable on any contract or engagements made or entered into or adopted by him.

12.3 Remuneration of Receiver

The Lender may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by law (including Section 109(6) of the LPA) shall not apply. The amount of such remuneration shall be paid in accordance with the terms and conditions and in the manner agreed from time to time between the Lender and the Receiver.

12.4 Powers of Receiver

A Receiver shall have (and be entitled to exercise in such manner and on such terms as he may in his absolute discretion think fit) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Deed):

- 12.4.1 all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act (whether or not the Receiver is an administrative receiver) (or in Schedule 2 thereof in the event of the Chargor being a company registered in Scotland);
- 12.4.2 all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;

- 12.4.3 power to sell (whether by public auction or private contract or otherwise) all or any of the Charged Assets on any terms and for any consideration (including without limitation for deferred consideration or a consideration payable wholly or partly in instalments or consisting in whole or in part of shares or securities of any other company or of any other non-cash asset);
- 12.4.4 power to grant any lease or tenancy or right of or affecting the Charged Assets for any term or terms of years at any or no rent and with or without any premium and accept the surrender of any lease or tenancy or right and give a valid receipt for any premium payable on any such grant or surrender and to amend or vary any lease, licence agreement or other arrangement in any way relating to or affecting the Charged Assets;
- 12.4.5 power to grant options to sell, lease, licence or dispose of the Charged Assets;
- 12.4.6 power to enter on or otherwise take possession of the Charged Assets to repair, convert, manufacture, process, decorate, alter, renew, improve, add to or develop or to complete any development or building which may be unfinished and to settle, compound, compromise or submit to arbitration any accounts or claims arising out of the commencement, carrying on or completion of any such development or building;
- 12.4.7 power to redeem any mortgage, charge or other encumbrance on, over or affecting the Charged Assets or any part of it;
- 12.4.8 power to repair, renew or improve plant, machinery, implements, furniture, equipment and other effects of the Chargor in or on the Charged Assets;
- 12.4.9 power to settle or compromise or submit to arbitration any claim or claims on or against the Charged Assets or claim or dispute arising out of the Charged Assets;
- 12.4.10 power to disclaim, abandon or disregard all or any of the outstanding contracts of the Chargor and to allow time for payment by or to the Chargor of any debts either with or without security;
- 12.4.11 power to manage and carry on or concur in managing or carrying on upon the Charged Assets any type of trade or business and to enter and perform such contracts and arrangements and incur any obligations in relation thereto;
- 12.4.12 power to make or exercise an election pursuant to paragraphs 2 and 3 of Schedule 10 to the Value Added Tax Act 1994 in relation to the Charged Assets or exercise any option or right of election available to the Chargor or the Lender or the Receiver that the supplies made in respect of any lease or tenancy of any part of the Charged Assets shall be supplies chargeable or taxable for value added tax purposes at the standard or other applicable rate provided always that neither the Lender nor the Receiver shall be liable for any loss suffered by the Chargor as a result and to execute all documents, and perform such acts or things as a result and to execute all documents, and perform such acts or things as maybe necessary to permit any disposal of the Charged Assets to be zero-rated for the purposes of value added tax;
- 12.4.13 power to exercise all voting and other rights attaching to stocks, shares and other securities comprising or comprised within the Charged Assets;

- 12.4.14 power to exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Asset; and
- 12.4.15 power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Deed or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargor; the preservation, improvement, collection and/or realisation of Charged Assets; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).

12.5 Discretions

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

12.6 Powers may be restricted

The powers granted to a Receiver pursuant to this Deed may be restricted by the instrument (signed by the Lender) appointing him but they shall not be restricted by any winding-up or dissolution of the Chargor.

12.7 Actions of any Administrators

Save as provided for in statute or otherwise agreed in writing by the Lender, the Lender shall have no liability for the acts or omissions of an Administrator.

13. SET OFF

The Lender may set-off any matured obligation due from the Chargor under the Finance Documents against any matured obligation owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

14. EXPENSES AND INDEMNITY

14.1 Expenses

The Chargor shall pay to the Lender and each Receiver, attorney or delegate duly appointed by the Lender under this Deed the amount of all costs and expenses (including legal fees and together with any applicable value added tax) incurred by it in connection with:

- 14.1.1 the preparation, negotiation and execution of this Deed;
- 14.1.2 the perfection of any security created or purported to be created pursuant to this Deed; and
- 14.1.3 the enforcement and preservation of its rights under this Deed.

14.2 Indemnity

The Chargor shall indemnify the Lender and each Receiver from and against all losses, costs, expenses, claims, demands and liabilities whether in contract, delict, tort or otherwise (together with any applicable value added tax) incurred by the Lender or that Receiver or by any employee, agent or delegate of the Lender or any Receiver in connection with anything done or omitted under this Deed or any other

document relating to it, or in the exercise or attempted or purported exercise of the powers contained in this Deed or occasioned by any breach by the Chargor of any of its undertakings or other obligations to the Lender, or in consequence of any payment in respect of the Secured Obligations (whether made by the Chargor or a third person) being declared void or impeached for any reason. The Lender and any Receiver may retain and pay all sums in respect of which it is indemnified out of any monies received by it under the powers conferred by this Deed.

15. RELEASE OF SECURITY

15.1 Release of security

When the Secured Obligations have been irrevocably paid or discharged in full to the satisfaction of the Lender and the Lender has no further obligation to provide credit facilities or other accommodation to the Chargor or, if the Lender so agrees, at any other time, the Lender shall, subject to the provisions of Clause 16 (*Avoidance of Payments*), at the request and cost of the Chargor, execute such documents as may be required to release this Deed and any other security created over the Charged Assets or any of them by this Deed.

15.2 Entitlement to retain security

If any payment or discharge of the Secured Obligations is, in the reasonable opinion of the Lender, liable to be avoided or invalidated under any enactment relating to bankruptcy or insolvency, the Lender may refuse to grant any release of the security created by this Deed for such further period as the risk of such avoidance or invalidity continues.

16. AVOIDANCE OF PAYMENTS

No assurance, security or payment which may be avoided or adjusted under the law, including under any statute relating to bankruptcy or insolvency and no release, settlement or discharge given or made by the Lender on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Lender to recover the Secured Obligations from the Chargor (including any monies which the Lender may be compelled to pay or refund under the provisions of the Insolvency Act and any costs payable by it pursuant to or otherwise incurred in connection therewith) or to appoint a Receiver and enforce the security created by this Deed to the full extent of the Secured Obligations.

17. CUMULATIVE REMEDIES AND WAIVERS

The rights of the Lender and the Receiver may be exercised as often as necessary, are cumulative and are in addition to its respective rights under general law and may be waived only in writing and specifically. Delay in the exercise or non-exercise of any right shall not be a waiver of that right.

18. SEVERABILITY

If any of the provisions of this Deed is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality and enforceability of any other provision in this Deed.

19. EVIDENCE AND CALCULATIONS

Any certificate or determination by the Lender as to the amount of the Secured Obligations shall, in the absence of manifest error, be conclusive and binding on the Chargor for all purposes.

20. APPLICATION OF PROCEEDS

20.1 Application of proceeds

Any moneys received by the Lender or any Receiver after the security created by this Deed has become enforceable in accordance with Clause 10 (*When security becomes enforceable*) shall be applied in the following order of priority:

- 20.1.1 in or towards payment of or provision for all costs and expenses incurred by the Lender or any Receiver under or in connection with this Deed and of all remuneration due to any Receiver under or in connection with this Deed;
- 20.1.2 in or towards payment of or provision for the Secured Obligations; and
- 20.1.3 in payment of the surplus (if any) to the Chargor or other person entitled to it.

20.2 Other claims

The provisions of Clause 20.1 (*Application of Proceeds*) are subject to the payment of any claims having priority over the security created by this Deed. This Clause does not prejudice the right of the Lender to recover any shortfall from the Chargor.

21. NEW ACCOUNTS

21.1 New Accounts

If the Lender at any time becomes aware of any subsequent security or other like interest, matter, event or transaction affecting any Charged Asset, the Lender may open a new account or accounts for the Chargor in its books.

21.2 Ruling off

If the Lender does not open any such new account then, unless it gives express written notice to the relevant Chargor to the contrary, the Lender will be treated as if it had in fact opened such account or accounts at the time when it became so aware and as from that time all payments by or on behalf of the Chargor to the Lender will be credited or treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations then outstanding.

22. SUSPENSE ACCOUNTS

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

23. POWER OF ATTORNEY

23.1 Appointment and powers

By way of security for the obligations of the Chargor under this Deed, the Chargor irrevocably appoints the Lender and every Receiver to be its attorney on its behalf or in its name or otherwise to execute and do all such assurances, acts and things which the Chargor is required to do under this Deed and generally in its name and

on its behalf to exercise all or any of the powers, conferred by or pursuant to this Deed or by statute on the Lender or any Receiver and to sign, execute, seal and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it or he may reasonably deem proper in or for the purpose of exercising any such powers, authorities and discretions.

23.2 Ratification

The Chargor ratifies and confirms whatever any such attorney mentioned in Clause 23.1 (*Appointment and powers*) shall do or purport to do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in such Clause.

24. TRANSFERS

24.1 Transfer by Chargor

The Chargor may not assign or otherwise transfer its rights and obligations under this Deed.

24.2 Transfer by Lender

The Lender may assign and transfer all or any of its rights and obligations under this Deed to any person which becomes a new or additional lender in accordance with the terms of the Finance Documents. The Lender shall be entitled to disclose such information concerning the Chargor and this Deed as the Lender 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 any applicable law.

25. NOTICES

Any communication to be made under or in connection with this Deed shall be delivered in accordance with Clause 11 of the Facility Agreement.

26. LAND REGISTRY

26.1 Request to the Land Registry

Where the whole or any part of the Real Property is registered under the Land Registration Act 1925 the Chargor hereby applies to the Chief Land Registrar for registration against the registered title of the following restriction:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated • in favour of The Edinburgh Woollen Mill Limited referred to in the charges register or, if appropriate, signed on behalf of such proprietor by its authorised signatory."

26.2 Further advances

If the Lender is obliged to make further advances under the Finance Documents, that obligation is deemed to be incorporated in this Deed and the Chargor applies to the Chief Land Registrar for the registration against the registered title of such of the Assets (if any) as is registered under the Land Registration Act 1925 of a note that the Lender is under an obligation to make further advances to the Chargor.

27. THIRD PARTIES

Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

28. **PERPETUITY PERIOD**

The perpetuity period for the trusts in this Deed is 80 years.

29. **FINANCIAL COLLATERAL**

29.1 **Right to appropriate**

To the extent that the Charged Assets constitute "financial collateral" and this Deed and the obligations of the Chargor constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the "**Regulations**")) the Lender shall have the right after the security created by this Deed has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.

29.2 **Value of financial collateral**

For the purpose of Clause 29.1 (*Right to appropriate*), the value of the financial collateral appropriated shall be such amount as the Lender reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it and the Chargor agrees that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

30. **STAMP DUTY**

The Chargor shall pay all stamp duties and other similar taxes or duties payable on or arising out of or in consequence of:

30.1 the creation of the security constituted by this Deed; and

30.2 the execution and delivery of this Deed and any documents executed pursuant hereto.

31. **COUNTERPARTS**

This Deed may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

32. **GOVERNING LAW AND JURISDICTION**

32.1 **Governing law**

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

32.2 **Jurisdiction**

32.2.1 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) (a "**Dispute**").

32.2.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

32.2.3 This Clause 32.2 (*Jurisdiction*) is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by

law, the Lender may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF this Deed has been executed as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1

Mortgaged Property

Registered Land

County, County Borough or London Borough: Cumbria, Carlisle

Title Numbers: CU119715, CU218033 and CU288354

Property: Brunton Park, Warwick Road, Carlisle, and land on the west of Brunton Park, Warwick Road, Carlisle and land on the north side of Warwick Road, Carlisle

SCHEDULE 2

Notice of assignment of Insurance Policy

To: [•]

Date: [•]

Dear Sirs

We give you notice that, by a Debenture dated ● 2017 (the "**Debenture**"), we charged by way of assignment to The Edinburgh Woollen Mill Limited (the "**Lender**") all our right, interests and benefits in, to and under the [describe Insurance Policy] policy number (including all monies payable thereunder, proceeds of all claims, awards and judgments) and all other insurances entered into supplemental to or in replacement of such policy of insurance (the "**Policy**").

We will remain liable to perform all our obligations under the Policy and the Lender is under no obligation of any kind whatsoever under the Policy nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Policy.

We irrevocably instruct and authorise you to pay all payments under or arising under the Policy to any account that we shall specify to you in writing from time to time. It is very important that you make all immediate arrangements for all sums payable by you under the Policy to be paid to this account.

Please note that all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising under the Policy are exercisable by and belong to the Lender.

We whereby instruct you to note the interest of the Lender on the Policy and authorise you to disclose to the Lender, without further approval from us, such information regarding the Policy as the Lender may from time to time request and to send to it copies of all notices issued by you under the Policy.

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

Would you please confirm your agreement to the above by sending the enclosed acknowledgement to the Lender with a copy to ourselves.

Yours faithfully

For and on behalf of
CARLISLE UNITED ASSOCIATION FOOTBALL CLUB (1921) LIMITED

Acknowledgement of assignment of Insurance Policy

To: THE EDINBURGH WOOLLEN MILL LIMITED as Lender

Date: ●

Dear Sirs

We confirm receipt from Carlisle United Association Football Club (1921) Limited (the "**Chargor**") of a notice dated ● of a charge by way of assignment upon the terms of a Debenture dated ● 2017 (the "**Debenture**") to The Edinburgh Woollen Mill Limited (the "**Lender**") of all the Chargor's right, interest and benefit in, to and under the Policy (as specified in that notice).

We confirm that we have not received notice of any assignment or charge of or over any of the rights, interests and benefits specified in such notice and will make all payments to the account specified in that notice.

We acknowledge that the Chargor will remain liable to perform all its obligations under the Policy and the Lender is under no obligation of any kind whatsoever under the Policy nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Policy; and

This letter is governed by and will be construed in accordance with the laws of England.

Yours faithfully

[Insurer]

EXECUTION PAGE

Chargor

EXECUTED AS A DEED for and on behalf of

CARLISLE UNITED ASSOCIATION FOOTBALL
CLUB (1921) LIMITED

by

..... CHIEF EXECUTIVE Director
 NIGEL CLIBBONS Name
 FINANCE DIRECTOR Director/Secretary
 SUZANNE KIDD Name

Lender

EXECUTED AS A DEED by

THE EDINBURGH WOOLLEN MILL LIMITED

as Lender

by

..... Director
 Name
 Director/Secretary
 Name

EXECUTION PAGE

Chargor

EXECUTED AS A DEED for and on behalf of

CARLISLE UNITED ASSOCIATION FOOTBALL
CLUB (1921) LIMITED

by

..... Director
 Name
 Director/Secretary
 Name

Lender

EXECUTED AS A DEED by

THE EDINBURGH WOOLLEN MILL LIMITED

as Lender

by

..... Director
 KRISTIAN LEE Name
 [REDACTED] Director/Secretary
 V JUNE CARPENTERS Name