

MR01

Particulars of a charge

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A fee is be payable
Please see 'How to'

☒ What this form is for
You may use this form to register
a charge created or evidenced by
an instrument.

☒ What this form is for
You may not use this form to
register a charge with an
instrument. Use form MR02

WEDNESDAY



A15 *A629MKOW* 15/03/2017 #273
COMPANIES HOUSE

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This form must be delivered to the Registrar for registration within
21 days beginning with the day after the date of creation of the charge. If
delivered outside of the 21 days it will be rejected unless it is accompanied by a
court order extending the time for delivery.

☒ You must enclose a certified copy of the instrument with this form. This will be
scanned and placed on the public record. Do not send the original.

1 Company details

Company number 03217015
Company name in full BILFINGER PPP FACILITY MANAGEMENT LIMITED

Filing in this form
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 28/02/2017

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name DEUTSCHE BANK AG, LONDON BRANCH (as security agent)

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below.

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge.

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Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

N/A

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ Yes Continue

☐ No Go to Section 7

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

¹ This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here.

Signature

Signature

X Allen & Overy LLP (on behalf of the Securing Agent) 13/03/17 X

This form must be signed by a person with an interest in the charge.

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Vincent Chan / Prue Criddle

Company name Allen & Overy LLP

Address One Bishops Square

Post town

County/Region London

Postcode E 1 6 A D

Country England

DX

Telephone +44 203 088 0000



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument, it must be a certified copy.



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales:
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

For companies registered in Scotland:
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG.
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3217015

Charge code: 0321 7015 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th February 2017 and created by BILFINGER PPP FACILITY MANAGEMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 15th March 2017.

R

Given at Companies House, Cardiff on 21st March 2017



Companies House



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

FIXED AND FLOATING SECURITY AGREEMENT

28 February 2017

Between

**APLEONA GROUP GMBH
as Parent**

**BILFINGER PPP FACILITY MANAGEMENT LIMITED
as Chargor**

and

**DEUTSCHE BANK AG, LONDON BRANCH
as Security Agent**

EXCEPT FOR MATERIAL REDACTED
PURSUANT TO SECTION 859G OF THE COMPANIES
ACT 2006 I CERTIFY THAT THIS IS A CORRECT
COPY OF THE ORIGINAL DOCUMENT

ALLEN & OVERY LLP

*Allen & Overy LLP
13/3/2017*

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THIS DEED is dated 28 February 2017 and made **BETWEEN**:

- (1) **APLEONA GROUP GMBH** (registered in the commercial register of the local court of Offenbach am Main under number HRB 49688 with its registered office at Neu-Isenburg) (the **Parent**);
- (2) **BILFINGER PPP FACILITY MANAGEMENT LIMITED** (registered number 03217015 with its registered office at England and Wales) (the **Chargor**), and
- (3) **DEUTSCHE BANK AG, LONDON BRANCH** as agent and trustee for the Senior Secured Parties (defined below) (the **Security Agent**).

BACKGROUND:

- (A) The Chargor enters into this Deed in connection with the Intercreditor 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. INTERPRETATION

1.1 Definitions

In this Deed:

Acceleration Event means a Senior Acceleration Event, a Senior Secured Notes Acceleration Event or a Second Lien Acceleration Event.

Account Bank means, in relation to a Bank Account, the bank with which such Bank Account is maintained.

Act means the Law of Property Act 1925.

Bank Accounts of the Chargor means:

- (a) all current, deposit or other accounts with any bank or financial institution in which it now or in the future has an interest (including the accounts described in Part 2 of Schedule 1 (*Bank Accounts*)); and
- (b) (to the extent of its interest) all balances now or in the future standing to the credit of or accrued or accruing on those accounts described in (a) above,

except for the Excluded Accounts.

Excluded Accounts means all present and future bank accounts which are currently held or which will be opened in the future by, or maintained in the name of, the Chargor, that are located in England and Wales or that are governed by English law (in each case including related sub-accounts, renewals, replacements and re-designations thereof), where the Chargor is able to demonstrate that all amounts credited to such accounts are held solely for the benefit of any of its customers (including for the avoidance of doubt any of its tenants and/or its customers' tenants)

Insurances means all policies of insurance and all proceeds of them either now or in the future held by, or written in favour of, the Chargor in relation to the Security Assets or in which it is otherwise interested, excluding any professional indemnity, third party liability or public liability insurance

Intellectual Property Rights means, in relation to the Chargor.

- (a) any know-how, patent, trade mark, service mark, design, business name, topographical or similar right;
- (b) any copyright or other intellectual property monopoly right;
- (c) any interest (including by way of licence) in any of the above; or
- (d) any application for any of the above,

owned by it including, without limitation, any Intellectual Property Rights specified under its name in Part 5 of Schedule 1 (*Security Assets*):

- (i) excluding any right by way of any licence which cannot be secured under the terms of the relevant licensing agreement; and
- (ii) whether registered or not

Intercreditor Agreement means the intercreditor agreement dated 30 August 2016 between, among others, the Parent and the Security Agent.

Investments means:

- (a) the Shares, and
- (b) all other shares, stocks, debentures, bonds, warrants, coupons and other securities and investments,

which the Chargor purports to mortgage or charge under this Deed.

Liabilities has the meaning given to it in the Intercreditor Agreement.

Party means a party to this Deed.

Payment means, in respect of any Liabilities (or any other liabilities or obligations), a payment, repayment, prepayment, redemption, repurchase, defeasance or discharge of those Liabilities (or other liabilities and obligations).

Plant and Machinery means in relation to the Chargor any plant, machinery, computers, office equipment or vehicles specified in Part 3 of Schedule 1 (*Security Assets*) opposite its name

Related Rights means, in relation to any asset:

- (a) the proceeds of sale or rental of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of or derived from that asset; and

- (d) any monies and proceeds paid or payable in respect of that asset.

Relevant Contract means:

- (a) each document specified opposite its name in Part 4 of Schedule 1 (*Security Assets*) of this Deed;
- (b) any agreement which documents or evidences any Structural Intra-Group Loans; and
- (c) any other agreement to which the Chargor is a party and which the Security Agent and the Chargor have designated a Relevant Contract.

Secured Obligations has the meaning given in paragraph (a) of the definition of "Secured Obligations" in clause 1.1 (*Definitions*) of the Intercreditor Agreement.

Security Assets means all assets of the Chargor which are the subject of this Security.

Security Period means the period beginning 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.

Senior Secured Parties has the meaning given to it in the Intercreditor Agreement.

Shares means all shares and Related Rights in any member of the Group the subject of this Security.

Structural Intra-Group Loans means any loans made by the Parent to any member of the Group and any loans made by any member of the Group to the Parent.

1.2 Construction

- (a) Capitalised terms defined in the Intercreditor Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (b) The provisions of clause 1.2 (*Construction*) of the Intercreditor Agreement apply to this Deed as though they were set out in full in this Deed, except that references to the Intercreditor Agreement will be construed as references to this Deed.
- (c) The term **clearance system** means a person whose business is or includes the provision of clearance services or security accounts or any nominee or depository for that person (including, without limitation, CREST).
- (d) Any covenant of the Chargor under this Deed remains in force during the Security Period and is given for the benefit of each Senior Secured Party.
- (e) The terms of the other Secured Debt Documents and of any side letters between any Parties in relation to any Secured Debt Document (as the case may be) are incorporated in this Deed to the extent required to ensure that any purported disposition of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (f) If the Security Agent considers that an amount paid to a Senior Secured Party under a Secured Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.

- (g) Unless the context otherwise requires, a reference to a Security Asset includes:
 - (i) any part of that Security Asset;
 - (ii) any proceeds of that Security Asset; and
 - (iii) any present and future assets of that type.
- (h) A **Secured Debt Document** or any other agreement or instrument includes (without prejudice to any prohibition on amendments) any amendment to that Secured Debt Document or other agreement or instrument, including any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility.
- (i) The term **this Security** means any Security created by this Deed.

1.3 Third Party Rights

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.

1.4 Priority

This Deed shall be subject to the terms of the Intercreditor Agreement. In the event of any inconsistency between this Deed and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

2. CREATION OF SECURITY

2.1 General

- (a) All this Security:
 - (i) is created in favour of the Security Agent;
 - (ii) is created over present and future Security Assets of the Chargor;
 - (iii) is security for the payment, discharge and performance of all the Secured Obligations, and
 - (iv) is made, where relevant, with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) If the Chargor assigns an agreement or any rights with respect to an agreement under this Deed (or charges an agreement by way of a first fixed charge) and the assignment or charge breaches a term of that agreement under a document which is secured under this Deed:
 - (i) the Chargor must promptly notify the Security Agent;
 - (ii) this Security will secure all amounts which the Chargor may receive, or has received, under that document but exclude the document itself;
 - (iii) unless the Security Agent otherwise requires, the Chargor must use reasonable endeavours to obtain the consent as soon as practicable;
 - (iv) the assignment or charge will take effect once that consent is obtained; and

- (v) the Chargor must promptly supply to the Security Agent a copy of the consent obtained by it.
- (c) Notwithstanding paragraph (b) above, the Chargor shall not be required to seek consent if it would or is reasonably expected to materially adversely affect the commercial reputation or interest of the Chargor or its ability to conduct its operations and business in the ordinary course as otherwise permitted by the Secured Debt Documents
- (d) The Security Agent holds the benefit of this Deed on trust for the Senior Secured Parties.
- (e) The fact that no or incomplete details of any Security Asset are inserted in Schedule 1 (*Security Assets*) does not affect the validity or enforceability of this Security.

2.2 Investments

- (a) The Chargor charges by way of a first fixed charge:
 - (i) all of its rights, title and interest from time to time in and to its Shares in any member of the Group owned by it or held by any nominee on its behalf, this includes any specified in Part 1 of Schedule 1 (*Security Assets*) opposite its name; and
 - (ii) all other shares, stocks, debentures, bonds, warrants, coupons or other securities and investments (including all cash equivalents) owned by it or held by any nominee on its behalf.
- (b) A reference in this Deed to any share (including the Shares), stock, debenture, bond, warrant, coupon or other security or investment includes:
 - (i) any dividend, interest or other distribution paid or payable;
 - (ii) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;
 - (iii) any right against any clearance system; and
 - (iv) any right under any custodian or other agreement,
 in relation to that share, stock, debenture, bond, warrant, coupon or other security or investment.

2.3 Plant and machinery

The Chargor charges by way of a first fixed charge all of its rights, title and interest from time to time in and to Plant and Machinery and all Related Rights owned by it and its interest in any Plant and Machinery in its possession.

2.4 Bank Accounts

The Chargor charges by way of a first fixed charge all of its rights, title and interest in respect of each of its Bank Accounts and all Related Rights.

2.5 Insurances

- (a) The Chargor assigns absolutely, subject to a proviso for reassignment on redemption, all amounts payable to it under or in connection with each of its material Insurances and all Related Rights in connection with those amounts.

- (b) To the extent that they are not effectively assigned under paragraph (a) above, the Chargor charges by way of first fixed charge all amounts and rights described in paragraph (a) above.
- (c) A reference in this Subclause to any amounts excludes all amounts received or receivable under or in connection with any third party liability Insurance and required to settle a liability of the Chargor to a third party.

2.6 Other contracts

- (a) The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights, title and interest in respect of:
 - (i) its Relevant Contracts and Related Rights;
 - (ii) any letter of credit issued in its favour; and
 - (iii) any bill of exchange or other negotiable instrument held by it.
- (b) To the extent that any right described in paragraph (a) above is not assignable or capable of assignment, the assignment of that right purported to be effected by paragraph (a) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.
- (c) To the extent that they do not fall within any other Subclause of this Clause and are not effectively assigned under paragraph (a) or (b) above, the Chargor charges by way of first fixed charge all of its rights under each agreement and document to which it is a party.

2.7 Intellectual property

The Chargor charges by way of a first fixed charge all of its rights, title and interest from time to time in respect of any material Intellectual Property Rights and all Related Rights; this includes any specified in Part 5 of Schedule 1 (*Security Assets*) opposite its name.

2.8 Fixed charge over goodwill

The Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to any goodwill, rights and claims in relation to the uncalled capital of the Chargor.

2.9 Miscellaneous

The Chargor charges by way of a first fixed charge:

- (a) any beneficial interest, claim or entitlement it has to any assets of any pension fund;
- (b) its goodwill;
- (c) the benefit of any authorisation (statutory or otherwise) held in connection with its business or the use of any Security Asset;
- (d) the right to recover and receive compensation which may be payable to it in respect of any authorisation referred to in paragraph (c) above; and
- (e) its uncalled capital.

2.10 Floating charge

- (a) The Chargor charges by way of a first floating charge all of its assets whatsoever and wheresoever not otherwise effectively mortgaged, charged or assigned under this Deed.
- (b) Except as provided below, the Security Agent may by notice to the Chargor convert the floating charge created by the Chargor under this Deed into a fixed charge as regards any of the Chargor's assets specified in that notice, if:
 - (i) an Acceleration Event has occurred;
 - (ii) the Security Agent (acting in good faith) 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; or
 - (iii) the Chargor fails to comply, or takes or threatens to take any action which, in the reasonable opinion of the Security Agent, is likely to result in it failing to comply with its obligations under paragraph (a) of Clause 4 (*Restrictions on Dealings*).
- (c) The floating charge created under this Deed 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 section 1A to the Insolvency Act 1986.
- (d) The floating charge created under this Deed will (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge over such Chargor's assets:
 - (i) if, in respect of the Chargor, an administrator is appointed or the Security Agent receives notice of an intention to appoint an administrator, or
 - (ii) on the convening of any meeting of the members of the Chargor to consider a resolution to wind the Chargor up (or not to wind the Chargor up).
- (e) Provided that no Acceleration Event has occurred, the fixed charge created pursuant to paragraph (d) above will automatically convert back to a floating charge if:
 - (i) such appointment, or such notice of an intention to appoint an administrator is dismissed as frivolous or vexatious; or
 - (ii) an order to wind up the Chargor is not passed.
- (f) The floating charge created under this Deed is a **qualifying floating charge** for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.
- (g) The giving by the Security Agent of a notice under paragraph (b) above in relation to any asset of the Chargor will not be construed as a waiver or abandonment of the Security Agent's rights to give any other notice in respect of any other asset or of any other right of any other Senior Secured Party under this Deed or any other Secured Debt Document.

3. REPRESENTATIONS AND WARRANTIES – GENERAL

3.1 Times for making representations and warranties

- (a) The representations and warranties set out in this Deed are made by the Chargor on the date of this Deed.
- (b) When a representation and warranty is deemed to be repeated, it is deemed to be made by reference to the circumstances existing at the time of repetition.

4. RESTRICTIONS ON DEALINGS

The Chargor may not:

- (a) create or allow to exist any Security on any of its assets; or
- (b) either in a single transaction or in a series of transactions and whether related or not and whether voluntarily or involuntarily dispose of all or any part of its assets,

unless permitted under the Secured Debt Documents.

5. INVESTMENTS

5.1 Investments

The Chargor represents and warrants to each Senior Secured Party that:

- (a) its Investments are duly authorised, validly issued and fully paid and are not subject to any option to purchase or similar right; and
- (b) it is the sole legal and beneficial owner of its Investments.

5.2 Deposit

- (a) The Chargor must promptly:
 - (i) deposit with the Security Agent, or as the Security Agent may direct, any bearer instrument, share certificate or other document of title or evidence of ownership in relation to its Shares in any member of the Group which is an Obligor or a Material Subsidiary (as each such term is defined in the Senior Facilities Agreement); and
 - (ii) take any action and execute and deliver to the Security Agent any share transfer or other document which may be requested by the Security Agent in order to enable the transferee to be registered as the owner or otherwise obtain a legal title to the Shares in any such Obligors or Material Subsidiaries; this includes:
 - (A) delivering executed and (unless exempt from stamp duty), pre-stamped share transfers in favour of the Security Agent or any of its nominees as transferee or, if the Security Agent so directs, with the transferee left blank; and
 - (B) procuring that those share transfers are registered by the company in which the Shares in any such Obligors or Material Subsidiaries are held and that share certificates in the name of the transferee are delivered to the Security Agent.
- (b) After this Security has become enforceable in accordance with Clause 10.1 (*Timing*), if requested to do so by the Security Agent, the Chargor shall promptly.

- (i) to the extent in its possession, deposit with the Security Agent, or as the Security Agent may direct, any bearer instrument, share certificate or other document of title or evidence of ownership it has in relation to its Investments; and
- (ii) take any action and execute and deliver to the Security Agent any share transfer or other document which may be requested by the Security Agent in order to enable the transferee to be registered as the owner or otherwise obtain a legal title to that Investment; this includes:
 - (A) delivering executed and (unless exempt from stamp duty), pre-stamped share transfers in favour of the Security Agent or any of its nominees as transferee or, if the Security Agent so directs, with the transferee left blank; and
 - (B) procuring that those share transfers are registered by the company in which the Investments are held and that share certificates in the name of the transferee are delivered to the Security Agent.

5.3 Changes to rights

The Chargor may not (except to the extent permitted or otherwise not prohibited by the Secured Debt Documents) take or allow the taking of any action on its behalf which may result in the rights attaching to any of its Investments being altered or further Shares being issued.

5.4 Calls

- (a) The Chargor must pay all calls and other payments due and payable in respect of any of its Investments.
- (b) If the Chargor fails to do so, the Security Agent may pay those calls or other payments on behalf of the Chargor. The Chargor must immediately on request reimburse the Security Agent for any payment made by the Security Agent under this Subclause and, pending reimbursement, that payment will constitute part of the Secured Obligations.

5.5 Obligations in respect of Investments

- (a) The Chargor must comply with all conditions and obligations assumed by it in respect of any of its Investments except to the extent permitted by the Secured Debt Documents.
- (b) No Senior Secured Party will be required in any manner to:
 - (i) perform or fulfil any obligation of the Chargor;
 - (ii) make any payment;
 - (iii) make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor; or
 - (iv) present or file any claim or take any other action to collect or enforce the payment of any amount,
 in respect of any Investment.

5.6 Voting rights

- (a) Before this Security becomes enforceable, the Chargor may continue to exercise the voting rights, powers and other rights in respect of its Investments.

- (b) Before this Security becomes enforceable, if the relevant Investments have been registered in the name of the Security Agent or its nominee, the Security Agent (or that nominee) must exercise the voting rights, powers and other rights in respect of the Investments in any manner which the Chargor may direct in writing and, for these purposes, and notwithstanding any term of any other Secured Debt Document to the contrary, each other Senior Secured Party in approving the terms of and instructing the Security Agent to enter into this Deed consents to the Security Agent acting as the Chargor may so direct in such circumstances. The Security Agent (or that nominee) will execute any form of proxy or other document which the Chargor may reasonably require for this purpose.
- (c) Before this Security becomes enforceable, all dividends or other income or distributions paid or payable in relation to any Investments must be paid to the Chargor. To achieve this:
 - (i) the Security Agent or its nominee will promptly execute any dividend mandate necessary to ensure that payment is made direct to the Chargor; or
 - (ii) if payment is made directly to the Security Agent (or its nominee) before this Security becomes enforceable, the Security Agent (or that nominee) will promptly pay that amount to the Chargor
- (d) Before this Security becomes enforceable, the Security Agent shall use its reasonable endeavours to promptly forward to the Chargor all material notices, correspondence and/or other communication it receives in relation to the Investments.
- (e) After this Security has become enforceable, the Security Agent or its nominee may exercise or refrain from exercising:
 - (i) any voting rights; and
 - (ii) any other powers or rights which may be exercised by the legal or beneficial owner of any Investment, any person who is the holder of any Investment or otherwise,

in each case, in the name of the Chargor, the registered holder or otherwise and without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor
- (f) To the extent that the Investments remain registered in the names of the Chargor, the Chargor irrevocably appoints the Security Agent or its nominee as its proxy to exercise all voting rights in respect of those Investments at any time after this Security has become enforceable.

5.7 Clearance systems

- (a) After this Security has become enforceable, the Chargor must, if so requested by the Security Agent.
 - (i) instruct any clearance system to transfer any Investment held by it for the Chargor or its nominee to an account of the Security Agent or its nominee with that clearance system; and
 - (ii) take whatever action the Security Agent may request for the dematerialisation or rematerialisation of any Investments held in a clearance system
- (b) Without prejudice to the rest of this Subclause the Security Agent may, at the expense of the Chargor, take whatever action is required for the dematerialisation or rematerialisation of the Investments as necessary.

5.8 Custodian arrangements

The Chargor must:

- (a) promptly give notice of this Deed to any custodian of any Investment in any form which the Security Agent may reasonably require; and
- (b) use reasonable endeavours to ensure that the custodian acknowledges that notice in any form which the Security Agent may reasonably require within 20 Business Days of the date of service of that notice (provided that if such acknowledgment has not been obtained within the relevant 20 Business Day period then the Chargor's obligation to obtain such acknowledgment shall cease on the expiry of that 20 Business Day period).

6. INTELLECTUAL PROPERTY

After the occurrence of an Acceleration Event, the Chargor must promptly, if requested to do so by the Security Agent (acting reasonably), sign or procure the signature of, and comply with all instructions of the Security Agent in respect of, any document required to make entries in any public register of Intellectual Property Rights (including the United Kingdom Trade Marks Register) which either record the existence of this Deed or the restrictions on disposal imposed by this Deed.

7. ACCOUNTS

7.1 Change of Account Bank

- (a) If there is a change of Account Bank, the net amount (if any) standing to the credit of the Bank Accounts maintained with the old Account Bank will be transferred to the corresponding Bank Accounts maintained with the new Account Bank immediately upon the appointment taking effect and the Chargor hereby irrevocably gives all authorisations and instructions necessary for any such transfer to be made.
- (b) The Chargor:
 - (i) must take any action which the Security Agent may reasonably require to facilitate a change of Account Bank and any transfer of credit balances (including the execution of bank mandate forms); and
 - (ii) irrevocably appoints the Security Agent as its attorney to take any such action after the occurrence of an Acceleration Event or if the Chargor should fail to do so within 10 Business Days of being notified of that failure by the Security Agent.

7.2 Withdrawals

- (a) The Chargor shall not make any withdrawal from any Bank Account except:
 - (i) prior to the occurrence of an Acceleration Event, in the ordinary course of trade from any operating or current Bank Account; or
 - (ii) after the occurrence of an Acceleration Event, with the prior consent of the Security Agent.
- (b) If an amount is withdrawn from a Bank Account as permitted by this Clause 7.2, that amount shall be automatically released from the fixed charge on that Bank Account on that withdrawal being made. However, if all or part of that amount is paid into another Bank Account which is in credit or becomes in credit as a result, it shall automatically become subject to the fixed charge on that Bank Account.

7.3 Notices of charge

The Chargor shall within 10 Business Days of the date of this Deed notify the bank or financial institution at which its Bank Accounts are held of the Charges in Clause 2.4 (*Bank Accounts*) substantially in the form set out in Schedule 2 (*Form of Notice/Acknowledgement of Charge of Bank Account*) (or such other form as may be agreed between the Chargor and the Security Agent (acting reasonably)) and shall for a period of not longer than 20 Business Days from the date of such notice use its reasonable endeavours to procure that each recipient of any such notice signs and returns as soon as reasonably practicable an acknowledgment of receipt of such notice substantially in the form set out in Schedule 2 (*Form of Notice/Acknowledgement of Charge of Bank Account*).

8. RELEVANT CONTRACTS

8.1 Rights

- (a) Subject to the rights of the Security Agent under paragraph (b) below, the Chargor must (in accordance with, or as required by, the terms of the Secured Debt Documents) diligently pursue its rights under each of its Relevant Contracts, but only if and to the extent that the exercise of those rights in the manner proposed would not result in a Default under the terms of the Secured Debt Documents.
- (b) After this Security has become enforceable, the Security Agent may exercise (without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor) any of the Chargor's rights under its Relevant Contracts.

8.2 Notice

After the occurrence of an Acceleration Event, the Parent on behalf of the Chargor must.

- (a) immediately give notice of this Deed to each of the other parties to each of the Relevant Contracts by sending a notice substantially in the form of Part 1 of Schedule 4 (*Form of Letter for Relevant Contracts*); and
- (b) use its reasonable endeavours to procure that each such other party delivers a letter of undertaking to the Security Agent substantially in the form of Part 2 of Schedule 4 (*Form of Letter for Relevant Contracts*).

9. INSURANCES

9.1 Rights

- (a) Subject to the rights of the Security Agent under paragraph (b) below, the Chargor must (in accordance with, or as required by, the terms of the Secured Debt Documents) diligently pursue its rights under each of its Insurances, but only if and to the extent that the exercise of those rights in the manner proposed would not result in a Default under the terms of the Secured Debt Documents.
- (b) After this Security has become enforceable:
 - (i) the Security Agent may exercise (without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor) any of the rights of the Chargor in connection with any amounts payable to it under any of its Insurances;
 - (ii) the Chargor must take such steps (at its own cost) as the Security Agent may require to enforce those rights; this includes initiating and pursuing legal or arbitration proceedings in the name of the Chargor; and

- (iii) the Chargor must hold any payment received by it under any of its Insurances on trust for the Security Agent.

9.2 Notice

After the occurrence of an Acceleration Event, the Parent on behalf of the Chargor must.

- (a) immediately give notice of this Deed to each of the other parties to each of the Insurances by sending a notice substantially in the form of Part 1 of Schedule 3 (*Insurances*); and
- (b) use its reasonable endeavours to procure that each such other party delivers a letter of undertaking to the Security Agent substantially in the form of Part 2 of Schedule 3 (*Insurances*).

10. WHEN SECURITY BECOMES ENFORCEABLE

10.1 Timing

This Security will become immediately enforceable if an Acceleration Event occurs.

10.2 Enforcement

After this Security has become enforceable, the Security Agent may in its absolute discretion enforce all or any part of this Security in any manner it sees fit or as the Majority Lenders direct.

11. ENFORCEMENT OF SECURITY

11.1 General

- (a) The power of sale and any other power conferred on a mortgagee by law (including under section 101 of the Act) as varied or amended by this Deed will be immediately exercisable at any time after this Security has become enforceable.
- (b) For the purposes of all powers implied by law, the Secured Obligations are deemed to have become due and payable on the date of this Deed
- (c) Any restriction imposed by law on the power of sale (including under section 103 of the Act) or the right of a mortgagee to consolidate mortgages (including under section 93 of the Act) does not apply to this Security.
- (d) Any powers of leasing conferred on the Security Agent by law are extended so as to authorise the Security Agent to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Agent may think fit and without the need to comply with any restrictions conferred by law (including under section 99 or 100 of the Act)

11.2 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset:

- (a) to account as mortgagee in possession or for any loss on realisation; or
- (b) for any default or omission for which a mortgagee in possession might be liable.

11.3 Privileges

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by law (including the Act) on mortgagees and receivers duly appointed under any law (including the Act).

11.4 Protection of third parties

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable,
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Secured Debt Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

11.5 Redemption of prior mortgages

- (a) At any time after this Security has become enforceable, the Security Agent may
 - (i) redeem any prior Security against any Security Asset; and/or
 - (ii) procure the transfer of that Security to itself; and/or
 - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.
- (b) The Chargor must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

11.6 Contingencies

If this Security is enforced at a time when no amount is due under the Secured Debt Documents but *at a time when amounts may or will become due, the Security Agent (or the Receiver) may pay the proceeds of any recoveries effected by it into such number of suspense accounts as it considers appropriate*

12. RECEIVER

12.1 Appointment of Receiver

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
 - (i) this Security has become enforceable; or
 - (ii) the Chargor so requests the Security Agent in writing at any time
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.

- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A to the Insolvency Act 1986.
- (e) The Security Agent may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Security Agent is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.

12.2 Removal

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

12.3 Remuneration

The Security Agent may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by any law (including under section 109(6) of the Act) will not apply.

12.4 Agent of the Chargor

- (a) A Receiver will be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor is solely responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.
- (b) No Senior Secured Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

12.5 Relationship with Security Agent

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

13. POWERS OF RECEIVER

13.1 General

- (a) A Receiver has all the rights, powers and discretions set out below in this Clause 13 in addition to those conferred on it by any law. This includes:
 - (i) in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; and
 - (ii) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.

- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver

13.2 Possession

A Receiver may take immediate possession of, get in and collect any Security Asset.

13.3 Carry on business

A Receiver may carry on any business of the Chargor in any manner he thinks fit.

13.4 Employees

- (a) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.
- (b) A Receiver may discharge any person appointed by the Chargor.

13.5 Borrow money

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

13.6 Sale of assets

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit

13.7 Leases

A Receiver may let any Security Asset for any term and at any rent (with or without a premium) which he thinks fit and may accept a surrender of any lease or tenancy of any Security Asset on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

13.8 Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset.

13.9 Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

13.10 Receipts

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

13.11 Subsidiaries

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Security Asset.

13.12 Delegation

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

13.13 Lending

A Receiver may lend money or advance credit to any customer of the Chargor

13.14 Protection of assets

A Receiver may:

- (a) effect any repair or insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset;
- (b) commence and/or complete any building operation; and
- (c) apply for and maintain any planning permission, building regulation approval or any other authorisation,

in each case as he thinks fit

13.15 Other powers

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or by law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and
- (c) use the name of the Chargor for any of the above purposes.

14. APPLICATION OF PROCEEDS

Unless otherwise determined by the Security Agent or a Receiver, any moneys received by the Security Agent or that Receiver after this Security has become enforceable must be applied by the Security Agent in the order of priority set out in clause 17 (*Application of Proceeds*) of the Intercreditor Agreement.

This Clause is subject to the payment of any claims having priority over this Security. This Clause does not prejudice the right of any Senior Secured Party to recover any shortfall from the Chargor.

15. DELEGATION

15.1 Power of Attorney

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

15.2 Terms

Any such delegation may be made upon any terms (including power to sub-delegate) which the Security Agent or any Receiver may think fit.

15.3 Liability

Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate unless caused by its gross negligence or wilful misconduct.

16. FURTHER ASSURANCES

The Chargor shall promptly, at its own expense, take whatever action the Security Agent or a Receiver may require for.

- (a) creating, perfecting or protecting any security intended to be created by or pursuant to this Deed;
- (b) facilitating the realisation of any Security Asset;
- (c) facilitating the exercise of any right, power or discretion exercisable by the Security Agent or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset, or
- (d) creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by this Deed) over any assets of the Chargor located in any jurisdiction outside England and Wales.

This includes:

- (i) the re-execution of this Deed;
- (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; and
- (iii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may think expedient

17. POWER OF ATTORNEY

The Chargor and the Parent, by way of security, irrevocably and severally appoint the Security Agent, each Receiver and each of their respective delegates and sub-delegates to be its attorney to.

- (a) take any action which the Chargor and/or the Parent is obliged to take under this Deed which:
 - (i) prior to the occurrence of an Acceleration Event, the Chargor and/or the Parent has failed to take following receipt of a notice from the Security Agent; and
 - (ii) on or after the occurrence of an Acceleration Event, the Chargor and/or the Parent has failed to take; and
- (b) (after the occurrence of an Acceleration Event) to take any action which the Security Agent thinks fit in connection with the exercise of its rights, powers or discretions under this Deed.

The Chargor and the Parent ratify and confirm whatever any attorney does or purports to do under its appointment under this Clause

18. PRESERVATION OF SECURITY

18.1 Continuing security

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

18.2 Reinstatement

If any payment by a Debtor or any discharge given by a Senior Secured Party (whether in respect of the obligations of any Debtor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- (a) the liability of each Debtor will continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) each Senior Secured Party will be entitled to recover the value or amount of that security or payment from each Debtor, as if the payment, discharge, avoidance or reduction had not occurred

18.3 Waiver of defences

The obligations of the Chargor under this Deed will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed (whether or not known to it or any Senior Secured Party). This includes.

- (a) any time or waiver granted to, or composition with, any person;
- (b) any release of any person under the terms of any composition or arrangement;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- (d) 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;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (f) any amendment of a Secured Debt Document or any other document or security;
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under a Secured Debt Document or any other document or security or the failure by any member of the Group to enter into or be bound by any Secured Debt Document; or
- (h) any insolvency or similar proceedings.

18.4 Immediate recourse

- (a) The Chargor waives any right it may have of first requiring any Senior Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other right or security or claim payment from any person or file any proof or claim in any insolvency, administration, winding-up or

liquidation proceedings relative to any other Debtor or any other person before claiming from the Chargor under this Deed.

- (b) This waiver applies irrespective of any law or any provision of a Secured Debt Document to the contrary.

18.5 Appropriations

Until all amounts which may be or become payable by the Debtors under or in connection with the Secured Debt Documents have been irrevocably paid in full, each Senior Secured Party (or any trustee or agent on its behalf) may without affecting the liability of the Chargor under this Deed:

- (a)
 - (i) refrain from applying or enforcing any other moneys, security or rights held or received by that Senior Secured Party (or any trustee or agent on its behalf) against those amounts; or
 - (ii) apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise); and
- (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed

18.6 Non-competition

Unless:

- (a) all amounts which may be or become payable by the Debtors under or in connection with the Secured Debt Documents have been irrevocably paid in full; or
- (b) the Security Agent otherwise directs,

the Chargor will not, after a claim has been made or by virtue of any payment or performance by it under this Deed:

- (i) be subrogated to any rights, security or moneys held, received or receivable by any Senior Secured Party (or any trustee or agent on its behalf);
- (ii) be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Chargor's liability under this Clause;
- (iii) claim, rank, prove or vote as a creditor of any Debtor or its estate in competition with any Senior Secured Party (or any trustee or agent on its behalf); or
- (iv) receive, claim or have the benefit of any payment, distribution or security from or on account of any Debtor, or exercise any right of set-off as against any Debtor.

The Chargor must hold in trust for and must immediately pay or transfer to the Security Agent for the Senior Secured Parties any payment or distribution or benefit of security received by it contrary to this Clause or in accordance with any directions given by the Security Agent under this Clause.

18.7 Release of Chargor's right of contribution

If the Chargor ceases to be a Chargor in accordance with the terms of the Secured Debt Documents for the purpose of any sale or other disposal of the Chargor:

- (a) the Chargor will be released by each other Obligor from any liability whatsoever to make a contribution to any other Obligor arising by reason of the performance by any other Obligor of its obligations under the Secured Debt Documents; and
- (b) each other Obligor will waive any rights it may have by reason of the performance of its obligations under the Secured Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of any Senior Secured Party under any Secured Debt Document or of any other security taken under, or in connection with, any Secured Debt Document where the rights or security are granted by or in relation to the aspects of the Chargor

18.8 Additional security

- (a) This Deed is in addition to and is not in any way prejudiced by any other security now or subsequently held by any Senior Secured Party.
- (b) No prior security held by any Senior Secured Party (in its capacity as such or otherwise) over any Security Asset will merge into this Security.

18.9 Security held by Chargor

The Chargor may not, without the prior consent of the Security Agent, hold any security from any other Debtor in respect of the Chargor's liability under this Deed. The Chargor will hold any security held by it in breach of this provision on trust for the Security Agent.

19. MISCELLANEOUS

19.1 Covenant to pay

The Chargor must pay or discharge the Secured Obligations in the manner provided for in the Secured Debt Documents

19.2 Transaction expenses

The Chargor shall, promptly on demand on or after the date of this Deed, pay the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution, syndication and perfection of this Deed and any other documents referred to in this Deed.

19.3 Enforcement and preservation costs

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

19.4 Tacking

Each Lender must perform its obligations under the Secured Debt Documents (including any obligation to make available further advances).

19.5 New Accounts

- (a) If any subsequent charge or other interest affects any Security Asset, any Senior Secured Party may open a new account with the Chargor.
- (b) If a Senior Secured Party 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 that Senior Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Obligation.

19.6 Time deposits

Without prejudice to any right of set-off any Senior Secured Party may have under any Secured Debt Document or otherwise, if any time deposit matures on any account the Chargor has with any Senior Secured Party within the Security Period when:

- (a) this Security has become enforceable, and
- (b) no Secured Obligation is due and payable,

that time deposit will automatically be renewed for any further maturity which that Senior Secured Party in its absolute discretion considers appropriate unless that Senior Secured Party otherwise agrees in writing.

19.7 Notice of assignment

This Deed constitutes notice in writing to the Chargor of any charge or assignment of a debt owed by the Chargor to any other member of the Group and contained in any other Transaction Security Document.

19.8 Financial collateral

- (a) To the extent that the assets mortgaged or charged under this Deed constitute "financial collateral" and this Deed and the obligations of the Chargor under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) the Security Agent shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (b) For the purpose of paragraph (a) above, the value of the financial collateral appropriated shall be determined by reference to the amount that could reasonably be expected to have been obtained as a result of a sale of such financial collateral at a fair market price having regard to the then prevailing market conditions, assuming a reasonably prompt and expeditious sale and taking into account all circumstances which would be relevant in the context of such a sale.

20. RELEASE

At the end of the Security Period, the Security Agent must, at the request and cost of the Parent, take whatever action is reasonably necessary to release the Security Assets from this Security.

21. COUNTERPARTS

This Deed may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

22. GOVERNING LAW

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

23. ENFORCEMENT

23.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute including a dispute relating to non-contractual obligations arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) *This Subclause is for the benefit of the Senior Secured Parties only. As a result, no Senior Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Senior Secured Parties may take concurrent proceedings in any number of jurisdictions.*

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

SCHEDULE 1

SECURITY ASSETS

PART 1

SHARES

Chargor	Name of company in which shares are held	Name of nominee (if any) by whom shares are held	Class of shares held	Number of shares held
Bilfinger PPP Facility Management Limited	Bilfinger Europa Facility Management Limited	N/A	Ordinary shares of £0.10	1,109,890 Ordinary Shares
			'B' Ordinary shares of £0.10	108,364 'B' Ordinary Shares

BANK ACCOUNTS

Bank Accounts of Bilfinger PPP Facility Management Limited

Bank: Deutsche Bank AG

Bank Code. 40 50 81

Account number: [REDACTED] 177 0
[REDACTED] CT 2006]

IBAN: [REDACTED]

Swift/BIC: [REDACTED]

SCHEDULE 2

FORM OF NOTICE/ACKNOWLEDGEMENT OF CHARGE OF BANK ACCOUNT

To: [Institution where Bank Account is held]

[Address]

[Date]

Dear Sirs

Deutsche Bank AG, London Branch (the **Security Agent**) and [●] (the **Chargor**) give notice that, by a charge contained in a Fixed and Floating Security Agreement dated [●] 2017 between, inter alios, the Chargor and the Security Agent, the Chargor charged to the Security Agent all its present and future right, title and interest in and to accounts with you listed below (the **Charged Accounts**), including all moneys which may at any time be standing to the credit of any Charged Account.

Name of Charged Account	Account number
[●]	[●]

You are authorised and instructed, without requiring further approval from the Security Agent that, despite the charge over the Charged Accounts referred to above or the making of any payment by you to the Security Agent under or in connection with it, that:

- (a) the Chargor shall remain entitled to exercise all its rights, power and discretions under the Charged Accounts; and
- (b) you should continue to apply any amounts standing to the credit of the Charged Account or release any monies from the Charged Accounts as directed by the Chargor,

in each case unless and until you receive written notice from the Security Agent to the contrary which states the security under the Fixed and Floating Security Agreement detailed above has become enforceable, in which event all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Security Agent or as it directs.

You agree that, following notice from the Security Agent which states that the security under the Fixed and Floating Security Agreement above has become enforceable, you will:

- (a) disclose to the Security Agent if it so requests (without any reference to or further authority from the Chargor and without any enquiry by you as to the justification for such disclosure) such information relating to any Charged Account as the Security Agent may from time to time request,
- (b) comply with the terms of any written notice or instruction relating to the Charged Account received by you from the Security Agent;
- (c) hold all sums standing to the credit of the Charged Account to the order of the Security Agent;
- (d) pay or release any sum standing to the credit of the Charged Account in accordance with the written instructions of the Security Agent, and

- (e) pay all sums received by you for the account of the Chargor to the credit of the Charged Account of the Chargor with you.

This authority and instruction is irrevocable without the prior written consent of the Security Agent.

This Notice of Charge and any non-contractual obligations arising out of or in connection therewith are governed by English law.

Please acknowledge receipt of this Notice of Charge, and confirm that you will comply with the provisions of this Notice of Charge, by signing the acknowledgement on the attached copy of this Notice of Charge and returning that copy to the Security Agent at Winchester House, 1 Great Winchester Street, London, EC2N 2DB, United Kingdom, marked for the attention of Paul Gaines.

Yours faithfully

For and on behalf of

Deutsche Bank AG, London Branch

as Security Agent

For and on behalf of

[NAME OF CHARGOR]

as Chargor

[On duplicate]

We acknowledge receipt of the Notice of Charge of which this is a copy, confirm each of the matters referred to in the Notice of Charge and agree to comply with its terms

We confirm that we have not received any other notice of charge or notice that any other person claims any rights or has any interest in respect of any Charged Account.

This Acknowledgement of Charge and any non-contractual obligations arising out of or in connection therewith are governed by English law

Yours faithfully

For and on behalf of

[Institution where Charged Account is held]

Date:

cc. [Chargor]

SCHEDULE 3

FORMS OF LETTER FOR INSURANCES

PART 1

FORM OF NOTICE OF ASSIGNMENT

(for attachment by way of endorsement to the insurance policies)

To: [Insurer]

Copy: Deutsche Bank AG, London Branch

[Date]

Dear Sirs,

Security agreement dated [●] between Apleona Group GmbH (the Parent) and others and Deutsche Bank AG, London Branch (the Security Agreement)

This letter constitutes notice to you that under the Security Agreement, the company listed at the end of this notice as chargor (the **Chargor**) has assigned in favour of Deutsche Bank AG, London Branch as agent and trustee for the Senior Secured Parties referred to in the Security Agreement (the **Security Agent**) as first priority assignee all amounts payable to it under or in connection with any contract of insurance taken out with you by or on behalf of it or under which it has a right to claim and all of its rights in connection with those amounts.

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

On behalf of the Chargor, we confirm that.

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

The Chargor will also remain entitled to exercise all of its rights under each such contract of insurance and you should continue to give notices under each such contract of insurance to the Chargor, unless and until you receive notice from the Security Agent to the contrary stating that the security has become enforceable. In this event, unless the Security Agent otherwise agrees in writing:

- (a) all amounts payable to the Chargor under each such contract of insurance must be paid to the Security Agent; and
- (b) any rights of the Chargor in connection with those amounts will be exercisable by, and notices must be given to, the Security Agent or as it directs.

Please note that the Chargor has agreed that it will not amend or waive any term of or terminate any such contract of insurance without the prior consent of the Security Agent.

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

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

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

Yours faithfully,

.....
For the Parent
for itself and as agent for
the Chargor named below

CHARGOR

Bilfinger PPP Facility Management Limited

FORM OF LETTER OF UNDERTAKING

To: [●]

Copy: Deutsche Bank AG, London Branch

[Date]

Dear Sirs,

Security agreement dated [●] 2017 between Apleona Group GmbH (the Parent) and others and Deutsche Bank AG, London Branch (the Security Agreement)

We confirm receipt from the Parent on behalf of Bilfinger PPP Facility Management Limited (the **Chargor**) of a notice dated [●] of an assignment by the Chargor upon the terms of the Security Agreement of all amounts payable to it under or in connection with any contract of insurance taken out with us by or on behalf of it or under which it has a right to claim and all of its rights in connection with those amounts.

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

In consideration of your agreeing to the Chargor continuing its insurance arrangements with us we:

1. accept the instructions contained in the notice and agree to comply with the notice;
2. confirm that we have not received notice of the interest of any third party in those amounts and rights;
3. undertake to disclose to you without any reference to or further authority from the Parent or the Chargor any information relating to those contracts which you may at any time request,
4. undertake to notify you of any breach by the Chargor of any of those contracts and to allow you or any of the other Senior Secured Parties (as defined in the Security Agreement) to remedy that breach; and
5. undertake not to amend or waive any term of or terminate any of those contracts on request by the Parent or the Chargor without your prior written consent.

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

Yours faithfully,

.....

For [Insurer]

SCHEDULE 4

FORM OF LETTER FOR RELEVANT CONTRACTS

PART 1

NOTICE TO COUNTERPARTY

To: [Counterparty]

Copy: Deutsche Bank AG, London Branch

[Date]

Dear Sirs,

**Security agreement dated [] between Apleona Group GmbH and others
and Deutsche Bank AG, London Branch (the Security Agreement)**

This letter constitutes notice to you that under the Security Agreement, the company listed at the end of this notice as chargor (the **Chargor**) has assigned in favour of Deutsche Bank AG, London Branch as agent and trustee for the Senior Secured Parties referred to in the Security Agreement (the **Security Agent**) as first priority assignee all of its rights in respect of [insert details of Relevant Contract(s)] (the **Relevant Contract[s]**).

On behalf of the **Chargor**, we confirm that:

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

The **Chargor** will also remain entitled to exercise all of its rights under each Relevant Contract and you should continue to give notice under each Relevant Contract to the **Chargor**, unless and until you receive notice from the **Security Agent** to the contrary stating that the security has become enforceable. In this event, all of its rights will be exercisable by, and notices must be given to, the **Security Agent** or as it directs.

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

Please send to the **Security Agent** at Winchester House, 1 Great Winchester Street, London, EC2N 2DB, United Kingdom with a copy to ourselves the attached acknowledgement confirming your agreement to the above and giving the further undertakings set out in the acknowledgement.

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

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

Yours faithfully,

[Redacted] under s859G of the
Companies Act 2006]

(Authorised signatory)

For Apleona Group GmbH
for itself and as agent
for the Chargor named below

CHARGOR

Bilfinger PPP Facility Management Limited

ACKNOWLEDGEMENT OF COUNTERPARTY

To: Deutsche Bank AG, London Branch

Copy: Apleona Group GmbH

[Date]

Dear Sirs,

**Security agreement dated [] between Apleona Group GmbH and others
and Deutsche Bank AG, London Branch (the Security Agreement)**

We confirm receipt from Apleona Group GmbH (the **Parent**) on behalf of Bilfinger PPP Facility Management Limited (the **Chargor**) of a notice dated [] of an assignment on the terms of the Security Agreement of all of the Chargor's rights in respect of [insert details of the Relevant Contract(s) (the **Relevant Contract[s]**)].

We confirm that we:

- 1 accept the instructions contained in the notice and agree to comply with the notice;
2. have not received notice of the interest of any third party in any of the Relevant Contract[s];
3. undertake to disclose to you without any reference to or further authority from the Parent or the Chargor any information relating to any of the Relevant Contract[s] which you may at any time request; and
4. undertake to notify you of any breach by the Chargor of any of the Relevant Contract[s] and to allow you or any of the other Senior Secured Parties referred to in the Security Agreement) to remedy that breach.

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

Yours faithfully,

.....
(Authorised signatory)

[Counterparty]

SIGNATORIES

The Parent

Executed as a deed and delivered by
Apleona Group GmbH for itself

)
)

acting by Dr. J. KEYSBERG

)

Managing Director / Authorised Signatory

and Dr. D. HÄUSSERMANN

Managing Director / Authorised Signatory

AUTHORISED REPRESENTATIVE

The Chargor

Executed as a deed by
Bilfinger PPP Facility Management Limited

acting by THRE VAN BREDA
and JEFF SMITH

)
)

Director

In the presence of:

Witness's Signature:

Name:

Address:

The Security Agent

Deutsche Bank AG, London Branch

By:



Notice details for the Security Agent

Name. Paul Gaines

Email:



Fax:



Address:

