



**Registration of a Charge**

Company Name: **HARBISONWALKER INTERNATIONAL LIMITED**

Company Number: **00175893**



Received for filing in Electronic Format on the: **30/05/2023**

XC4NB2GR

**Details of Charge**

Date of creation: **24/05/2023**

Charge code: **0017 5893 0002**

Persons entitled: **JPMORGAN CHASE BANK, N.A.**

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: **NORTON ROSE FULBRIGHT LLP**



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

Company number: 175893

Charge code: 0017 5893 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th May 2023 and created by HARBISONWALKER INTERNATIONAL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th May 2023 .

Given at Companies House, Cardiff on 5th June 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 24 May 2023

**CALIFORNIA HOLDING III LIMITED**  
**CALDERYS NGJ LIMITED**  
**HARBISONWALKER INTERNATIONAL LIMITED**  
as Original Chargors

and

**JPMORGAN CHASE BANK, N.A.**  
as Security Agent

---

**SECURITY AGREEMENT**

---

*I certify that, save for material redacted pursuant to s.859G of the Companies Act 2006, this copy instrument is a correct copy of the electronic copy of the original instrument.*

*Norton Rose Fulbright LLP*

Date: 30 May 2023

|

**WILLKIE FARR & GALLAGHER** (UK) LLP

CityPoint  
1 Ropemaker Street  
London  
EC2Y 9AW  
[www.willkie.com](http://www.willkie.com)

**CONTENTS**

<b>CLAUSE</b>	<b>PAGE</b>
1. Definitions and interpretation .....	3
2. Creation of Security .....	11
3. Release and re-assignment.....	15
4. Representations and warranties.....	16
5. Undertakings .....	16
6. Enforcement.....	18
7. Receivers and administrators .....	20
8. Application of proceeds .....	22
9. Protections.....	23
10. Power of attorney .....	27
11. Changes to the Parties .....	27
12. Partial invalidity.....	27
13. Remedies and waivers.....	28
14. Amendments and waivers .....	28
15. Failure to execute.....	28
16. Governing law.....	28
17. Enforcement.....	28
18. Contractual Recognition of Bail-In.....	28
Schedule 1 The Chargors .....	31
Schedule 2 Charged Property.....	31
Schedule 3 Actions on the date of this Deed .....	33
Schedule 4 Provisions applicable to the Charged Property .....	36
Schedule 5 Form of Notices.....	41
Part 1 Form of Notice for Receivables .....	41
Part 2 Form of Notice for Bank Accounts .....	43
Schedule 6 Form of Security Accession Deed.....	49

**THIS DEED** is dated 24 May 2023 and made between:

- (1) **CALIFORNIA HOLDING III LIMITED**, a limited liability company incorporated under the laws of England and Wales with registered number 14253707 and having its registered office at 100 New Bridge Street, London, United Kingdom, EC4V 6JA ("**Holdings**");
- (2) **CALDERYS NGJ LIMITED**, a limited liability company incorporated under the laws of England and Wales with registered number 04148785 and having its registered office at Unit 3 & 4 Olympic Park, Poole Hall Road, Ellesmere Port, United Kingdom, CH66 1ST;
- (3) **HARBISONWALKER INTERNATIONAL LIMITED**, a limited liability company incorporated under the laws of England and Wales with registered number 00175893 and having its registered office at Pyramid Works Dock Rd South, Bromborough, Merseyside, CH62 4SP (and together with Holdings and Calderys NGJ Limited, the *Original Chargors*); and
- (4) **JPMORGAN CHASE BANK, N.A.**, as Collateral Agent (as defined in the ABL Security Agreement) for the benefit of the Secured Parties (as defined below) (the *Security Agent*).

**BACKGROUND:**

- (A) Reference is made to that certain revolving credit agreement dated on or about the date of this Deed among Holdings, the Lead Borrower (as defined below), each of the other borrowers party thereto, the lenders party thereto from time to time and JPMorgan Chase Bank, N.A. as administrative agent, collateral agent and swingline lender (the *ABL Credit Agreement*).
- (B) Each Chargor enters into this Deed in connection with the ABL Credit Agreement.
- (C) It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute it under hand.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

***ABL Intercreditor Agreement*** means the New York law-governed ABL intercreditor agreement dated on or about the date of this Deed between, among others, the Lead Borrower, Holdings, the Security Agent as collateral agent for the holders of the Revolving Credit Obligations (as defined therein), The Bank of New York Mellon Trust Company, N.A., as collateral agent for the holders of the Initial Fixed Asset Obligations (as defined therein), and BNP Paribas on its own behalf.

**ABL Security Agreement** means the New York law-governed security agreement dated on or about the date of this Deed between the Security Agent as the collateral agent and the Grantors (as defined therein).

**Additional Chargor** means any Chargor that accedes to this Deed through a document substantially in the form of Schedule 6 (*Form of Security Accession Deed*).

**Assigned Agreement** means any agreement or other documents:

- (a) governed by English law relating to Intra-Group Receivables of any Chargor; or
- (b) any other agreement which is designated as an “Assigned Agreement” by a Chargor and the Security Agent, including any agreement designated as an Assigned Agreement in any Security Accession Deed.

**Assigned Agreement Notice** means a notice substantially in the form set out in Part 1 of Schedule 5 (*Form of Notices*).

**Bank Account** means any bank account of a Chargor held with a bank, financial institution or other person (and any renewal or re-designation, renumbering, successor, replacement account or sub-division or sub-account of that account), together with the debt or debts represented by that account, including:

- (a) each account specified in Schedule 2 (*Charged Property*) of this Deed under the heading “Bank Accounts”;
- (b) each account specified in the schedule to any Security Accession Deed under the heading “Bank Accounts”; and
- (c) any other current, deposit or other accounts of any Chargor which are held in England and Wales from time to time.

**Bank Account Notice** means a notice substantially in the form set out in Part 2 of Schedule 5 (*Form of Notices*).

**Blocked Account** means any Bank Account specified as such in this Deed or any other Bank Account designated as such by a Chargor and the Security Agent.

**Business Day** has the meaning given to that term in the ABL Credit Agreement.

**Charged Property** means all the assets and undertakings of the Chargors which from time to time are the subject of the Security created or expressed to be created in favour of the Secured Parties pursuant to this Deed.

**Chargor** means an Original Chargor or an Additional Chargor.

**Counterparty Notice** means a notice substantially in the form set out in Part 1 of Schedule 5 (*Form of Notices*).

**Enforcement Event** means an Event of Default which is continuing.

**Event of Default** means any event or circumstance specified as such in Article 11 (*Events of Default*) of the ABL Credit Agreement.

**Excluded Asset** has the meaning given to the term “Excluded Collateral” in the ABL Security Agreement.

**Floating Charge** means a floating charge created under this Deed.

**Group** means Holdings and its Restricted Subsidiaries (as defined in the ABL Credit Agreement) from time to time.

**Liquidity Period** has the meaning given to that term in the ABL Credit Agreement.

**Insolvency Act** means the Insolvency Act 1986.

**Insurance Notice** means a notice substantially in the form set out in Part 3 of Schedule 5 (*Form of Notices*).

**Insurance Policies** means all contracts or policies of insurance (and all cover notes) and all proceeds of them either now or in the future held by, or written in favour of, a Chargor or in which it is otherwise interested, but excluding any third party liability or public liability insurance and any directors and officers insurance.

**Intellectual Property** means any legal or equitable interest in (including, without limitation, the benefit of any licences in any part of the world):

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each Chargor (which may now or in the future subsist),

in each case, (i) that are material in the context of the business of the relevant Chargor and (ii) other than any Excluded Assets.

**Intra-Group Receivables** means, to the extent they are not Excluded Assets, any and all present and future receivables, claims, rights, title or monies regardless of their nature (including, without limitation, principal, interest, default interest, commissions, costs and indemnities), in any currency or currencies, whether actual or contingent, whether owed jointly and severally or in any other capacity whatsoever and whether subordinated or not, owed from time to time by any member of the Group to a Chargor.

**Investment** means any stock, share, debenture, loan stock, security, bond, certificate of deposit, interest in any investment fund, interest in any investment scheme and any other comparable investment, including any specified in this Deed (and including, unless the context otherwise requires, the Shares).

**Lead Borrower** means Calderys Financing, LLC, a Delaware limited liability company.

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

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

**PSC Register** means the “PSC register” of a company as described in section 790C(10) of the Companies Act 2006.

**Quasi Security** means a transaction or arrangement in which a Chargor:

- (a) sells, transfers or otherwise disposes of its assets on terms whereby they are or may be leased to or re-acquired by a Chargor or any other member of the Group;
- (b) sells, transfers or otherwise disposes of any of its receivables on recourse terms;
- (c) enters into any arrangement under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or
- (d) enters into any other preferential arrangement having a similar effect.

**Receivables** means Intra-Group Receivables and Trading Receivables.

**Receiver** means an administrator, a receiver and manager or (if the Security Agent so specifies in the relevant appointment) receiver, in each case appointed under this Deed.

**Related Rights** means in relation to an asset:

- (a) the proceeds of sale or rental of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, benefits, claims, contracts, warranties, easements, appurtenances, remedies, security, indemnities, covenants or covenants for title in respect of that asset;
- (d) any income, moneys and proceeds paid or payable in respect of that asset; and/or
- (e) any other assets deriving from or relating to all or any part of that asset,

and (to the extent not included in paragraphs (a) to (e) above), in relation to Investments, includes all Related Investment Rights.

**Related Investment Rights** means all dividends, distributions, interest and other income paid or payable on an Investment, together with all shares or other assets derived from any Investment and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Investment (whether by way of conversion, redemption, bonus, preference, exchange, substitution, consolidation, subdivision, reduction, rights issue, warrant, option or otherwise) and all rights which any Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Investment.

**Secured Debt Documents** has the meaning given to the term “Credit Documents” in the ABL Credit Agreement.



***Secured Obligations*** means:

- (a) for Holdings, (i) the Obligations of the Lead Borrower and (ii) the Obligations of the Group (other than the Obligations of the Lead Borrower) in relation to the German/RoW Subfacility and the French Subfacility but not (for the avoidance of doubt) the U.S. Subfacility, any Letters of Credit or any Swingline Loans; and
- (b) for any other Chargor, the Obligations of the Group (other than the Obligations of the Lead Borrower) in relation to the German/RoW Subfacility and the French Subfacility but not (for the avoidance of doubt) the U.S. Subfacility, any Letters of Credit or any Swingline Loans.

***Secured Parties*** means the Administrative Agent, the Security Agent and, in respect of the Secured Obligations of each Chargor, each Guaranteed Creditor and Lender Creditor in respect of those Secured Obligations.

***Security*** means a mortgage, charge, pledge, assignment by way of security, hypothecation, lien or other security interest or similar encumbrance securing any obligation of any person or any other agreement or arrangement having a similar effect.

***Security Accession Deed*** means a deed executed by a member of the Group substantially in the form set out in Schedule 6 (*Form of Security Accession Deed*), with any amendments which the Security Agent may approve or reasonably require.

***Security Period*** means the period starting on the date of this Deed and ending on the Termination Date (as defined in the ABL Security Agreement except that for the purposes of this definition only the term “Obligations” in Article 10.8(a) of the ABL Security Agreement shall be replaced with the term Secured Obligations (as defined in this Deed)).

***Share*** means:

- (a) in relation to a Chargor, all Shares owned legally or beneficially by that Chargor in any member of the Group, whether held directly by or to the order of the Chargor or by a trustee, nominee, fiduciary or clearance system on its behalf including, but not limited to the Shares, if any, specified in Schedule 2 (*Charged Property*) and as specified in any relevant Security Accession Deed; and
- (b) any other Investment which a Chargor purports to charge under this Deed.

***Tangible Moveable Property*** means any fixtures, fittings, plant, machinery, office equipment, computers, vehicles and other chattels.

***Trading Receivables*** means all present and future book debts and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, any Chargor (whether actual or contingent and whether arising under contract or in any other manner whatsoever), except to the extent constituting Bank Accounts or Intra-Group Receivables, together with:

- (a) the benefit of all rights, guarantees, Security and remedies relating to any of the foregoing (including, without limitation, negotiable instruments, indemnities,

reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights); and

- (b) all proceeds of any of the foregoing.

## 1.2 Construction

- (a) Unless a contrary indication appears or unless otherwise defined in this Deed, words and expressions defined in the ABL Intercreditor Agreement, the ABL Credit Agreement and/or the ABL Security Agreement have the same meanings when used in this Deed.
- (b) Unless a contrary indication appears, a reference in this Deed to:
  - (i) any *Secured Party*, the *Security Agent*, a *Chargor* or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the ABL Intercreditor Agreement or the ABL Credit Agreement (as applicable) and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the ABL Intercreditor Agreement or the ABL Credit Agreement (as applicable);
  - (ii) any *Secured Debt Document* or other agreement or instrument is a reference to that Secured Debt Document or other agreement or instrument as amended, including by way of increase of the facilities or other obligations or addition of new facilities or other obligations made available under them or accession or retirement of the parties to those agreements but excluding any amendment made contrary to any provision of any Secured Debt Document;
  - (iii) an *agreement* includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
  - (iv) an *amendment* includes any amendment, supplement, variation, novation, modification, replacement or restatement and *amend*, *amending* and *amended* shall be construed accordingly;
  - (v) *assets* includes present and future properties, revenues and rights of every description;
  - (vi) *date of this Deed* means the date first written above on which this Deed is originally entered into as first written above or, if later, (x) in relation to an asset, contract, receivable or bank account, the date it was acquired, entered into, created or opened (as applicable) or (y) in relation to an Additional Chargor, the date of the Security Accession Deed by which it becomes a Party, as applicable;
  - (vii) *including* means including without limitation and *includes* and *included* shall be construed accordingly;

- (viii) ***its interest in*** means, in relation to a Chargor, its ownership interest in relation to an asset, whether legal or equitable, or any other form of entitlement it has to that asset including for the avoidance of doubt, any interest held by any trustee, fiduciary, nominee or clearance system on its behalf, in the case of a bank account, the moneys standing to the credit of that account;
- (ix) ***losses*** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and ***loss*** shall be construed accordingly;
- (x) a ***person*** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (xi) a ***regulation*** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law one which persons customarily comply with) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (xii) ***specified in this Deed*** means, in relation to any category of asset subject to this Security, an asset specified in a schedule to this Deed or in a schedule to a Security Accession Deed;
- (xiii) ***this Security*** means any Security created by this Deed; and
- (xiv) a provision of law is a reference to that provision as amended or re-enacted from time to time.

Where this Deed refers to a Chargor using its ***reasonable endeavours*** in relation to a matter or circumstance, that will be construed as meaning using its reasonable endeavours for a period of not more than twenty (20) Business Days (and after such time the obligation will cease).

- (c) Clause and Schedule headings are for ease of reference only.
- (d) A reference to a Clause or Schedule is a reference to, respectively, a clause of, or schedule to, this Deed and any reference to this Deed includes its schedules.
- (e) Words importing the plural shall include the singular and vice versa.
- (f) This Deed and each Security Accession Deed (if any) shall be read together and construed as one instrument so that all references in this Deed to “this Deed” shall be deemed to include, where the context so permits, each Security Accession Deed which has from time to time been entered into by an Additional Chargor and all references in this Deed to “this Security” shall be deemed to include any Security created by or pursuant to each such Security Accession Deed, and all the powers and rights conferred on the Security Agent and any

Receiver in relation to this Security shall extend and apply to the Security created by each such Security Accession Deed.

- (g) Notwithstanding anything in this Deed to the contrary, this Security and the exercise of any rights and remedies of the Security Agent under this Deed are subject to the provisions of the ABL Credit Agreement and the ABL Intercreditor Agreement in all respects.
- (h) In the event of any inconsistency or conflict between the terms of this Deed and the ABL Intercreditor Agreement, the terms of the ABL Intercreditor Agreement shall prevail.
- (i) Where this Deed specifies that a Chargor may designate something, Holdings may instead so designate on behalf of that Chargor.
- (j) Any covenant of a Chargor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- (k) If the Security Agent considers that an amount paid to a Secured Party under a Secured Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.

### **1.3 Third party rights**

- (a) Unless expressly provided to the contrary in a Secured Debt Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of any Secured Debt Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Contracts (Rights of Third Parties) Act 1999.

### **1.4 Declaration of security trust**

The Security Agent declares that it holds on trust for the Secured Parties (i) all right, title and interest of the Security Agent or the Secured Parties under the Security Documents governed by the laws of England and Wales including all money recovered under them (whether on enforcement or otherwise), (ii) all money paid to the Security Agent for the Secured Parties for application in accordance with Section 7.4 (*Application of Proceeds*) of the ABL Security Agreement and (iii) all other property

acquired by the Security Agent for the Secured Parties and intended to be held for the benefit of the Secured Parties.

## **2. CREATION OF SECURITY**

### **2.1 Covenant to pay**

- (a) Each Chargor, as primary obligor and not merely as a surety, covenants with the Security Agent (for itself and as collateral agent and trustee for the other Secured Parties) that it will on demand pay, discharge and satisfy the Secured Obligations in the manner provided for in the Secured Debt Documents when they fall due for payment pursuant to, and in accordance with, the respective terms of the Secured Debt Documents.
- (b) If any Chargor fails to pay any amount payable under this Deed on its due date, interest shall accrue on the overdue amount in accordance with the default interest provisions of the ABL Credit Agreement.

### **2.2 Common provisions**

- (a) All this Security is created in favour of the Security Agent over present and future assets of the relevant Chargor as continuing security for the payment, discharge and performance of the Secured Obligations and is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) The Security Agent holds the benefit of this Deed and this Security on trust for the Secured Parties.
- (c) To the extent required for any purported disposition of the Charged Property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the documents under which the Secured Obligations arise and of any side letters between any Chargor and any Secured Party relating to the Secured Obligations are deemed to be incorporated in this Deed.
- (d) Each Clause of this Deed shall be construed as creating a separate and distinct mortgage, fixed charge or assignment over each relevant asset within any particular class of assets defined in this Deed.
- (e) An asset will only be (i) subject to a fixed charge if not effectively assigned and (ii) subject to a Floating Charge if not effectively subject to a fixed charge or assignment, in each case, under this Deed.
- (f) Failure to create an effective fixed charge or assignment (whether arising out of this Deed or any act or omission by any Party) over any asset shall not affect the nature or validity of the charge or assignment imposed on any other asset (whether within that same class of assets or not).
- (g) If an asset is specified in this Deed, the absence of details of that asset shall not affect the validity or enforceability of this Security as it relates to that asset.

- (h) The Security Agent shall not be under any obligation in relation to the Charged Property as a consequence of this Deed and each Chargor shall at all times remain liable to perform all obligations in respect of the Charged Property.
- (i) Where an asset is subject to this Security, that will be construed so as to include security over all the Related Rights in respect of that asset.
- (j) Subject to the terms of the ABL Intercreditor Agreement, this Security and each security interest created or purported to be created under this Deed is intended to rank in priority to any other security interest created over the Charged Property and so to be a first fixed charge, first floating charge or first assignment, as applicable.

### **2.3 Specific security**

- (a) Subject to Clause 2.7 (*Excluded Assets*) below, each Chargor charges the following assets, both present and future, from time to time owned by it or in which it has an interest, by way of first fixed charge:
  - (i) all of its Shares and all corresponding Related Rights;
  - (ii) all of its Investments (other than Shares) and all corresponding Related Rights;
  - (iii) all of its rights in respect of any Bank Account, any amount standing to the credit of any Bank Account and the debt represented by it and all corresponding Related Rights;
  - (iv) all of its Tangible Moveable Property and all corresponding Related Rights;
  - (v) all of its Trading Receivables and all rights and claims against third parties in respect of those Trading Receivables and all corresponding Related Rights;
  - (vi) the benefit of all licences, consents, authorisations and agreements held by it in connection with the use of any of its assets and all corresponding Related Rights;
  - (vii) all its rights, title and interest from time to time in and to its goodwill and rights in relation to the uncalled capital and all corresponding Related Rights;
  - (viii) all its rights, title and interest in (and claims under) the Insurance Policies and all corresponding Related Rights; and
  - (ix) if not effectively assigned by paragraphs (b) and (c) below, by way of fixed charge all of its rights, title and interest from time to time in each Assigned Agreement and all corresponding Related Rights.
- (b) Each Chargor assigns absolutely, subject in each case to reassignment by the Security Agent at the end of the Security Period, all of its right, title and interest

in each Assigned Agreement and all corresponding Related Rights (an **Assigned Asset**).

- (c) To the extent that any Assigned Asset described in paragraph (b) above is not assignable or capable of assignment, the assignment of that right purported to be effected by paragraph (b) above shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which that Chargor may derive from that right or be awarded or entitled to in respect of that right.

## **2.4 Floating Charge**

- (a) As further continuing security for the full payment and discharge of the Secured Obligations, each Chargor charges by way of first floating charge all of its present and future undertaking and its interest and rights in its assets whatsoever and wheresoever not otherwise effectively charged or assigned under this Deed.
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act shall apply to each floating charge created by this Deed and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act.

## **2.5 Conversion of Floating Charge**

- (a) The Security Agent may, by notice to a Chargor, convert a Floating Charge into a fixed charge with immediate effect as regards those assets specified in the notice, if:
  - (i) an Enforcement Event is continuing;
  - (ii) the Security Agent is of the view that an asset charged under the Floating Charge is in danger of being seized or sold under any form of distress, attachment, execution or other legal process or is otherwise in jeopardy (but then the notice may only be given in relation to any such asset);
  - (iii) the Security Agent reasonably considers that it is necessary in order to protect the priority or enforceability of this Security; or
  - (iv) that Chargor requests the Security Agent to exercise any of its powers under this Deed.
- (b) A Floating Charge will automatically and immediately be converted into a fixed charge over all the assets of a Chargor (other than in relation to paragraph (iii) below which will operate as described in that paragraph) which are subject to the Floating Charge without notice to that Chargor or any other person if:
  - (i) the members of that Chargor convene a meeting for the purposes of considering, or pass or present a petition for, any resolution for its winding-up, dissolution, or a compromise, assignment or arrangement with any creditor;

- (ii) that Chargor creates, or purports to create, Security (except as permitted by the ABL Credit Agreement or with the prior consent of the Security Agent) on or over any asset which is subject to the Floating Charge;
  - (iii) (as regards the assets that are in jeopardy only) any third party takes any step with a view to levying distress, attachment, execution or other legal process against any such asset;
  - (iv) any person (entitled to do so) gives notice of its intention to appoint an administrator to that Chargor or files such a notice with the court or presents an application to the court for the making of an administration order in relation to that Chargor;
  - (v) a provisional liquidator or receiver is appointed to that Chargor;
  - (vi) an Event of Default under Article 11.05 of the ABL Credit Agreement has occurred or any other substantially equivalent provision in any other Secured Debt Document; or
  - (vii) any other floating charge created by that Chargor crystallises for any reason, or analogous step or procedure is taken in any jurisdiction.
- (c) Upon the conversion of a Floating Charge, the relevant Chargor shall, at its own expense, immediately upon request by the Security Agent execute a fixed charge or legal assignment in such form as the Security Agent may require.
- (d) Notwithstanding any other provision of this Deed, the obtaining of a moratorium under section 1A of the Insolvency Act, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any Floating Charge to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by any Chargor or a ground for the appointment of a Receiver.
- (e) Any notice given by, or on behalf of the Security Agent under paragraph (a) above in relation to any Charged Property shall not be construed as a waiver or abandonment of the Security Agent's right to give any other notice in respect of that asset or any other asset or of any other right of a Secured Party under this Deed or any other Secured Debt Document.

## **2.6 Reconversion of Floating Charge**

- (a) A Floating Charge which has been crystallised under Clause 2.5 (*Conversion of Floating Charge*) may, by notice in writing given at any time by the Security Agent be reconverted into a Floating Charge in relation to the assets specified in the notice.
- (b) The conversion to a fixed charge and reconversion to a Floating Charge (or the converse) may occur any number of times.



## **2.7 Excluded Assets**

- (a) Notwithstanding any other provisions of this Deed, subject to paragraph (b) below, unless otherwise expressly agreed in writing between the relevant Chargor and the Security Agent after the date of this Deed any Excluded Asset shall be excluded from this Security (other than the Floating Charge), from the other provisions of this Deed and from the operation of any further assurance provisions contained in this Deed or another Secured Debt Document, except in each case as they relate to the Floating Charge.
- (b) Paragraph (a) above will only apply to any asset or undertaking for so long as the relevant prohibition, requirement for consent or other matter which qualifies it as an Excluded Asset applies and if such prohibition or right to terminate is irrevocably and unconditionally waived or otherwise ceases to apply or such consent is granted, the relevant Chargor agrees to take all steps required pursuant to the further assurance provisions of this Deed and the Secured Debt Documents so that the relevant asset is thereafter included in this Security.
- (c) In the case of an asset or undertaking described in paragraphs (a) or (b) of the definition of Excluded Assets the relevant Chargor shall use its reasonable endeavours (without incurring material costs or taking any action which adversely impacts relationships with third parties) to obtain consent to charging any such asset or undertaking (where otherwise prohibited) if the Security Agent specifies prior to the date of this Deed, that such asset or undertaking is material.

## **3. RELEASE AND RE-ASSIGNMENT**

- (a) The Security Agent shall, at the request and cost of a Chargor, promptly take any action which is, in each case, necessary, desirable or otherwise requested by that Chargor to release the Charged Property from this Security in a manner satisfactory to that Chargor:
  - (i) at the end of the Security Period; or
  - (ii) if the release of such Charged Property is permitted by the ABL Credit Agreement.
- (b) The action described in paragraph (a) above includes preparing and delivering all documents and instruments (including any termination or release letter or deed) and performing all acts or deeds (including returning title documents, share certificates, related share transfer forms and any other document belonging to a Chargor and sending notifications to the Account Banks and counterparties to the Assigned Agreements).
- (c) The Security Agent is entitled to rely absolutely and without any further investigation on any notification from a Chargor as described in this Clause and is irrevocably authorised by each Secured Party to enter into such documentation.

## **4. REPRESENTATIONS AND WARRANTIES**

### **4.1 General**

Each Chargor represents and warrants to the Security Agent as set out in this Clause 4 on the date of this Deed.

### **4.2 Shares**

It is the legal and beneficial owner of the Shares identified against its name in Schedule 2 (*Charged Property*) which represent the entire issued share capital of the relevant Subsidiaries and all of those Shares are fully paid and not subject to pre-emption or other similar rights.

### **4.3 Schedules**

To the best of each Chargor's knowledge and belief, the information contained in each of the schedules to this Deed is accurate, complete and correct as at the date of this Deed.

### **4.4 Warning Notices**

- (a) It has not issued and does not intend to issue any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of any Shares which constitute Charged Property and to its knowledge no circumstances exist which entitle it to issue any such notice.
- (b) It has not received any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of any Shares which constitute Charged Property.

### **4.5 Security**

- (a) This Deed creates the various forms of Security it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of any Chargor, or otherwise.

### **4.6 Times when representations made**

- (a) All the representations and warranties are made by each Chargor on the date of this Deed (and on the date of each Credit Extension, with the same force and effect as if such representation and warranty was made as of the date hereof).

## **5. UNDERTAKINGS**

### **5.1 General**

- (a) Each Chargor will comply with the undertakings set out in this Deed.

- (b) In relation to an undertaking which applies to a specific type of Charged Property, a Chargor will only be required to comply with that undertaking to the extent it has an interest in Charged Property of that type.

## **5.2 Restriction on dealing**

- (a) Subject to paragraph (b) below, it will not and will ensure that its Subsidiaries do not (i) create or permit to subsist any Security or Quasi Security on or over the whole or any part of its undertaking or assets or (ii) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not and whether voluntarily or involuntarily) the whole or any part of its interest in any Charged Property.
- (b) The restrictions in paragraph (a) above will not restrict matters which are permitted by the ABL Credit Agreement.

## **5.3 Perfection and documents of title**

- (a) It will, as soon as practicable (or within the time periods as specified in the schedule), take the actions set out in Schedule 3 (*Actions on the date of this Deed and in respect of any after-acquired property*) in relation to its interest in the Charged Property.
- (b) It will, following an Enforcement Event, deposit with the Security Agent (or as it shall direct) all other documents relating to the Charged Property which the Security Agent may from time to time reasonably require.
- (c) The Security Agent may retain any document delivered to it under this Deed or otherwise until the end of the Security Period and, if for any reason it ceases to hold any such document before that time, it may by notice to the relevant Chargor require that the document be redelivered to it and the relevant Chargor shall promptly comply (or procure compliance) with that notice and at the reasonable cost (if any) of the Secured Parties to the extent such requirement is expressly the fault of the Security Agent.
- (d) Any document required to be delivered to the Security Agent under this Deed which is for any reason not so delivered or which is released by the Security Agent to the relevant Chargor shall be held on trust by the relevant Chargor for the Security Agent.

## **5.4 Other undertakings**

- (a) It acknowledges and will comply with the provisions of Schedule 4 (*Provisions applicable to the Charged Property*) as they apply to it and its interest in any Charged Property.
- (b) Upon a reasonable request from the Security Agent in writing to the relevant Chargor upon the occurrence of an Enforcement Event, the relevant Chargor will deliver to the Security Agent within 3 Business Days a list of the Charged Property of that Chargor in such form as the Security Agent shall reasonably require, such requirement to be included in the initial written request made to that Chargor.

## **5.5 Further assurance**

- (a) The covenants set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in paragraphs (b) to (d) below.
- (b) Each Chargor shall 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 nominee(s)):
  - (i) to create or perfect this Security (which may include the execution or re-execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Security) or for the exercise of any rights, powers and remedies of the Security Agent, any Receiver or the other Secured Parties provided by or pursuant to the Secured Debt Documents or by law;
  - (ii) to confer on the Security Agent or confer on the Secured Parties, Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to this Security; and/or
  - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Security.
- (c) 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 this Security.
- (d) In relation to any provision of this Deed which requires a Chargor to deliver any document for the purposes of granting any guarantee or Security for the benefit of the Security Agent or any other Secured Party, the Security Agent agrees to execute as soon as reasonably practicable any such agreed form document which is presented to it for execution.

## **6. ENFORCEMENT**

### **6.1 When enforceable**

- (a) This Security will become immediately enforceable if an Enforcement Event occurs.
- (b) After this Security has become enforceable or if the relevant Chargor requests it to do so, the Security Agent may enforce all or any part of this Security in any manner it sees fit or as instructed in accordance with the Secured Debt Documents without further notice to any Chargor, irrespective of whether the Security Agent has taken possession or appointed a Receiver of the Charged Property.

- (c) For the purpose of all rights and powers implied or granted by statute, the Secured Obligations are deemed to have become due and payable on the date written above at the start of this Deed.

## **6.2 Enforcement powers**

- (a) The power of sale and other powers conferred by section 101 of the LPA and all other enforcement powers conferred by this Deed shall be immediately exercisable at any time after an Enforcement Event.
- (b) The powers conferred on mortgagees, receivers or administrative receivers by the LPA and the Insolvency Act (as the case may be) shall apply to this Security, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers contained in those acts and those contained in this Deed, those contained in this Deed shall prevail.
- (c) Section 103 of the LPA (restricting the power of sale) and section 93 of the LPA (restricting the right of consolidation) do not apply to this Security.
- (d) At any time after an Enforcement Event, the Security Agent may lease, make agreements for leases at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it thinks fit, without the need to comply with any of the provisions of sections 99 and 100 of the LPA.
- (e) If at any time a Chargor does not comply with any of its obligations under this Deed, the Security Agent (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The relevant Chargor irrevocably authorises the Security Agent and its employees and agents by way of security to do all such things (including entering the property of their Chargor) which are necessary or desirable to rectify that default.

## **6.3 Appropriation under the Financial Collateral Regulations**

- (a) To the extent that any of the Charged Property constitutes “financial collateral” and this Deed and the obligations of the Chargors hereunder constitute a “security financial collateral arrangement” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (as amended)), the Security Agent shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise that right to appropriate by giving notice to the relevant Chargors at any time after an Enforcement Event.
- (b) The Parties agree that the value of any such appropriated financial collateral shall be by reference to either the relevant public quoted index reflecting the right to effect an immediate sale thereof on a recognised stock exchange at such price on such date of valuation (if applicable) or the fair market value of such financial collateral as determined by the Security Agent in a commercially reasonable manner (including by way of an independent valuation). The Parties

agree that the methods of valuation provided for in this paragraph shall constitute commercially reasonable methods of valuation.

## **7. RECEIVERS AND ADMINISTRATORS**

### **7.1 Appointment**

- (a) Except as provided below, at any time after this Security has become enforceable, or if so requested by the relevant Chargor, the Security Agent may appoint one or more persons to be a Receiver of all or any part of the Charged Property.
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA) does not apply to this Deed.
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act other than in respect of a floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act.
- (e) The Security Agent may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act) over the Charged Property if the Security Agent is prohibited from so doing by section 72A of the Insolvency Act and no exception to the prohibition applies.

### **7.2 Removal**

The Security Agent may by writing under its hand (subject to any requirement for an order of the court in the case of administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **7.3 Remuneration**

The Security Agent may fix the remuneration of any Receiver appointed by it and the maximum rate specified in section 109(6) of the LPA will not apply.

### **7.4 Agent of relevant Chargor**

- (a) A Receiver will be deemed to be the agent of the relevant Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA.
- (b) The relevant Chargor alone is solely responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver (including his remuneration and expenses).

- (c) The Security Agent will not be responsible for any misconduct, negligence or default of a Receiver.

## **7.5 Powers**

- (a) A Receiver has all of the rights, powers and discretions set out in this Clause 7.5 in addition to those conferred on it by any law.
- (b) A Receiver has (subject to any limitations or restrictions which the Security Agent may incorporate in the deed or instrument appointing it) all the powers conferred from time to time on receivers by the LPA and the Insolvency Act (each of which is deemed incorporated in this Deed), so that the powers set out in Schedule 1 (*The Chargors*) to the Insolvency Act shall extend to a Receiver, whether or not an administrative receiver.
- (c) Notwithstanding any liquidation of the relevant Chargor, a Receiver shall, have power to (but will not be limited to):
  - (i) manage, develop, reconstruct, amalgamate or diversify any part of the business of the relevant Chargor;
  - (ii) enter into or cancel any contracts on any terms or conditions;
  - (iii) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this Security or not;
  - (iv) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Charged Property, without being responsible for loss or damage;
  - (v) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;
  - (vi) make and effect all repairs, renewals and improvements to any of the Charged Property and maintain, renew, take out or increase insurances;
  - (vii) exercise all voting and other rights attaching to the Investments or stocks, shares and other securities owned by the relevant Chargor and comprised in the Charged Property;
  - (viii) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
  - (ix) appoint and discharge officers and others for any of the purposes of this Deed and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;

- (x) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the relevant Chargor or relating to any of the Charged Property;
- (xi) implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on any real property comprised in the Charged Property;
- (xii) purchase or acquire any land or any interest in or right over land;
- (xiii) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 7.5, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property,

and in each case may use the name of any Chargor and exercise the relevant power in any manner which he may think fit.

- (d) If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Deed (unless the document appointing such Receiver states otherwise).
- (e) The Security Agent may, at any time after an Enforcement Event has occurred, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on each Chargor. Each Chargor will, upon a demand made in writing to it, pay to the Security Agent all principal monies and interest and all losses incidental to any such redemption or transfer.

## **8. APPLICATION OF PROCEEDS**

### **8.1 Order of application**

All moneys received or recovered by the Security Agent or any Receiver pursuant to this Deed shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified in Section 7.4 (*Application of Proceeds*) of the ABL Security Agreement, notwithstanding any purported appropriation by any Chargor.

### **8.2 Insurance proceeds**

If an Enforcement Event has occurred and the Security Agent has delivered a notice, all moneys received by virtue of any insurance maintained or effected in respect of the Charged Property shall be paid to the Security Agent (or, if not paid by the insurers directly to the Security Agent, shall be held on trust for the Security Agent) and shall, at the option of the Security Agent, be applied in replacing or reinstating the assets destroyed, damaged or lost or (except in the case of leasehold premises) in reduction of the Secured Obligations.



### **8.3 Section 109 of the LPA**

Sections 109(6) and (8) of the LPA shall not apply to a Receiver appointed under this Deed.

### **8.4 Application against Secured Obligations**

Subject to Clause 8.1 (*Order of application*) above, any moneys or other value received or realised by the Security Agent from a Chargor or a Receiver under this Deed may be applied by the Security Agent to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Security Agent may determine.

### **8.5 Suspend account**

- (a) Until the expiry of the Security Period, the Security Agent may place and keep (for such time as it shall determine) any money received, recovered or realised pursuant to this Deed or on account of any Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account (to the credit of either the relevant Chargor or the Security Agent as the Security Agent shall think fit) and the Receiver may retain the same for the period which he and the Security Agent consider expedient without having any obligation to apply all or any part of that money in or towards discharge of the Secured Obligations.
- (b) If the Security created under this Deed is enforced at a time when no amount is due under the Secured Debt Documents but at the time when amounts may or will become due, the Security Agent (or Receiver) may pay the proceeds of recoveries into a suspense account.

## **9. PROTECTIONS**

### **9.1 Continuing security**

This Security is a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other act, matter or thing.

### **9.2 Other security**

This Security is in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other Security or other right which the Security Agent and/or any other Secured Party may now or after the date of this Deed hold for any of the Secured Obligations, and this Security may be enforced against each Chargor without first having recourse to any other rights of the Security Agent or any other Secured Party.

### **9.3 Primary liability of Chargor**

Each Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Secured Obligations and the Charged Property shall be deemed to be a principal security for the Secured Obligations.

#### 9.4 Waiver of defences

The obligations of each Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 9.4, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or the Security Agent or any other Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Chargor, any other Obligor (together the *Recourse Parties*) or other person;
- (b) the release of any other Recourse Party or any other person under the terms of any composition or arrangement with any creditor of any Recourse Party or any other person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Recourse Party or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Recourse Party or any other person;
- (e) any amendment (however fundamental) or replacement of a Secured Debt Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Secured Debt Document or any other document or security; or
- (g) any insolvency or similar proceedings.

#### 9.5 Chargor intent

Without prejudice to the generality of Clause 9.4 (*Waiver of defences*), each Chargor expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Secured Debt Documents and/or any facility or amount made available under any of the Secured Debt Documents for the purposes of or in connection with any of the following:

- (a) acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;

- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### **9.6 Deferral of Chargors' rights**

Until the end of the Security Period, unless the Security Agent otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Secured Debt Documents:

- (a) to be indemnified by any other Recourse Party;
- (b) to claim any contribution from any other guarantor of any Recourse Party's obligations under the Secured Debt Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any of the Security Agent's rights under the Secured Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, the Secured Debt Documents by the Security Agent.

#### **9.7 Amounts avoided**

If any amount paid by a Chargor in respect of the Secured Obligations is avoided, reduced or otherwise set aside as a result of insolvency, winding-up, liquidation, administration or similar event in respect of that Chargor or otherwise, then for the purposes of this Deed that amount shall not be considered to have been paid and this Security shall continue.

#### **9.8 Discharge conditional**

Any settlement or discharge between a Chargor and any Secured Party shall be conditional upon no security or payment to that Secured Party by that Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Secured Party under this Deed) that Secured Party shall be entitled to recover from that Chargor the value which that Secured Party has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

#### **9.9 No liability**

Neither the Security Agent nor any Receiver shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his gross negligence, wilful default or breach of any obligations under the Secured Debt Documents.

#### **9.10 Possession of Charged Property**

Without prejudice to Clause 9.1 (*Continuing security*) above, if the Security Agent or the Receiver enters into possession of the Charged Property, it will not be liable to

account as mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable and may at any time at its discretion go out of such possession.

#### **9.11 Delegation**

- (a) Following an Enforcement Event and subject to the terms of the Secured Debt Documents, the Security Agent may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may reasonably think fit.
- (b) The Security Agent will not be liable or responsible to any Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate.

#### **9.12 Cumulative powers**

- (a) The powers which this Deed confers on the Security Agent, the other Secured Parties and any Receiver appointed under this Deed are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate.
- (b) The Security Agent, the other Secured Parties or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever.
- (c) The respective powers of the Security Agent, the other Secured Parties and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

#### **9.13 No obligation to enquire**

No purchaser from, or other person dealing with, the Security Agent or any Receiver (or their agents) shall be obliged or concerned to enquire whether:

- (a) the right of the Security Agent or any Receiver to exercise any of the powers conferred by this Deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such powers; or
- (b) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

#### **9.14 Receipt conclusive**

The receipt of the Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Security Agent or any Receiver.

### **9.15 Ruling off**

If the Security Agent or any other Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as permitted by the ABL Credit Agreement) it may open a new account for the relevant Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the relevant Chargor), as from the time it receives that notice, all payments made by the relevant Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the relevant Chargor and not as having been applied in reduction of the Secured Obligations.

## **10. POWER OF ATTORNEY**

- (a) Each Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any person nominated for this purpose by the Security Agent or any Receiver as its attorney (with full power of substitution and delegation) (any such person an *Attorney*) to act in its name and on its behalf and as its act and deed.
- (b) At any time after the occurrence of an Enforcement Event, an Attorney may execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which is expressly required to be executed or done under the terms of this Deed, or which may be required to enable the exercise of any rights or powers conferred on the Security Agent or any Receiver under this Deed or otherwise for any of the purposes of this Deed.
- (c) Each Chargor covenants with the Security Agent and each Receiver to ratify and confirm all acts or things made, done or executed (or purported to be made, done or executed) by an Attorney.

## **11. CHANGES TO THE PARTIES**

### **11.1 Assignment**

- (a) The Security Agent may at any time assign or otherwise transfer all or any part of its rights and obligations under this Deed in accordance with the Secured Debt Documents.
- (b) The Security Agent shall be entitled to disclose such information concerning each Chargor and this Deed as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.
- (c) None of the rights and obligations of any Chargor under this Deed shall be capable of being assigned or transferred.

## **12. PARTIAL INVALIDITY**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of

such provisions under the law of any jurisdiction will in any way be affected or impaired.

### **13. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of any Secured Party shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

### **14. AMENDMENTS AND WAIVERS**

Any term of this Deed may be amended or waived only in accordance with the terms of the ABL Credit Agreement and any such amendment or waiver will be binding on all Parties.

### **15. FAILURE TO EXECUTE**

Failure by one or more parties (*Non-Signatories*) to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other Parties who do execute this Deed. Such Non-Signatories may execute this Deed on a subsequent date and will thereupon become bound by its provisions.

### **16. GOVERNING LAW**

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

### **17. ENFORCEMENT**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed) or any non-contractual obligation arising out of or in connection with this Deed (a *Dispute*).
- (b) 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.
- (c) Notwithstanding paragraphs (a) and (b) above, no Secured Party shall 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.

### **18. CONTRACTUAL RECOGNITION OF BAIL-IN**

- (a) For the purposes of this Clause 19:

**Article 55 BRRD** means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

**Bail-In Action** means the exercise of any Write-down and Conversion Powers.

**Bail-In Legislation** means:

- (i) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (ii) in relation to the United Kingdom, the UK Bail-In Legislation; and
- (iii) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

**EEA Member Country** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**EU Bail-In Legislation Schedule** means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

**Resolution Authority** means any body which has authority to exercise any Write-down and Conversion Powers.

**UK Bail-In Legislation** means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**Write-down and Conversion Powers** means:

- (i) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (ii) in relation to the UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and
- (iii) in relation to any other applicable Bail-In Legislation:

- (A) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and
  - (B) any similar or analogous powers under that Bail-In Legislation.
- (b) Notwithstanding any other term of any Secured Debt Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Secured Debt Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:
  - (i) any Bail-In Action in relation to any such liability, including (without limitation):
  - (ii) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (iii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iv) a cancellation of any such liability; and
- (c) a variation of any term of any Secured Debt Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

**IN WITNESS whereof this Deed has been duly executed and delivered as a deed on the date stated at the beginning of this Deed.**



**SCHEDULE 1****THE CHARGORS**

<b>Name of Chargor</b>	<b>Registered Number</b>	<b>Registered Address</b>
California Holding III Limited	14253707	100 New Bridge Street, London, United Kingdom, EC4V 6JA
Calderys NGJ Limited	04148785	Unit 3 & 4 Olympic Park, Poole Hall Road, Ellesmere Port, United Kingdom, CH66 1ST
Harbisonwalker International Limited	00175893	Pyramid Works Dock Rd South, Bromborough, Merseyside, CH62 4SP

**SCHEDULE 2****CHARGED PROPERTY****Shares**

<b>Chargor</b>	<b>Name of issuer company</b>	<b>Number and class of Shares</b>
California Holding III Limited	California Acquisition Germany GmbH	25,000,000 Shares of EUR 1 each
California Holding III Limited	California France Acquisition SAS	1 share of EUR 1
California Holding III Limited	California Sweden Acquisition AB	25,000 Shares
California Holding III Limited	Calderys NGJ Limited	8,620,130 Ordinary Shares of GBP 1 each

**Bank Accounts**

<b>Chargor</b>	<b>Bank</b>	<b>Account number/IBAN</b>	<b>Collection/Blocked?</b>
California Holding III Limited	Barclays Bank Plc	[REDACTED]	No
California Holding III Limited	Barclays Bank Plc	[REDACTED]	No
California Holding III Limited	BNP Paribas	[REDACTED]	No
California Holding III Limited	BNP Paribas	[REDACTED]	No
Calderys NGJ Limited	HSBC	[REDACTED]	Yes

Calderys Limited	NGJ	HSBC		Yes
Calderys Limited	NGJ	HSBC		Yes
Calderys Limited	NGJ	Barclays Bank Plc		Yes
Calderys Limited	NGJ	Barclays Bank Plc		Yes
Calderys Limited	NGJ	Barclays Bank Plc		Yes
Calderys Limited	NGJ	Barclays Bank Plc		Yes
Harbisonwalker International Limited		Barclays Bank Plc		Yes
Harbisonwalker International Limited		Barclays Bank Plc		Yes
Harbisonwalker International Limited		Barclays Bank Plc		Yes

#### Assigned Agreements

N/A

### SCHEDULE 3

#### ACTIONS ON THE DATE OF THIS DEED AND IN RESPECT OF ANY AFTER-ACQUIRED PROPERTY

##### Shares

- (a) Each Chargor will deposit with the Security Agent (or as it shall direct) within 90 days of the date of this Deed (or, in respect of any stock or share certificates acquired after the date of this Deed, within 90 days of such date (or, in each case, such later date as the Security Agent may agree)) all stock and share certificates and other documents of title relating to its Shares held in companies incorporated in England and Wales together with stock transfer form(s) executed in blank and left undated.
- (b) The obligation in paragraph (a) above will be deferred until it receives duly stamped share certificates which are subject to stamping.
- (c) Notwithstanding anything herein to the contrary, prior to the Discharge of Fixed Asset Obligations (as defined in the ABL Intercreditor Agreement), any requirement under this Deed to deliver stock or share certificates (including any stock powers or other instruments of transfer related thereto) to the Security Agent shall be deemed complied with and satisfied if such delivery is made to, or such possession is with, the appropriate Collateral Agent (as defined in the ABL Intercreditor Agreement), as bailee for the Security Agent, in accordance with the terms of the ABL Intercreditor Agreement.

##### Bank Accounts

- (a) Each Chargor will within 5 Business Days of the date of this Deed (or, in respect of any Bank Account which becomes the subject of this Security after the date of this Deed, within 5 Business Days of such date (or, in each case, such later date as the Security Agent may agree to)):
  - (i) serve a Bank Account Notice on each person with whom a Bank Account is held; or
  - (ii) execute and deliver an account control agreement with each person with whom a Bank Account is held, on terms acceptable to the Security Agent and the relevant account bank in their absolute discretion.
- (b) Each Chargor will:
  - (i) in respect of each of its Bank Accounts that is not a Blocked Account, use its reasonable endeavours within 20 Business Days of service pursuant to paragraph (a) above to obtain from each person who is served a Bank Account Notice, an acknowledgement substantially in the form of the schedule to the Bank Account Notice, **provided that**, if the relevant Chargor has used its reasonable endeavours and has still not been able to obtain such acknowledgement from the Account Bank any obligation to obtain an acknowledgement shall cease 20 Business Days following the date of service of the relevant Bank Account Notice; and

(ii) in respect of each of its Blocked Accounts, comply with the provisions of section 9.17(e) (*Dutch, English and German Deposit Accounts*) of the ABL Credit Agreement in the time periods set out in that section. A duly executed Bank Account Notice and acknowledgement of that Bank Account Notice in the form of the schedule to the Bank Account Notice shall be a “Deposit Account Control Agreement” for the purposes of the ABL Credit Agreement.

#### Assigned Agreements

- (a) Each Chargor will within 5 Business Days of the date of this Deed (or, in respect of any Assigned Agreement which becomes the subject of this Security after the date of this Deed, within 5 Business Days of such date (or, in each case, such later date as the Security Agent may agree to)) serve an Assigned Agreement Notice to each person who is a party to any Assigned Agreement.
- (b) Subject to paragraph (c) below, each Chargor will use its reasonable endeavours within 20 Business Days of service pursuant to paragraph (a) above to obtain from a person who is served an Assigned Agreement Notice, an acknowledgement substantially in the form of the schedule to the Assigned Agreement Notice, **provided that**, if the relevant Chargor has used its reasonable endeavours and has still not been able to obtain such acknowledgement from the person to whom an Assignment Agreement Notice was served, any obligation to obtain an acknowledgement shall cease 20 Business Days following the date of service of the relevant Assigned Agreement Notice.
- (c) No Chargor will be required to serve an Assigned Agreement Notice on a person who is a Party. Execution by it of this Deed will serve as notice on that Party as if an Assigned Agreement Notice had been served on it and execution by that Party of this deed will operate as its acknowledgement in the terms of the schedule to the Assigned Agreement Notice.

#### Insurance Policies

Each Chargor shall in respect of an Insurance Policy:

- (a) promptly and, in any event, within ten (10) Business Days after the date of this Deed (or, in respect of any Insurance Policy which becomes the subject of this Security after the date of this Deed, within ten (10) Business Days of such date (or, in each case, such later date as the Security Agent may agree to)) serve give notice, substantially in the form of Part 3(A) of Schedule 5 (*Form of Notices*), to each of the other parties to each of the Insurance Policies that it has assigned or charged its right under the relevant Insurance Policy pursuant to this Deed; and
- (b) use all reasonable endeavours to procure that such counterparty acknowledges that notice, substantially in the form in the form of form of Part 3(B) of Schedule 5 (*Form of Notices*) within 20 Business Days of service pursuant to paragraph (a) above **provided that**, any obligation to obtain an acknowledgement shall cease 20 Business Days following the date of service of the relevant notice.

9817160.5

## SCHEDULE 4

### PROVISIONS APPLICABLE TO THE CHARGED PROPERTY

#### Shares

- (a) Prior to the occurrence of an Enforcement Event, subject to the terms of the ABL Credit Agreement:
  - (v) each Chargor shall be entitled to receive and retain all dividends, distributions and other monies paid on or derived from its Shares; and
  - (vi) each Chargor shall be entitled to exercise all voting and other rights and powers attaching to its Shares **provided that** it shall not exercise any such voting rights or powers in a manner which would prejudice the interests of the Secured Parties or adversely affect the validity, enforceability or existence of this Security or cause an Event of Default to occur.
- (b) At any time an Enforcement Event, subject to the terms of the ABL Credit Agreement:
  - (i) all voting rights in respect of its Shares shall be exercised by each Chargor as directed by the Security Agent, unless the Security Agent has notified it in writing that it wishes to give up this right;
  - (ii) (following delivery of a notice by the Security Agent) it shall hold any dividends, distributions and other monies paid on or derived from each Chargor's Shares on trust for the Secured Parties and pay the same to, or as directed by, the Security Agent and the Security Agent may apply all dividends, distributions and other monies arising from the Shares in accordance with Clause 8 (*Application of proceeds*); and
  - (iii) the Security Agent may complete the instrument(s) of transfer for all or any Shares on behalf of any Chargor in favour of itself or such other person as it may select.
- (c) The Security Agent shall be entitled, at any time an Enforcement Event has occurred to complete, under its power of attorney given in this Deed, the stock transfer forms on behalf of the relevant Chargor in favour of itself or such other person as it shall select.
- (d) If, at any time an Enforcement Event has occurred, any Share is registered in the name of the Security Agent or its nominee, the Security Agent will not be under any duty to ensure that any dividends, distributions or other monies payable in respect of that Share are duly and promptly paid or received by it or its nominee, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) stocks, Shares, rights, moneys or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, that Share.

PSC Register

- (a) Each Chargor whose Shares constitute Charged Property shall promptly upon prior written request by the Security Agent following an Enforcement Event:
  - (i) notify the Security Agent if it has issued any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of its Shares which constitute Charged Property which has not been withdrawn; and
  - (ii) (if applicable) provide to the Security Agent a copy of any such warning notice or restrictions notice.
- (b) Each Chargor whose Shares constitute Charged Property shall promptly following an Enforcement Event:
  - (i) notify the Security Agent of its intention to issue any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of its Shares which constitute Charged Property; and
  - (ii) provide to the Security Agent a copy of any such warning notice or restrictions notice.
- (c) For the purposes of withdrawing any restrictions notice or for any application (or similar) to the court under Schedule 1B of the Companies Act 2006, in each case, in connection with an enforcement of security under and in accordance with this Deed, each Chargor shall provide such assistance as the Security Agent may request in respect of any Shares which constitute Charged Property and provide the Security Agent with all information, documents and evidence that it may request in connection with the same.
- (d) Each Chargor shall:
  - (i) comply with any notice served on it from any member of the Group pursuant to Part 21A of the Companies Act 2006 (including any timeframe specified in such notice);
  - (ii) promptly notify the Security Agent if it receives a warning notice or restrictions notice under Schedule 1B of the Companies Act 2006,

in each case, in relation to Shares that are subject to the Security under this Deed or any Security Accession Deed (as applicable).

Bank Accounts

- (a) The Security Agent shall not be entitled to give any notice referred to in a Bank Account Notice withdrawing its consent to the making of withdrawals (a ***Bank Account Control Notice***), (i) in respect of any Bank Account other than a Blocked Account unless and until an Enforcement Event has occurred and (ii) in respect of a Blocked Account, unless and until a Liquidity Period or an Enforcement Event has occurred and is continuing.
- (b) Each Chargor shall, prior to a Bank Account Control Notice being sent, be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Bank Account, subject to the terms of the ABL Credit Agreement .
- (c) On and from delivery of a Bank Account Enforcement Notice, the Chargor who sent that Bank Account Notice shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Bank Account, except with the prior written consent of the Security Agent.
- (d) The Security Agent shall, following the occurrence of an Enforcement Event, at any time when there are Secured Obligations outstanding, be entitled without notice to apply, transfer or set-off any or all of the credit balance from time to time on any Bank Account in or towards the payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 8 (*Application of proceeds*).
- (e) Each Chargor shall promptly deliver to the Security Agent details of each Bank Account in which it opens from time to time.
- (f) The Security Agent (on behalf of any Secured Party) may, after the service of a Bank Account Control Notice, without prior written notice to the relevant Chargor or any other person exercise from time to time all rights, powers and remedies to:
  - (i) demand and receive all and any monies due under or arising out of each Blocked Account; and
  - (ii) exercise all such rights as any Chargor was then entitled to exercise in relation to such Blocked Account or might, but for the terms of this Deed, exercise.

Receivables

- (a) Each Chargor will, promptly and in any event within 5 Business Days after an Enforcement Event:
  - (iii) serve notice, substantially in the form of Part 1 of Schedule 5 (*Form of Notices*), to each counterparty in respect of each of its Trading Receivables and use all reasonable endeavours to procure that such relevant counterparty acknowledges that notice, substantially in the form of Part 1 of Schedule 5 (*Form of Notices*); and



- (iv) deliver to the Security Agent details of all its Intra-Group Receivables and a list of all its Trading Receivables, excluding details of any underlying contract in respect of such Trading Receivables.
- (b) The Security Agent shall not be entitled to give any notice referred to in a Counterparty Notice (a *Counterparty Enforcement Notice*), unless and until an Enforcement Event has occurred.
- (c) Prior to delivery of a Counterparty Enforcement Notice, the relevant Chargor shall be entitled to receive and retain all payments, distributions and other monies paid on or derived from its Receivables, subject to the terms of the ABL Credit Agreement.
- (d) On and from delivery of a Counterparty Enforcement Notice, the relevant Chargor shall not be entitled to receive, withdraw or otherwise transfer any payments, distributions and other monies paid on or derived from its Receivables except with the prior written consent of the Security Agent.
- (e) Each Chargor will collect in all Receivables and Related Rights charged to the Security Agent under this Deed, pay the proceeds into a Blocked Account promptly upon receipt or applying or paying those proceeds towards any other purpose permitted by the ABL Credit Agreement and, pending such payment, hold those proceeds on trust for the Security Agent.

#### Assigned Agreements

- (a) In respect of the Assigned Agreements, after the occurrence of an Enforcement Event, the Security Agent may exercise (without any further consent or authority on the part of the relevant Chargor and irrespective of any direction given by a Chargor) any of that Chargor's rights under or in respect of the Assigned Agreements, (as applicable).

#### Intellectual Property

- (a) Unless and until an Enforcement Event has occurred and is continuing, each Chargor may deal with its Intellectual Property in the ordinary course of business, to the extent not prohibited by the ABL Credit Agreement.
- (b) Upon the occurrence of an Enforcement Event which is continuing, each Chargor will promptly and at its own cost do all such acts and execute all such documents as the Security Agent may reasonably specify and in such form as the Security Agent may reasonably require to create, perfect, protect or maintain the Security created under this Deed in respect of any Intellectual Property, including notification of third parties from whom Intellectual Property is licensed, leased or from whom the relevant Chargor otherwise derives its interest in Intellectual Property.
- (c) Each Chargor as registered proprietor appoints the Security Agent as its agent to apply for the particulars of this Deed and of the Secured Parties' interest in its existing Intellectual Property and Intellectual Property applications and any future Intellectual Property or Intellectual Property applications to be registered

in the United Kingdom (and including, if appropriate, the United Kingdom Trade Marks Register, the European Patents Office and Office of Harmonisation for the Internal Market) in the name of that Chargor (if charged to the Security Agent under this Deed), and each Chargor agrees, at its own expense, to promptly execute all documents and forms and promptly do all acts, in each case as reasonably required by the Security Agent to enable those particulars to be entered on the relevant registers.

#### Insurance Policies

At any time on or after the occurrence of an Enforcement Event:

- (a) the Security Agent may exercise (without any further consent or authority on the part of any Chargor and irrespective of any direction given by any Chargor) any of the rights of any Chargor in connection with any amounts payable to it under any of its Insurance Policies;
- (b) each Chargor shall take such steps (at its own cost) as the Security Agent may require to enforce those rights; this includes initiating and pursuing legal or arbitration proceedings in the name of that Chargor;
- (c) each Chargor shall hold any payment received by it under any of its Insurance Policies on trust for the Security Agent; and
- (d) each Chargor shall, if required by the Security Agent (but subject to the provisions of any lease of the Charged Property and any other applicable restrictions), deposit all Insurance Policies held in the name of that Chargor and relating to material assets forming part of the Charged Property with the Security Agent.

#### Tangible Moveable Property

- (a) Unless and until an Enforcement Event has occurred, each Chargor may deal with its Tangible Moveable Property in the ordinary course of its business in any manner not prohibited by the ABL Credit Agreement.
- (b) Upon the occurrence of an Enforcement Event which is continuing, each Chargor will promptly and at its own costs do all such acts and execute all such documents as the Security Agent may reasonably specify and in such form as the Security Agent may reasonably require in order to create, perfect, protect or maintain the Security created under this Deed in respect of any Tangible Moveable Property, including the service of notice to third parties or by attaching a notice to such Tangible Moveable Property.

## SCHEDULE 5

### FORM OF NOTICES

#### PART 1

#### FORM OF NOTICE FOR RECEIVABLES

To: [insert name and address of counterparty]

Dated: [insert date]

[here identify the relevant Receivables] (the **Receivables**)

We notify you that we have [charged (by way of first fixed charge) in favour of]/[assigned to (and charged in favour of)]<sup>1</sup> [insert name of Security Agent] (the **Security Agent**) for the benefit of itself and certain other persons (the **Secured Parties**) all our right, title and interest in the Receivables as security for certain obligations owed by us and certain other parties to the Secured Parties by way of a security agreement dated [insert date] between, among others, us and the Security Agent (the **Security Agreement**).

We further notify you that you are authorised to disclose information in relation to the Receivables to the Security Agent on its request and that you may continue to deal with us in relation to the Receivables until you receive written notice from the Security Agent that the security created by the Receivables has become enforceable (an **Enforcement Notice**).

Following receipt by you of an Enforcement Notice, we will cease to have any right to deal with you in relation to the Receivables and therefore from that time you should deal only with the Security Agent and must pay all monies to which we are entitled under the Receivables direct to the Security Agent (and not to us) unless the Security Agent otherwise agrees in writing.

The provisions of this notice may only be revoked with the written consent of the Security Agent.

Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to us) by way of confirmation that (a) you agree to the terms set out in this notice and to act in accordance with its provisions, (b) you have not received notice that we have assigned our rights under the Receivables to a third party or created any other interest (whether by way of security or otherwise) in the Agreement in favour of a third party and (c) you have not claimed or exercised, nor do you have any outstanding right to claim or exercise against us any right of set-off, counter-claim or other right relating to the Receivables.

The provisions of this notice and non-contractual obligations arising under or in connection with it are governed by English law.

[Signature pages follow]

---

<sup>1</sup> Note: Delete as applicable in accordance with Clause 2.3 (*Specific Security*) of the Security Agreement.

Yours faithfully

.....

for and on behalf of  
[*insert name of Chargor*]

[*On acknowledgement copy*]

To: [insert name and address of Security Agent]

Copy to: [insert name and address of Chargor]

We acknowledge receipt of the above notice and confirm the matters set out in it.

.....

for and on behalf of  
[*insert name of Counterparty*]

Dated: [insert date]

## PART 2

### FORM OF NOTICE FOR BANK ACCOUNTS

To: [insert name and address of Account Bank] (the **Account Bank**)

Dated: [insert date]

[here identify the relevant bank account(s) – use a schedule if multiple] (the **Bank Account[s]**)

We notify you that we have assigned to (and charged in favour of) [insert name of Security Agent] (the **Security Agent**) for the benefit of itself and certain other persons (the **Secured Parties**) all of our right, title and interest in and to the monies from time to time standing to the credit of the Bank Account[s] and to all interest (if any) accruing on the Bank Account[s] by way of a security agreement dated [insert date] between, among others, us and the Security Agent (the **Security Agreement**).

We further notify you that you are authorised to disclose information in relation to the Bank Account[s] to the Security Agent on its request and that you may continue to deal with us in relation to the Bank Account[s] until you receive written notice from the Security Agent (a **Control Notice**).

Following receipt by you of a Control Notice, we will cease to have any right to deal with you in relation to the Bank Account[s] and therefore from that time you should deal only with the Security Agent and must hold all monies standing to the credit of the Bank Account[s] to the order of the Security Agent (and not us) and pay those monies direct to the Security Agent (or as it otherwise directs) unless the Security Agent otherwise agrees in writing.

Please sign and return a copy of the letter attached to this notice to the Security Agent (with a copy to us) which confirms, among other things, that (a) you agree to the terms set out in this notice and to act in accordance with its provisions, (b) you have not received notice that we have assigned our rights to the monies standing to the credit of the Bank Account[s] or otherwise granted any security or other interest over those monies in favour of any third party other than [insert description of Notes Debenture and BNPP Debenture]<sup>2</sup> and (c) you have not and will not exercise any right to combine accounts or any rights of set-off or lien or any similar rights in relation to the monies standing to the credit of the Bank Account[s], except security interests in favour of you created or arising by operation of law or in your standard terms and conditions (including, as applicable, for the netting of credit and debit balances pursuant to current account netting arrangements).

The provisions of this notice and non-contractual obligations arising under or in connection with it are governed by English law.

[Signature pages follow]

---

<sup>2</sup> Bracketed language only to be added if notice is being delivered with respect to a Holding bank account.

Yours faithfully,

.....  
for and on behalf of  
[Insert name of Chargor]

Dated: [insert date]

To: [Insert name and address of Security Agent]

Copy to: [Insert name of Chargor]

We acknowledge receipt of the above notice (the **Notice**) and confirm the matters set out in it. Defined terms in this letter have the meaning given in the Notice.

We hereby acknowledge that [the Chargor] has charged to the Security Agent by way of a first fixed charge all of its rights, title, interest and benefit in and to the Bank Account[s].

We hereby irrevocably undertake to you that until receipt by of us notice confirming that you longer have any interest in the Bank Account[s], we will:

- (a) not exercise any right of combination, consolidation, merger or set-off which we may have in respect of, or otherwise exercise any other right which we may have to apply any monies from time to time standing or accruing to the credit of the Bank Account[s] save for fees and charges payable to us for the operation of the Bank Account[s];
- (b) promptly notify you of any renewal, renumbering or redesignation of any and all of the Bank Account[s];
- (c) promptly send to you copies with respect to all the Bank Account[s] of all statements and, if requested by you, copies of all credits, debits and notices given or made by us in connection with such account;
- (d) after receipt by us of a Control Notice, not permit or effect any withdrawal or transfer from the Bank Account[s] by or on behalf of [the Chargor] save for withdrawals and transfers requested by you in writing to us pursuant to the terms of this letter; and
- (e) comply with all instructions received by us from you from time to time with respect to the conduct of the Bank Account[s] provided that such instructions are given in accordance with the terms of this letter.

You acknowledge that we are obliged to comply with the terms of this letter and that we have no notice of the particulars of the charge granted to you by [the Chargor] other than as set out in the Notice and this letter. You further acknowledge that subject to the terms of this letter we will not be liable to you in any respect if [the Chargor] operates the Bank Account[s] in breach of any agreement entered into by [the Chargor] with you.

This letter is governed by and will be construed in accordance with English law.

.....  
for and on behalf of

*[Insert name of Account Bank]*

## PART 3 – FORMS OF NOTICE FOR INSURANCE NOTICE

### PART A

#### NOTICE TO INSURER

To: [Insurer]

Copy: [Security Agent]

[Date]

**Security agreement dated [●] between the Chargors (as defined therein)  
and [●] (the *Security Agreement*)**

This letter constitutes notice to you that under the Security Agreement, each of the companies listed at the end of this notice as chargors (together the **Chargors**) has charged (by way of a first fixed charge) and assigned by way of security in favour of [insert name of Security Agent] (the **Security Agent**) for the benefit of itself and certain other persons (the **Secured Parties**) as first priority chargee and assignee our right, title and interest in and to the proceeds of all amounts payable to it under or in connection with any contract of insurance taken out with you by or on behalf of it or under which it has a right to claim and all of its rights in connection with those amounts (insurance policy no.: [●]) (the **Insurance Policy**).

A reference in this letter to any amounts excludes all amounts received or receivable under or in connection with any third party liability insurance and required to settle a liability of a Chargor to a third party.

[On behalf of each of the Chargors,] we confirm that:

- (a) the relevant Chargor will remain liable under [each] such Insurance Policy to perform all the obligations assumed by it under [the] [that] Insurance Policy; and
- (b) none of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of [any] such Insurance Policy.

The relevant Chargor will also remain entitled to exercise all of its rights, powers and discretions under [each] such Insurance Policy and you should continue to give notices under [each] such Insurance Policy to the relevant Chargor, unless and until you receive notice from the Security Agent to the contrary stating that the security has become enforceable. In this event, unless the Security Agent otherwise agrees in writing all amounts payable to the relevant Chargor under [each] such Insurance Policy must be paid to the Security Agent and any rights of the relevant Chargor in connection with those amounts will be exercisable by, and notices must be given to, the Security Agent or as it directs.

We irrevocably instruct and authorise you to disclose to the Security Agent any information relating to the Insurance Policy requested from you by the Security Agent.

The relevant Chargor may nevertheless amend or terminate the Insurance Policies without the prior written consent of the Security Agent until you receive written notice to the contrary from the Security Agent

The instructions in this letter may not be revoked or amended without the prior written consent of the Security Agent.



We acknowledge that you may comply with the instructions in this letter without any further permission from us or any Chargor and without any enquiry by you as to the justification for or validity of any request, notice or instruction.

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

Yours faithfully,

.....  
(Authorised signatory)

For [●] [(as agent for)  
each of the Chargors named below]

**CHARGORS**  
[*the relevant Chargors*]

## PART B

### FORM OF LETTER OF UNDERTAKING

To: [Security Agent]

Copy: [Each Chargor]

[Date]

Dear [Security Agent],

**Security agreement dated [●] between the Chargors (as defined therein)  
and [●] (the *Security Agreement*)**

We confirm receipt from the Chargors of a notice dated [●] of an assignment by each Chargor upon the terms of the Security Agreement of all amounts payable to it under or in connection with any contract of insurance referred to in taken out with us by or on behalf of it or under which it has a right to claim and all of its rights in connection with those amounts (insurance policy no.: [●]).

A reference in this letter to any amounts excludes all amounts received or receivable under or in connection with any third party liability insurance and required to settle a liability of the Chargors to a third party.

In consideration of your agreeing to the Chargors or any of them continuing their insurance arrangements with us we:

1. accept the instructions contained in the notice and agree to comply with the notice;
2. confirm that we have not received notice of the interest of any third party in those amounts and rights;
4. undertake to disclose to you without any reference to or further authority from the Chargors any information relating to those contracts which you may at any time request;
5. undertake to notify you of any breach by any Chargor of any of those contracts and to allow you or the Lender to remedy that breach; and
6. undertake not to amend or waive any term of or terminate any of those contracts on request by the Chargors without your prior written consent.

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

Yours faithfully,

.....  
for [Insurer]

## SCHEDULE 6

### FORM OF SECURITY ACCESSION DEED

**THIS DEED** is dated \_\_\_\_\_ and made between:

- (1) **[INSERT NAME OF ORIGINAL CHARGOR]** a limited liability company with registered number *[number]* and having its registered office at *[address]* (the ***Original Chargor***);
- (2) **[INSERT NAME OF ADDITIONAL CHARGOR]** a limited liability company with registered number *[number]* and having its registered office at *[address]* (the ***Additional Chargor***); and
- (3) **[INSERT NAME OF SECURITY AGENT]**, as Collateral Agent and security trustee for the Secured Parties (the ***Security Agent***).

#### **BACKGROUND:**

- (A) This deed is supplemental to a security agreement dated [●] between, among others, the Original Chargors, the other chargors named therein and the Security Agent (the ***Security Agreement***).
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute it under hand.

**IT IS AGREED** as follows:

#### **Definitions and interpretation**

Terms defined in the Security Agreement shall have the same meaning when used in this Deed.

Clause 1.2 (*Construction*) of the Security Agreement will be deemed to be set out in full in this Deed, but as if references in that clause to the “Deed” (meaning the Security Agreement) and other similar expressions were references to this Deed.

#### **Creation of security**

The Additional Chargor agrees to be a Chargor for the purposes of the Security Agreement with immediate effect and agrees to be bound by all of the terms of the Security Agreement as if it had originally been a party to it as a Chargor.

The Additional Chargor as primary obligor, covenants that it will on demand pay, discharge and satisfy the Secured Obligations in the manner provided for in the Secured Debt Documents when they fall due for payment pursuant to, and in accordance with, the Secured Debt Documents.

- (a) Subject to Clause 2.7 (Excluded Assets) of the Security Agreement, the Additional Chargor charges the following assets, both present and future, from time to time owned by it or in which it has an interest, by way of first fixed charge:
  - (i) all of its Shares and all corresponding Related Rights;

- (ii) all of its Investments (other than Shares) and all corresponding Related Rights;
  - (iii) all of its rights in respect of any Bank Account, any amount standing to the credit of any Bank Account and the debt represented by it and all corresponding Related Rights;
  - (iv) all of its Tangible Moveable Property and all corresponding Related Rights;
  - (v) all of its Trading Receivables and all rights and claims against third parties in respect of those Trading Receivables and all corresponding Related Rights;
  - (vi) the benefit of all licences, consents, authorisations and agreements held by it in connection with the use of any of its assets and all corresponding Related Rights;
  - (vii) all its rights, title and interest from time to time in and to its goodwill and rights in relation to the uncalled capital and all corresponding Related Rights;
  - (viii) all its rights, title and interest in (and claims under) the Insurance Policies and all corresponding Related Rights; and
  - (ix) if not effectively assigned by paragraph (b) below, by way of fixed charge all of its rights, title and interest from time to time in and to each Assigned Agreement and all Related Rights;
- (b) The Additional Chargor assigns absolutely, subject in each case to reassignment by the Security Agent at the end of the Security Period, all of its right, title and interest in each Assigned Agreement and all corresponding Related Rights (an *Assigned Asset*).
- (c) To the extent that any Assigned Asset described in paragraph (b) above is not assignable or capable of assignment, the assignment of that right purported to be effected by paragraph (b) above shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which that Additional Chargor may derive from that right or be awarded or entitled to in respect of that right.

Paragraph 14 of Schedule B1 to the Insolvency Act shall apply to each floating charge created by this Deed and each such floating charge is a **qualifying floating charge** for the purposes of the Insolvency Act.

### **Negative pledge**

The Additional Chargor will not, and will ensure that none of its Subsidiaries will (i) create or permit to subsist any Security or Quasi Security on or over the whole or any part its undertaking or assets (present or future) or (ii) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not and whether

voluntarily or involuntarily) the whole or any part of its interest in any Charged Property, in each case, except as expressly permitted by the ABL Credit Agreement.

### **Miscellaneous**

The Security Agreement shall remain in full force and effect as supplemented by this Deed.

The Security Agreement and this Deed shall be read together as one instrument on the basis that references in the Security Agreement to “this Deed” or “this Security Agreement” and other similar expressions will be deemed to be references to the Security Agreement as supplemented by this Deed.

This Deed is designated as a Credit Document for the purposes of the Secured Debt Documents.

Failure by one or more parties (*Non-Signatories*) to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other Parties who do execute this deed. Such Non-Signatories may execute this deed on a subsequent date and will thereupon become bound by its provisions.

The Additional Chargor confirms that its address details for notices are as set out on its signature page below.

### **Governing law**

This Deed and any non-contractual claims arising out of or in connection with it shall be governed by and construed in accordance with English law.

Subject to the paragraph below, the Parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed, whether contractual or non-contractual (including a dispute regarding the existence, validity or termination of this deed) (a *Dispute*).

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.

The Parties agree that, for the benefit of the Secured Parties only, nothing in this Deed shall limit the right of the Secured Parties to bring any legal action against any of the Chargors in any other court of competent jurisdiction.

**IN WITNESS whereof this deed has been duly executed and delivered on the date first above written.**

*[Signature pages follow]*

## SCHEDULE TO DEED OF ACCESSION

### Shares

Name of issuer	Number and class of Shares
[Name of company]	[XX] [ordinary] [Shares] of [XX] each

### Bank Accounts

Bank	Account number	Blocked?
[Name of bank]	[Details]	[Yes/No]

### Assigned Agreements

Description
[Details]

## SIGNATORIES TO DEED OF ACCESSION

### **THE ORIGINAL CHARGOR**

**EXECUTED** as a **DEED** by  
[NAME OF ORIGINAL CHARGOR] acting by:

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

In the presence of:

### **Witness**

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

9817160.5

Occupation: \_\_\_\_\_

**THE ADDITIONAL CHARGOR**

**EXECUTED** as a **DEED** by  
[*NAME OF ADDITIONAL CHARGOR*] acting by:

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

In the presence of:

**Witness**

Print name: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Occupation: \_\_\_\_\_

**[Notice Details**

Address: [●]

Facsimile: [●]

Attention: [●]

Email: [●]



**THE SECURITY AGENT**

**SIGNED** by  
[*NAME OF SECURITY AGENT*] acting by:

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**SIGNATORIES TO SECURITY AGREEMENT**

**THE ORIGINAL CHARGORS**

**EXECUTED** as a **DEED** by  
**CALIFORNIA HOLDING III LIMITED** acting by:

Print name: Ian Michael Stuart Downie

Title: Director

Signature:

In the presence of:

**Witness**

Print name:

CHRISTINA A. DOWDIE

Signature:

Address:

BEECH HILL, EASTON, WINCHESTER, HAMPSHIRE SO212D  
UK.

Occupation:

MEDIATOR

**Notice Details**

Address: California Holding III Limited, c/o Platinum Equity Advisors, LLC, 360  
North Crescent Drive, South Building, Beverly Hills, California 90210

Attention: Legal Department

Fax: 310-712-1863

With a copy (which shall not constitute notice) to:

Willkie Farr & Gallagher LLP  
787 Seventh Avenue  
New York, NY 10019  
Attention: Joshua Deason  
Fax: 212-728-9631

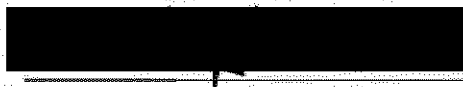
**THE ORIGINAL CHARGORS**

**EXECUTED** as a **DEED** by  
**CALDERYS NGJ LIMITED** acting by:

Print name: Aurelien Philippe Marie Cadars

Title: Director

Signature:



In the presence of:

**Witness**

Print name:

*Thomas Ostman*

Signature:



Address:

*Sturegatan 3B*

Occupation:

*Sales Director*

**Notice Details**

Address: Calderys NGJ Limited, c/o Unit 3 & 4 Olympic Park, Poole Hall Road,  
Ellesemere Port, United Kingdom, CH66 1ST

Attention:

Fax:

With a copy (which shall not constitute notice) to:

Willkie Farr & Gallagher LLP  
787 Seventh Avenue  
New York, NY 10019  
Attention: Joshua Deason  
Fax: 212-728-9631

**THE ORIGINAL CHARGORS**

**EXECUTED** as a **DEED** by  
**HARBISONWALKER INTERNATIONAL LIMITED** acting by:

Print name: Lynne Barnett

Title: Secretary

Signature:



In the presence of:

**Witness**

Print name:

EMMA SALISBURY

Signature:



Address:

61 Brooklyn Drive, Ellesmere Port CH65 7EF

Occupation:

UK COUNTRY ACCOUNTANT

**Notice Details**

Address:

Harbisonwalker International Limited, c/o Pyramid Works Dock Rd  
South, Bromborough, Merseyside, CH62 4SP

Attention:

Fax:

With a copy (which shall not constitute notice) to:

Willkie Farr & Gallagher LLP  
787 Seventh Avenue  
New York, NY 10019  
Attention: Joshua Deason  
Fax: 212-728-9631

**THE SECURITY AGENT**

**SIGNED by**  
**JPMORGAN CHASE BANK, N.A. acting by:**

Print name: Andre Lemons  
Title: Authorized Officer  
Signature: [REDACTED]

~~Print name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_~~

**Notice Details**

Address: JPMorgan Chase Bank, N.A. 3424 Peachtree Rd NE, 23rd Floor Atlanta, GA  
30326  
Attention: Andre Lemons  
Email: [andre.lemons@jpmorgan.com](mailto:andre.lemons@jpmorgan.com)