



Registration of a Charge

Company name: **BURNDEN LEISURE LIMITED**

Company number: **00335699**



X7ES37E0

Received for Electronic Filing: **18/09/2018**

Details of Charge

Date of creation: **07/09/2018**

Charge code: **0033 5699 0022**

Persons entitled: **MOONSHIFT INVESTMENTS LIMITED**

Brief description: **FIRST LEGAL MORTGAGE OVER ALL ESTATES OR INTERESTS IN EACH MORTGAGED PROPERTY (AS DEFINED IN THE INSTRUMENT). FIRST FIXED CHARGE OVER ALL ITS RIGHTS IN ITS INTELLECTUAL PROPERTY (AS DEFINED IN THE INSTRUMENT). FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**

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: **CHARLES RUSSELL SPEECHLYS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 335699

Charge code: 0033 5699 0022

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th September 2018 and created by BURNDEN LEISURE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th September 2018 .

Given at Companies House, Cardiff on 20th September 2018

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 07 September 2018

- (1) **BURNDEN LEISURE LIMITED**
(as Chargor)
and
(2) **MOONSHIFT INVESTMENTS LIMITED**
(as Lender)

DEBENTURE

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

Signed: Charles Russell Speechlys LLP

Dated: 11 September 2019.

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THIS DEED is made on

07 September

2018

BETWEEN:

- (1) **BURNDEN LEISURE LIMITED**, a company incorporated in England and Wales with company number 00335699, whose registered office is at University of Bolton Stadium, Burnden Way, Lostock, Bolton BL6 6JW (the "**Chargor**"); and
- (2) **MOONSHIFT INVESTMENTS LIMITED**, a company incorporated and registered in the British Virgin Islands, with its registered address at c/o Codan Trust Company (BVI) Limited, PO Box 3140, Road Town, Tortola, British Virgin Islands (the "**Lender**").

WHEREAS:

- (A) The Lender has agreed to make available to the Borrower certain loan facilities.
- (B) It is a condition precedent to those loan facilities being made available that the Chargor enters into this Deed.
- (C) It is intended by the parties to this Deed that this document will take effect as a deed despite the fact that a party may only execute this Deed under hand.

IT IS AGREED as follows:

1 DEFINITIONS

In this Deed:

Account Bank means each bank, financial institution or other person with whom an Account is maintained;

Accounts means all accounts with any bank, financial institution or other person at any time owned or operated by the Chargor, all money from time to time standing to the credit of any of those accounts and all interest accruing in relation to them and the debt or debts represented by them;

Administrator means any administrator appointed in respect of the Chargor whether by the Lender, a court or otherwise;

Borrower means Kenneth Anderson ([REDACTED]) whose address is [REDACTED]

Chattels means all plant, machinery, vehicles, tools, computers, equipment, furniture and other chattels and any renewals or replacements, together with the benefit of all warranties, guarantees, maintenance contracts, consents and licences relating to them;

Contracts means all contracts and agreements entered into by the Chargor and all guarantees, warranties and indemnities issued in relation to any Contract;

Default Rate has the meaning given to it in the Facility Agreement;

Delegate means any delegate, agent, attorney or co-trustee appointed by the Lender and/or any Receiver and/or any Delegate (as appropriate);

Discharge Date means the date on which the Lender is satisfied that all the Secured Liabilities have been irrevocably discharged in full and no further Secured Liabilities are capable of arising;

Dividends means all dividends and distributions of any kind, interest and any other monies received or receivable in relation to any of the Shares;

Event of Default has the meaning given to that term in the Facility Agreement;

Facility Agreement means the £5,000,000 term loan agreement dated on or about the date of this Deed between, amongst others, the Borrower and the Lender (as lender);

Finance Document has the meaning given to that term in the Facility Agreement;

Insolvency Act means the Insolvency Act 1986;

Intellectual Property means:

- (a) all patents, trademarks, service marks, designs, business and trade names, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests whether registered or unregistered; and
- (b) the benefit of all applications, licences and rights to use the assets listed in paragraph (a) above;

Investments means the Shares and the Dividends;

LPA means the Law of Property Act 1925;

Monetary Claims means all book and other debts and monetary claims of any nature and however arising at any time owing to the Chargor or in which it has an interest and all proceeds of those debts and claims, together with the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to the same;

Mortgaged Property means:

- (a) any freehold, leasehold or immovable property specified in Schedule 2 (*Mortgaged Property*) and any freehold, leasehold or immovable property specified in the schedule to any Legal Mortgage;
- (b) any buildings, erections, fixtures, fittings (including trade and tenant's fixtures, fittings and machinery) and fixed plant and machinery from time to time situated on or forming part of the property listed in paragraph (a) above; and

- (c) the benefit of any covenants for title by any predecessor in title in respect of the property listed in paragraph (a) above or any monies paid or payable in respect of those covenants;

Party means a party to this Deed;

Planning Legislation means any legislation regulating the development or use of land or the erection and demolition of buildings and other structures on such land and all orders, regulations and permissions made, issued or granted under such legislation;

Real Property means:

- (a) the Mortgaged Property;
- (b) any other freehold, leasehold or immovable property in which the Chargor has an interest from time to time (including, for the avoidance of doubt, an option to purchase any property);
- (c) any buildings, erections, fixtures, fittings (including trade and tenant's fixtures, fittings and machinery) and fixed plant and machinery from time to time situated on or forming part of the property listed in paragraphs (a) above and (b) above; and
- (d) the benefit of any covenants for title by any predecessor in title in respect of the property listed in paragraphs (a) and (b) above or any monies paid or payable in respect of those covenants;

Receiver means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets;

Regulations means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226);

Related Rights means as regards any asset, all present and future:

- (a) money and proceeds of any nature paid or payable in relation to the asset, including sale proceeds and money paid by way of damages, award or judgment made in connection with that asset (including, without limitation, in relation to the Shares, all Dividends); and
- (b) all rights, interests and assets of the Chargor of any nature attaching to, deriving from that asset or exercisable as a result of the Chargor's interest in or ownership or operation of the asset;

Relevant Currency means, in relation to each of the Secured Liabilities, the currency in which it is from time to time denominated;

Restrictions Notice means a "restrictions notice" as defined in paragraph 1(2) of Schedule 1(B) of the Companies Act 2006;

Secured Liabilities means all present and future monies, obligations and liabilities (whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity whatsoever) of the Borrower to any Secured Party under any Finance Document or otherwise (including, without limitation, those arising under Clause 24 (*Reinstatement*)), together with all interest (including, without limitation, default interest) accruing in respect of any of such monies, obligations and liabilities;

Secured Party means the Lender, a Receiver or a Delegate;

Security has the meaning given to that term in the Facility Agreement;

Security Assets means all of the assets which from time to time are, or are expressed to be, subject to this Security;

Security Period means the period from the date of this Deed until the Discharge Date;

Shares means:

- (a) all shares, stocks, debentures, bonds, any form of loan capital, warrants, coupons, interests in collective investment schemes and all other securities and investments of any kind whatsoever owned by the Chargor (or held by any nominee or trustee on its behalf) or in which it has an interest from time to time;
- (b) shares, stocks, debentures, bonds, any form of loan capital, warrants, coupons, securities, investments, money or other assets arising by way of conversion, exchange, substitution, rights issue, redemption, bonus, preference, option or otherwise in relation to any of the assets referred to in paragraph (a) above; and
- (c) rights to subscribe for, purchase or otherwise acquire any of the assets referred to in paragraph (a) above through options, warrants or otherwise; and

Warning Notice means a "warning notice" as defined in paragraph 1(2) of Schedule 1(B) of the Companies Act 2006.

2 CONSTRUCTION

2.1 Unless defined in this Deed, a term defined in the Facility Agreement has the same meaning in this Deed and in any notice given under or in connection with this Deed.

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

- 2.2.1 this Deed, a "**Finance Document**" or any other agreement or instrument is a reference to this Deed or that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, replaced or restated (in each case, other than in breach of this Deed or any other Finance Document) from time to time;

- 2.2.2 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);
- 2.2.3 a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- 2.2.4 **"asset"** or **"assets"** includes present and future properties, revenues, interests and rights of every description;
- 2.2.5 **"disposal"** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **"dispose"** will be construed accordingly;
- 2.2.6 a **"Security Asset"**, **"Accounts"**, **"Chattels"**, **"Contracts"**, **"Dividends"**, **"Intellectual Property"**, **"Monetary Claims"**, **"Real Property"** and a **"Share"** includes:
- (a) any part of that asset;
 - (b) any present and future assets of that type; and
 - (c) all Related Rights relating to assets of that type;
- 2.2.7 **"this Security"** means any Security created by or pursuant to this Deed;
- 2.2.8 **"Secured Liabilities"** is deemed to include a reference to any part of them;
- 2.2.9 the **"Lender"**, the **"Chargor"**, any **"Secured Party"**, or any **"Party"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Lender, any person for the time being appointed as Lender or Lenders in accordance with the Finance Documents;
- 2.2.10 a provision of law is a reference to that provision as amended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that provision of law;
- 2.2.11 the singular is deemed to include the plural and vice versa;
- 2.2.12 one gender is a reference to all other genders; and
- 2.2.13 a time of day is a reference to London time.
- 2.3 The term **"Lender"** includes any subsidiary or group company or assignee of the Lender granting or continuing to grant facilities or accommodation to the Chargor.

- 2.4 A reference to a "**receiver**" is a reference to a receiver of whatsoever nature including, without limitation, a receiver, a manager and an administrative receiver.
- 2.5 A reference to an "**administrator**" is a reference to an administrator appointed under the Insolvency Act and includes an administrator appointed under the out of court procedure under the Insolvency Act.
- 2.6 Clause and Schedule headings are for ease of reference only.
- 2.7 A "Default" (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "continuing" if it has not been waived.
- 2.8 Any undertaking given by the Chargor under this Deed remains in force until the Discharge Date and is given for the benefit of each Secured Party.
- 2.9 The terms of the other Finance Documents and of any other agreements or instruments between any parties to the Facility Agreement in relation to any Finance Document (as the case may be) are incorporated into this Deed to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 2.10 Clauses 4.2 (*Land*) to 4.9 (*Miscellaneous*) shall be construed as creating a separate and distinct mortgage or fixed charge over each relevant asset within any particular class of assets defined under this Deed and the failure to create an effective mortgage or fixed charge (whether arising out of this Deed or any act or omission by any Party) on any one asset shall not affect the nature of any mortgage or fixed charge imposed on any other asset whether within that same class of assets or not.
- 2.11 It is intended that this Deed takes effect as a deed notwithstanding the fact that a party may only execute this Deed under hand.
- 2.12 If the Lender considers that an amount paid to it under any Finance Document or in relation to any Secured Liability 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.
- 2.13 In the event of a conflict between the terms of this Deed and the terms of the Facility Agreement, the terms of the Facility Agreement will prevail.

3 UNDERTAKING TO PAY

3.1 Payment

The Chargor covenants with the Lender, on demand, to pay, discharge and satisfy all the Secured Liabilities when due.

3.2 Default Interest

If the Chargor fails to pay any amount under this Deed when it is due then such amount shall bear interest (after as well as before judgment and payable on demand) at the Default Rate from the due date until the date such amount is irrevocably and unconditionally paid in full to the Lender. Default interest will accrue from day to day and will be compounded at such intervals as the Lender states are appropriate.

4 SECURITY

4.1 Nature of Security

4.1.1 All the Security created under this Deed:

- (a) is created in favour of the Lender;
- (b) is a continuing security for the payment, discharge and performance of all the Secured Liabilities; and
- (c) is granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4.1.2 If the Chargor assigns its rights under an agreement (or charges those rights by way of first fixed charge) under this Deed and that assignment or charge breaches a term of that agreement because a third party's consent has not been obtained:

- (a) the Chargor shall notify the Lender promptly;
- (b) until the consent is obtained, this Deed will secure all amounts of any nature which the Chargor may now or in future receive under or in connection with that agreement but rights under the agreement itself shall not be secured under this Deed. Upon receipt of the relevant consent, the relevant rights under the agreement shall stand assigned or charged as the case may be, to the Lender under this Deed;
- (c) unless the Lender otherwise requires, the Chargor shall use all reasonable endeavours to obtain the consent of the relevant party to rights under that agreement being secured in accordance with this Deed; and
- (d) the Chargor shall promptly supply the Lender with a copy of any consent obtained by it.

4.2 Land

The Chargor charges:

- 4.2.1 by way of a first legal mortgage, all estates or interests in each Mortgaged Property and all rights under any licence or other agreement or document

which gives the Chargor a right to occupy or use a Mortgaged Property;
and

- 4.2.2 (to the extent that they are not the subject of a mortgage under Clause 4.2.1 above) by way of first fixed charge, all the Real Property and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use Real Property.

4.3 Chattels

The Chargor charges by way of a first fixed charge all the Chattels owned by it and its interest in any Chattels in its possession.

4.4 Investments

The Chargor charges:

- 4.4.1 by way of a first fixed charge all its rights, interest and title to the Shares;
and
- 4.4.2 by way of a first fixed charge all Dividends.

4.5 Accounts

- 4.5.1 The Chargor assigns absolutely, subject to reassignment by the Lender in accordance with Clause 30 (*Release of Security*), all its rights in respect of the Accounts.
- 4.5.2 To the extent that they are not effectively assigned under Clause 4.5.1 above, the Chargor charges by way of first fixed charge all of its rights and interest in and to the Accounts.

4.6 Monetary Claims

- 4.6.1 The Chargor assigns absolutely, subject to reassignment by the Lender in accordance with Clause 30 (*Release of Security*) all of its rights in the Monetary Claims.
- 4.6.2 To the extent that they are not effectively assigned under Clause 4.6.1 above, the Chargor charges by way of a first fixed charge all its rights and interests in the Monetary Claims.

4.7 Contracts

- 4.7.1 The Chargor assigns absolutely, subject to reassignment by the Lender in accordance with Clause 30 (*Release of Security*), all its rights in respect of the Contracts.
- 4.7.2 To the extent that any Contract is not capable of assignment without infringing any provision of such Contract but is capable of being charged,

the Chargor charges by way of fixed charge all of its rights and interest in such Contract.

- 4.7.3 To the extent that any Contract is not capable of assignment or charge without infringing any provision of such Contract, the Chargor charges by way of fixed charge the proceeds of any Related Rights in respect of such Contract.

4.8 Intellectual Property

The Chargor charges by way of first fixed charge all its rights in its Intellectual Property.

4.9 Miscellaneous

The Chargor charges by way of first fixed charge:

- 4.9.1 to the extent not otherwise charged by way of legal mortgage or fixed charge under this Clause 4, all Related Rights;
- 4.9.2 its goodwill;
- 4.9.3 its uncalled capital; and
- 4.9.4 the benefit of all rights in relation to any items under sub-clauses 4.9.1 to 4.9.3 above.

4.10 Floating charge

- 4.10.1 The Chargor charges by way of a first floating charge all of its undertaking and assets whatsoever and wheresoever not at any time otherwise effectively mortgaged, charged or assigned by way of mortgage, fixed charge or assignment under this Clause 4.
- 4.10.2 Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created pursuant to Clause 4.10.1 which is a "qualifying floating charge" for the purpose of paragraph 14(1) of Schedule B1 of the Insolvency Act.

4.11 Crystallisation

- 4.11.1 The Lender may at any time by notice in writing to the Chargor convert any floating charge created by the Chargor pursuant to Clause 4.10 (*Floating charge*) above into a fixed charge with immediate effect as regards any assets specified in the notice if:
- (a) this Security has become enforceable in accordance with Clause 17 (*Enforcement of Security*); or

- (b) the Lender considers any Security Asset to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy; or
 - (c) the Lender reasonably considers that it is necessary in order to protect the priority of its Security.
- 4.11.2 Notwithstanding Clause 4.11.1 above and without prejudice to any rule of law which may have a similar effect, the floating charge created by Clause 4.10 (*Floating charge*) will automatically and immediately (without notice) convert into a fixed charge over all of the Chargor's assets if:
- (a) the Chargor creates or attempts to create any Security over any of the Security Assets;
 - (b) any person levies or attempts to levy any distress, attachment, execution or other process against any of the Security Assets;
 - (c) a receiver or administrator is appointed in respect of the Chargor or a person entitled to appoint an administrator in respect of the Chargor gives notice of its intention to do so or files a notice of appointment with a court; or
 - (d) any corporate action, legal proceedings or other procedure or step is taken in relation to the suspension of payments, winding up, dissolution or re-organisation of the Chargor other than a winding up petition which is stayed within 14 days of commencement.
- 4.11.3 Notwithstanding any other provision of this Deed, the floating charge created by Clause 4.10 (*Floating charge*) may not be converted into a fixed charge solely by reason of:
- (a) the obtaining of a moratorium; or
 - (b) anything done with a view to obtaining a moratorium,
 - (c) under Schedule A1 of the Insolvency Act.

5 GENERAL REPRESENTATIONS AND WARRANTIES

The representations and warranties set out in this Clause 5 are made by the Chargor to the Lender on the dates set out in clause 5.6.

- 5.1 The Chargor is the sole, absolute, legal and beneficial owner of the Security Assets.
- 5.2 No person save for it has any right or interest of any sort whatsoever in or to the Security Assets.
- 5.3 The Chargor is not aware of any adverse claim by any person in respect of the Security Assets or any interest in them.

- 5.4 There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Security Assets.
- 5.5 There is no breach of any law or regulation which materially and adversely affects the Security Assets.
- 5.6 The representations and warranties set out in this Deed are made on the date of this Deed and each representation and warranty is deemed to be repeated by it on each day up to the Discharge Date by reference to the circumstances existing at the time of repetition.

6 GENERAL UNDERTAKINGS

6.1 Negative Pledge

The Chargor shall not create, purport to create or permit to subsist any Security on or in relation to any Security Asset other than any Security created by this Deed.

6.2 Disposals

The Chargor shall not sell, transfer, lease or otherwise dispose or purport or agree to dispose of all or any part of the Security Assets.

6.3 Preservation of Security Assets

The Chargor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Security Assets or the effectiveness of the security created by this deed.

6.4 Compliance with laws

The Chargor shall comply with the requirements of any law and regulation relating to or affecting any Security Assets or their use.

6.5 Title documents

The Chargor shall, as so required by the Lender, deposit with the Lender (and the Lender shall (until the Discharge Date) be entitled to hold) all deeds and documents of title (or other evidence of ownership) relating to the Security Assets that are in the possession or control of the Chargor (and if these are not within the possession or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title).

7 REAL PROPERTY

- 7.1 If the Chargor acquires any freehold, leasehold or commonhold property after the date of this Deed it shall:

7.1.1 notify the Lender immediately;

- 7.1.2 immediately on request by the Lender and at the cost of the Chargor, execute and deliver to the Lender a Legal Mortgage in favour of the Lender of that property;
 - 7.1.3 if the title to that freehold, leasehold or commonhold property is registered at the Land Registry or required to be so registered, give the Land Registry written notice of the Legal Mortgage; and
 - 7.1.4 if applicable, ensure that details of the Legal Mortgage are correctly noted in the Register of Title against that title at the Land Registry.
- 7.2 If the consent of the landlord in whom the reversion of a lease is vested is required for the Chargor to execute a Legal Mortgage over it, the Chargor will not be required to perform that obligation unless and until it has obtained the landlord's consent. The Chargor shall immediately request the relevant landlord's consent and shall use all reasonable endeavours to obtain that consent within 7 days of making the request.

8 INVESTMENTS

8.1 Investments - representations and warranties

The Chargor represents and warrants to the Lender on each day up to the Discharge Date that:

- 8.1.1 the Shares are duly authorised, validly issued, fully paid, freely transferable and not subject to any option to purchase or any similar right or any form of lien and there are no monies or liabilities outstanding in respect of any Share; and
- 8.1.2 the Chargor has complied with all notices relating to all or any of the Shares received by it pursuant to sections 790D and 790E of the Companies Act 2006 and no Warning Notice or Restrictions Notice has been issued to the Chargor in respect of all or any part of the Shares.

8.2 Investments - undertakings

The Chargor shall:

- 8.2.1 obtain all consents, waivers, approvals and permissions that are necessary, for; and
- 8.2.2 procure the amendment of the share transfer provisions under the articles of association, other constitutional document or otherwise of each issuer of the Shares in any manner that the Lender may require in order to permit,

the transfer of the Shares to the Lender or its nominee, or to a purchaser on enforcement of this Security.

8.3 Stock transfer form

The Chargor undertakes to deposit with the Lender or the Lender's nominee stock transfer forms (or other appropriate transfer instruments) signed by the Chargor (or its nominee, where appropriate) as transferor but with details of the transferee, date and consideration left blank.

8.4 Voting rights, Dividends, etc.

8.4.1 Prior to the occurrence of an Event of Default:

- (a) the Chargor is entitled to exercise or direct the exercise of the voting and other rights attached to any Share provided that such exercise is not inconsistent with any Finance Document and does not have an adverse effect on the value of the Investments (or otherwise prejudice the Lender's interests); and
- (b) the Chargor is entitled to receive and retain all Dividends.

8.4.2 After an Event of Default has occurred:

- (a) the Lender will be entitled (but not obliged) to exercise or direct the exercise of the voting and other rights attached to any Share as it sees fit in its absolute discretion;
- (b) the Chargor shall comply, or procure compliance with, any directions of the Lender in relation to the exercise of those rights and shall promptly execute and deliver to the Lender such authorisations as the Lender may require in connection with the exercise of those rights; and
- (c) all Dividends shall be paid or transferred to the Lender (or to its order) and any Dividends received by the Chargor shall be held by the Chargor on trust for the Lender and immediately paid by it to the Lender (or to its order).

8.4.3 At any time:

- (a) the Lender may, in its absolute discretion, by notice to the Chargor elect to give up all voting rights in respect of the Shares conferred or to be conferred on the Lender pursuant to Clause 8.4.2(a) above, provided that the Chargor shall compensate or otherwise make the Lender good in respect of any loss or shortfall it may suffer as a consequence of such election;
- (b) once a notice has been issued by the Lender under Clause 8.4.3(a) above, the Lender shall cease to have the rights to exercise or refrain from exercising such voting rights, all such rights shall be exercisable by the Chargor, and the Chargor shall be entitled to

exercise all voting rights in respect of the Shares subject only to the proviso contained in Clause 8.4.1(a) above.

8.5 Limited obligations of the Lender

The Lender shall not at any time have any duty:

- 8.5.1 to make any payment or to ensure that any monies payable in respect of any Shares are duly and promptly paid or received by it or the Chargor or any nominee;
- 8.5.2 to verify that the amounts referred to in Clause 8.5.1 are the correct amounts paid or received;
- 8.5.3 to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, monies 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, any Shares;
- 8.5.4 to perform any obligation of the Chargor in relation to any Shares; or
- 8.5.5 to present or file any claim or take any other action to collect or enforce the payment of any amount to which it or the Chargor may be entitled under this Deed.

9 CHATTELS

9.1 Maintenance

The Chargor shall keep all its Chattels in good repair, working order and condition.

9.2 Notice of Charge

The Chargor shall take any action which the Lender may reasonably require to evidence the interest of the Lender in its Chattels.

10 ACCOUNTS

Subject to the terms of the Facility Agreement, the Chargor shall:

- 10.1 deliver to the Lender details of each Account maintained by it (including upon any redesignation or change in account details affecting any Account); and
- 10.2 promptly upon request, supply to the Lender such information relating to the Accounts as the Lender may request.

11 MONETARY CLAIMS

11.1 Collecting Monetary Claims

The Chargor shall (as agent of the Lender) promptly get in and realise all Monetary Claims.

11.2 Dealing with Monetary Claims

The Chargor shall not, without the prior written consent of the Lender, assign, factor, discount, release, exchange, waive, compound, set-off, grant time or indulgence or otherwise deal with any of the Monetary Claims or vary any term relating to a Monetary Claim.

12 CONTRACTS

12.1 Undertaking

The Chargor shall not (without the prior written consent of the Lender) take any action which might jeopardise the existence or enforceability of any Contract to which it is a party.

12.2 Obligations

Notwithstanding the operation of Clause 4.7 (*Contracts*), the Chargor is and shall remain liable under any Contract to which it is a party to perform all its obligations under that Contract and no Secured Party shall be, or be deemed to be, under any obligation or liability under or in connection with such Contract by reason of this Deed or the exercise by any Secured Party of any rights, powers or remedies under this Deed.

13 INTELLECTUAL PROPERTY

13.1 Intellectual Property – undertakings

13.1.1 The Chargor shall do all such acts and things as are necessary or desirable to preserve and maintain the existence, validity and value of its Intellectual Property.

13.1.2 The Chargor shall not abandon, cancel or allow any of its Intellectual Property to become void, lapse or to become vulnerable to attack, whether for non-use or otherwise.

13.2 Preservation/protection

The Chargor must promptly, if requested to do so by the Lender, sign or procure the signature of, and comply with all instructions of the Lender in respect of, any document required to make entries in any public register of Intellectual Property (including the United Kingdom Trade Marks Register) which either record the existence of this Deed or the restrictions imposed by this Deed.

14 THE LAND REGISTRY

- 14.1 The Chargor consents to an application being made to the Land Registry to enter the following restriction on the Register of Title relating to any Real Property registered at the Land Registry:

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

- 14.2 The Chargor shall not allow any person other than itself to be registered under the Land Registration Act 2002 as proprietor of any of the Real Property and will not, as regards any Real Property, create or permit to arise any overriding interest within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003 and more particularly set out in Schedule 1 of the Land Registration Act 2002.
- 14.3 The Chargor shall not permit any person to become entitled to any proprietary right or interest which might affect the value of any Real Property.
- 14.4 The Chargor shall promptly make all applications to and filings with the Land Registry which are necessary or desirable under the Land Registration Rules 2003 to protect this Security.
- 14.5 The Chargor authorises the Lender and/or any solicitors or other agent acting on behalf of the Lender to complete, execute and deliver on the Chargor's behalf (but at the cost of the Chargor) to the Land Registry any form, document or other information requested by the Land Registry with regard to the applications referred to in this Clause 14.

15 NOTICES OF ASSIGNMENT AND CHARGE

15.1 Contracts

- 15.1.1 Promptly upon request by the Lender, the Chargor shall serve a notice (in such form as the Lender may require) on each counterparty to any Contract to which it is a party.
- 15.1.2 The Chargor shall use all reasonable endeavours to procure that each such counterparty acknowledges any such notice within 7 days of the date of that notice.

15.2 Instructions irrevocable

Any instructions contained in any notice sent by the Chargor pursuant to this Clause 15 may not be revoked or amended without the Lender's prior written consent.

16 POWERS, PROTECTION AND DISCRETIONS OF THE LENDER

16.1 Rights and powers etc

To the fullest extent allowed by law (and without prejudice to, all statutory and other powers of the Lender), all the rights, powers, authorities and discretions which are expressly or impliedly conferred by this Deed or by law on a Receiver may, after this Security has become enforceable, be exercised by the Lender (whether as attorney of the Chargor or otherwise) in respect of any Security Asset whether or not a Receiver has been or is later appointed.

16.2 Protections

All the protections and immunities which this Deed provides for a Receiver shall be available to the Lender when the Lender is exercising the rights, powers, authorities and discretions conferred on the Lender by this Deed.

16.3 Curing of breaches and covenants

Without prejudice to any other rights of the Lender under this Deed, if the Chargor fails to comply with any provision of this Deed, the Lender shall be entitled (but not obliged) to remedy such breach and accordingly the Chargor shall allow and hereby authorises the Lender or its nominee to do all such acts and things and take such action on behalf of the Chargor as may be necessary to secure compliance with that provision without becoming liable as a mortgagee in possession.

16.4 Indemnity

The Chargor shall indemnify the Lender against all losses, costs, charges, expenses and liabilities incurred by the Lender as a result of the breach or failure by the Chargor to comply with any provision of this Deed and in connection with the exercise by the Lender or its nominee of their respective rights contained in Clause 16.3 (*Curing of breaches and covenants*).

16.5 Expenses so incurred

All monies expended and all costs incurred by the Lender or its nominee in carrying out any of their respective powers and discretions referred to in Clause 16.3 (*Curing of breaches and covenants*) shall be considered to have been properly incurred by the Lender or its nominee, shall be secured by this Security and shall be payable on demand by the Chargor to the Lender.

17 ENFORCEMENT OF SECURITY

17.1 Timing

This Security will be immediately enforceable on the occurrence of:

17.1.1 an Event of Default; or

- 17.1.2 a request being made by the Chargor to the Lender that it exercise any of its powers under this Deed.

17.2 Enforcement

At any time after this Security has become enforceable, the Lender may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- 17.2.1 enforce all or any part of that Security (at the times, and in any manner and on such terms, as it sees fit);
- 17.2.2 appoint a Receiver to all or any part of the Security Assets;
- 17.2.3 appoint one or more persons as an Administrator of the Chargor in accordance with Schedule B1 of the Insolvency Act;
- 17.2.4 apply to the court for an order removing an Administrator and/or replace an Administrator appointed by the Lender;
- 17.2.5 take possession of and hold or dispose of all or any part of the Security Assets including, without limitation, all of the powers conferred on a mortgagee under the LPA (as varied or extended by this Deed) or any of the powers conferred on a holder of a qualifying floating charge holder (as defined in the Insolvency Act);
- 17.2.6 secure and perfect its title to all or any part of a Security Asset and / or transfer any asset into its name or the name of its nominee or, as applicable, into an account in its own name or the name of its nominee;
- 17.2.7 exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute legal and beneficial owner of that Security Asset;
- 17.2.8 to the extent permitted by law, whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorisations and discretions (and be entitled to all the privileges and immunities) conferred by the LPA (as varied and extended by this Deed) on mortgagees, by this Deed on any Receiver, or conferred by the Insolvency Act or any other law on mortgagees and Receivers;
- 17.2.9 subject to Clause 4.11.3, by written notice to the Chargor convert the floating charge created by Clause 4.10 into a fixed charge as regards any assets specified in that notice;
- 17.2.10 exercise the statutory power of sale and any other powers conferred by section 101 of the LPA and the statutory powers of leasing as amended and varied in the forgoing clauses and all other statutory powers in respect of the whole or any part of the Security Assets.

17.3 Statutory powers

- 17.3.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- 17.3.2 The statutory power of sale or other right of disposal conferred on the Lender and on any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under section 101 of the LPA and such power shall arise and be exercisable on execution of this Deed, but the Lender shall not exercise such powers until this Security has become enforceable.
- 17.3.3 The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA and/or by any other statute may be exercised by the Lender and any Receiver at any time on or after this Deed has become enforceable and such powers are extended by this Deed so as to authorise the Lender and any Receiver to make any lease or agreements for lease, accept surrenders of leases and grant options on such terms as the Lender or Receiver (as the case may be) may think fit and without the need to comply with any restrictions imposed by law (including, but not limited to, under section 99 or section 100 of the LPA).
- 17.3.4 For the purposes of sections 99 and 100 of the LPA, the expression "mortgagor" will include any incumbrancer deriving title under the Chargor and neither sub-section (18) of section 99 nor sub-section (12) of section 100 of the LPA will apply.
- 17.3.5 The Chargor shall not have, at any time up until the Discharge Date, the power pursuant to section 99 of the LPA to make any Lease in respect of any Real Property without the prior written consent of the Lender unless permitted pursuant to the terms of the Facility Agreement.
- 17.3.6 The restriction on the right of consolidation contained in section 93 of the LPA shall not apply to this Security.
- 17.3.7 Section 103 of the LPA shall not apply to this Security.

18 RECEIVER

18.1 Appointment of Receiver

- 18.1.1 At any time after this Security has become enforceable, the Lender may without prior notice appoint:
- (a) any one or more persons to be a Receiver of all or any part of the Security Assets; or
 - (b) two or more Receivers of separate parts of the Security Assets; or
 - (c) another person(s) as an additional Receiver(s).

- 18.1.2 Any appointment under Clause 18.1.1 above may be by deed, under seal or in writing under its hand.
- 18.1.3 Except as provided in Clause 18.1.4, 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.
- 18.1.4 The Lender 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 section 1A of the Insolvency Act 1986.
- 18.1.5 At any time, if so requested by the Chargor, without further notice, the Lender may appoint a Receiver to all or any part of the Security Assets.

18.2 Statutory powers of appointment

The powers of appointment of a Receiver pursuant to Clause 18.1 (*Appointment of Receiver*) above shall be in addition to all statutory and other powers of appointment of the Lender under the LPA (as extended by this Deed), the Insolvency Act or otherwise and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA or otherwise. Such powers of appointment of a Receiver shall remain exercisable from time to time by the Lender in respect of any part of the Security Assets, despite any prior appointment in respect of all or any part of the Security Assets.

18.3 Removal

The Lender may from time to time by writing under its hand (subject to the requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver who has been removed for any reason.

18.4 Remuneration

The Lender may from time to time fix the remuneration of any Receiver appointed by it and any restrictions imposed by any law (including under section 109 of the LPA) will not apply. Any remuneration of any Receiver will form part of the Secured Liabilities.

18.5 Agent of the Chargor

- 18.5.1 A Receiver will be deemed to be the agent of the 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. The Chargor is solely responsible for the remuneration, expenses, contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver. The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

18.5.2 No Secured Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

18.5.3 No Receiver shall at any time act as agent for any other Secured Party.

19 POWERS OF RECEIVER

19.1 Statutory powers

19.1.1 A Receiver (subject to any restrictions in the instrument appointing him but notwithstanding any winding up or dissolution of the Chargor) has (to the extent permitted by law):

- (a) all of the rights, powers, remedies and discretions of an administrative receiver under Schedule 1 of the Insolvency Act, as if such Schedule and all relevant definitions set out in the Insolvency Act were set out in this Deed; and
- (b) otherwise, all the rights, powers, remedies and discretions conferred on a mortgagor, a mortgagee in possession and on a Receiver appointed under the LPA or the Insolvency Act.

19.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually (and to the exclusion of any other Receiver) or together with any other person appointed or substituted as a Receiver.

19.1.3 Any exercise by a Receiver of any of the powers given by this Clause 19 and Schedule 1 (*Additional Powers of Receiver*) may be on behalf of the Chargor, the directors of the Chargor or himself.

19.2 Additional powers

In addition to those powers, rights and discretions set out in Clauses 19.1.1(a) and 19.1.1(b) above, a Receiver shall have the rights, powers and discretions set out in Schedule 1 (*Additional Powers of Receiver*).

19.3 Powers to be additional

The powers conferred by this Deed in relation to the Security Assets on the Receiver shall be in addition to, and not in substitution for, the powers conferred on receivers under the LPA and the Insolvency Act.

19.4 Conflict

If and to the extent that there is any ambiguity or conflict between:

- 19.4.1 the powers conferred on the Receiver by the LPA and those powers listed in Schedule 1 of the Insolvency Act; and

19.4.2 the powers conferred by this Clause 19,

the powers conferred by this Clause 19 shall prevail.

20 APPLICATION OF PROCEEDS

20.1 Order of application

All amounts from time to time received or recovered by any Secured Party pursuant to the terms of any Finance Document or in connection with the realisation or enforcement of all or any part of this Security (for the purposes of this Clause 20, the "Recoveries") shall be held by that Secured Party on trust to apply them at any time as that Secured Party (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 20), in the following order:

20.1.1 in payment of all charges, costs and expenses incurred by or on behalf of any Secured Party under or in connection with any realisation or enforcement of the Security taken in accordance with the terms of this Deed and all remuneration due to any Receiver under or in connection with this Deed;

20.1.2 in or towards payment of or provision for the Secured Liabilities in such order and manner that the Lender determines; and

20.1.3 the balance (if any) will be applied as required by law.

20.2 Appropriation

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

21 PROTECTION OF PURCHASERS

21.1 No purchaser or other person dealing with any Secured Party shall be concerned to enquire:

21.1.1 whether any of the Secured Liabilities have become due and/or payable;

21.1.2 whether any of the powers conferred on a Secured Party by this Deed or by law has arisen or become exercisable or is being properly exercised;

21.1.3 whether any of the Secured Liabilities remains due; or

21.1.4 how any money paid to that Secured Party is to be applied.

21.2 No purchaser dealing with any Secured Party or this Security is to be concerned to enquire as to the propriety or regularity of any sale by, or other dealing with, the Secured Parties. Any such sale or dealing is deemed to be within the powers conferred by this Deed and to be valid and effective accordingly. All the protection to

purchasers contained in section 104 and section 107 of the LPA and section 42(3) of the Insolvency Act apply to any purchaser.

- 21.3 The receipt of any Secured Party shall be a conclusive discharge to any purchaser and, in making any sale or other disposal of any of the Security Assets or making any acquisition, any Secured Party may do so for such consideration, in such manner and on such terms as it thinks fit.

22 LIABILITY OF LENDER AND RECEIVER

22.1 Liability

None of the Lender, any Receiver or any of their respective Delegates, (whether as mortgagee in possession or otherwise) shall either by reason of:

22.1.1 taking possession of or realising all or any part of the Security Assets; or

22.1.2 taking any action permitted by this Deed,

be liable to the Chargor or any other person for any costs, losses or liabilities relating to any of the Security Assets or for any act, neglect, default, omission or misconduct of the Lender, any Receiver or their respective Delegates in relation to the Security Assets or otherwise.

22.2 Exoneration

22.2.1 None of the Lender, any Receiver or any of their respective Delegates and sub delegates shall have any duty to perform the Chargor's obligations or exercise any rights in relation to any Security Asset, to ensure that any Related Rights are made available and to ensure that the correct amount has been received in relation to any Related Right, to take up any offer in relation to any Security Asset, to investigate, appraise or report on the status, propriety or validity of the acts of the Receiver or Lender, to give any notification to anyone in relation to any Security Asset, to take any action to enforce any other person's obligations as regards any Security Asset, or to take any action to preserve any rights relating to any of the Security Assets.

22.2.2 None of the Lender, any Receiver or any of their respective Delegates and sub delegates shall be liable to comply with the obligations assumed by the Chargor in respect of any of the Security Assets, be under any obligation or liability by reason of, or arising out of, this Deed, or be required to make any enquiry as the nature or sufficiency of any payment received by a Secured Party or to present or file any claim or take any other action to collect or enforce the payment of any amount or to enforce any other right to which the Lender may be entitled.

22.3 Protection of the Receiver and the Lender

Each Receiver and the Lender shall be entitled to all the rights, powers, privileges and immunities which the LPA and/or the Insolvency Act confers on mortgagees and Receivers.

22.4 Reimbursement and Indemnity

The Lender and every Receiver and Delegate may, in priority to any payment to the other Secured Parties, indemnify itself out of the Security Assets in respect of, and pay and retain all sums necessary to give effect to, the indemnity in Clause 37 (*Indemnity to the Lender and Receiver*).

23 POWER OF ATTORNEY

23.1 By way of security for the performance of its obligations under this Deed, the Chargor irrevocably and severally appoints the Lender, each Receiver and each of their respective Delegates to be its attorney (with full power of substitution and delegation) and in its name, on its behalf and as its act and deed to:

- 23.1.1 execute, deliver and perfect a Legal Mortgage over any Real Property not already the subject of a registrable Legal Mortgage;
- 23.1.2 exercise voting rights in respect of the Shares in accordance with the terms of this Deed;
- 23.1.3 execute, deliver and perfect all other documents and do (or cause to be done) all such acts and things which the attorney may consider to be required or desirable for:
 - (a) carrying out any obligation imposed on the Chargor by this Deed or any agreement binding on the Chargor to which the Lender is a party; and/or
 - (b) enabling the Lender and any Receiver (and each of their respective Delegates) to exercise any of the rights, powers, authorities and discretions conferred on them pursuant to this Deed or by law.

23.2 The Chargor ratifies and confirms all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of its rights, powers, authorities and discretions referred to in Clause 23.1, and covenants with each Receiver appointed pursuant to this Deed to join in and concur with the exercise by such Receiver of any powers of such Receiver to act on behalf of the Chargor.

24 REINSTATEMENT

If any discharge, release or arrangement (whether in respect of the obligations of the Borrower or any Security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, Security, or other discretion which is avoided or must be restored in insolvency, bankruptcy, liquidation, administration,

receivership or otherwise, without limitation, then the liability of the Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

25 DELEGATION AND DISCRETION

25.1 Delegation

25.1.1 The Lender and/or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner all or any of the rights, powers, authorities and discretions which are conferred and are exercisable by it under this Deed (including the power of attorney granted under Clause 23 (*Power of attorney*)) to any person or persons on such terms and conditions (including the power to sub-delegate) as it sees fit.

25.1.2 No such delegation pursuant to this Clause 25 shall preclude either the subsequent exercise of any such right, power, authority or discretion by the Lender or a Receiver itself or any subsequent delegation or revocation of any such right, power, authority or discretion.

25.1.3 Neither the Lender nor any Receiver will be bound to supervise any such Delegate or have any liability to the Chargor or any other person for any loss or liability arising from any act, default, omission or misconduct by any Delegate.

25.2 Discretion

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

26 EFFECTIVENESS OF SECURITY

26.1 Continuing Security

This Security shall remain in full force and effect as continuing security for the Secured Liabilities until the Discharge Date and shall not be released before then by any settlement of account, intermediate payment, discharge or satisfaction of all or any of the Secured Liabilities or for any other reason.

26.2 Cumulative rights

This Security and the rights, powers and remedies of the Lender under this Deed shall be cumulative and shall be in addition to and independent of every other Security, guarantee, right, power or remedy which the Lender may at any time have in connection with the Secured Liabilities, including the rights, powers and remedies provided by law, and accordingly, the Lender shall not be obliged before exercising any such rights, powers or remedies:

- 26.2.1 to make any demand of, or take any action or obtain any judgment in any court against, the Chargor;
- 26.2.2 to make or file any claim or proof in winding-up or dissolution of the Chargor; or
- 26.2.3 to enforce or seek to enforce any other Security held by it in respect of the Secured Liabilities.

26.3 No merger of Security

This Security is in addition to, and independent of, and is not in any way prejudiced by, any other Security or guarantee that the Lender or any other Secured Party may hold in any capacity for any of the Secured Liabilities at any time. No prior Security held in any capacity by the Lender or any other Secured Party over the whole or any part of the Security Assets shall merge with this Security.

26.4 No prejudice

This Security shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person, or by any variation of any trust on which this Security is held, or by any other thing which might otherwise prejudice that Security.

26.5 Remedies and waivers

- 26.5.1 No waiver of any right or remedy, nor any consent given under this Deed, shall be effective unless it is made in writing by the waiving or consenting party. A waiver shall not be deemed a waiver of any other breach or default and a consent shall not be deemed to apply in any other circumstance other than the one for which it was given. No waiver or consent shall prevent the party giving it from subsequently relying on the relevant provision.
- 26.5.2 The rights and remedies provided in each Finance Document are cumulative and not exclusive of any rights or remedies provided by law.

26.6 Partial invalidity

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

26.7 Tacking

- 26.7.1 For the purposes of section 94(1)(c) of the LPA and section 49(3) of the Land Registration Act 2002, the Lender confirms on behalf of the Secured Parties that the Secured Parties will comply with their obligations to make further advances under the Facility Agreement subject to the terms of the Finance Documents (including any obligation to make further advances available).
- 26.7.2 The Chargor consents to an application being made to the Land Registry to enter the obligation to make further advances on the charges register of any registered land forming part of the Real Property.

26.8 Further assurance

- 26.8.1 The Chargor shall promptly, at its own cost, enter into, execute and complete a Legal Mortgage over any Real Property in England and Wales not already the subject of a registrable Legal Mortgage.
- 26.8.2 The Chargor shall promptly, at its own cost, do whatever the Lender requires:
- (a) to create, perfect and/or protect the Security created or intended be created by this Deed;
 - (b) to create, perfect and/or protect the priority of the Security created or intended be created by this Deed;
 - (c) to facilitate the exercise of any rights, powers, discretions and remedies vested in the Lender or any Receiver (or their respective Delegates) by this Deed and/or by the law; and/or
 - (d) to facilitate the realisation of the Security Assets.

27 PRIOR SECURITY INTERESTS

- 27.1 At any time after this Security has become enforceable, or after any powers conferred by any prior ranking Security shall have become exercisable, the Lender may redeem that or any other prior Security and/or procure the transfer of any such Security to itself.
- 27.2 The Lender may settle and agree the accounts of the holder of any prior Security and any accounts so settled and agreed will (in the absence of manifest error) be conclusive and binding on the Chargor.
- 27.3 All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargor to the Lender on demand together with accrued interest on such sums (after as well as before judgment) at the Default Rate from the time or respective times of the same having been paid or incurred until

payment of such sums (both before and after judgment), and such sums will form part of the Secured Liabilities.

28 SUBSEQUENT SECURITY INTERESTS

If the Lender receives, or is deemed to be affected by, notice whether actual or constructive of any subsequent Security or other interest affecting all or part of the Security Assets, it may open a new account for the Chargor in its books. If the Lender does not open a new account, it shall nevertheless be treated as if it had done so at the time it received or was deemed to be affected by such notice. Unless the Lender gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Lender will, as from the time of receipt or deemed receipt of the relevant notice by the Lender, be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities.

29 SUSPENSE ACCOUNT

29.1 Contingencies

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, a Secured Party may pay the proceeds of any recoveries effected by it into a suspense account in which event, Clause 29.2 (*Suspense account*) shall apply to such proceeds.

29.2 Suspense account

All monies received, recovered or realised by a Secured Party under this Deed (including the proceeds of any conversion of currency) may in the absolute discretion of that Secured Party be credited to any interest bearing suspense or impersonal account(s) maintained with a bank, building society or financial institution for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Secured Party's absolute discretion, in or towards the discharge of any of the Secured Liabilities.

30 RELEASE OF SECURITY

30.1 Upon the occurrence of the Discharge Date and subject always to Clause 30.2, the Lender shall, at the request and cost of the Chargor, release and cancel this Security and procure the reassignment to the Chargor of the assets assigned to the Lender pursuant to this Deed, in each case without recourse to, or any representation or warranty by, the Lender or any of its Delegates.

30.2 Following any discharge of the Chargor made by the Lender in reliance on any payment or Security the Lender may retain this Security (and all documents of title or other documents necessary to protect such Security) until the expiry of the maximum period within which such payment or security can be avoided, reduced or invalidated for any reason. If the person other than the Chargor making such payment or giving such security goes into liquidation or administration or equivalent proceedings in any

foreign jurisdiction within that period the Lender may retain this Security for as long as it sees fit.

31 SET-OFF

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

32 FINANCIAL COLLATERAL

32.1 To the extent that any of the Security Assets constitute "financial collateral" and this Deed constitutes a "security financial collateral arrangement" (as those terms are defined in the Regulations), the Lender shall, upon this Security becoming enforceable and to the extent permitted by the Regulations, have the right to appropriate all or any part of that financial collateral in or towards the payment or discharge of the Secured Liabilities without obtaining any court authorisation and in such order as the Lender may in its absolute discretion determine.

32.2 The Parties agree that the value of any Security Asset appropriated in accordance with sub-clause 32.1 above shall be:

32.2.1 in the case of cash, the amount of such cash plus any accrued but unposted interest attributable to such cash on the date of appropriation; and

32.2.2 in the case of Shares, the price of those Shares at the time the right of appropriation is exercised as listed on any recognised market index, as determined by an independent valuation or as determined by such other method as the Lender may select.

32.3 The Parties agree that the method of valuation provided for in this Clause 32 is commercially reasonable for the purposes of the Regulations.

33 CURRENCY

33.1 Relevant Currency

The Chargor is obliged under this Deed to discharge the Secured Liabilities in the Relevant Currency.

33.2 Receipt in wrong currency

If at any time the Lender receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than the Relevant Currency, then that payment will take effect as a payment to the Lender of the amount in the Relevant Currency which the Lender is able to purchase (after

deduction of any relevant costs) with the amount of the payment so received at the spot rate of exchange available to the Lender for such purchase for such purchase in the Relevant Interbank Market at or about 11:00 a.m. on that date.

33.3 **Currency indemnity**

33.3.1 If any sum due from the Chargor under this Deed (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which the Sum is payable into another currency (the "**Second Currency**") for the purposes of:

- (a) making or filing a claim against the Chargor; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

33.3.2 the Chargor shall, as an independent obligation, within three Business Days of demand, indemnify the Lender against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (a) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to the Lender at the time of receipt of that Sum.

33.4 The Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than in which it is expressed to be payable.

34 **PAYMENTS TO BE MADE WITHOUT DEDUCTION**

34.1 **No deductions**

All sums payable by the Chargor under this Deed shall be paid in the Relevant Currency in immediately available funds and shall be paid to the credit of such account as the Lender may designate. All such payments shall be made in full without set-off of any sum owing by the Lender to the Chargor or counterclaim and free and clear of any deductions of or withholding for or on account of any Tax or for any other reason, except to the extent that any such deduction or withholding is required by law.

34.2 **Grossing-up**

If at any time the Chargor is required by law to make any deduction or withholding from any payment due from the Chargor to the Lender, the Chargor shall simultaneously pay to the Lender whatever additional amount is necessary to ensure that the Lender receives a net sum equal to the payment it would have received had no deduction or withholding been made.

35 CERTIFICATES AND DETERMINATIONS

A certificate or determination by the Lender or a Receiver of a rate or an amount for the time being due under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

36 ASSIGNMENT AND TRANSFER

36.1 Chargor consents to assignment/transfer by Lender

The Chargor consents to the assignment and/or transfer by the Lender of any one or more of its rights and/or obligations under this Deed. The Lender may, without consulting with or obtaining consent from the Chargor at any time charge, assign or otherwise create Security in or over its rights, benefits and interests under this Deed to secure any obligations of any Secured Party.

36.2 No assignment/transfer by Chargor

The Chargor may not assign or transfer any one or more of its rights and/or obligations under this Deed.

36.3 Confidentiality

The Lender shall be entitled to disclose any information concerning the Chargor, the Borrower, the Security Assets and this Deed as it considers appropriate to:

36.3.1 any person proposing to take an assignment and/or transfer from the Lender or proposing to enter into contractual relations with the Lender with respect to this Deed; and

36.3.2 any person to whom information may be required to be disclosed by an applicable law.

37 INDEMNITY TO THE LENDER AND RECEIVER

The Chargor shall promptly on demand indemnify the Lender and every Receiver and Delegate against all costs, losses and liabilities incurred by any of them as a result of or in connection with:

- 37.1 acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
- 37.2 the taking, holding, protection, perfection, preservation or enforcement (or the attempt to do so) of the Security constituted under this Deed;
- 37.3 the exercise or purported exercise of any of the rights, powers, authorities, discretions and remedies vested in them by this Deed or by law;
- 37.4 any default or delay by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed;

37.5 instructing lawyers, accountants, tax advisers, surveyors or other professional advisers or experts as permitted under the Finance Documents; or

37.6 acting as Lender, Receiver or Delegate under this Deed,

or which otherwise relates to any of the Security Assets (otherwise, in each case, than by reason of the relevant Lender's, Receiver's or Delegate's gross negligence or wilful misconduct).

38 COSTS AND EXPENSES

38.1 Transaction expenses

The Chargor shall promptly on demand pay the Lender on a full indemnity basis the amount of all costs and expenses (including legal fees) reasonably incurred by the Lender in connection with the negotiation, preparation, printing, execution, and perfection of this Deed, any other documents referred to in this Deed and this Security, and any amendment, waiver or consent in connection with this Deed.

38.2 Enforcement and preservation costs

The Chargor shall, within three Business Days of demand, pay to each Secured Party on a full indemnity basis the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under this Deed and any proceedings instituted by or against any Secured Party as a consequence of taking or holding this Security or enforcing these rights.

39 MISCELLANEOUS

39.1 Variations

No variation of the terms of this Deed shall be valid unless such variation is in writing and signed by the Chargor and the Lender.

39.2 Third party rights

39.2.1 Except as expressly provided in this Deed, and other than the Secured Parties a person who is not a Party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of this Deed.

39.2.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

39.2.3 Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to Clause 39.2.2 above and the provisions of the Third Parties Act.

39.3 Perpetuity period

The trusts created by this Deed have a perpetuity period of 125 years.

39.4 Counterparts

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

39.5 Illegality and compliance with law

39.5.1 No provision of this Deed shall oblige the Lender to take any steps which may be illegal or contrary to applicable law or regulation, or which it expects will result in any expense or liability accruing to it (the payment of which is not, in its sole opinion, assured to it or it is not indemnified and/or secured and/or prefunded to its satisfaction against such liability).

39.5.2 The Lender shall be entitled to take any action or to refuse to take any action which the Lender regards as necessary for the Lender to comply with any applicable law, regulation or fiscal requirement.

40 NOTICES

40.1 Communications in writing

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

40.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below (or any substitute address, fax number or department or officer as one Party may notify to the other by not less than five Business Days' notice.

40.3 Delivery

40.3.1 Any communication or document made or delivered by the Lender to the Chargor under or in connection with this Deed shall only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to the relevant party at that address,

and, in the case of the Lender, if a particular department or officer is specified as part of its address details provided under Clause 40.2 (*Addresses*), if addressed to that department or officer.

40.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is

expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

- 40.3.3 Any communication or document which becomes effective, in accordance with Clauses 40.3.1 and 40.3.2 above after 5.00pm in the place of receipt shall be deemed only to become effective on the following day.

40.4 English language

Any notice given (and all other documents provided) under or in connection with this Deed must be in English.

41 GOVERNING LAW AND JURISDICTION

41.1 Governing law

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

41.2 Jurisdiction of English courts

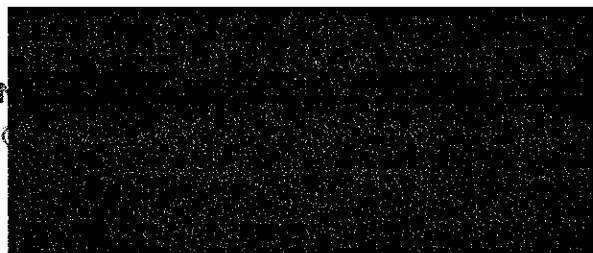
- 41.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- 41.2.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- 41.2.3 Notwithstanding Clause 41.2.1 above, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

THIS DEED IS EXECUTED AS A DEED BY THE CHARGOR AND THE LENDER AND IS DELIVERED AND TAKES EFFECT ON THE DATE AT THE BEGINNING OF THIS DEED.

EXECUTION PAGES

CHARGOR

EXECUTED as a DEED by BURNDEN
LEISURE LIMITED by



Director

in the presence of:

Witness



Name

JULIE TOSTEN

Address



Occupation ...Artist.....

Addresses for notices

Address for Notices:

University Of Bolton Stadium Burnden Way, Lostock, Bolton,
England, BL6 6JW

Fax No:

Attention of:

The Directors

LENDER

EXECUTED as a DEED by MOONSHIFT)
INVESTMENTS LIMITED as Lender, a company)
incorporated in the British Virgin Islands acting by)
EDWIN SANKS who, in
accordance with the laws of that territory, is
acting under the authority of the company

in the presence of:

Witness

Name

MRS GILLIAN WHEATLEY

Address

Occupation P.A.

Authorised signatory

Addresses for notices

Address for Notices:

Commerce House, Wickhams Cay 1, Road Town, Tortola, British
Virgin Islands

Fax No:

Attention of:

Anton Goldstein

SCHEDULE 1
- ADDITIONAL POWERS OF RECEIVER

A Receiver shall have the following additional rights, powers and discretions:

1 POSSESSION

A Receiver may take immediate possession of, get in and collect the Security Assets or any part thereof.

2 CARRY ON BUSINESS

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify the whole or any part of the business of the Chargor as he in his discretion may think fit (or concur in so doing).

3 PROTECTION OF ASSETS

A Receiver may:

- 3.1.1 manage, insure, repair, decorate, maintain, alter, improve, develop, construct, modify, substitute, refurbish, renew or add to the Security Assets (and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset) or concur in so doing;
- 3.1.2 commence, continue or complete any new works, unfinished work, building operations, construction, reconstruction, maintenance, furnishing, finishing or fitting-out on any Real Property; and/or
- 3.1.3 apply for and maintain any planning permissions, development consents, building regulation approvals and any other permissions, consents or licences,

in each case as he in his discretion may think fit.

4 EMPLOYEES

A Receiver may:

- 4.1 appoint and discharge any managers, officers, agents, accountants, servants, contractors, workmen and other personnel and professional advisers for the purposes of this Deed upon such terms and conditions as to remuneration or otherwise as he thinks fit; and/or
- 4.2 discharge any person appointed by the Chargor.

5 SALE OF ASSETS

A Receiver may:

- 5.1 sell, assign, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he

thinks fit. The consideration for the sale of any Security Asset may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which the Receiver thinks fit; and/or

- 5.2 sever fixtures (other than landlord's fixtures) and sell these separately from the property containing them without the consent of the Chargor.

6 LET, HIRE OR LEASE

A Receiver may:

- 6.1 let, hire or lease (with or without premium) and accept surrenders of leases or tenancies or concur in so doing;
- 6.2 grant rights, options or easements over and otherwise deal with or dispose of and exercise all rights, powers and discretions incidental to, the ownership of the Security Assets; and
- 6.3 exchange or concur in exchanging the Security Assets,

in each such case in such manner and generally on such terms and conditions as he may in discretion think fit, with all the powers of an absolute beneficial owner. The Receiver may exercise any such power by effecting such transaction in the name or on behalf of the Chargor or otherwise.

7 VAT ELECTIONS

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit.

8 REGISTRATION

A Receiver may use the Chargor's name to effect any registration or election for tax or other purposes.

9 INSURANCES

A Receiver may effect, review or vary insurances.

10 BORROWING

A Receiver may, for any purpose, raise and borrow money or incur any other liability either unsecured or secured on the Security Assets, either in priority to this Security or otherwise, and generally on such terms as he in his discretion may think fit. No person lending such money is to be concerned to enquire as to the propriety or purpose of the exercise of such power or as to the application of money so raised or borrowed.

11 MAKE CALLS

A Receiver may make, or require the directors of the Chargor to make, such calls upon the shareholders of the Chargor in respect of any uncalled capital of the Chargor as the Receiver in his discretion may require and enforce payment of any call so made by action (in the name of the Chargor or the Receiver as the Receiver in his discretion may think fit) or otherwise.

12 COMPROMISE, LEGAL ACTION AND MEDIATION

A Receiver may:

- 12.1 settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset;
- 12.2 bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit; and/or
- 12.3 refer to mediation any question in relation to any Security Asset that he thinks fit.

13 SUBSIDIARIES

A Receiver may:

- 13.1 form, or promote the formation of, any subsidiary of the Chargor with a view to such subsidiary purchasing, leasing, licensing or otherwise acquiring an interest in the Security Assets;
- 13.2 arrange for the purchase, lease, licence or acquisition of an interest in the Security Assets by any such subsidiary for any valuable (cash or non-cash) consideration and whether or not such consideration is payable or receivable in a lump sum or at any time or any number of times by instalments spread over such period, as the Receiver in his discretion may think fit; and/or
- 13.3 arrange for such subsidiary to trade or cease to trade as the Receiver in his discretion may think fit.

14 RECEIPTS

A Receiver may give valid receipts for any monies and execute any assurances and things which he in his discretion may think proper or desirable for realising any of the Security Assets.

15 ENVIRONMENT

A Receiver may conduct and complete all investigations studies, sampling and testing and all remedial, removal and other actions, whether required under Environmental Law or by the Lender or otherwise and comply with all lawful orders and directives relating to Environmental Law.

16 **DELEGATION**

A Receiver may delegate his powers in accordance with this Deed.

17 **LENDING**

A Receiver may lend money or advance credit to any person.

18 **REDEEM PRIOR SECURITY**

A Receiver may redeem any prior Security and settle and pass the accounts to which that prior Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

19 **OTHER POWERS**

A Receiver may:

- 19.1 do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers, remedies or discretions conferred on the Lender or any Receiver under or by virtue of this Deed or by law;
- 19.2 exercise every power which the Receiver in its absolute discretion considers desirable for maintaining or enhancing the value of the Security Assets or in connection with the enforcement of this Security or the realisation of any Security Asset;
- 19.3 exercise in relation to any Security Asset all the powers, authorities and rights which he would be capable of exercising, and do all those acts and things he would be able to do, if he were the absolute legal and beneficial owner of that Security Asset;
- 19.4 any other acts and things it lawfully may do as agent for the Chargor; and/or
- 19.5 use the name of the Chargor for any of the purposes set out in Clause 19 (*Powers of Receiver*) or this Schedule 1.

**SCHEDULE 2
- MORTGAGED PROPERTY**

Part 1- Registered Land

County and District/London Borough	Description of Property	Title Number
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Part 2 - Unregistered Land

1 BURNDEN LEISURE LIMITED

The freehold/leasehold property known as [REDACTED] and comprised in the following title (deed)(s) and other documents of title.

Date	Document	Parties

2 BURNDEN LEISURE LIMITED

The freehold/leasehold property known as [REDACTED] and comprised in the following title (deed)(s) and other documents of title.

Date	Document	Parties