



**Registration of a Charge**

Company name: **A.B. PRECISION (POOLE) LIMITED**

Company number: **00889363**



X4JXRL4B

Received for Electronic Filing: **11/11/2015**

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**Details of Charge**

Date of creation: **11/11/2015**

Charge code: **0088 9363 0018**

Persons entitled: **SECURITY TRUSTEE SERVICES LIMITED**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**HARRISON CLARK RICKERBYS LIMITED**



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

Company number: 889363

Charge code: 0088 9363 0018

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th November 2015 and created by A.B. PRECISION (POOLE) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th November 2015 .

Given at Companies House, Cardiff on 12th November 2015

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 11 November 2015

(1) A.B. PRECISION (POOLE) LIMITED

and

(2) RETAIL MONEY MARKET LIMITED (TRADING AS RATESETTER) (ACTING AS  
AGENT FOR AND ON BEHALF OF RATESETTER LENDERS)

and

(3) SECURITY TRUSTEE SERVICES LIMITED

DEBENTURE

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THIS DEED is dated 11 November 2015.

## **PARTIES**

- (1) A.B. Precision (Poole) Limited incorporated and registered in England and Wales with company number 00889363 whose registered office is at 1 Fleets Lane, Poole, Dorset BH15 3BZ (**Borrower**);
- (2) **RETAIL MONEY MARKET LIMITED T/A RATESETTER** incorporated and registered in England and Wales with company number 07075792 whose registered office is at 406 Great Guildford Business Square, Great Guildford Street, London, SE1 0HS, acting as agent for and on behalf of RateSetter Lenders (**Lender**); and
- (3) **SECURITY TRUSTEE SERVICES LIMITED** incorporated and registered in England and Wales with company number 08492303 whose registered office is at 406 Great Guildford Business Square, Great Guildford Street, London, SE1 0HS (**Chargee**).

## **BACKGROUND**

- (A) The Lender has agreed to provide the Borrower with loan facilities on a secured basis.
- (B) Under this deed, the Borrower provides security to the Chargee for the loan facilities made available and for all its present and future obligations and liabilities to the Lender.
- (C) It is a condition precedent to the availability of any loan facility that the Borrower enter into this debenture for the purpose of providing security in favour of the Chargee in respect of the Secured Liabilities (as defined below).

## **AGREED TERMS**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

The following definitions apply in this deed:

<b>Administrator:</b>	an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 12.7.
<b>Book Debts:</b>	all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them.
<b>Borrowed Money:</b>	any indebtedness for or in respect of: <ul style="list-style-type: none"><li>(a) any Facility Agreement;</li></ul>

- (b) borrowing or raising money, including any premium and any capitalised interest on that money;
- (c) any bond, note, loan stock, debenture, commercial paper or similar instrument;
- (d) any acceptance credit facility or dematerialised equivalent or bill-discounting, note purchase or documentary credit facilities;
- (e) monies raised by selling, assigning or discounting receivables or other financial assets on terms that recourse may be had to the Borrower in the event of non-payment of such receivables or financial assets when due;
- (f) any deferred payments for assets or services acquired, other than trade credit that is given in the ordinary course of trade and which does not involve any deferred payment of any amount for more than 60 days;
- (g) any rental or hire charges (whether for land, machinery, equipment or otherwise);
- (h) any counter-indemnity obligation in respect of any guarantee, bond, standby letter of credit or other instrument issued by a third party in connection with the Borrower's performance of a contract;
- (i) any other transaction that has the commercial effect of borrowing (including any forward sale or purchase agreement and any liabilities which are not shown as borrowed money on the Borrower's balance sheet because they are contingent, conditional or otherwise);
- (j) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and when calculating the value of any derivative transaction, only the marked to market value shall be taken into account); and
- (k) any guarantee, counter-indemnity or other assurance against financial loss that the Borrower has given for any Indebtedness of the type referred to in paragraphs (a) to (i) of this definition incurred by any person.

<b>Business Day:</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
<b>Delegate:</b>	any person appointed by the Chargee or any Receiver pursuant to clause 18 and any person appointed as attorney of the Chargee, Receiver or Delegate.
<b>Designated Account:</b>	any account of the Borrower nominated by the Chargee as a designated account for the purposes of this deed.
<b>Disruption Event:</b>	<p>either or both of:</p> <ul style="list-style-type: none"> <li>(a) an event (not caused by, and outside the control of, either party) that materially disrupts the systems for payment or communication or the financial markets needed, in each case, to enable either payment to be made or transactions to be carried out under the Finance Documents; or</li> <li>(b) any other event (not caused by, and outside the control of, the party whose operations are disrupted), that results in disruption (of a technical or systems-related nature) to the treasury or payments operations of a party and which prevents either or both parties from: <ul style="list-style-type: none"> <li>(i) performing its payment obligations under the Finance Documents; or</li> <li>(ii) communicating with the other party as required by the terms of the Finance Documents.</li> </ul> </li> </ul>
<b>Environment:</b>	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
<b>Environmental Law:</b>	all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.
<b>Equipment:</b>	all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for



	the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions.
<b>Event of Default:</b>	any event or circumstance listed in clause 13.1 to clause 13.11.
<b>Facility Agreement:</b>	any facility agreement or other Finance Document entered into between the Borrower and the Lender and/or the Chargee.
<b>Finance Document:</b>	this debenture and any other document designated as such by the Lender and/or the Chargee.
<b>Financial Collateral:</b>	shall have the meaning given to that expression in the Financial Collateral Regulations.
<b>Financial Collateral Regulations:</b>	the Financial Collateral Arrangements (No 2) Regulations 2003 ( <i>SI 2003/3226</i> ).
<b>Indebtedness:</b>	any obligation to pay or repay money, present or future, whether actual or contingent, sole or joint and any guarantee or indemnity of any of those obligations.
<b>Insurance Policy:</b>	each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Properties or the Equipment).
<b>Intellectual Property:</b>	the Borrower's present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights.
<b>Investments:</b>	<p>all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any:</p> <ul style="list-style-type: none"> <li>(a) dividend, interest or other distribution paid or payable in relation to any of the Investments; and</li> <li>(b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus,</li> </ul>

	preference or otherwise, under option rights or otherwise.
<b>LPA 1925:</b>	Law of Property Act 1925.
<b>Material Adverse Effect:</b>	<p>any event or circumstance which, in the opinion of the Chargee:</p> <ul style="list-style-type: none"> <li>(a) is likely to materially and adversely affect the Borrower's ability to perform or otherwise comply with all or any of its obligations;</li> <li>(b) is likely to materially and adversely affect the business, operations, property, condition (financial or otherwise) or prospects of the Borrower; or</li> <li>(c) is likely to result in any Finance Document not being legal, valid and binding on, and enforceable in accordance with its terms against, the Borrower and, in the case of this debenture, not providing to the Chargee security over the assets expressed to be subject to a security interest hereunder.</li> </ul>
<b>Properties:</b>	all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest, and <b>Property</b> means any of them.
<b>RateSetter Exchange</b>	the internet exchange which RateSetter provides for the purpose of matching offers to lend and borrow between RateSetter users which can be found at <a href="http://www.ratesetter.com">www.ratesetter.com</a> .
<b>RateSetter Lenders</b>	lenders who have been matched with borrowers via the RateSetter Exchange.
<b>Receiver:</b>	a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Chargee under clause 16.
<b>Secured Assets:</b>	all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).
<b>Secured Liabilities:</b>	all present and future monies, obligations and liabilities of the Borrower to the Lender and/or the Chargee, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with any agreement,

	understanding or similar, or this deed, (including, without limitation, those arising under clause 30.3(b)), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.
<b>Security:</b>	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.
<b>Security Financial Collateral Arrangement:</b>	shall have the meaning given to that expression in the Financial Collateral Regulations
<b>Security Period:</b>	the period starting on the date of this deed and ending on the date on which the Chargee is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

## 1.2 Interpretation

In this deed:

- (a) clause headings shall not affect the interpretation of this deed;
- (b) a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees;
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) a reference to writing or written includes e-mail but not fax;
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done;

- (j) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (k) unless the context otherwise requires, a reference to a clause is to a clause of this deed;
- (l) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (m) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- (n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (p) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;
- (q) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- (r) a reference to 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 regulatory, self-regulatory or other authority or organisation.

### 1.3 Clawback

If the Chargee considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

### 1.4 Nature of Security Over Real Property

A reference in this deed to a charge or mortgage of or over any Property includes:

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time;
- (b) the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property;
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property; and any monies paid or payable in respect of those covenants; and

- (d) all rights under any licence, agreement for sale or agreement for lease in respect of that Property.

#### **1.5 Perpetuity Period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

### **2. COVENANT TO PAY**

The Borrower shall, on demand, pay to the Chargee and discharge the Secured Liabilities when they become due.

### **3. GRANT OF SECURITY**

#### **3.1 Legal Mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Chargee, by way of first legal mortgage, each Property.

#### **3.2 Fixed Charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Chargee by way of first fixed charge:

- (a) all Properties acquired by the Borrower in the future;
- (b) all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;
- (c) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;
- (d) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them;
- (e) all its present and future goodwill;
- (f) all its uncalled capital;
- (g) all the Equipment;
- (h) all the Intellectual Property;
- (i) all the Book Debts;
- (j) all the Investments;
- (k) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account), together with all other

rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest); and

- (i) all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3.

### **3.3 Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Chargee absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy.

### **3.4 Floating Charge**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Chargee, by way of first floating charge, all the undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.3 inclusive.

### **3.5 Qualifying Floating Charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.4.

### **3.6 Automatic Crystallisation of Floating Charge**

The floating charge created by clause 3.4 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- (a) the Borrower:
  - (i) creates, or attempts to create, without the prior written consent of the Chargee, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed); or
  - (ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower.

### **3.7 Crystallisation of Floating Charge By Notice**

The Chargee may, in its sole discretion, at any time and by written notice to the Borrower, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Chargee in that notice.

### **3.8 Assets Acquired After Any Floating Charge Has Crystallised**

Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Chargee confirms otherwise to the Borrower in writing) be charged to the Chargee by way of first fixed charge.

## **4. LIABILITY OF THE BORROWER**

### **4.1 Liability Not Discharged**

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Chargee that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Chargee renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

### **4.2 Immediate Recourse**

The Borrower waives any right it may have to require the Chargee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

## **5. REPRESENTATIONS AND WARRANTIES**

### **5.1 Representations and Warranties**

The Borrower makes the representations and warranties set out in this clause 5 to the Chargee.

### **5.2 Ownership of Secured Assets**

The Borrower is the sole legal and beneficial owner of the Secured Assets.

**5.3 No Security**

The Secured Assets are free from any Security other than the Security created by this deed.

**5.4 Due Incorporation**

The Borrower is a duly incorporated limited liability company validly existing under the law of its jurisdiction of incorporation and has the power to own its assets and carry on its business as it is being conducted.

**5.5 Powers**

The Borrower has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this deed and the transactions contemplated by it. No limits on its powers will be exceeded as a result of the grant of Security contemplated by this deed.

**5.6 Non-contravention**

The entry into and performance by it of, and the transactions contemplated by, this deed do not and will not contravene or conflict with:

- (a) the Borrower's constitutional documents;
- (b) any agreement or instrument binding on it or its assets or constitute a default or termination event (however described) under any such agreement or instrument; or
- (c) any law or regulation or judicial or official order applicable to it.

**5.7 Authorisations**

The Borrower has obtained all required or desirable authorisations to enable it to enter into, exercise its rights and comply with its obligations under this deed and to make it admissible in evidence in its jurisdiction of incorporation. Any such authorisations are in full force and effect.

**5.8 Building Obligations**

The Borrower's obligations under this deed are legal, valid, binding and enforceable.

This deed creates:

- (a) valid, legally binding and enforceable Security for the obligations expressed to be secured by it; and



- (b) subject to registration pursuant to Part 25 of the Companies Act 2006 and, in the case of real property, registration at the Land Registry, perfected Security over the assets referred to in this deed

in favour of the Lender, having the priority and ranking expressed to be created by this deed and ranking ahead of all (if any) Security and rights of third parties, except those preferred by law.

#### **5.9 Registration**

It is not necessary to file, record or enrol this deed (other than at Companies House or the Land Registry) with any court or other authority or pay any stamp, registration or similar taxes in relation to this deed or the transactions contemplated by it.

#### **5.10 No Default**

No Event of Default or, on the date of this deed, event or circumstance which would, on the expiry of any grace period, the giving of notice, the making of any determination, satisfaction of any other condition or any combination thereof, constitute an Event of Default, has occurred and is continuing.

No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination, satisfaction of any other condition or any combination thereof, would constitute) a default or a termination event (however described) under any other agreement or instrument which is binding on it or to which any of its assets is subject which has or is likely to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed.

#### **5.11 Litigation**

No litigation, arbitration or administrative proceedings are taking place, pending or, to the Borrower's knowledge, threatened against it, any of its directors or any of its assets or which, if adversely determined, might reasonably be expected to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed or in relation to the Secured Liabilities.

#### **5.12 Information**

- (a) The information, in written or electronic format, supplied by, or on behalf of, the Borrower to the Lender in connection with this deed was, at the time it was supplied or at the date it was stated to be given (as the case may be), to the best of the Borrower's knowledge and belief:

- (i) if it was factual information, complete, true and accurate in all material respects;

- (ii) if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was arrived at after careful consideration;
- (iii) if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and
- (iv) not misleading in any material respect nor rendered misleading by a failure to disclose other information,

except to the extent that it was amended, superseded or updated by more recent information supplied by, or on behalf of, the Borrower to the Lender.

**5.13 No Adverse Claims**

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

**5.14 No Adverse Covenants**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.

**5.15 No Breach of Laws**

There is no breach of any law or regulation that materially and adversely affects the Secured Assets.

**5.16 No Interference in Enjoyment**

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use.

**5.17 No Overriding Interests**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Property.

**5.18 Avoidance of Security**

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

**5.19 No Prohibitions or Breaches**

There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Borrower does not, and will not, constitute a breach of any Insurance Policy or any other agreement or instrument binding on the Borrower or its assets.

**5.20 Environmental Compliance**

The Borrower has, at all times, complied in all material respects with all applicable Environmental Law.

**5.21 Enforceable Security**

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

**5.22 Investments**

- (a) The Investments are fully paid and are not subject to any option to purchase or similar rights.
- (b) No constitutional document of an issuer of an Investment, nor any other agreement:
  - (i) restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this deed; or
  - (ii) contains any rights of pre-emption in relation to the Investments.

**5.23 Times for Making Representations and Warranties**

The representations and warranties set out in clause 5.2 to clause 5.22 are made by the Borrower on the date of this deed and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

**6. GENERAL COVENANTS**

**6.1 Negative Pledge and Disposal Restrictions**

The Borrower shall not at any time, except with the prior written consent of the Chargee:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed;
- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

**6.2 Preservation of Secured Assets**

The Borrower 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 Chargee, or materially

diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

### **6.3 Borrower's Waiver of Set-off**

The Borrower waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Borrower under this deed).

### **6.4 Compliance With Laws and Regulations**

- (a) The Borrower shall not, without the Chargee's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.
- (b) The Borrower shall:
  - (i) comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them;
  - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
  - (iii) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

### **6.5 Notification of Default**

The Borrower shall notify the Lender of any Event of Default or event or circumstance which would, on the expiry of any grace period, the giving of notice, the making of any determination, satisfaction of any other condition or any combination thereof, constitute an Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.

### **6.6 Authorisations**

The Borrower shall promptly obtain all consents and authorisations necessary (and do all that is needed to maintain them in full force and effect) under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this deed and to ensure the legality, validity, enforceability and admissibility in evidence of this deed in its jurisdiction of incorporation.

### **6.7 Change of Business**

The Borrower shall not make any substantial change to the nature or scope of its business as carried out on the date of this deed.

## **6.8 Enforcement of Rights**

The Borrower shall use its best endeavours to:

- (a) procure the prompt observance and performance of the covenants and other obligations imposed on the Borrower's counterparties (including each insurer in respect of an Insurance Policy); and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Chargee may require from time to time.

## **6.9 Notice of Misrepresentation and Breaches**

The Borrower shall, promptly on becoming aware of any of the same, notify the Chargee in writing of:

- (a) any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

## **6.10 Title Documents**

The Borrower shall, as so required by the Chargee, deposit with the Chargee and the Chargee shall, for the duration of this deed be entitled to hold:

- (a) all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Borrower (and if these are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title);
- (b) all Insurance Policies and any other insurance policies relating to any of the Secured Assets that the Borrower is entitled to possess; and
- (c) all deeds and documents of title (if any) relating to the Book Debts as the Chargee may specify from time to time.

## **6.11 Insurance**

- (a) The Borrower shall insure and keep insured the Secured Assets against:
  - (i) loss or damage by fire or terrorist acts;
  - (ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and
  - (iii) any other risk, perils and contingencies as the Chargee may reasonably require.

Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Chargee, and must be for not less than the replacement value of the relevant Secured Assets.

- (b) The Borrower shall, if requested by the Chargee, produce to the Chargee each policy, certificate or cover note relating to the insurance required by clause 6.11(a).

- (c) The Borrower shall, if requested by the Chargee, procure that a note of the Chargee's interest is endorsed upon each insurance policy maintained by it or any person on its behalf in accordance with clause 6.11(a) and that the terms of each such insurance policy require the insurer not to invalidate the policy as against the Chargee by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Chargee.

#### **6.12 Insurance Premiums**

The Borrower shall:

- (a) promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6.11(a) and do all other things necessary to keep that policy in full force and effect; and
- (b) (if the Chargee so requires) produce to, or deposit with, the Chargee the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 6.11(a).

#### **6.13 No Invalidity of Insurance**

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6.11(a).

#### **6.14 Proceeds of Insurance Policies**

All monies received or receivable by the Borrower under any insurance policy maintained by it in accordance with clause 6.11(a) (including all monies received or receivable by it under any Insurance Policy) at any time (whether or not the security constituted by this deed has become enforceable) shall:

- (a) immediately be paid to the Chargee;
- (b) if they are not paid directly to the Chargee by the insurers, be held by the Borrower as trustee of the same for the benefit of the Chargee (and the Borrower shall account for them to the Chargee); and
- (c) be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or, after the security constituted by this deed has become enforceable and if the Chargee so directs, in or towards discharge or reduction of the Secured Liabilities.

#### **6.15 Information**

The Borrower shall:

- (a) give the Chargee such information concerning the location, condition, use and operation of the Secured Assets as the Chargee may require;

- (b) permit any persons designated by the Chargee and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice;
- (c) promptly notify the Chargee in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Chargee's prior approval, implement those proposals at its own expense;
- (d) supply to the Lender all documents dispatched by the Borrower to its shareholders (or any class of them), or its creditors generally, at the same time as they are dispatched;
- (e) supply to the Lender details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against the Borrower as soon as it becomes aware of them and which might, if adversely determined, have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed or any document evidencing the Secured Liabilities; and
- (f) supply to the Lender promptly, any further information about the financial condition, business and operations of the Borrower as the Lender may reasonably request.

#### **6.16 Payment of Outgoings**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Chargee.

#### **6.17 Appointment of Accountants**

- (a) The Borrower shall:
  - (i) at its own cost, if at any time so required by the Chargee, appoint an accountant or firm of accountants nominated by the Chargee to investigate the financial affairs of the Borrower and those of its subsidiaries and report to the Chargee; and
  - (ii) co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.
- (b) The Borrower authorises the Chargee to make an appointment as it shall think fit at any time, without further authority from the Borrower. In every case, the Borrower shall pay, or reimburse the Chargee for, the fees and expenses of those accountants.

## **7. PROPERTY COVENANTS**

### **7.1 Maintenance**

The Borrower shall keep all buildings and all fixtures on each Property in good and substantial repair and condition.

### **7.2 Preservation of Property, Fixtures and Equipment**

The Borrower shall not, without the prior written consent of the Chargee:

- (a) pull down or remove the whole, or any part of, any building forming part of any Property or permit the same to occur;
- (b) make or permit any material alterations to any Property, or sever or remove, or permit to be severed or removed, any of its fixtures; or
- (c) remove or make any material alterations to any of the Equipment belonging to, or in use by, the Borrower on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes).

### **7.3 Conduct of Business on Properties**

The Borrower shall carry on its trade and business on those parts (if any) of the Properties as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business.

### **7.4 Planning Information**

The Borrower shall:

- (a) give full particulars to the Chargee of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (**Planning Notice**) that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant **Planning Notice**; and
- (b) at its own expense, immediately on request by the Chargee, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any **Planning Notice**, and make, or join with the Chargee in making, any objections or representations in respect of that **Planning Notice** that the Chargee may desire.

### **7.5 Compliance With Covenants and Payment of Rent**

The Borrower shall:

- (a) observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected, and (if the Chargee so requires) produce evidence sufficient to satisfy the Chargee that those covenants, stipulations and conditions have been observed and performed;



- (b) diligently enforce all covenants, stipulations and conditions benefiting each Property and shall not (and shall not agree to) waive, release or vary any of the same; and
- (c) (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions.

#### **7.6 Payment of Outgoings**

The Borrower shall pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier.

#### **7.7 Maintenance of Interests in Properties**

The Borrower shall not, without the prior written consent of the Chargee:

- (a) grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Property, or exercise, or agree to exercise, the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the Law of Property Act 1925; or
- (b) in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Property.

#### **7.8 Registration Restrictions**

If the title to any Property is not registered at the Land Registry, the Borrower shall procure that no person (other than itself) shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of all or any part of any Property without the prior written consent of the Chargee. The Borrower shall be liable for the costs and expenses of the Chargee in lodging cautions against the registration of the title to the whole or any part of any Property from time to time.

#### **7.9 Development Restrictions**

The Borrower shall not, without the prior written consent of the Chargee:

- (a) make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property; or
- (b) carry out, or permit, or suffer to be carried out on any Property any development as defined in the Town and Country Planning Act 1990 and the Planning Act 2008, or change or permit or suffer to be changed the use of any Property.

#### **7.10 Environment**

The Borrower shall:

- (a) comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property; and
- (b) obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law.

#### **7.11 No Restrictive Obligations**

The Borrower shall not, without the prior written consent of the Chargee, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property.

#### **7.12 Proprietary Rights**

The Borrower shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property without the prior written consent of the Chargee.

#### **7.13 Inspection**

The Borrower shall permit the Chargee, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice.

#### **7.14 Property Information**

The Borrower shall inform the Chargee promptly of any acquisition by the Borrower of, or contract made by the Borrower to acquire, any freehold, leasehold or other interest in any property.

#### **7.15 VAT Option to Tax**

The Borrower shall not, without the prior written consent of the Chargee:

- (a) exercise any VAT option to tax in relation to any Property; or
- (b) revoke any VAT option to tax exercised, and disclosed to the Chargee, before the date of this deed.

#### **7.16 Registration at the Land Registry**

The Borrower consents to an application being made by the Chargee to the Land Registrar for the following restriction in Form P to be registered against its title to each Property:

"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 (*Date of Charge*) in favour of Security Trustee Services Limited referred to in the charges register."

## **8. INVESTMENTS COVENANTS**

### **8.1 Deposit of Title Documents**

- (a) The Borrower shall:
  - (i) on the execution of this deed, deliver to the Chargee, or as the Chargee may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Borrower at that time; and
  - (ii) on the purchase or acquisition by it of Investments after the date of this deed, deposit with the Chargee, or as the Chargee may direct, all stock or share certificates and other documents of title or evidence of ownership relating to those Investments.
- (b) At the same time as depositing documents with the Chargee, or as the Chargee may direct, in accordance with clause 8.1(a), the Borrower shall also deposit with the Chargee, or as the Chargee may direct:
  - (i) all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Borrower, but with the name of the transferee, the consideration and the date left blank; and
  - (ii) any other documents (in each case duly completed and executed by or on behalf of the Borrower) that the Chargee may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments,

so that the Chargee may, at any time and without notice to the Borrower, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

### **8.2 Nominations**

- (a) The Borrower shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:
  - (i) does not exercise any rights in respect of any Investments without the prior written approval of the Chargee; and
  - (ii) immediately on receipt by it, forward to the Chargee all communications or other information received by it in respect of any Investments for which it has been so nominated.

- (b) The Borrower shall not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person in respect of any of the Investments.

### **8.3 Pre-emption Rights and Restrictions on Transfer**

The Borrower shall:

- (a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any investments, for the transfer of the Investments to the Chargee or its nominee, or to a purchaser on enforcement of the security constituted by this deed; and
- (b) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that the Chargee may require in order to permit the transfer of the Investments to the Chargee or its nominee, or to a purchaser on enforcement of the security constituted by this deed.

### **8.4 Dividends and Voting Rights Before Enforcement**

- (a) Before the security constituted by this deed becomes enforceable, the Borrower may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Chargee or any of its nominees, the Chargee will hold all those dividends, interest and other monies received by it for the Borrower and will pay them to the Borrower promptly on request.
- (b) Before the security constituted by this deed becomes enforceable, the Borrower may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Chargee or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
  - (i) it shall not do so in any way that would breach any provision of this deed or for any purpose inconsistent with this deed; and
  - (ii) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Chargee's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Chargee's security under this deed.
- (c) The Borrower shall indemnify the Chargee against any loss or liability incurred by the Chargee (or its nominee) as a consequence of the Chargee (or its nominee) acting in respect of the Investments at the direction of the Borrower.
- (d) The Chargee shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Chargee considers prejudicial to, or impairing the value of, the security created by this deed.

### **8.5 Dividends and Voting Rights After Enforcement**

After the security constituted by this deed has become enforceable:

- (a) all dividends and other distributions paid in respect of the Investments and received by the Borrower shall be held by the Borrower on trust for the Chargee and immediately paid into a Designated Account or, if received by the Chargee, shall be retained by the Chargee; and
- (b) all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Chargee and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Chargee may give, in its absolute discretion, concerning the exercise of those rights and powers.

#### **8.6 Calls on Investments**

Notwithstanding the security created by this deed, the Borrower shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Borrower acknowledges that the Chargee shall not be under any liability in respect of any such calls, instalments or other payments.

#### **8.7 No Alteration of Constitutional Documents or Rights Attaching to Investments**

The Borrower shall not, without the prior written consent of the Chargee, amend, or agree to the amendment of:

- (a) the memorandum or articles of association, or any other constitutional documents, of any issuer of the Investments that is not a public company; or
- (b) the rights or liabilities attaching to, or conferred by, all or any of the Investments.

#### **8.8 Preservation of Investments**

The Borrower shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of the Investments that is not a public company shall not:

- (a) consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;
- (b) issue any new shares or stock; or
- (c) refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, the Chargee or the Borrower in accordance with this deed.

#### **8.9 Investments Information**

The Borrower shall, promptly following receipt, send to the Chargee copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.

## **9. EQUIPMENT COVENANTS**

### **9.1 Maintenance of Equipment**

The Borrower shall:

- (a) maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- (b) at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and
- (c) not permit any Equipment to be:
  - (i) used or handled other than by properly qualified and trained persons; or
  - (ii) overloaded or used for any purpose for which it is not designed or reasonably suitable.

### **9.2 Payment of Equipment Taxes**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Chargee.

### **9.3 Notice of Charge**

The Borrower:

- (a) shall, if so requested by the Chargee, affix to and maintain on each item of Equipment in a conspicuous place, a clearly legible identification plate containing the following wording:

"NOTICE OF CHARGE

This (*Item of Equipment*) and all additions to it and ancillary equipment are subject to a fixed charge dated (*Date of Charge*) in favour of Security Trustee Services Limited."

- (b) shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 9.3(a).

## **10. BOOK DEBTS COVENANTS**

### **10.1 Realising Book Debts**

- (a) The Borrower shall as an agent for the Chargee, collect in and realise all Book Debts, pay the proceeds into a Designated Account immediately on receipt and, pending that payment, hold those proceeds in trust for the Chargee;

- (b) The Borrower shall not, without the prior written consent of the Chargee, withdraw any amounts standing to the credit of any Designated Account; and
- (c) The Borrower shall, if called on to do so by the Chargee, execute a legal assignment of the Book Debts to the Chargee on such terms as the Chargee may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

## **10.2 Preservation of Book Debts**

The Borrower shall not (except as provided by clause 10.1 or with the prior written consent of the Chargee) release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.

## **11. INTELLECTUAL PROPERTY COVENANTS**

### **11.1 Preservation of Rights**

The Borrower shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

### **11.2 Registration of Intellectual Property**

The Borrower shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Chargee informed of all matters relating to each such registration.

### **11.3 Maintenance of Intellectual Property**

The Borrower shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

## **12. POWERS OF THE CHARGE**

### **12.1 Power to Remedy**

- (a) The Chargee shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.
- (b) The Borrower irrevocably authorises the Chargee and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Chargee in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Chargee on a full indemnity basis and shall carry interest in accordance with clause 20.1.

### **12.2 Exercise of Rights**

- (a) The rights of the Chargee under clause 12.1 are without prejudice to any other rights of the Chargee under this deed.
- (b) The exercise of any rights of the Chargee under this deed shall not make the Chargee liable to account as a mortgagee in possession.

### **12.3 Power to Dispose of Chattels**

- (a) At any time after the security constituted by this deed has become enforceable, the Chargee or any Receiver may, as agent for the Borrower, dispose of any chattels or produce found on any Property.
- (b) Without prejudice to any obligation to account for the proceeds of any disposal made under clause 12.3(a), the Borrower shall indemnify the Chargee and any Receiver against any liability arising from any disposal made under clause 12.3(a).

### **12.4 Chargee Has Receiver's Powers**

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Chargee in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

### **12.5 New Accounts**

- (a) If the Chargee receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Chargee may open a new account for the Borrower in the Chargee's books. Without prejudice to the Chargee's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- (b) If the Chargee does not open a new account immediately on receipt of the notice, or deemed notice, under clause 12.5(a), then, unless the Chargee gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Chargee shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Chargee.

### **12.6 Indulgence**

The Chargee may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.

### **12.7 Appointment of An Administrator**



- (a) The Chargee may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.
- (b) Any appointment under this clause 12.7 shall:
  - (i) be in writing signed by a duly authorised signatory of the Chargee; and
  - (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.
- (c) The Chargee may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 12.7 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

### **13. EVENTS OF DEFAULT**

Each of the events or circumstances set out in clause 13.1 to clause 13.11 is an Event of Default.

#### **13.1 Non-payment**

The Borrower fails to pay any sum payable by it under any Finance Document when due, unless its failure to pay is caused solely by:

- (a) an administrative error or technical problem and payment is made within three Business Days of its due date; or
- (b) a Disruption Event and payment is made within three Business Days of its due date.

#### **13.2 Non-compliance**

The Borrower fails to comply with any provision of the Finance Documents and (if the Chargee considers, acting reasonably, that the default is capable of remedy) such default is not remedied within 14 days of the earlier of:

- (a) the Chargee notifying the Borrower of the default and the remedy required; and
- (b) the Borrower becoming aware of the default.

#### **13.3 Misrepresentation**

Any representation, warranty or statement made, repeated or deemed made by the Borrower in, or pursuant to, the Finance Documents is (or proves to have been) incomplete, untrue, incorrect or misleading when made, repeated or deemed made.

#### **13.4 Cessation of Business**

The Borrower suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

### **13.5 Cross-default**

- (a) Subject to clause 13.5(b):
  - (i) any Borrowed Money is not paid when due nor within any originally applicable grace period;
  - (ii) any Borrowed Money becomes due, or capable of being declared due and payable, prior to its stated maturity by reason of an event of default (howsoever described);
  - (iii) any commitment for any Borrowed Money is cancelled or suspended by a creditor of the Borrower by reason of an event of default (howsoever described); or
  - (iv) any creditor of the Borrower becomes entitled to declare any Borrowed Money due and payable prior to its stated maturity by reason of an event of default (howsoever described).
- (b) An event or circumstance referred to in clause 13.5(a) shall not constitute an Event of Default if the aggregate amount of Borrowed Money or commitment for Borrowed Money affected is less than £1,000 (or its equivalent in other currencies).

### **13.6 Insolvency**

- (a) The Borrower stops or suspends payment of any of its debts or is unable to, or admits its inability to, pay its debts as they fall due.
- (b) The Borrower commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors with a view to rescheduling any of its Indebtedness (because of actual or anticipated financial difficulties).
- (c) A moratorium is declared in respect of any Indebtedness of the Borrower.
- (d) Any action, proceedings, procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any Indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Borrower; or
  - (ii) a composition, compromise, assignment or arrangement with any creditor of the Borrower; or
  - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or any of its assets.
- (e) The value of the Borrower's assets is less than its liabilities (taking into account contingent and prospective liabilities).
- (f) Any event occurs in relation to the Borrower that is analogous to those set out in clause 13.6(a) to clause 13.6(e) (inclusive) in any jurisdiction.
- (g) Clause 13.6(a) to clause 13.6(f) (inclusive) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement or, if earlier, the date on which it is advertised. The ending of any

moratorium referred to in clause 13.6(c) shall not remedy any Event of Default caused by that moratorium.

**13.7 Creditors' Process**

A distress, attachment, execution, expropriation, sequestration or other analogous legal process is levied, enforced or sued out on, or against, the Borrower's assets having an aggregate value of £1,000 (or its equivalent in other currencies) and is not discharged or stayed within 30 days.

**13.8 Enforcement of Security**

Any Security on or over the assets of the Borrower becomes enforceable.

**13.9 Illegality**

All or any part of any Finance Document becomes invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect.

**13.10 Repudiation**

The Borrower repudiates or evidences an intention to repudiate the Finance Documents or any of them.

**13.11 Material Adverse Change**

Any event occurs (or circumstances exist) which, in the opinion of the Chargee, has or is likely to have a Material Adverse Effect.

**14. WHEN SECURITY BECOMES ENFORCEABLE**

**14.1 Security Becomes Enforceable on Event of Default**

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

**14.2 Discretion**

After the security constituted by this deed has become enforceable, the Chargee may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

**15. ENFORCEMENT OF SECURITY**

**15.1 Enforcement Powers**

- (a) 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.
- (b) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 14.1.
- (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

## **15.2 Extension of Statutory Powers of Leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Chargee and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to:

- (a) grant a lease or agreement to lease;
- (b) accept surrenders of leases; or
- (c) grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Chargee or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

## **15.3 Access on Enforcement**

- (a) At any time after the Chargee has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed, the Borrower will allow the Chargee or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Chargee or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.
- (b) At all times, the Borrower must use its best endeavours to allow the Chargee or its Receiver access to any premises for the purpose of clause 15.3(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

## **15.4 Prior Security**

At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Chargee may:

- (a) redeem that or any other prior Security;

- (b) procure the transfer of that Security to it; and
- (c) settle and pass any account of the holder of any prior Security.

The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower. All monies paid by the Chargee to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Chargee, be due from the Borrower to the Chargee on current account and shall bear interest and be secured as part of the Secured Liabilities.

#### **15.5 Protection of Third Parties**

No purchaser, mortgagee or other person dealing with the Chargee, any Receiver or Delegate shall be concerned to enquire:

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (b) whether any power the Chargee, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- (c) how any money paid to the Chargee, any Receiver or any Delegate is to be applied.

#### **15.6 Privileges**

Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

#### **15.7 No Liability As Mortgagee in Possession**

Neither the Chargee, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Security Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

#### **15.8 Conclusive Discharge to Purchasers**

The receipt of the Chargee, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Chargee, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

#### **15.9 Right of Appropriation**

- (a) To the extent that:
  - (i) the Secured Assets constitute Financial Collateral; and

- (ii) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

the Chargee shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Chargee may, in its absolute discretion, determine.

- (b) The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Chargee may select (including independent valuation).
- (c) The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

## **16. RECEIVER**

### **16.1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Chargee may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

### **16.2 Removal**

The Chargee may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, 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.

### **16.3 Remuneration**

The Chargee may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

### **16.4 Power of Appointment Additional to Statutory Powers**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Chargee under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

### **16.5 Power of Appointment Exercisable Despite Prior Appointments**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Chargee despite any prior appointment in respect of all or any part of the Secured Assets.

**16.6 Agent of the Borrower**

Any Receiver appointed by the Chargee under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Chargee.

**17. POWERS OF RECEIVER**

**17.1 General**

- (a) Any Receiver appointed by the Chargee under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 17.2 to clause 17.23.
- (b) 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.
- (c) Any exercise by a Receiver of any of the powers given by clause 17 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 17.16) or himself.

**17.2 Repair and Develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

**17.3 Surrender Leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit.

**17.4 Employ Personnel and Advisers**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower.

**17.5 Make VAT Elections**

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

**17.6 Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Chargee may prescribe or agree with him.

**17.7 Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

**17.8 Manage or Reconstruct the Borrower's Business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower.

**17.9 Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

**17.10 Sever Fixtures and Fittings**

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Borrower.

**17.11 Sell Book Debts**

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit.

**17.12 Valid Receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

**17.13 Make Settlements**



A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that he may think expedient.

**17.14 Bring Proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit.

**17.15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient.

**17.16 Make Calls on Borrower Members**

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

**17.17 Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 20, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed.

**17.18 Powers Under the LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

**17.19 Borrow**

A Receiver may, for any of the purposes authorised by this clause 17, raise money by borrowing from the Chargee (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Chargee consents, terms under which that security ranks in priority to this deed).

**17.20 Redeem Prior Security**

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

**17.21 Delegation**

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

**17.22 Absolute Beneficial Owner**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

**17.23 Incidental Powers**

A Receiver may do any other acts and things that he:

- (a) may consider desirable or necessary for realising any of the Secured Assets;
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) lawfully may or can do as agent for the Borrower.

**18. DELEGATION**

**18.1 Delegation**

The Chargee or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 22.1).

**18.2 Terms**

The Chargee and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

**18.3 Liability**

Neither the Chargee nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

**19. APPLICATION OF PROCEEDS**

**19.1 Order of Application of Proceeds**

All monies received by the Chargee, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Chargee (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- (b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Chargee determines; and
- (c) in payment of the surplus (if any) to the Borrower or other person entitled to it.

## **19.2 Appropriation**

Neither the Chargee, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, 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.

## **19.3 Suspense Account**

All monies received by the Chargee, a Receiver or a Delegate under this deed:

- (a) may, at the discretion of the Chargee, Receiver or Delegate, be credited to any suspense or securities realised account;
- (b) shall bear interest, if any, at the rate agreed in writing between the Chargee and the Borrower; and
- (c) may be held in that account for so long as the Chargee, Receiver or Delegate thinks fit.

## **20. COSTS AND INDEMNITY**

### **20.1 Costs**

The Borrower shall, promptly on demand, pay to, or reimburse, the Chargee and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Chargee, any Receiver or any Delegate in connection with:

- (a) this deed or the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Chargee's, a Receiver's or a Delegate's rights under this deed; or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate of 4% annum above Barclay Bank plc's base rate from time to time.

## **20.2 Indemnity**

The Borrower shall indemnify the Chargee, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Borrower in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 20.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **21. FURTHER ASSURANCE**

### **21.1 Further Assurance**

21.2 The Borrower shall, at its own expense, take whatever action the Chargee or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security intended to be created by this deed;
- (b) facilitating the realisation of any Secured Asset; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Chargee or any Receiver in respect of any Secured Asset,

21.3 including, without limitation (if the Chargee or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Chargee or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **22. POWER OF ATTORNEY**

### **22.1 Appointment of Attorneys**

By way of security, the Borrower irrevocably appoints the Chargee, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) the Borrower is required to execute and do under this deed; or

- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Chargee, any Receiver or any Delegate.

## **22.2 Ratification of Acts of Attorneys**

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 22.1.

## **23. RELEASE**

23.1 Subject to clause 30.3, on the expiry of the Security Period (but not otherwise), the Chargee shall, at the request and cost of the Borrower, take whatever action is necessary to:

- (a) release the Secured Assets from the security constituted by this deed; and
- (b) reassign the Secured Assets to the Borrower.

## **24. ASSIGNMENT AND TRANSFER**

### **24.1 Assignment By Chargee**

- (a) At any time, without the consent of the Borrower, the Chargee may assign or transfer any or all of its rights and obligations under this deed.
- (b) The Chargee may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this deed that the Chargee considers appropriate.

### **24.2 Assignment By Borrower**

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

## **25. SET-OFF**

### **25.1 Chargee's Right of Set-off**

The Chargee may at any time set off any liability of the Borrower to the Chargee against any liability of the Chargee to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Chargee may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Chargee of its rights under this clause 25 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

### **25.2 No Obligation to Set Off**

The Chargee is not obliged to exercise its rights under clause 25.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

**25.3 Exclusion of Borrower's Right of Set-off**

All payments made by the Borrower to the Chargee under this deed shall be made without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

**26. AMENDMENTS, WAIVERS AND CONSENTS**

**26.1 Amendments**

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

**26.2 Waivers and Consents**

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure to exercise, or a delay in exercising, any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Chargee shall be effective unless it is in writing.

**26.3 Rights and Remedies**

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

**27. SEVERANCE**

**27.1 Severance**

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

**28. COUNTERPARTS**

**28.1 Counterparts**

- (a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- (b) Transmission of an executed counterpart of this deed (but for the avoidance of doubt not just a signature page) by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- (c) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

**29. THIRD PARTY RIGHTS**

**29.1 Third Party Rights**

- (a) Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- (b) The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

## **30. FURTHER PROVISIONS**

### **30.1 Independent Security**

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Chargee may hold for any of the Secured Liabilities at any time. No prior security held by the Chargee over the whole or any part of the Secured Assets shall merge in the security created by this deed.

### **30.2 Continuing Security**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Chargee discharges this deed in writing.

### **30.3 Discharge Conditional**

Any release, discharge or settlement between the Borrower and the Chargee shall be deemed conditional on no payment or security received by the Chargee in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Chargee or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Chargee deems necessary to provide the Chargee with security against any such avoidance, reduction or order for refund; and
- (b) the Chargee may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

### **30.4 Certificates**

A certificate or determination by the Chargee as to any amount for the time being due to it from the Borrower under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due.

### **30.5 Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

### **30.6 Small Company Moratorium**

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by the Borrower under schedule A1 to the Insolvency Act 1986 nor the doing of anything by the Borrower with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:



- (a) an event under this deed which causes any floating charge created by this deed to crystallise;
- (b) an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Borrower; or
- (c) a ground under this deed for the appointment of a Receiver.

### **31. NOTICES**

#### **31.1 Delivery**

Each notice or other communication required to be given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by email, by pre-paid first-class post or other next working day delivery service; and
- (c) sent to:

- (i) the Borrower at:

1 Fleets Lane, Poole, Dorset BH15 3BZ

Attention: Mr John Harris

- (ii) the Lender at:

406 Great Guildford Business Square, Great Guildford Street, London, SE1 0HS  
mark.williams@ratesetter.com

Attention: Mark EJ Williams

- (iii) the Chargee at:

406 Great Guildford Business Square, Great Guildford Street, London, SE1 0HS  
mark.williams@ratesetter.com

Attention: Mark EJ Williams

or to any other address as is notified in writing by one party to the other from time to time.

#### **31.2 Receipt By Borrower**

Any notice or other communication that the Chargee gives to the Borrower shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address;

- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- (c) if sent by email, 24 hours from delivery if sent to the correct email address and no notice of delivery failure is received.

A notice or other communication given as described in this clause 31.2 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

### **31.3 Receipt By Chargee**

Any notice or other communication given to the Chargee shall be deemed to have been received only on actual receipt.

### **31.4 Service of Proceedings**

This clause 31 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **32. GOVERNING LAW AND JURISDICTION**

### **32.1 Governing Law**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

### **32.2 Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Chargee to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

### **32.3 Other Service**

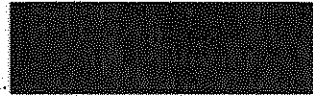
The Borrower irrevocably consents to any process in any legal action or proceedings under clause 32.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

This agreement has been entered into as a deed on the date stated at the beginning of it.

EXECUTED and DELIVERED

as a DEED by A.B. Precision (Poole) Limited  
acting by J. E. HARRIS, a director,  
in the presence of:

)  
)  
)  
)



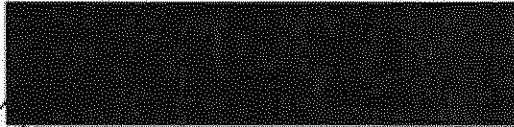
Witness:

Signature

Name

Address

Occupation



H. J. HINDLE

7 Stockdale Place  
Birmingham B15 3XH

Accountant

EXECUTED and DELIVERED

as a DEED by A.B. Precision (Poole) Limited  
acting by \_\_\_\_\_, a director,  
in the presence of:

)  
)  
)  
)

Witness:

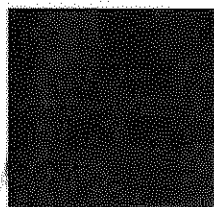
Signature

Name

Address

Occupation

EXECUTED and DELIVERED )  
as a DEED by RETAIL MONEY MARKET )  
LIMITED acting by an authorised signatory )  
in the presence of: )



Witness:

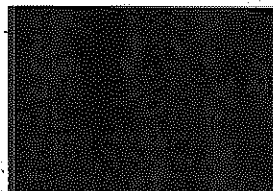
Signature 

Name Donal Vaughan

Address 406 Metal Box Factory,

30 Art Guildford Street, SE1 0HS

Occupation Credit Manager



EXECUTED and DELIVERED )  
as a DEED by SECURITY TRUSTEE SERVICES )  
LIMITED acting by an authorised signatory )  
in the presence of: )

Witness:

Signature 

Name Donal Vaughan

Address 406 Metal Box Factory,

30 Art Guildford St, SE1 0HS

Occupation .....

