

MR01

Particulars of a charge



Companies House

206626/13

A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

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

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument Use form M

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

This form **must be delivered to the Registrar for registration**
21 days beginning with the day after the date of creation of the
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
scanned and placed on the public record **Do not send the original**



A14 01/12/2015 #20
COMPANIES HOUSE

TUESDAY

1 Company details

Company number 0 3 7 1 7 1 9 1

Company name in full ACOUSTIC PRODUCTS LIMITED ✓

For official use

→ **Filling 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 d 2 7 m 1 1 y 2 0 1 5

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 MALCOLM KERRY SMITH ✓

Name SUSANNE HELEN SMITH ✓

Name

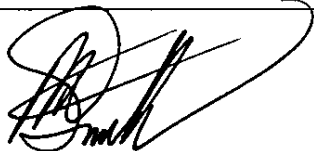
Name

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	<p>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</p>	<p>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"</p> <p>Please limit the description to the available space</p>
	Brief description	<p>By way of first fixed charge all properties acquired by the Guarantor in the future, all present and future interests of the Guarantor not effectively mortgaged or charged under the preceding provisions of clause 3 in, or over, freehold or leasehold property, all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property. Please refer to the instrument for further details</p>	
5	Other charge or fixed security	<p>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</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
6	Floating charge	<p>Is the instrument expressed to contain a floating charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> Yes Continue</p> <p><input type="checkbox"/> No Go to Section 7</p> <p>Is the floating charge expressed to cover all the property and undertaking of the company?</p> <p><input checked="" type="checkbox"/> Yes</p>	
7	Negative Pledge	<p>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</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	
8	Trustee statement ¹	<p>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</p> <p><input type="checkbox"/></p>	<p>¹ This statement may be filed after the registration of the charge (use form MR06)</p>
9	Signature	<p>Please sign the form here</p> <p>Signature</p> <p>X  X</p> <p>This form must be signed by a person with an interest in the charge</p>	

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 **Daniel King**

Company name **Brachers LLP**

Address **Somerfield House**

59 London Road

Post town **Maidstone**

County/Region **Kent**

Postcode

M	E	1	6	8	J	H
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Country **UK**

DX **1 Maidstone 4806**

Telephone **01622776461**



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 £13 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.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

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



VT

FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3717191

Charge code. 0371 7191 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th November 2015 and created by ACOUSTIC PRODUCTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st December 2015.

Given at Companies House, Cardiff on 7th December 2015

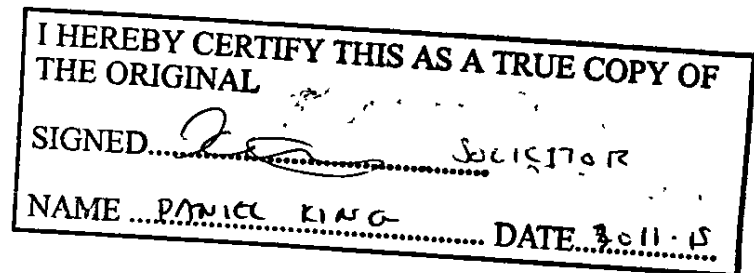


Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Brachers



Debenture

- 1) Acoustic Products Limited
- 2) Malcolm Kerry Smith and Susanne Helen Smith

Brachers LLP
Somerfield House
59 London Road
Maidstone
Kent ME16 8JH

Tel 01622 690691
Ref 106/443/SMI6171 1

THIS DEED is dated 27 NOVEMBER 2015

PARTIES

- (1) **ACOUSTIC PRODUCTS LIMITED** incorporated and registered in England and Wales with company number 03717191 whose registered office is at 37 St Margarets Street, Canterbury, Kent CT1 2TU (**Guarantor**).
- (2) **MALCOLM KERRY SMITH** and **SUSANNE HELEN SMITH** of 64 Tankerton Road, Whitstable, Kent, CT5 2AF (**Lenders**)

BACKGROUND

- (A) The Lenders have agreed, pursuant to the Share Purchase Agreement, to provide credit facilities to the Borrower by way of deferred and earn out payments under the terms of the Share Purchase Agreement on a secured basis
- (B) The Guarantor has agreed to enter into the Deed of Guarantee and Indemnity for the purpose of providing security for the Borrower's obligations under the Share Purchase Agreement
- (C) The Guarantor's obligations under the Deed of Guarantee and Indemnity are secured by this deed

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in this deed

Administrator: an administrator appointed to manage the affairs, business and property of the Guarantor pursuant to clause 11.7

Book Debts: all present and future book and other debts, and monetary claims due or owing to the Guarantor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Guarantor in relation to any of them

Borrower: **PETERSON INVESTMENTS LIMITED** incorporated and registered in England and Wales with company number 09868238 whose registered office is at Third Floor, 24 Chiswell Street, London, EC1Y 4YX

Business Day. a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business

Deed of Guarantee and Indemnity: means the deed of guarantee and indemnity entered in to by the Guarantor on the same date as this deed and given in favour of the Lenders in respect of the Borrower's obligations under the Share Purchase Agreement and secured by this deed

Delegate any person appointed by the Lenders or any Receiver pursuant to clause 17 and any person appointed as attorney of the Lenders, Receiver or Delegate

Designated Account: any account of the Guarantor nominated by the Lenders as a designated account for the purposes of this deed

Equipment: all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Guarantor, including any part of it and all spare parts, replacements, modifications and additions

Event of Default: any event or circumstance specified as such as clause 12

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

Financial Collateral Regulations the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*)

Indebtedness: any obligation to pay or repay money, present or future, and whether actual or contingent, sole or joint and any guarantee or indemnity of any of those obligations

Intellectual Property: the Guarantor's present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights

Investments: all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Guarantor, including any

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments, and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise

LPA 1925: Law of Property Act 1925

Properties all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Guarantor, or in which the Guarantor holds an interest, and **Property** means any of them

Receiver: a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lenders under clause 15

Secured Assets: all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed

Secured Liabilities: all present and future monies, obligations and liabilities owed by the Guarantor to the Lenders, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Deed of Guarantee and Indemnity, or this deed (including, without limitation, those arising under clause 29 3(b)), together with all interest (including, without limitation, default interest) accruing in respect of those monies or liabilities

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

Security: any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect

Security Period: the period starting 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 and no further Secured Liabilities are capable of being outstanding

Share Purchase Agreement: the share purchase agreement dated on or about the date of this debenture between the Borrower (1) and the Lenders (2) in connection with the sale and purchase of the entire issued share capital of the Guarantor and setting out credit facilities by way of deferred and earn out payments secured by the Deed of Guarantee and Indemnity and this deed

1 2 Interpretation

In this deed

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this deed,
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees,
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular,
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees,
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time,
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision,
- (h) a reference to **writing** or **written** includes fax but not e-mail,
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done,
- (j) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time,
- (k) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule,
- (l) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and

shall not limit the sense of the words, description, definition, phrase or term preceding those terms,

- (m) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly),
- (n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description,
- (o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution,
- (p) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived,
- (q) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it, and
- (r) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation

1 3 **Clawback**

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

1 4 **Nature of security over real property**

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

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

1 5 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Deed of Guarantee and Indemnity and of any side letters between any parties in relation to the Deed of Guarantee and Indemnity are incorporated into this deed

1 6 **Perpetuity period**

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

2. COVENANT TO PAY

The Guarantor shall, on demand, pay to the Lenders and discharge the Secured Liabilities when they become due

3. GRANT OF SECURITY

3.1 Fixed charges

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

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

3.2 Floating charge

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

3.3 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3

3.4 Automatic crystallisation of floating charge

The floating charge created by clause 3.2 shall automatically and immediately (without notice) be converted into a fixed charge over the assets subject to that floating charge if

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

3.5 Crystallisation of floating charge by notice

The Lenders may, in their sole discretion, by written notice to the Guarantor, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Lenders in that notice if

- (a) an Event of Default occurs and is continuing in respect of the Borrower or the Guarantor,
- (b) the Lenders reasonably consider 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

3.6 Assets acquired after any floating charge has crystallised

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

4. LIABILITY OF THE GUARANTOR

4.1 Liability not discharged

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

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

4.2 Immediate recourse

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

5. REPRESENTATIONS AND WARRANTIES

5 1 Representations and warranties

The Guarantor makes the representations and warranties set out in this clause 5 to the Lenders

5 2 Ownership of Secured Assets

The Guarantor is the legal and beneficial owner of the Secured Assets

5 3 No Security

The Secured Assets are free from any Security other than the Security created by this deed or liens arising in the ordinary course of business or any rights of set off pursuant to the business's day to day banking activities

5 4 No adverse claims

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

5 5 No adverse covenants

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

5 6 No breach of laws

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

5 7 No interference in enjoyment

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

5 8 No overriding interests

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

5 9 Avoidance of security

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

5 10 Investments

The Investments are fully paid and are not subject to any option to purchase or similar rights

5 11 Times for making representations and warranties

The representations and warranties set out in clause 5.2 to clause 5.10 **Error! Reference source not found.** are made by the Guarantor on the date of this deed

6. GENERAL COVENANTS

6.1 Negative pledge and disposal restrictions

The Guarantor shall not at any time, except with the prior written consent of the Lenders

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

6.2 Preservation of Secured Assets

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

6.3 Compliance with laws and regulations

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

6.4 Enforcement of rights

The Guarantor shall use its reasonable endeavours to

- (a) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Lenders may require from time to time

6.5 Notice of misrepresentation and breaches

The Guarantor shall, promptly on becoming aware of any of the same, give the Lenders notice in writing of

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

6 6 Title documents

- (a) the Guarantor shall if reasonably required by the Lenders, deposit with the Lenders and the Lenders shall, for the duration of this deed be entitled to hold
 - (i) all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Guarantor (and if these are not within the possession or control of the Guarantor, the Guarantor undertakes to obtain possession of all these deeds and documents of title), and
 - (ii) all deeds and documents of title (if any) relating to the Book Debts as the Lenders may specify from time to time

6 7 Insurance

The Guarantor shall insure and keep insured the Secured Assets against usual risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Guarantor provided that this clause shall not require the Guarantor to take out insurance over Secured Assets that a reasonably prudent person carrying on the same class of business as the Guarantor would not normally take out

6 8 Insurance premiums

The Guarantor shall promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6 7 and do all other things necessary to keep that policy in full force and effect

6 9 No invalidation of insurance

The Guarantor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6 7(a)

6 10 Proceeds of insurance policies

All monies received or receivable by the Guarantor under any insurance policy maintained by it in accordance with clause 6 7(a) at any time (whether or not the security constituted by this deed has become enforceable) shall be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or, after the security constituted by this deed has become enforceable and if the Lenders so direct, in or towards discharge or reduction of the Secured Liabilities

6 11 Information

The Guarantor shall

- (a) give the Lenders such information concerning the location, condition, use and operation of the Secured Assets as the Lenders may require,
- (b) permit any persons designated by the Lenders and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice, and
- (c) promptly notify the Lenders in writing of any action, claim or demand made by or against it in connection with any Secured Asset together with, in each case, the Guarantor's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Lenders' prior approval, implement those proposals at its own expense

6 12 Payment of outgoings

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

7. INVESTMENTS COVENANTS

7 1 Nominations

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

7 2 Additional registration obligations

The Guarantor shall

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

7.3 Dividends and voting rights before enforcement

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

7.4 Dividends and voting rights after enforcement

After the security constituted by this deed has become enforceable

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

7.5 Calls on Investments

The Guarantor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Guarantor acknowledges that the Lenders shall not be under any liability in respect of any such calls, instalments or other payments

7.6 No alteration of constitutional documents or rights attaching to Investments

The Guarantor shall not, without the prior written consent of the Lenders, amend, or agree to the amendment of

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

7 7 Preservation of Investments

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

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

7 8 Investments information

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

8. EQUIPMENT COVENANTS

8 1 Maintenance of Equipment

The Guarantor shall

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

8 2 Payment of Equipment taxes

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

8 3 Notice of charge

The Guarantor

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

"NOTICE OF CHARGE

This [DESCRIBE ITEM] and all additions to it and ancillary equipment are subject to a fixed charge dated [DATE] in favour of Malcolm Kerry Smith and Susanne Helen Smith"

Shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 8 3(a)

9. BOOK DEBTS COVENANTS

9 1 Realising Book Debts

The Guarantor shall collect in and realise all Book Debts in accordance with its usual policies and procedures

9 2 Preservation of Book Debts

The Guarantor shall not (except as provided by clause 9 1 or with the prior written consent of the Lenders) release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts

10. INTELLECTUAL PROPERTY COVENANTS

10 1 Preservation of rights

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

10 2 Maintenance of Intellectual Property

The Guarantor shall not permit any Intellectual Property to be abandoned cancelled or to lapse other than where the Guarantor considers that such Intellectual Property is no longer required for its business

11. POWERS OF THE LENDERS

11 1 Power to remedy

- (a) The Lenders shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Guarantor of any of its obligations contained in this deed
- (b) The Guarantor irrevocably authorises the Lenders and their agents to do all things that are necessary or desirable for that purpose
- (c) Any monies expended by the Lenders in remedying a breach by the Guarantor of its obligations contained in this deed shall be reimbursed by the Guarantor to the Lender on a full indemnity basis and shall carry interest in accordance with clause 19 1

11 2 Exercise of rights

The rights of the Lenders under clause 11 1 are without prejudice to any other rights of the Lenders under this deed. The exercise of any rights of the Lenders under this deed shall not make the Lenders liable to account as a mortgagee in possession.

11 3 Power to dispose of chattels

- (a) At any time after the security constituted by this deed has become enforceable, the Lenders or any Receiver may, as agent for the Guarantor, dispose of any chattels or produce found on any Property.
- (b) Without prejudice to any obligation to account for the proceeds of any disposal made under clause 11 3(a), the Guarantor shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 11 3(a).

11 4 Lender has Receiver's powers

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

11 5 Conversion of currency

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lenders may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 11 5) from their existing currencies of denomination into any other currencies of denomination that the Lenders may think fit.
- (b) Any such conversion shall be effected at the Bank of England then prevailing spot selling rate of exchange for such other currency against the existing currency.
- (c) Each reference in this clause 11 5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

11 6 Indulgence

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

11 7 Appointment of an Administrator

- (a) The Lenders may, without notice to the Guarantor, appoint any one or more persons to be an Administrator of the Guarantor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.
- (b) Any appointment under this clause 11 7 shall

- (i) be in writing signed by a duly authorised signatory of the Lenders, and
- (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986
- (c) The Lenders may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 11.7 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified

12. EVENTS OF DEFAULT

12.1 Each of the events or circumstances set out in this clause 12.1 is an Event of Default

- (a) The Guarantor fails to pay any sum due under the Deed of Guarantee and Indemnity when due save for where there is an administrative or technical error and payment is in any event made within 5 Business Days of the due date
- (b) The Guarantor stops or suspends payment of any of its debts, or is unable to, or admits its inability to, pay its debts as they fall due
- (c) The value of the Guarantor's assets is less than its liabilities (taking into account contingent and prospective liabilities)
- (d) A moratorium is declared in respect of any Indebtedness of the Guarantor
- (e) The Guarantor commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors with a view to rescheduling any of its Indebtedness (because of actual or anticipated financial difficulties)
- (f) Any action, proceedings, procedure or step is taken for
 - (i) the suspension of payments, a moratorium of any Indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Guarantor,
 - (ii) the composition, compromise, assignment or arrangement with any creditor, or
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Guarantor or any of its assets
- (g) Any event occurs in relation to the Guarantor similar to those in clause 12.1(b) to clause 12.1(f) (inclusive) under the laws of any applicable jurisdiction
- (h) A distress, attachment, execution, expropriation, sequestration or another analogous legal process is levied, enforced or sued out on, or against, the Guarantor's assets and is not discharged or stayed within 21 days
- (i) Any provision of the Guarantee and Indemnity relating to a payment obligation of the Borrower is or becomes, for any reason, invalid, unlawful,

unenforceable, terminated or ceases to be effective or have full force and effect

- (j) The Guarantor ceases, or threatens to cease, to carry on all or a substantial part of its business

13. WHEN SECURITY BECOMES ENFORCEABLE

13 1 Security becomes enforceable on Event of Default

The security constituted by this deed shall be immediately enforceable if an Event of Default occurs and is continuing

13 2 Discretion

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

14. ENFORCEMENT OF SECURITY

14 1 Enforcement powers

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Lenders and a purchaser from the Lenders, arise on and be exercisable at any time after the execution of this deed, but the Lenders shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 14 1
- (b) Section 103 of the LPA 1925 does not apply to the security constituted by this deed

14 2 Access on enforcement

- (a) At any time after the Lenders have demanded payment when due of the Secured Liabilities or if the Guarantor defaults in the performance of its payment obligations under the Deed of Guarantee and Indemnity, the Guarantor will allow the Lenders or their Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lenders or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Guarantor for, or by any reason of, that entry
- (b) At all times, the Guarantor must use its reasonable endeavours to allow the Lenders or their Receiver access to any premises for the purpose of clause 13 2(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same

14 3 Prior Security

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

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

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

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Guarantor. All monies paid by the Lenders to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lenders, be due from the Guarantor to the Lenders on current account and shall bear interest at the rate that is 4% above the base rate of HSBC Bank plc and be secured as part of the Secured Liabilities.

14.4 Protection of third parties

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

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

14.5 Privileges

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

14.6 No liability as mortgagee in possession

Neither the Lenders, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

14.7 Conclusive discharge to purchasers

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

14.8 Right of appropriation

- (a) To the extent that
 - (i) the Secured Assets constitute Financial Collateral, and
 - (ii) this deed and the obligations of the Guarantor under it constitute a Security Financial Collateral Arrangement,

the Lenders shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured

Liabilities in any order that the Lenders may, in their absolute discretion, determine

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

15. RECEIVER

15.1 Appointment

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

15.2 Removal

The Lenders may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by them and may, whenever they think fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated

15.3 Remuneration

The Lenders may fix the remuneration of any Receiver appointed by them without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, which shall be due and payable immediately on its being paid by the Lenders

15.4 Power of appointment additional to statutory powers

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

15.5 Power of appointment exercisable despite prior appointments

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

15.6 Agent of the Guarantor

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

16. POWERS OF RECEIVER

16.1 General

- (a) Any Receiver appointed by the Lenders under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 16.2 to clause 16.23
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver
- (c) Any exercise by a Receiver of any of the powers given by clause 16 may be on behalf of the Guarantor, the directors of the Guarantor (in the case of the power contained in clause 16.16) or himself

16.2 Repair and develop Properties

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

16.3 Surrender leases

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

16.4 Employ personnel and advisors

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

16.5 Make VAT elections

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

16.6 Remuneration

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

16.7 Realise Secured Assets

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

16.8 Manage or reconstruct the Guarantor's business

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

16 9 Dispose of Secured Assets

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

16 10 Sever fixtures and fittings

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

16 11 Sell Book Debts

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

16 12 Valid receipts

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

16 13 Make settlements

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

16 14 Bring proceedings

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

16 15 Improve the Equipment

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

16 16 Make calls on Guarantor members

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

16 17 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 18, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Guarantor under this deed

16 18 Powers under the LPA 1925

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

16 19 Borrow

A Receiver may, for any of the purposes authorised by this clause 16, raise money by borrowing from the Lenders (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lenders consent, terms under which that security ranks in priority to this deed)

16 20 Redeem prior Security

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

16 21 Delegation

A Receiver may delegate his powers in accordance with this deed

16 22 Absolute beneficial owner

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

16 23 Incidental powers

A Receiver may do any other acts and things

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

17. DELEGATION

17 1 Delegation

The Lenders or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 21 1)

17 2 Terms

The Lenders and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that they think fit

17 3 Liability

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

18. APPLICATION OF PROCEEDS

18.1 Order of application of proceeds

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

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

18.2 Appropriation

Neither the Lenders, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities

18.3 Suspense account

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

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

19. COSTS AND INDEMNITY

19.1 Costs

The Guarantor shall, within five Business Days of demand, pay to, or reimburse, the Lenders and any Receiver, all proper and reasonable costs, charges and expenses incurred by the Lenders, any Receiver or any Delegate in connection with

- (a) preserving or enforcing (or attempting to do so) any of the Lenders', a Receiver's or a Delegate's rights under this deed, or
- (b) taking proceedings for, or recovering, any of the Secured Liabilities,

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

19.2 Indemnity

The Guarantor shall indemnify the Lenders, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs and expenses incurred by any of them arising out of or in connection with

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

Any past or present employee or agent may enforce the terms of this clause 19.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

20. FURTHER ASSURANCE

20.1 Further assurance

The Guarantor shall, at its own expense, take whatever action the Lenders or any Receiver may reasonably require for

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

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

21. POWER OF ATTORNEY

21.1 Appointment of attorneys

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

- (a) the Guarantor is required to execute and do under this deed, or

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

21.2 Ratification of acts of attorneys

The Guarantor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 20.1

22. RELEASE

Subject to clause 29.3, on the expiry of the Security Period (but not otherwise), the Lenders shall, at the request and cost of the Guarantor, take whatever action is necessary to

- (a) release the Secured Assets from the security constituted by this deed, and
- (b) reassign the Secured Assets to the Guarantor

23. ASSIGNMENT AND TRANSFER

23.1 Assignment by Lenders

(a) at any time, without the consent of the Guarantor, the Lender may assign or transfer any or all of their rights and obligations under this deed to any person

(b) the Lenders may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Guarantor, the Secured Assets and this deed that the Lenders considers appropriate

23.2 Assignment by Guarantor

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

24. SET-OFF

24.1 Lenders' right of set-off

The Lenders may at any time set off any liability of the Guarantor to the Lenders against any liability of the Lenders to the Guarantor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lenders may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lenders of their rights under this clause 24 shall not limit or affect any other rights or remedies available to it under this deed or otherwise

24.2 No obligation to set off

The Lenders are not obliged to exercise their rights under clause 24.1. If, however, they do exercise those rights they must promptly notify the Guarantor of the set-off that has been made

25. AMENDMENTS, WAIVERS AND CONSENTS

25.1 Amendments

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

25 2 Waivers and consents

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

25 3 Rights and remedies

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

26. SEVERANCE

26 1 Severance

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

27. COUNTERPARTS

27 1 Counterparts

- (a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- (b) Transmission of the executed signature page of a counterpart of this deed by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If this method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- (c) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

28. THIRD PARTY RIGHTS

28 1 Third party rights

- (a) Except as expressly provided in clause 19.2 or elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- (b) The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

29. FURTHER PROVISIONS

29.1 Independent security

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

29.2 Continuing security

This deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment.

29.3 Discharge conditional

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

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

29.4 Consolidation

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

30. NOTICES

30.1 Delivery

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

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

- (c) sent to the Guarantor and the Lenders at the addresses listed at the beginning of this deed or to any other address as is notified in writing by one party to the other from time to time

30.2 Receipt

- (a) Any notice or other communication given to either party shall be deemed to have been received only on actual receipt

30.3 Service of proceedings

This clause 30 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution

30.4 No notice by e-mail

A notice or other communication given under or in connection with this deed is not valid if sent by e-mail

31. GOVERNING LAW AND JURISDICTION

31.1 Governing law

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

31.2 Jurisdiction

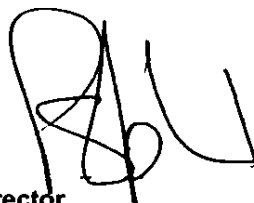
Each party irrevocably agrees that, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims)

31.3 Other service

The Guarantor irrevocably consents to any process in any legal action or proceedings under clause 31.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it

Executed as a DEED by
ACOUSTIC PRODUCTS
LIMITED, acting by PIERS
SHEPHERD in the presence of

)
)
)
)

Director

Witness Signature



Witness Name

STEPHEN PAUL TANNER

Witness address

THIRD FLOOR
24 CHESTER STREET
LONDON EC1Y 4TX

Witness occupation

CHARTERED ACCOUNTANTS

Signed as a DEED by **MALCOLM**
KERRY SMITH, in the presence
of

)
)
)
)


Witness Signature



Witness Name

STEPHEN PAUL TANNER


Witness address

AS ABOVE

Witness occupation

CHARTERED ACCOUNTANTS

Signed as a DEED by **SUSANNE HELEN SMITH**, in the presence of

 SIGNED UNDER A POWER OF
ATTORNEY ON BEHALF OF
SUSANNE HELEN SMITH

Witness Signature



Witness Name

STEPHAN PAUL TANNER

Witness address

AS ABOVE

Witness occupation

CHARTERED ACCOUNTANT.