



Registration of a Charge

Company name: **HI PEAK FEEDS LIMITED**

Company number: **01085959**



X7BTJSIY

Received for Electronic Filing: **07/08/2018**

Details of Charge

Date of creation: **03/08/2018**

Charge code: **0108 5959 0015**

Persons entitled: **NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

TUGHANS



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1085959

Charge code: 0108 5959 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd August 2018 and created by HI PEAK FEEDS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th August 2018 .

Given at Companies House, Cardiff on 9th August 2018

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



Companies House



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

EXECUTION VERSION

DATED 3 August 2018

(1) THE PARTIES LISTED IN SCHEDULE 1 HERETO

in favour of

(2) NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY
(as Security Agent)

SECURITY AGREEMENT

GOVERNED BY THE LAWS OF ENGLAND & WALES

Tughans

We hereby certify that this is
a true copy of the original

Dated 6 August 2018

Tughans
Solicitors
30 Victoria Street
Belfast BT1 3GG
Northern Ireland

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This SECURITY AGREEMENT is made as a DEED and dated 3 August 2018
BETWEEN

- (1) THE PARTIES more particularly set out in Schedule 1 (The Chargors) (each a "Chargor" and any one or more, as the context requires or admits, being the "Chargors"); and
- (2) NATIONAL WESTMINSTER BANK PUBLIC LIMITED COMPANY as security agent for the Secured Parties (the "Security Agent").

WHEREAS

- (A) The Chargors are party to, and Obligors in respect of, the Finance Documents, pursuant to which the Chargors are, or may be in the future, indebted to one or more of the Secured Parties (whether as principal debtor, guarantor, surety or in any other capacity whatsoever).
- (B) As security for the payment and discharge of all Obligations of each Obligor to the Secured Parties under the Finance Documents, each Chargor has agreed to provide the Security Agent with the mortgages, charges, assignments and other security interests more particularly set out herein.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed:

"Accounts" means each account held by a Chargor (or held by a nominee on behalf of that Chargor) with any bank or other financial institution including those (if any) set out in Schedule 2 (Charged Assets) Part E (Accounts) and any account designated as a realisations account for the proceeds of any Disposal of the assets of that Chargor and any credit balance from time to time on any account opened or maintained by any Chargor with any financial institution (and any replacement account or subdivision of sub-account of that account).

"Administrator" means one or more administrators of a Chargor appointed or to be appointed pursuant to the provisions of this Deed or under any applicable provision of law.

"Administrative Receiver" means one or more administrative receivers of a Chargor appointed or to be appointed pursuant to the provisions of this Deed or under any applicable provision of law.

"Charged Assets" means those assets which are, from time to time, the subject of Clause 3.2.

"Chattels" means (save to the extent that it is part of the stock-in-trade of a Chargor) all chattel items, plant, machinery, vessels, vehicles, furniture, fittings, computers and office and other equipment and utensils of a Chargor of whatsoever nature and wheresoever situate (both present and future) including the Chattels (if any) more particularly set out in Schedule 2 (Charged Assets) Part B (The Chattels).

"Contracts" means each contract, agreement, instrument, deed or other arrangement entered into between a Chargor and any person (other than a Secured Party) including all contracts for the maintenance and repair of any Charged Asset and any warranty relating to a Charged Asset including the Contracts (if any) more particularly set out in Schedule 2 (Charged Assets) Part D (Contracts).

"Debts" means a monetary claim of any kind due and owing from a third party to a Chargor (whether present, future or contingent and whether originally owing to the person entitled to it or acquired by that person from someone else) and all Rights (including any Security Interest) connected with it.

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"Default Interest" means interest on the relevant amount accruing at (i) any rate identified in any Finance Document as the rate of interest applying upon a default (whether or not that rate is described as the "default rate" of interest or otherwise) and in the event of more than one such rate being applicable, the highest of such rates or (ii) in the absence of such rate being so specified, the rate being two per cent. per annum above any rate of interest applicable to any Finance Document and, in the event of more than one such rate being applicable, the highest of such rates.

"Deposit" means all monies from time to time standing to the credit of any one or more, as the context requires or admits, of the Accounts together with all other Rights and benefits accruing to or arising in connection with each Account (including, without limitation but only if applicable, any entitlements to interest or other amounts accruing to that Account).

"Derivative Assets" means all assets derived from any of the Shares including all allotments, accretions, offers, rights, dividends, interest, income, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to any of the Shares and all stocks, shares, rights, money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, exchange, purchase, substitution, option, interest or otherwise in respect thereof.

"Disposal" means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of a Security Interest and the term "Dispose" shall be construed accordingly.

"Enforcement Time" means any time at which an Event of Default has occurred and is continuing.

"Environment" means all of the air, water and land, including (without limitation) the air within buildings and the air within other natural or man-made structures above or below ground, ground and surface water and surface and sub-surface soil.

"Environmental Law" means all applicable statutes, treaties, regulations, directives or similar measures relating to the pollution or protection of the Environment that affects the Charged Assets.

"Event of Default" shall have the meaning given to that term in the Facility Agreement.

"Facility Agreement" means the term and revolving credit facility agreement dated on or about the date hereof and made between, amongst others, Devenish (NI) Limited (as Parent), certain of the subsidiaries of the Parent (as borrowers), the Parent and certain of its subsidiaries (as guarantors), Ulster Bank Ireland Designated Activity Company and Northern Bank Limited (as Arranger), Ulster Bank Ireland Designated Activity Company and Northern Bank Limited (as Original Lenders), National Westminster Bank Plc (as security agent) and National Westminster Bank Plc (as agent).

"Finance Document" shall have the meaning given to that term in the Facility Agreement.

"Financial Collateral" shall have the meaning given to that expression in the Financial Collateral Regulations.

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

"Fixed Charge Receiver" means one or more receivers or managers appointed, or to be appointed, under this Deed who is not an Administrative Receiver.

"Guarantees" means each and every guarantee provided in relation to a Lease including the Guarantees (if any) which are specified in Schedule 2 (Charged Assets) Part A (Secured Real Property).

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"Insolvency Event" in relation to a person, means:

- (a) the dissolution, liquidation, provisional liquidation, administration, provisional administration, administrative receivership, receivership or examinership of that person or the entering into by that person of a voluntary arrangement or scheme of arrangement with creditors;
- (b) any analogous or similar procedure in any jurisdiction other than England & Wales; or
- (c) any other form of procedure relating to insolvency, bankruptcy, reorganisation or dissolution in any jurisdiction.

"Insolvency Legislation" means:

- (a) the Insolvency Act 1986 and any legislation, rules or regulations made under it; and
- (b) any other primary or secondary legislation, rules or regulations in England & Wales from time to time relating to insolvency, bankruptcy, reorganisation or dissolution.

"Insurances" means all present and future contracts and policies of insurance and re-insurance of any kind taken out or, as the context requires, to be taken out and maintained by or on behalf of a Chargor in connection with the Charged Assets or in which a Chargor has an interest in connection with the Charged Assets.

"Insurance Proceeds" means all proceeds of Insurances payable to or received by a Chargor (whether by way of claims, return premiums, ex gratia payments or otherwise) but excluding, for the avoidance of doubt, liability of a Chargor for third party claims to the extent that those proceeds are applied directly to discharge a liability of a Chargor to a third party.

"Intellectual Property" means:

- (a) all copyright (including Rights in computer software), patents, trade marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register or rights to apply for registration) which, in each case, are of a type which are not disposed of in the ordinary course of trading;
- (b) any intellectual property that supplements or replaces intellectual property described in (a) above;
- (c) any intellectual property (of whatsoever nature or howsoever described) acquired after the date of this Deed,

including the Intellectual Property (if any) more particularly set out in Schedule 2 (Charged Assets) Part F (The Intellectual Property).

"Intercreditor Agreement" has the meaning given to that term in the Facility Agreement.

"Investment" means:

- (a) all loans advanced by a Chargor to any person (but not including, for the avoidance of doubt, any credit balances or monies standing to the account of any bank account held with any Secured Party);

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- (b) any loan capital held in any Subsidiary;
- (c) any investment (of whatsoever nature or howsoever described);
- (d) any other debt security or any warrant or option to acquire or subscribe for any such security (whether it is held directly or through a custodian, clearing house or other person) unless it is of a type which is not held as an investment and is accordingly disposed of in the ordinary course of trading;
- (e) the Shares; and
- (f) any shares (other than the Shares) in the share capital of any company or, in respect of any other corporate entity, any Rights entitling a Chargor to participation rights in that corporate entity,

and, in each case, any accretions to them and other Rights arising in connection with them including the Investments (if any) more particularly set out in Schedule 2 (Charged Assets) Part C (The Investments).

"Leases" means each and every lease, licence or contract or agreement to lease, licence or let or contract of occupation entered into by a Chargor in relation to any Real Property including the Leases (if any) which are specified in Schedule 2 (Charged Assets) Part A (Secured Real Property).

"Licences" means each and every licence, permit or authority as renewed, amended, varied, extended or supplemented from time to time now or hereafter held by a Chargor in relation to any Real Property (or any part thereof) including the Licences which are specified in Schedule 2 (Charged Assets) Part A (Secured Real Property).

"Monetary Claims" means any book and other debts and monetary claims (other than Accounts) owing to a Chargor and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurances or amounts received in respect of compensation, any court order or judgment, any contract or agreement to which a Chargor is a party and any other assets, property, rights or undertaking of a Chargor).

"Obligations" in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are:

- (a) to pay money or to perform (or not to perform) any other act;
- (b) express or implied;
- (c) present, future or contingent;
- (d) joint or several;
- (e) incurred as a principal, guarantor or surety or in any other manner; or
- (f) originally owing to the person claiming performance or acquired by that person from someone else.

"Officer" in relation to a person, means any officer, employee or agent of that person.

"Permitted Security Interests" means each Security Interest which the Security Agent has, from time to time, agreed in writing with a Chargor shall constitute a Permitted Security Interest.

"Real Property" means, in each case wherever located in the world, any freehold, leasehold or other immoveable property now or at any time hereafter belonging to, or any

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estate or interest vested in, a Chargor together with all rights, liberties, powers, easements, quasi easements and appurtenances (in each case of whatever nature) attached or appurtenant thereto and all buildings, erections, fixtures, fittings (including trade fixtures and fittings) and all fixed plant and machinery from time to time therein or thereon and the term "Real Property" shall, for the avoidance of doubt, include any Secured Real Property.

"Receiver" means an Administrative Receiver or a Fixed Charge Receiver.

"Related Rights" means, in relation to any asset (including the Shares, the Derivative Assets and the Investments):

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset.

"Rental Income" means all monetary amounts paid to a Chargor in connection with a Lease or a Licence and all monetary claims due and owing by a third party to a Chargor in connection with a Lease or a Licence (in each case, whether present or future) together with (i) all Rights and claims of a Chargor against all lessees, sub lessees, licensees or occupiers of the relevant Real Property and (ii) all guarantees and securities for the Obligations of any of the foregoing.

"Right" means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary.

"Secured Obligations" means the Obligations undertaken to be paid or discharged in Clause 2 (Payment of Secured Obligations).

"Secured Real Property" means the Real Property (if any) more particularly described in Schedule 2 (The Charged Assets) Part A (Secured Real Property).

"Secured Party" shall have the meaning given to that term in the Intercreditor Agreement.

"Security Document" means each and every document or arrangement creating or evidencing (i) a Security Interest or (ii) a guarantee, indemnity or other contract of suretyship in each case made by an Obligor in favour of a Secured Party and which secures or guarantees the payment or discharge of any Obligations of any Obligor to any Secured Party (whether directly or in favour of the Security Agent as security trustee for the Secured Parties) and the term "Security Document" shall include this Deed.

"Security Financial Collateral Arrangement" shall have the meaning given to that expression in the Financial Collateral Regulations.

"Security Interest" means:

- (a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, assignation in security, trust, arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction;
- (b) any blocked account or "flawed asset" arrangement which has the commercial effect of creating security for financial indebtedness;
- (c) any right of set-off whether it is created by agreement or by operation of law; and

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- (d) any other proprietary interest over an asset, or any arrangement in relation to an asset, in each case created in relation to financial indebtedness and which has the same commercial effect as if security had been created over it.

"Security Period" means the period starting on the date of this Deed and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and no further Secured Obligations are capable of being outstanding.

"Shares" means the shares (if any) more particularly identified in Schedule 2 (Charged Assets) Part C (The Investments) including all dividends, interest and other monies payable in respect of the Shares and all other Related Rights accruing to, whether derived from by way of redemption, bonus, preference, option, substitution, conversion or otherwise.

"Subsidiary" means a subsidiary within the meaning of Section 1159 of the Companies Act 2006, and for this purpose if any shares are held by way of security, the person providing that security shall be treated as the member of the relevant company unless and until that security is realised, notwithstanding that the beneficiary of that security (or a nominee of that beneficiary) may be registered as a member of the relevant company.

"Tax" means any tax (including VAT), levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature or effect.

- 1.2 Unless a contrary indication appears, any reference in this Deed:
- 1.2.1 to any words denoting the singular number only shall be construed as including the plural and vice versa and to any words denoting any gender shall be construed as including all genders;
- 1.2.2 to any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.3 to assets includes present and future properties, assets, intellectual property rights, real property, heritable property, personal property, rights, revenues, uncalled capital and any Rights to receive, or require delivery of, or exercise direct control over any of the foregoing;
- 1.2.4 to any agreement or instrument is a reference to that agreement or instrument as in force for the time being and as from time to time (i) amended, restated, supplemented, varied, modified or novated or (ii) replaced or superseded by any other agreement or instrument between the parties to that agreement or instrument;
- 1.2.5 to the terms including or includes shall be construed as meaning including without limitation or includes without limitation;
- 1.2.6 to an obligation means any duty, obligation or liability of any kind;
- 1.2.7 to an indemnity or indemnifying any person against any circumstance includes indemnifying and keeping that person harmless from all demands, actions, claims and proceedings from time to time made or brought against that person and all loss or damage and all payments, costs, expenses, liabilities and other Obligations from time to time made, suffered or incurred by that person as a direct or indirect consequence of, or which would not have arisen but for, the relevant circumstance;
- 1.2.8 to indebtedness includes any obligation, whether incurred as a principal or as surety, for the payment or repayment of money, whether present or future, actual or contingent and whether owed jointly or severally or in any other capacity;

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- 1.2.9 to a person includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.10 to a regulation includes any present or future law, regulation, rule, official directive, request or guideline having the force of law of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.11 to the winding up, dissolution, administration or bankruptcy of a person shall be construed as to include any equivalent or analogous procedures under the laws of any jurisdiction in which such person is incorporated or resident, any jurisdiction in which such person carries on business or in which any of its assets are located (including the seeking of a liquidation, winding up, appointment of bankruptcy trustee, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors, insolvency and suspension of payments);
- 1.2.12 to a provision of law or regulation shall be a reference to that provision as amended, supplemented, replaced or re-enacted;
- 1.2.13 to £ or pounds sterling or GBP shall be to pounds sterling the lawful currency for the time being of the United Kingdom of Great Britain and Northern Ireland;
- 1.2.14 to a time of day shall be a reference to Belfast time; and
- 1.2.15 to Clauses and Schedules are to be construed as references to Clauses of and Schedules to this Deed.
- 1.3 Clause and Schedule headings are for ease of reference only and shall be ignored in the interpretation of this Deed.
- 1.4 In this Deed an Event of Default is "continuing" if it has not been remedied or waived in accordance with the Facility Agreement.
- 1.5 Where this Deed imposes an Obligation on a Chargor to do something if required or requested by a Secured Party, it will do so as soon as practicable after it becomes aware of the requirement or request.
- 1.6 It is intended that this document takes effect as a deed even though the Security Agent may only execute it under hand.
- 1.7 This Deed may be executed in counterparts.
- 1.8 Where a definition of a type of asset in Clause 1.1 contains a number of categories, each category will be construed as separate from each other category.
- 1.9 If the Security Agent considers that an amount paid by a Chargor in respect of the Secured Obligations is capable of being avoided or otherwise set aside on the liquidation or administration of that Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.10 The Rights conferred on each Secured Party and on each Receiver and on each Officer of a Secured Party or a Receiver under Clause 12 (Expenses, liability and indemnity) and Clause 13 (Payments) are enforceable by each of them under the Contracts (Rights of Third Parties) Act 1999. No other term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone who is not a party to this Deed. The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they may not terminate this Deed or vary any of its terms if this would have the effect of terminating or adversely affecting the Rights of a Receiver or of an Officer of the Secured Party or a Receiver under this Deed without its consent, BUT ONLY to the

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extent that the relevant Receiver or Officer has notified the Security Agent in writing that it intends to enforce or rely on the relevant provision prior to the time of the termination or variation.

2. PAYMENT OF SECURED OBLIGATIONS

2.1 Each Chargor hereby covenants with and undertakes to the Security Agent (as trustee for the Secured Parties) that it will pay or otherwise discharge all Obligations from time to time due by each of the Obligors to the Secured Parties under or pursuant to the Finance Documents, in each case when they become due for payment or discharge in accordance with their respective terms.

2.2 For the avoidance of doubt the Obligations covenanted to be paid by the Chargor under this Clause 2 (Payment of Secured Obligations) will include all amounts whether in respect of principal, interest, broken funding costs, amounts due under hedging contracts, costs, fees, expenses and charges and all amounts payable or to be paid by any Obligor under any provision of any Finance Document.

2.3 If any Chargor fails to pay any sum on the due date for payment of that sum, such Chargor shall pay Default Interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis.

3. CREATION OF SECURITY INTERESTS

3.1 The grants, demises, mortgages, charges and security assignments contained in this Clause 3 (Creation of Security Interests):

3.1.1 are given to the Security Agent in its capacity as the security trustee for and on behalf of each Secured Party;

3.1.2 secure the payment and discharge of the Secured Obligations;

3.1.3 are given with full title guarantee;

3.1.4 are given as a continuing security, shall extend to the ultimate balance of the Secured Obligations and shall continue in force notwithstanding any intermediate payment or discharge in whole or in part of the Secured Obligations unless and until the Security Agent discharges this Deed in writing; and

3.1.5 are given by each Chargor in respect of those assets which are owned by or vested in that Chargor (including, where appropriate, as more particularly set out in Schedule 2 (Charged Assets)).

3.2 Each Chargor:

3.2.1 CHARGES unto the Security Agent by way of legal mortgage the Secured Real Property,

3.2.2 CHARGES unto the Security Agent by way of legal mortgage all Real Property (other than the Secured Real Property) now vested in that Chargor;

3.2.3 CHARGES BY WAY OF FIRST FIXED CHARGE unto the Security Agent all Real Property acquired by that Chargor after the date of this Deed;

3.2.4 CHARGES BY WAY OF FIRST FIXED CHARGE and ASSIGNS BY WAY OF FIRST FIXED SECURITY ASSIGNMENT unto the Security Agent all the Rights which it now has and all of the Rights which it obtains at any time in the future in:

(a) the Chattels;

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- (b) the Investments;
 - (c) the Insurances and the Insurance Proceeds;
 - (d) the Contracts;
 - (e) the Accounts and the Deposits;
 - (f) the Intellectual Property;
 - (g) the Debts;
 - (h) all of the Chargor's goodwill and uncalled capital;
 - (i) the Leases and the Rental Income;
 - (j) the Licences;
 - (k) the Guarantees;
 - (l) the Monetary Claims; and
 - (m) any Rights accruing to, derived from or otherwise connected with any of the Charged Assets including, without limitation, any income associated with or generated by a Charged Asset and the proceeds of any Disposal of a Charged Asset);
- 3.2.5 CHARGES BY WAY OF FIRST FLOATING CHARGE unto the Security Agent all of its property, undertaking and all its present and future assets including, for the avoidance of doubt, all or any part of the assets of the Chargor expressed to be subject to a Security Interest pursuant to any of the foregoing provisions of this Clause 3.2 to the extent that same fails (for whatsoever reason) to take effect as such.
- 3.3 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this Deed.
- 3.4 The floating charge set out in Clause 3.2.5 above:
- 3.4.1 shall automatically crystallise and be converted into a fixed charge if:
- (a) a Chargor ceases to carry on all or any material part of its business without the prior consent in writing of the Security Agent; or
 - (b) a petition is presented, any resolution is proposed (whether or not passed) or any order is made for, in each case, the liquidation or winding up of a Chargor (provided that such would constitute an Event of Default under 23.7 (*Insolvency Proceedings*) of the Facility Agreement);
 - (c) an Administrator or Receiver is appointed; or
 - (d) a Secured Party receives notice of an intention to appoint an Administrator or a Receiver; or
 - (e) any property, assets or undertaking of a Chargor shall (i) become subject to a Security Interest in favour of any person other than a Secured Party or (ii) be the subject of a Disposal (in each case save as otherwise permitted pursuant to the terms of any Finance Documents or where the Security Agent has given its prior consent in writing); or
 - (f) upon the occurrence of an Event of Default save where the Security Agent notifies the relevant Chargor in writing otherwise; and

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- 3.4.2 shall crystallise and be converted into a fixed charge if the Security Agent shall serve a notice in writing on a Chargor specifying the identity of the assets in respect of which such floating charge has crystallised and, for the avoidance of doubt:
- (a) such notice may be served whether or not the Security Agent makes demand under Clause 2 (Payment of Secured Obligations) and whether or not an Event of Default shall have occurred; and
 - (b) the Security Agent may exercise its Rights under this Clause 3.4.2 more than once,
and in each such case, forthwith upon crystallisation, the relevant Chargor shall no longer be at liberty to dispose of the assets which are the subject of such crystallisation without the express consent in writing of the Security Agent.
- 3.5 For the purposes of crystallisation under Clause 3.4 above the time of crystallisation shall be deemed to be:
- 3.5.1 in respect of crystallisation under Clause 3.4.1, immediately prior to the relevant event occurring;
 - 3.5.1 in respect of crystallisation under Clause 3.4.2, at the time such notice is deemed to have been served in accordance with the provisions of Clause 15 (Notices);
4. PROTECTION OF SECURITY
- 4.1 The security constituted by this Deed is a continuing security and will extend to the ultimate balance of sums payable by each Chargor to the Secured Parties in connection with the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.
- 4.2 The Obligations of a Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 4.2, would reduce, release or prejudice any of its Obligations under this Deed (whether or not known to it or any Secured Party) including:
- (a) any time, waiver or consent granted to, or composition with, an Obligor or any other person;
 - (b) the release of an Obligor or any other person under the terms of any composition or arrangement with any creditor of any person;
 - (c) the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any Rights against, or Security Interest over assets of, an Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security Interest;
 - (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members, name or status of an Obligor or any other person;
 - (e) any amendment, novation, supplement, extension (however fundamental and whether or not more onerous), or replacement, assignment, avoidance or termination of any document or Security Interest including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any document or Security Interest;
 - (f) any unenforceability, illegality or invalidity of any Obligation of, or any Security Interest created by, any person under this Deed, any other document; or
 - (g) any insolvency, liquidation, administration or similar procedure.
- 4.3 Without prejudice to the generality of Clause 4.2, each Chargor expressly confirms that it intends that this Deed shall extend from time to time to any (however fundamental)

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variation, increase, extension or addition of or to any of the documents or instruments constituting the Secured Obligations and/or any facility or amount made available under any of the foregoing for the purposes of or in connection with any of the following:

- (a) acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

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

4.5 During the Security Period, the Secured Parties may:

- (a) refrain from applying or enforcing any other moneys, Security Interests or Rights held or received by it (or any trustee or agent on its behalf) in respect of amounts which may be or become payable by an Obligor to a Secured Party under or in connection with the Secured Obligations, or apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of them; and
- (b) hold in an interest-bearing suspense account any moneys received from a Chargor or on account of a Chargor's Obligations and liability under this Deed.

4.6 During the Security Period, and unless the Security Agent otherwise directs in writing, no Chargor will exercise any Rights which it may have by reason of performance by it of its Obligations under this Deed or any other document or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to receive or claim payment from or be indemnified by any Obligor or any other person;
- (b) to claim any contribution from any provider of a Security Interest in respect of any of the Secured Obligations;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any Rights of a Secured Party under any document relating to the Secured Obligations;
- (d) to exercise any right of set-off against any Obligor or any other person; and/or
- (e) to claim or prove as a creditor of an Obligor or any other person in competition with any Secured Party.

4.7 During the Security Period, no Chargor shall take, or retain, any security, guarantee,

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indemnity or other assurance or undertaking against payment from any Obligor or any other person in connection with any Chargor's Obligations under this Deed.

- 4.8 If a Chargor is in breach of Clause 4.6 or Clause 4.7, that Chargor shall hold on trust the payment, contribution, benefit, right or security, guarantee, indemnity or other assurance or undertaking against payment to transfer or pay it to the Security Agent to the extent necessary to satisfy any Chargor's Obligations under this Deed.
- 4.9 During the Security Period if this Deed ceases to be continuing for any reason, any Secured Party may open a new account or accounts with a Chargor and, if it does not do so, it shall nevertheless be treated as if it had done so at the time this Deed ceased to be continuing (whether by determination, calling in, demand or otherwise), and as from that time all payments made by a Chargor to that Secured Party:
- (a) shall be credited or be treated as having been credited to the new account; and
- (b) shall not operate to reduce the Secured Obligations at that time.

5. RESTRICTIONS

- 5.1 Each Chargor will ensure that the restrictions contained in this Clause 5 (Restrictions) are complied with at all times during the Security Period unless the Security Agent agrees in writing to the contrary.
- 5.2 No Security Interest other than a Permitted Security Interest will exist over, or in relation to, any Charged Asset.
- 5.3 There will be no Disposal of any Charged Asset save to the extent permitted pursuant to the Facility Agreement.
- 5.4 Each Chargor shall ensure that the Shares and Related Rights are at all times free from any restriction on transfer (whether under any relevant constitutional documents or otherwise) by the Security Agent (or its nominee(s)) to perfect or enforce the security conferred or intended to be conferred by this Deed;
- 5.5 Each Chargor shall procure that the board of directors of each Chargor approves any transfer of any of the Shares and Related Rights desired to be made by the Security Agent in the exercise of the rights, powers and remedies conferred upon it by this Deed or by law.
- 5.6 No Chargor shall, by the exercise of any voting rights or otherwise, permit or agree to any proposed compromise, arrangement, capital reorganisation, conversion, exchange, repayment or takeover offer affecting or in respect of any of the Shares or Related Rights.
- 5.7 Each Chargor shall comply with every covenant (whether restrictive or otherwise), obligation and provision on its part to be complied with (and use all reasonable endeavours to procure compliance by each other party thereto with every covenant, obligation and provision on the part of each such other party to be complied with) contained in any document affecting the Shares and Related Rights or their use and enjoyment.
- 5.8 No Chargor shall exercise any of its rights and powers in relation to any of the Investments in any manner which, in the reasonable opinion of the Security Agent, would prejudice the value of, or the ability of the Security Agent to realise, the security created by this Deed.

6. PERFECTION

- 6.1 General action
- 6.1.1 Each Chargor will, at its own expense, create all Security Interests, execute all documents, effect all registrations (whether, at Companies House, HM Land Registry, any other relevant asset registry or otherwise), and do all other things as the Security Agent may

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reasonably require from time to time in order to:

- (a) ensure that it has effective mortgages, fixed charges, security assignments and floating charges as contemplated by Clause 3.2; and
- (b) facilitate the enforcement of the security constituted by this Deed, the realisation of the Charged Assets or the exercise of any Rights held by any Secured Party or any Receiver under or in connection with any Finance Document.

6.1.2 Subject to Clause 6.1.3 below, the scope of Clause 6.1 (General action) is not limited by the specific provisions of the rest of this Clause 6 (Perfection) or by any other provision of any Finance Document.

6.1.3 Notwithstanding the provisions of this Clause 6, the Security Agent confirms that prior to the occurrence of a Default (as defined within the Facility Agreement), the Security Agent shall not require any Chargor to serve notice on any counterparty or take any other perfection steps in respect of the fixed charge security contained within this Deed.

6.2 Further advances

6.2.1 Subject to the terms of the Finance Documents, the Secured Parties are under an obligation to make further advances and that obligation will be deemed to be incorporated into this Deed as if set out in this Deed.

6.2.2 Each Chargor consents to an application being made to the Land Registry to enter the obligation to make further advances on the title(s) of any registered land forming part of the Secured Real Property.

6.3 Application to the Land Registry

6.4 Each Chargor hereby applies to the Chief Land Registrar for the registration of the following restriction on the Register of Title to any Secured Real Property registered at HM Land Registry (and against any title to any unregistered property comprised in the Secured Real Property which is or ought to be the subject of a first registration of title at HM Land Registry at the date of this Deed);

"No disposition of the registered estate by the registered owner of the registered estate is to be registered without a written consent signed by the registered owner for the time being of the charge dated [] (the "Charge") in favour of [Insert details of Security Agent] referred to in the charges register or, if appropriate, signed on such registered owner's behalf by its secretary or conveyancer."

6.5 Each Chargor further authorises the Security Agent to make all such applications which may be required in order register such restriction on behalf of each Chargor.

7. [NOT USED]

8. REPRESENTATIONS AND WARRANTIES

8.1 The terms and provisions of clause 19 (Representations) of the Facility Agreement shall apply to this Deed as if such terms and provisions were set out in full herein mutatis mutandis.

8.2 The representations and warranties set out in this Clause 8 (Representations and warranties) are made on the date of this Deed and shall be deemed to be repeated in accordance with clause 19.31 (Repetition) of the Facility Agreement.

9. ENFORCEMENT

9.1 Time for enforcement

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- 9.1.1 The Security Agent's power of sale under the Law of Property Act 1925 shall arise (and the Secured Obligations shall be deemed to be due and payable for that purpose) upon the execution of this Deed.
- 9.1.2 The Security Agent may enforce this Deed at any time which is an Enforcement Time or if a Chargor requests it to do so.
- 9.1.3 The restrictions set out in Section 103 (Regulation of exercise of power of sale) of the Law of Property Act 1925 shall not apply to this Deed.
- 9.2 Methods of enforcement
- 9.2.1 The Security Agent may enforce this Deed by:
- (a) (if permitted to do so by the Insolvency Legislation or by any other applicable law) appointing an Administrator of a Chargor;
 - (b) (if permitted to do so by the Insolvency Legislation or by any other applicable law) appointing an Administrative Receiver of a Chargor;
 - (c) appointing a Fixed Charge Receiver of assets of a Chargor;
 - (d) going into possession of, receiving the benefit of, or selling assets of a Chargor, giving notice to a Chargor or any other person in relation to any assets of a Chargor, exercising a right of set-off or in any other way it may decide; or
 - (e) taking any other action it may decide in any jurisdiction other than England & Wales.
- 9.2.2 An Administrator must be appointed in accordance with the Insolvency Legislation and/or any other applicable Law.
- 9.2.3 A Receiver must be appointed by an instrument in writing and (where relevant) in accordance with the Insolvency Legislation and/or any other applicable Law. Such appointment may be made, at the discretion of the Security Agent, under hand or as a deed.
- 9.2.4 The appointment of a Receiver may be made subject to such limitations as are specified by the Security Agent in the appointment.
- 9.2.5 If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that the Security Agent may specify to the contrary in the appointment.
- 9.2.6 Subject to the Insolvency Legislation and/or any other applicable Law, the Security Agent may remove or replace any Receiver.
- 9.2.7 If required by the Insolvency Legislation and/or any other applicable Law, an Administrator or Receiver must be a person qualified to act as such under it.
- 9.2.8 The powers granted to the Security Agent and any Receiver by this Deed shall be in addition to all statutory and other powers of the Security Agent and such Receiver under the Law of Property Act 1925 or otherwise and all such powers shall remain exercisable from time to time by the Security Agent in respect of the Charged Assets.
- 9.3 Powers on enforcement
- 9.3.1 An Administrator will have the powers given to him by the Insolvency Legislation and/or any other applicable Law.

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- 9.3.2 An Administrative Receiver will have:
- (a) the powers given to him by the Insolvency Legislation and/or any other applicable Law;
 - (b) the powers given to a mortgagee or a receiver by the Law of Property Act 1925 but without the restrictions contained in Section 103 (Regulation of exercise of power of sale) of the Law of Property Act 1925; and
 - (c) the power to do, or omit to do, on behalf of a Chargor, anything which that Chargor itself could have done, or omitted to do, if its assets were not the subject of Security and the Chargor was not in insolvency proceedings.
- 9.3.3 A Fixed Charge Receiver will, in respect of the Charged Assets over which he is appointed, have the same powers as an Administrative Receiver would have if he were duly appointed as the administrative receiver of a Chargor (notwithstanding that the Fixed Charge Receiver is not, and nothing set out in this Deed shall be deemed to constitute the Fixed Charge Receiver as, an administrative receiver).
- 9.3.4 The Security Agent will, if it enforces the Security Documents itself, have, in respect of the assets which are the subject of the enforcement, the same powers as an Administrative Receiver would have had if he were duly appointed as the administrative receiver of a Chargor (notwithstanding that the Security Agent is not, and nothing set out in this Deed shall be deemed to constitute the Security Agent as, an administrative receiver).
- 9.3.5 Except to the extent provided by law, none of the powers described in this Clause 9 (Enforcement) will be affected by an Insolvency Event in relation to a Chargor.
- 9.4 Status and remuneration of Receiver
- 9.4.1 A Receiver will be the agent of the relevant Chargor until that Chargor goes into liquidation. He will have no authority to act as agent for any Secured Party, even in the liquidation of a Chargor.
- 9.4.2 The Security Agent may from time to time determine the remuneration of any Receiver.
- 9.5 Appropriation of Financial Collateral
- 9.5.1 To the extent that any of the Charged Assets constitutes Financial Collateral and this Deed and the Obligations of a Chargor hereunder constitute a Security Financial Collateral Arrangement, the Security Agent shall have the right, at any time after this Deed has become enforceable, to appropriate all or any of that part of relevant Charged Assets in or towards the payment and/or discharge of the Secured Obligations in such order as the Security Agent in its absolute discretion may from time to time determine.
- 9.5.2 The value of the Charged Assets appropriated in accordance with this Clause shall be (i) in the case of cash, the amount of cash appropriated and (ii) in the case of any Investment, the market price of such Investment determined by the Security Agent in its absolute discretion.
- 9.5.3 Each Chargor agrees that the method of valuation provided for in this Clause 9.5 (Appropriation of Financial Collateral) is commercially reasonable for the purposes of the Financial Collateral Regulations.
- 9.6 Third parties
- 9.6.1 A person dealing with the Security Agent or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:
- (a) those persons have the power to do those things which they are purporting to do; and

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- (b) they are exercising their powers properly.
- 9.6.2 The receipt of the Security Agent or a Receiver shall be conclusive discharge to a purchaser and, in making a Disposal of all or any part of the Charged Assets, the Security Agent or Receiver may do so for such consideration, in such manner and on such terms as it considers fit.
- 10. POWERS OF THE SECURITY AGENT AND THE SECURED PARTIES
 - 10.1 Notification of subsequent Security Interest and opening of new account

If a Secured Party receives notice that any Security Interest has been created over Charged Assets which is not a Permitted Security Interest, that Secured Party will be treated as if it had immediately opened a new account for the relevant Chargor and all payments received by that Secured Party from that Chargor will be treated as if they had been credited to the new account and will not reduce the amount then due from that Chargor to that Secured Party.
 - 10.2 Remediation of breaches and exclusion of liability as mortgagee in possession

The Security Agent shall be entitled (but shall not be bound) to remedy a breach at any time by a Chargor of any of its Obligations contained in this Deed and each Chargor irrevocably authorises the Security Agent and its agents to do all such things as are necessary or desirable for that purpose. The Rights of the Security Agent under this Clause 10.2 (Remediation of breaches and exclusion of liability as mortgagee in possession) are without prejudice to any other Rights of the Security Agent under this Deed. The exercise of those Rights shall not make the Security Agent liable to account as a mortgagee in possession.
 - 10.3 Redemption of prior Security Interests
 - 10.3.1 At any time during an Enforcement Time, the Security Agent may:
 - (a) redeem any prior Security Interest, or procure its transfer to itself; and
 - (b) settle any account of the holder of any prior Security Interest.
 - 10.3.2 The settlement of any such account shall be conclusive and binding on each Chargor. All monies paid by the Security Agent to an encumbrancer in settlement of such an account shall, as from its payment by the Security Agent, be due from each Chargor to the Security Agent on current account, shall bear Default Interest up to and including the date of actual payment (both before and after judgment) and be secured as part of the Secured Obligations.
 - 10.4 Currency conversion
 - 10.4.1 For the purpose of, or pending the discharge of, any of the Secured Obligations, the Security Agent may convert any monies received, recovered or realised by the Security Agent under this Deed (including the proceeds of any previous conversion under this Clause 10.4 (Currency conversion)) from their existing currencies of denomination into such other currencies of denomination as the Security Agent may think fit.
 - 10.4.2 Any such conversion shall be effected at a market rate of exchange for such other currency against the existing currency as the Security Agent applies in the usual course of its trading.
 - 10.4.3 Each reference in this Clause 10.4 (Currency conversion) to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.
 - 10.5 Powers in respect of the Investments

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- 10.5.1 Without prejudice to the other provisions of this Deed, during an Enforcement Time, the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without requiring any further consent or authority from any Chargor):
- (a) exercise or refrain from exercising all of the voting rights and rights of participation in respect of any Investment;
 - (b) apply all dividends, interest, bonus issues or other payments arising from an Investment in accordance with Clause 11 (Application of proceeds);
 - (c) transfer the Investments into the name of the Security Agent or any nominee as it may require; and
 - (d) exercise or refrain from exercising and enjoying all of the Rights, powers and benefits (without limitation) conferred on or exercisable by the legal or beneficial owner of the Investment.
- 10.5.2 Prior to an Enforcement Time each Chargor shall be entitled to exercise and enjoy all of the Rights, powers and benefits as set out in this Clause 10.5 (Powers in respect of the Investments) PROVIDED ALWAYS that it does so in a manner which, in the opinion of the Security Agent, will not prejudice the value of, or the ability of the Security Agent to realise the Security Interest created by this Deed.
- 10.6 Indulgence
- The Security Agent may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person or persons not being a party to this Deed (whether or not such person or persons is jointly liable with a Chargor) in respect of any of the Secured Obligations, or of any other security for them without prejudice either to this Deed or to the liability of a Chargor for the Secured Obligations.
- 10.7 Remediation by the Security Agent
- If a Chargor does not comply with its Obligations under any Finance Document, the Security Agent may do so on the Chargor's behalf on such basis as the Security Agent may in its absolute discretion decide. Each Chargor will indemnify the Security Agent on demand against the amount certified by the Security Agent to be the cost, loss or liability suffered by it as a result of doing so.
11. APPLICATION OF PROCEEDS
- All monies received or recovered by the Security Agent, its nominee(s) or any Receiver pursuant to this Deed and each mortgage or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Security Agent (notwithstanding any purported appropriation by any Chargor) in accordance with Clause 8 of the Intercreditor Agreement.
12. EXPENSES, LIABILITY AND INDEMNITY
- 12.1 Neither the Security Agent nor a Receiver nor any of their Officers will be in any way liable or responsible to any Chargor for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets or any Finance Document (save in the case of gross negligence or wilful misconduct).

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- 12.2 Each Chargor will, within ten (10) Business Days of demand, indemnify each of the Security Agent, any Receiver and their Officers in respect of all costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with:
- 12.2.1 anything done or omitted in the exercise of the powers conferred on it under any Finance Document;
- 12.2.2 a claim of any kind (whether relating to the environment or otherwise) made against it which would not have arisen if the security constituted by the Security Documents had not been granted; or
- 12.2.3 any breach by a Chargor of any Finance Document.
13. PAYMENTS
- 13.1 Any certification or determination by the Security Agent of an amount payable by a Chargor under this Deed is, in the absence of manifest error, conclusive evidence of that amount.
14. POWER OF ATTORNEY
- 14.1 Each Chargor, by way of security, irrevocably appoints each of the Security Agent and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required:
- 14.1.1 to do anything which a Chargor is obliged to do under any Finance Document including carrying out any obligation imposed on each Chargor by this Deed (including the completion, execution and delivery of any mortgages, deeds, charges, assignments or other security and any transfers of the Charged Assets);
- 14.1.2 to exercise any of the Rights conferred on the attorney by any Finance Document; and
- 14.1.3 to enable the Security Agent and any Receiver to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on them by or pursuant to this Deed or any mortgage or by law (including the exercise of any right of a legal or beneficial owner of the Charged Property) and (without prejudice to the generality of the foregoing) to execute as a deed or under hand and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it may reasonably deem proper in or for the purpose of exercising any of such rights, powers, authorities and discretions.
- 14.2 Each Chargor irrevocably and unconditionally hereby ratifies and confirms and agrees that it shall ratify and confirm all things done and all documents executed by any such attorney in the exercise or purported exercise of all or any of its powers.
15. NOTICES
- The terms and provisions of clause 31 (Notices) of the Facility Agreement shall apply to this Deed as if such terms and provisions were set out in full herein mutatis mutandis.
16. FURTHER PROVISIONS
- 16.1 This Deed shall be in addition to, and independent of, every other security or guarantee which any Secured Party (either directly itself or held through any agent or trustee on its behalf) may hold for any of the Secured Obligations at any time. No prior security held by any Secured Party either directly itself or held through any agent or trustee on its behalf) over the whole or any part of the Charged Assets shall merge in the security created by this Deed.
- 16.2 Any release, discharge or settlement between a Chargor and the Security Agent shall be deemed conditional on no payment or security received by a Secured Party in respect of

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the Secured Obligations 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:

- 16.2.1 the Security Agent 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 Charged Assets, for such period as the Security Agent deems necessary to provide the Secured Parties with security against any such avoidance, reduction or order for refund; and
- 16.2.2 the Security Agent may recover the value or amount of such security or payment from a Chargor subsequently as if such release, discharge or settlement had not occurred.
- 16.3 The Rights and powers of the Security Agent conferred by this Deed are cumulative, may be exercised as often as the Security Agent considers appropriate, and are in addition to its Rights and powers under the general law.
- 16.4 Any waiver or variation of any right by the Security Agent (whether arising under this Deed or under the general law) shall only be effective if it is in writing and signed by the Security Agent and applies only in the circumstances for which it was given, and shall not prevent the Security Agent from subsequently relying on the relevant provision.
- 16.5 No act or course of conduct or negotiation by or on behalf of the Security Agent shall, in any way, preclude the Security Agent from exercising any right or power under this Deed or constitute a suspension or variation of any such right or power.
- 16.6 No delay or failure to exercise any right or power under this Deed shall operate as a waiver.
- 16.7 No single or partial exercise of any right under this Deed shall prevent any other or further exercise of that or any other right.
- 16.8 The provisions of Section 93 (Restriction on consolidation of mortgages) of the Law of Property Act 1925 shall not apply to this Deed.
- 16.9 Any liberty or power which may be exercised or any determination which may be made hereunder by the Security Agent may be exercised or made in the absolute and unfettered discretion of the Security Agent which shall not be under any Obligation to give reasons therefor.
- 16.10 The Security Agent shall not be under any liability for any loss of any kind which may be occasioned by the exercise or purported exercise of, or any delay or neglect to exercise, any of its Rights under this Deed.
- 16.11 Where there is more than one person acting as Chargor, the liability of each such person hereunder shall be joint and several and every agreement, undertaking, covenant, representation and warranty on the part of each Chargor shall be construed accordingly and all references to a Chargor herein shall where the context requires or admits be construed as references to any one or more of them. If the whole or any part of this Deed be now or hereafter unenforceable against any person acting as a Chargor for any reason whatsoever or if this Deed is not executed by any person acting as a Chargor or if any person acting as a Chargor is released or if the Security Agent decides in its absolute discretion not to pursue all or any of its Rights against any person acting as a Chargor, this Deed shall nevertheless be and remain fully binding upon and enforceable against each of the other persons listed as a Chargor as if it had been made by the Security Agent with only such other persons.
- 16.12 Each Chargor waives any present or future right of set-off it may have in respect of the Secured Obligations (including sums payable by a Chargor under this Deed).
- 16.13 Each Chargor waives any present or future right of appropriation it may have in respect of

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any amounts payable by it to any Secured Party.

- 16.14 No Chargor may assign, transfer, novate or otherwise Dispose of its Obligations under any of the Finance Documents.
- 16.15 The Security Agent may assign, transfer, novate or otherwise dispose of all or any part of its Rights and Obligations under the Finance Documents in accordance with the terms of the Facility Agreement and the Intercreditor Agreement and each Chargor hereby irrevocably and unconditionally:
- 16.15.1 consents to such assignment, transfer, novation or other disposal;
- 16.15.2 consents to the disclosure by the Security Agent to any proposed assignee, transferee, novatee or other purchaser or acquirer of such Rights and Obligations of all financial and other information relating to each Chargor as the Security Agent may, from time to time, consider relevant.
- 16.16 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way.
- 16.17 In the exercise of any of the Security Agent's Rights under this Deed in respect of or in relation to any Deposit, the Rights of the Security Agent shall apply without restriction and notwithstanding that all or part of the Deposit may have been deposited for a fixed or minimum period or be subject to a period of notice, any interest on the Deposit is calculated by reference to a fixed or minimum periods and/or any such fixed or minimum period or period of notice may or may not have been given. Each Chargor irrevocably authorises the Security Agent at any time which is an Enforcement Time to break or determine such Deposit in whole or in part and/or to renew all or any of such Deposit for such fixed periods as the Security Agent may, in its absolute discretion, from time to time think fit.
- 16.18 The provisions of this Deed shall remain enforceable, valid and binding for all purposes notwithstanding any change in the name of the Security Agent or its absorption of, or by, or amalgamation or consolidation with, any other company or any change in the constitution of the Security Agent, its successors or assigns or the body corporate by which the business of the Security Agent may from time to time be carried on and shall be available to such successors, assigns or body corporate carrying on that business for the time being.
17. GOVERNING LAW AND JURISDICTION
- 17.1 This Deed and any non-contractual Obligations arising out of or in connection with it are governed by English law.
- 17.2 The courts of England & Wales shall, save as provided for in Clause 17.4 below have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual Obligations connected with it (including a dispute regarding the existence, validity or termination of this Deed) (a "Dispute").
- 17.3 Each Chargor agrees that the courts of England & Wales are the most appropriate and convenient courts to settle Disputes and, accordingly, each Chargor agrees not to argue to the contrary.
- 17.4 Clause 17.2 and Clause 17.3 are for the benefit of the Security Agent only. As a result, the Security Agent will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.
- 17.5 Each Chargor irrevocably consents to any process in any legal action or proceedings

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arising out of or in connection with this Deed 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 DEED has been EXECUTED as a DEED, and it has been delivered on the date stated at the beginning of this Deed.

SCHEDULE 1 - THE CHARGORS

A.ONE FEED SUPPLEMENTS LIMITED

Company Number: 01207930

Jurisdiction of incorporation: England & Wales

HI PEAK FEEDS LIMITED

Company Number: 01085959

Jurisdiction of incorporation: England & Wales

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SCHEDULE 2 - CHARGED ASSETS
PART A - SECURED REAL PROPERTY

Description of Secured Real Property

[None specified as at the date hereof]

Description of any Lease(s) affecting the Secured Real Property

[None specified as at the date hereof]

Description of any Licence(s) affecting the Secured Real Property

[None specified as at the date hereof]

Description of any Guarantee(s) in respect of any Lease

[None specified as at the date hereof]

SCHEDULE 2 - CHARGED ASSETS
PART B - THE CHATTELS

[None specified as at the date hereof]

SCHEDULE 2 - CHARGED ASSETS
PART C - THE INVESTMENTS

[None specified as at the date hereof]

SCHEDULE 2 - CHARGED ASSETS
PART D - THE CONTRACTS

[None specified as at the date hereof]

SCHEDULE 2 - CHARGED ASSETS
PART E - THE ACCOUNTS

[None specified as at the date hereof]

SCHEDULE 2 - CHARGED ASSETS
PART F - THE INTELLECTUAL PROPERTY

[None specified as at the date hereof]

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SCHEDULE 3 - NOTICE & ACKNOWLEDGMENT OF CHARGE IN RESPECT OF A LEASE

To: [Tenant/Lessee]

Date:

Dear Sirs

[INSERT SHORT DETAILS OF PROPERTY] (the "Property")

1. We refer to the security agreement governed by English law dated [] (the "Security Agreement") pursuant to which [Chargor] (the "Chargor") has granted security to [name of Security Agent] (the "Security Agent").
2. We give you notice that, under the Security Agreement the Chargor has charged to the Security Agent way of first fixed charge all of the Chargor's rights in the lease dated [] made between the Chargor and you in respect of the Property (the "Lease").
3. The Chargor will remain liable for the obligations of the Chargor in respect of the Lease. The Security Agent has no obligations under or in respect of the Lease.
4. The Chargor hereby instructs you to:
 - (a) make all payments due to the Chargor under the Lease to the Chargor's account held with [] with sort code [] and account number [] or, following notice from the Security Agent, to the Security Agent at such account as it may specify (and your compliance with such instructions will be a good discharge to you for such payments);
 - (b) disclose to the Security Agent, without further approval from the Chargor, such information regarding the Lease and your occupation of the Property as the Security Agent may from time to time request and to send it copies of all notices issued by you under the Lease.
6. This instruction cannot be varied or terminated without the consent of the Security Agent.
7. This notice and the corresponding acknowledgement will be governed by the laws of [England & Wales].
8. Please sign the enclosed acknowledgement and return it to the Security Agent at [insert address] marked for the attention of [insert name of contact].

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

EXECUTION VERSION

ACKNOWLEDGED AND AGREED FOR AND ON BEHALF OF [TENANT/LESSEE]

1. We acknowledge receipt of the notice described above.
2. We have not received notice that any other person has an interest in the Lease.
3. We will comply with the instructions in the notice.
4. We will not exercise any right of set-off against payments owing by us under the Lease.
5. We acknowledge and agree that the Chargor remains solely liable for the performance and discharge of all of its duties and obligations under the Lease and that the Security Agent shall not have any obligation or liability to us by virtue of the Security Agreement nor will the Security Agent be obliged to perform or discharge any of the obligations or liabilities of the Chargor under the Lease.
6. The foregoing confirmations are given by us for the benefit of the Security Agent and may be relied on as such.

[ATTESTATION CLAUSE FOR COUNTERPARTY]

EXECUTION VERSION

SCHEDULE 4 - NOTICE & ACKNOWLEDGMENT OF CHARGE IN RESPECT OF A CONTRACT

To: [Counterparty]

Date:

Dear Sirs

[BRIEF DESCRIPTION OF CONTRACT WHICH HAS BEEN CHARGED]

1. We refer to the security agreement governed by English law dated [] (the "Security Agreement") pursuant to which [Chargor] (the "Chargor") has granted security to [name of Security Agent] (the "Security Agent").
2. We give you notice that, under the Security Agreement the Chargor has charged to the Security Agent by way of first fixed charge all of the Chargor's rights in the [describe contract] dated [] between (1) the Chargor and (2) you relating to [insert details] (the "Agreement").
3. The Chargor will remain liable for the obligations of the Chargor under the Agreement. The Security Agent has no obligations under or in respect of the Agreement.
4. The Chargor has agreed with the Security Agent that the Chargor will not (i) assign or transfer its interest in the Agreement, (ii) amend, vary, supplement or terminate the Agreement or (iii) waive any of the terms of the Agreement, in each case without the prior consent in writing of the Security Agent.
5. The Chargor hereby instructs you to:
 - (a) make all payments due to the Chargor under the Agreement to the Chargor's account held with [] with sort code [] and account number [] or, following notice from the Security Agent, to the Security Agent at such account as it may specify (and your compliance with such instructions will be a good discharge to you for such payments);
 - (b) disclose to the Security Agent, without further approval from the Chargor, such information regarding the Agreement as the Security Agent may from time to time request and to send it copies of all notices issued by you under the Agreement.
6. This instruction cannot be varied or terminated without the consent of the Security Agent.
7. This notice and the corresponding acknowledgement will be governed by the laws of [England & Wales].
8. Please sign the enclosed acknowledgement and return it to the Security Agent at [insert address] marked for the attention of [insert name of contact].

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

EXECUTION VERSION

ACKNOWLEDGED AND AGREED FOR AND ON BEHALF OF [COUNTERPARTY]

1. We acknowledge receipt of the notice described above.
2. We have not received notice that any other person has an interest in the Agreement.
3. We will comply with the instructions in the notice.
4. We agree that we shall not recognise any assignment or transfer of the Chargor's rights in the Agreement save with the prior consent in writing of the Security Agent.
5. We agree that we shall not permit the Chargor to terminate, amend, vary or supplement the terms of the Agreement nor shall we accept any waiver of the Chargor's rights under the Agreement, in each case save with the prior consent in writing of the Chargor.
6. We further agree with the Security Agent that we shall not take any action to terminate the Agreement unless we have provided not less than 60 days prior notice in writing (the "Notice Period") to the Security Agent setting out our intention to terminate the Agreement on the expiry of the Notice Period and specifying the grounds on which such termination is to be made. In the event that the Security Agent or, at the discretion of the Security Agent, a substitute nominated by the Security Agent (either of the Security Agent or the relevant substitute being, for the purposes of this paragraph 6, the "Substitute") undertakes to us in writing on or before the expiry of the Notice Period that it will assume all of the obligations of the Chargor under the Agreement we agree with the Security Agent that we shall not so terminate the Agreement.
7. We will not exercise any right of set-off against payments owing by us under the Agreement.
8. We acknowledge and agree that the Chargor remains solely liable for the performance and discharge of all of its duties and obligations under the Agreement and that the Security Agent shall not have any obligation or liability to us by virtue of the Security Agreement nor will the Security Agent be obliged to perform or discharge any of the obligations or liabilities of the Chargor under the Agreement.
9. The foregoing confirmations are given by us for the benefit of the Security Agent and may be relied on as such.

[ATTESTATION CLAUSE FOR COUNTERPARTY]

EXECUTION VERSION

SCHEDULE 5 - NOTICE & ACKNOWLEDGMENT OF CHARGE IN RESPECT OF AN ACCOUNT

To: [Counterparty]

Date:

Dear Sirs

[BRIEF DESCRIPTION OF ACCOUNT WHICH HAS BEEN CHARGED]

1. We refer to the security agreement governed by English law dated [] (the "Security Agreement") pursuant to which [Chargor] (the "Chargor") has granted security to [name of Security Agent] (the "Security Agent").
2. We give you notice that, under the Security Agreement the Chargor has charged to the Security Agent way of first fixed charge all of the Chargor's rights in the account held by the Chargor with [bank branch and address], sort code [insert sort code] and account number [insert account number] (the "Account").
3. The Chargor will remain liable for the obligations of the Chargor in respect of the Account. The Security Agent has no obligations under or in respect of the Account.
4. We have agreed with the Security Agent not to close the Account or to make any withdrawals from the Account save with the prior consent in writing of the Security Agent.
5. We instruct you to:
 - (a) not to permit any withdrawals from the Account save with the prior consent in writing of the Security Agent;
 - (b) where requested to do so by the Security Agent in writing, to remit to the Security Agent to such bank account as the Security Agent may notify you all of the proceeds standing to the credit of the Account (including all interest and other amounts accrued in respect thereof) [less only such normal banking charges as apply to the maintenance and operation of that Account and are, as at the date on which funds are to be remitted to the Security Agent, then accrued and payable which you may retain for your own account];
 - (c) disclose to the Security Agent, without further approval from us, such information regarding the Account as the Security Agent may from time to time request and to send it copies of all notices (including statements of account) issued by you under the Account.
6. This instruction cannot be varied or terminated without the consent of the Security Agent.
7. This notice and the corresponding acknowledgement will be governed by the laws of [England & Wales].
8. Please sign the enclosed acknowledgement and return it to the Security Agent at [insert address] marked for the attention of [insert name of contact].

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

EXECUTION VERSION

ACKNOWLEDGED AND AGREED FOR AND ON BEHALF OF [ACCOUNT BANK]

1. We acknowledge receipt of the notice described above.
2. We have not received notice that any other person has an interest in the Account.
3. We will comply with the instructions in the notice.
4. We agree that we shall not permit the Chargor to close the account nor shall we permit the Chargor to make withdrawals from the Account, in each case save with the prior consent in writing of the Chargor.
5. We will not exercise any right of set-off towards the monies now or hereafter standing to the credit of the Account.
6. We shall, where requested to do so by the Security Agent in writing, remit to the Security Agent to such bank account as the Security Agent may notify us all of the proceeds standing to the credit of the Account (including all interest and other amounts accrued in respect thereof) [less only such normal banking charges as apply to the maintenance and operation of that Account and are, as at the date on which funds are to be remitted to the Security Agent, then accrued and payable which we may retain for your own account].
7. We acknowledge and agree that the Chargor remains solely liable for the performance and discharge of all of its duties and obligations under and in respect of the Account and that the Security Agent shall not have any obligation or liability to us by virtue of the Security Agreement nor will the Security Agent be obliged to perform or discharge any of the obligations or liabilities of the Chargor under or in respect of the Account.
8. The foregoing confirmations are given by us for the benefit of the Security Agent and may be relied on as such.

[ATTESTATION CLAUSE FOR COUNTERPARTY]

EXECUTION VERSION

SCHEDULE 6 - THE SHARES
PART A - FORM OF DIRECTOR'S RESIGNATION LETTER

[TO THE COMPANY]

Dear Sirs

RESIGNATION AS DIRECTOR

I hereby irrevocably and unconditionally resign as a director of [insert details of company] (company registration number []) (the "Company") and confirm that I have no right to compensation or claims against the Company for loss of office, arrears of pay or otherwise howsoever.

[ATTESTATION CLAUSE FOR DIRECTOR]

SCHEDULE 6 - THE SHARES
PART B - FORM OF DIRECTOR'S LETTER OF AUTHORITY

[TO THE SECURITY AGENT]

Dear Sirs

[COMPANY] (Company number []) (the "Company")

I hereby irrevocably and unconditionally authorise you to date and otherwise deliver on my behalf the director's letter of resignation deposited by me with yourselves pursuant to the security agreement governed by English law dated [] between [Chargor] (the "Chargor") and yourselves pursuant to which the Chargor has created, amongst other things, a charge over the shares held by the Chargor in the Company (the "Security Agreement") as and when you become entitled to date and complete the same pursuant to the terms of the Security Agreement.

This letter may be relied on by the Security Agent.

[ATTESTATION CLAUSE FOR DIRECTOR]

EXECUTION VERSION

SCHEDULE 7 - FORM OF NOTICE OF ASSIGNMENT OF INSURANCES

To: [Insurer]

Date: [•]

Dear Sirs,

We hereby give you notice that we have assigned to [] (the "Security Agent") pursuant to a security agreement governed by the laws of England and Wales entered into by us in favour of the Security Agent dated [•] 2018 (the "Security Agreement") (subject to a provision for reassignment) all our right, title and interest in and to the proceeds of [insert description and number of relevant insurance policy] (the "Policy").

With effect from the date of your receipt of this notice we instruct you to:

1. make all payments and claims under or arising from the Policy (in accordance with the terms of that Policy) to us until such time as you receive notice from the Security Agent instructing you ("Payment Notice"). Upon receipt of a Payment Notice we instruct you to comply with all payment instructions in respect of any claims and payments under or arising from the Policy as set out in such Payment Notice; and
2. disclose to the Security Agent, without further approval from us, such information regarding the Policy as the Security Agent may from time to time request and to send it copies of all notices issued by you under the Policy.

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

This notice and all matters including non-contractual obligations arising out of or in connection with it are governed by English law.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Security Agent at [•] marked for the attention of [•].

Yours faithfully

.....
For and on behalf of
[Company]

EXECUTION VERSION

To: **National Westminster Bank plc**
2nd Floor
1 Spinningfields Square
Manchester
M3 3AP
Attention : Emily Massey - Syndicated Loans Agency
Telephone Number: 0161 755 7698
Email: emily.massey@rbs.com

Date: [•]

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice.

We further confirm that no amendment or termination of the Policy shall be effective unless we have given the Security Agent thirty days written notice of such amendment or termination.


For and on behalf of [Insurer]

EXECUTION VERSION

EXECUTION PAGES FOR SECURITY AGREEMENT


EXECUTED as a DEED by
A.ONE FEED SUPPLEMENTS LIMITED
(incorporated in England & Wales with company number 01207930)
acting by a single director/under a power of attorney*

in the presence of:


Director/Attorney*
*Delete as appropriate

Witness Signature:

Name:


GEOFFREY FRAULEY

Address:


19 CLARENDON RD
BELFAST, BT13BG

Occupation:

SOLICITOR

EXECUTED as a DEED by
HI PEAK FEEDS LIMITED
(incorporated in England & Wales with company number 01085959)
acting by a single director/under a power of attorney*

in the presence of:


Director/Attorney*
*Delete as appropriate

Witness Signature:

Name:


GEOFFREY FRAULEY

Address:

19 CLARENDON RD
BELFAST, BT13BG

Occupation:

SOLICITOR


EXECUTION VERSION

THE SECURITY AGENT

EXECUTED as a DEED, by
NATIONAL WESTMINSTER BANK PLC
acting by:

)  EMILY MASSEY
)
)

in the presence of:

Witness Signature: 

Name: SUSAN BUCKLEY

Address: 1 SPINNINGFIELDS SQUARE

MANCHESTER

M3 3AP

Occupation: BANKER

