



Registration of a Charge

Company Name: **BNY MELLON FUND MANAGERS LIMITED**

Company Number: **01998251**



Received for filing in Electronic Format on the: **13/12/2021**

XAJ9BP61

Details of Charge

Date of creation: **01/12/2021**

Charge code: **0199 8251 0001**

Persons entitled: **THE BANK OF NEW YORK MELLON, LONDON BRANCH**

Brief description: **N/A**

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **ALLEN & OVERY LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1998251

Charge code: 0199 8251 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st December 2021 and created by BNY MELLON FUND MANAGERS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th December 2021 .

Given at Companies House, Cardiff on 14th December 2021

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

SECURITY DEED
(CHARGE OVER CASH – SELF HELD)

DATED 1 December 2021

BETWEEN

BNY MELLON FUND MANAGERS LIMITED

and

THE BANK OF NEW YORK MELLON, LONDON BRANCH

ALLEN & OVERY

Allen & Overy LLP

0014594-0000092 UKO1: 2005249374.1

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THIS DEED is dated 1 December 2021 and made BETWEEN:

- (1) BNY Mellon Fund Managers Limited (registered number 01998251) (the Chargor); and
- (2) The Bank of New York Mellon, London Branch (the Collateral Taker).

BACKGROUND:

- (A) The Chargor enters into this Deed in connection with the Credit Agreement (as defined below).
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

Act means the Law of Property Act 1925.

Charged Debt means the debt owed by the Collateral Taker to the Chargor represented by the Credit Balance.

Credit Agreement means the credit agreement dated 1 December 2021 between the Chargor and the Collateral Taker in connection with an uncommitted secured facility for overdrafts.

Credit Balance means the credit balance from time to time on the Designated Collateral Account, including all interest accrued on that balance.

Deed means this deed as executed by the parties hereto.

Designated Collateral Account means the account in the name of the Chargor with the Collateral Taker at The Bank of New York Mellon, London Branch, Sort Code [REDACTED], Account Number [REDACTED].

Party means a party to this Deed.

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Chargor to the Collateral Taker under or in connection with the Finance Documents, except for any obligation which, if it were so included, would result in this Deed contravening section 678 or 679 of the Companies Act 2006.

Security Period means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

1.2 Construction

- (a) Capitalised terms defined in the Credit Agreement have the same meaning in this Deed unless expressly defined in this Deed.
- (b) Unless a contrary indication appears, any reference in this Deed to:
 - (i) the "**Bank**", the "**Borrower**", the "**Chargor**", the "**Collateral Taker**" or any "**Party**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under this Deed or the Credit Agreement;
 - (ii) "**assets**" includes present and future properties, revenues and rights of every description;
 - (iii) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (iv) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
 - (v) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (vi) a provision of law is a reference to that provision as amended or re-enacted from time to time; and
 - (vii) a time of day is a reference to London time.
- (c) Section, Clause and Schedule headings are for ease of reference only.
- (d) Unless a contrary indication appears, a term used in the Credit Agreement or in any notice given under or in connection with this Deed or the Credit Agreement has the same meaning in that document or notice as in this Deed.
- (e) Unless a contrary indication appears, any reference in this Deed to:
 - (i) a **Finance Document** or other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended;
 - (ii) any **rights** in respect of an asset includes:
 - (A) all amounts and proceeds paid or payable;
 - (B) all rights to make any demand or claim; and
 - (C) all powers, remedies, causes of action, security, guarantees and indemnities,in each case, in respect of or derived from that asset; and
 - (iii) the term **this Security** means any security created by this Deed.

- (f) Any covenant of the Chargor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- (g) If the Collateral Taker considers that an amount paid to it under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of a Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

2. CREATION OF SECURITY

2.1 General

- (a) The Chargor shall pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.
- (b) All the security created under this Deed:
 - (i) is created in favour of the Collateral Taker;
 - (ii) is created over present and future assets of the Chargor;
 - (iii) is security for the payment, discharge and performance of all the Secured Liabilities; and
 - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

2.2 Charged Debt

The Chargor charges by way of a first fixed charge all of its rights in respect of the Designated Collateral Account and all rights it may have to repayment of the Charged Debt following exercise by the Collateral Taker of its rights under Clause 2.4 (Right to set-off) and Clause 2.5 (Flawed asset).

2.3 Floating charge

- (a) The Chargor charges by way of a first floating charge all its assets in respect of the Designated Collateral Account not otherwise effectively charged by way of fixed charge under this Clause 2 (Creation of Security).
- (b) Except as provided below, the Collateral Taker may by notice to the Chargor convert the floating charge created by this Clause into a fixed charge as regards any of the Chargor's assets specified in that notice if (i) the Chargor breaches any term of this Deed or the Credit Agreement and such breach is continuing or (ii) the Collateral Taker reasonably considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

- (c) The floating charge created by this Clause may not be converted into a fixed charge solely by reason of: (i) the obtaining of a moratorium; or (ii) anything done with a view to obtaining a moratorium, under Part A1 of the Insolvency Act 1986 other than in respect of any floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act 1986.
- (d) The floating charge created by this Clause will automatically convert into a fixed charge over all of the rights of the Collateral Taker in respect of the Designated Collateral Account if an administrator is appointed or the Collateral Taker receives notice of an intention to appoint an administrator.
- (e) The floating charge created by this Clause is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

2.4 Right to set-off

- (a) The Collateral Taker may set the Credit Balance off against all or any part of the Secured Liabilities that are due for payment regardless of the place of payment, booking branch or currency of either obligation. This is in addition to any rights conferred by law. The Collateral Taker must promptly notify the Chargor of any set-off that has been made.
- (b) For the purpose of exercising any right of set-off, if all or any part of the Credit Balance and the Secured Liabilities are in different currencies, the Collateral Taker may convert either amount at a market rate of exchange in its usual course of business for the purpose of the set-off.

2.5 Flawed asset

The Chargor has no right to demand repayment of any part of the Charged Debt during the Security Period provided that the Chargor may request or demand repayment of all or any part of the Charged Debt that exceeds the collateral amount required to be held by the Chargor under the Credit Agreement or that will be used to repay Secured Liabilities.

3. RESTRICTIONS ON DEALINGS

Except with the prior written consent of the Collateral Taker, the Chargor shall not:

- (a) create or permit to subsist any security or any third party interest over or in the Charged Debt; or
- (b) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any of its rights to the Charged Debt,

except as expressly allowed under the Finance Documents.

4. REPRESENTATIONS

4.1 Nature of security

The Chargor represents and warrants to the Collateral Taker that:

- (a) it is the sole legal and beneficial owner of the Charged Debt;
- (b) the Charged Debt is free from any security (except for any security created by or pursuant to this Deed) and any other rights or interests in favour of third parties; and

- (c) this Deed creates the security it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.

4.2 The Chargor acknowledges that the Designated Collateral Account is subject to The Bank of New York Mellon Treasury Services Global Terms of Account or The Bank of New York Mellon Treasury Services Global Banking Agreement between the Collateral Taker and the Chargor dated 2 March 2021 as amended from time to time and that if there is any discrepancy between such agreement and this Security Document, the terms of this Security Document shall prevail.

4.3 Times for making representations

- (a) The representations and warranties in this Deed (including in this Clause 4) are made by the Chargor on the date of this Deed.
- (b) The representations and warranties under this Deed are deemed to be made by the Chargor by reference to the facts and circumstances then existing on each date during the Security Period.

5. CREDIT BALANCE

Except with the prior written consent of the Collateral Taker, the Chargor may not withdraw any part of any Credit Balance.

6. WHEN SECURITY BECOMES ENFORCEABLE

6.1 Default

This Security shall become immediately enforceable if the Chargor breaches any term of this Deed or the Credit Agreement and such breach is continuing.

6.2 Discretion

After this Security has become enforceable, the Collateral Taker may enforce all or any part of this Security in any manner it sees fit.

7. ENFORCEMENT OF SECURITY

7.1 General

- (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) Section 103 of the Act (restricting the power of sale) and section 93 of the Act (restricting the right of consolidation) do not apply to this Security.

7.2 Privileges

The Collateral Taker is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that Section 103 of the Act does not apply.

7.3 Contingencies

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Collateral Taker may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

8. APPLICATION OF PROCEEDS

All amounts from time to time received or recovered by the Collateral Taker pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or any part of this Security shall be held by the Collateral Taker and applied in the following order of priority:

- (a) in or towards payment of or provision for the Secured Liabilities in accordance with the terms of the Credit Agreement; and
- (b) in payment of the surplus (if any) to the Chargor or other person entitled to it.

This Clause 8 is subject to the payment of any obligations mandatorily preferred by law applying to companies generally having priority over this Security. This Clause 8 does not prejudice the right of the Collateral Taker to recover any shortfall from the Chargor.

9. EXPENSES AND INDEMNITY

The Chargor shall:

- (a) promptly on demand, pay to the Collateral Taker the amount of all costs and expenses (including reasonable legal fees) incurred by the Collateral Taker in connection with this Deed including any arising from any actual or alleged breach by any person of any law or regulation; and
- (b) keep the Collateral Taker indemnified against any failure or delay in paying those costs or expenses.

10. MISCELLANEOUS

10.1 Continuing Security

This Security is a continuing security and shall extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.

10.2 Tacking

The Collateral Taker shall perform its obligations under the Credit Agreement (including any obligation to make available further advances).

10.3 New Accounts

- (a) If any subsequent charge or other interest affects the Charged Debt, the Collateral Taker may open a new account with the Chargor.
- (b) If the Collateral Taker does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.

- (c) As from that time all payments made to the Collateral Taker will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

10.4 No liability

- (a) The Collateral Taker shall not be liable for any loss of any kind resulting from the exercise of its rights under this Deed to apply the Credit Balance to the Secured Liabilities.
- (b) When the Collateral Taker applies any part of the Credit Balance against any of the Secured Liabilities it may break any fixture period for interest payments which applies to the Credit Balance or any part of it and the Chargor will be responsible for all breakage and other costs resulting from breaking that fixture.

10.5 Notice of charge

- (a) The execution of this Deed by the Collateral Taker and the Chargor shall constitute notice to the Collateral Taker of the charge created by this Deed over the Designated Collateral Account and the Credit Balance.

11. RELEASE

At the end of the Security Period, the Collateral Taker shall, at the request and cost of the Chargor, take whatever action is reasonably necessary to release the Designated Collateral Account and the Charged Debt from this Security.

12. GOVERNING LAW

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

THIS Deed has been executed as a deed and delivered by the Chargor on the date stated at the beginning of this Deed.

SIGNATORIES

Chargor

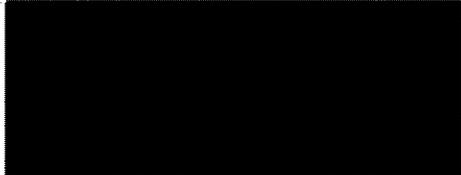


EXECUTED as a DEED by
BNY MELLON FUND MANAGERS LIMITED
acting by GARE BRISK, a director
in the presence of:

)
)
)
)

Director

Witness's Signature



Name:

JOHN TISOALL

Address:



Collateral Taker

SIGNED by
THE BANK OF NEW YORK MELLON, LONDON BRANCH

By:



Name: GREGORY CIOLEK

Title: DIRECTOR