



Registration of a Charge

Company name: **THE ROYAL CROWN DERBY PORCELAIN COMPANY LIMITED**

Company number: **03981291**



X9GJR3CJ

Received for Electronic Filing: **27/10/2020**

Details of Charge

Date of creation: **19/10/2020**

Charge code: **0398 1291 0011**

Persons entitled: **ACORN59 INVESTMENTS LIMITED**

Brief description: **THE BORROWER'S PRESENT AND FUTURE PATENTS, UTILITY MODELS, RIGHTS TO INVENTIONS, COPYRIGHT AND NEIGHBOURING AND RELATED RIGHTS, MORAL RIGHTS, TRADE MARKS AND SERVICE MARKS, BUSINESS NAMES AND DOMAIN NAMES, RIGHTS IN GET-UP AND TRADE DRESS, GOODWILL AND THE RIGHT TO SUE FOR PASSING OFF OR UNFAIR COMPETITION, RIGHTS IN DESIGNS, RIGHTS IN COMPUTER SOFTWARE, DATABASE RIGHTS, RIGHTS TO USE, AND PROTECT THE CONFIDENTIALITY OF, CONFIDENTIAL INFORMATION (INCLUDING KNOW-HOW AND TRADE SECRETS) AND ALL OTHER INTELLECTUAL PROPERTY RIGHTS, IN EACH CASE WHETHER REGISTERED OR UNREGISTERED AND INCLUDING ALL APPLICATIONS AND RIGHTS TO APPLY FOR AND BE GRANTED, RENEWALS OR EXTENSIONS OF, AND RIGHTS TO CLAIM PRIORITY FROM, SUCH RIGHTS AND ALL SIMILAR OR EQUIVALENT RIGHTS OR FORMS OF PROTECTION WHICH SUBSIST OR WILL SUBSIST NOW OR IN THE FUTURE IN ANY PART OF THE WORLD.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **BUCKLES SOLICITORS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3981291

Charge code: 0398 1291 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th October 2020 and created by THE ROYAL CROWN DERBY PORCELAIN COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th October 2020 .

Given at Companies House, Cardiff on 28th October 2020

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



Companies House



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

DATED

19 October

2020

(1) THE ROYAL CROWN DERBY PORCELAIN COMPANY LIMITED

and

(2) ACORN59 INVESTMENTS LIMITED

Debenture

WE CERTIFY THIS TO BE A TRUE
COPY OF THE ORIGINAL

Buckles Solicitors
Buckles Solicitors LLP
Castle Heights, 72 Maid Marian Way
Nottingham NG1 6BJ

Ref: [RAJ/ROY42/1]



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THIS DEED is dated

19 October

2020

Parties

- (1) THE ROYAL CROWN DERBY PORCELAIN COMPANY LIMITED Incorporated and registered in England and Wales with company number 03981291 whose registered office is at 194 Osmaston Road, Derby, DE23 8JZ (the Borrower);
- (2) ACORN59 INVESTMENTS LIMITED Incorporated and registered in England and Wales with company number 10438400 whose registered office is at RSM, Festival Park, Stoke-On-Trent, ST1 5BB (the Lender).

Background

- (A) The Lender has agreed, pursuant to the Facility Agreement, to provide the Borrower with loan facilities on a secured basis.
- (B) Under this Deed, the Borrower provides security to the Lender for the loan facilities made available under the Facility Agreement.

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 Borrower pursuant to clause 12.7.

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

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

Charged Property: any freehold, leasehold or commonhold property the subject of the security constituted by this Deed and references to "Charged Property" shall include references to the whole or any part or part of it.

Delegate: any person appointed by the Lender or any Receiver pursuant to clause 17 and any person appointed as attorney of the Lender or any Receiver or Delegate.

Designated Account: any account of the Borrower nominated by the Lender as a designated account for the purposes of this Deed.

Environment: the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.

Environmental Law: all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.

Environmental Licence: any authorisation, permit or licence necessary under Environmental Law in respect of any of the Secured Assets.

Equipment: all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property owned by the Borrower or in which it has an interest, including any part of it and all spare parts, replacements, modifications and additions.

Event of Default: has the meaning given to that expression in the Facility Agreement.

Facility Agreement: a facility agreement entered into on or about 26 February 2018, as varied by a deed of variation dated 3 July 2019, and further varied by a deed of variation dated 19 December 2019, whereby the Lender has agreed to provide the Borrower with loan facilities.

Financial Collateral: has 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).

Insurance Policy: each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Charged Properties or the Equipment).

Intellectual Property: the Borrower's present and future patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual

property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Investments: all certificated shares, stock, debentures, bonds or other securities or investments (whether or not marketable) from time to time legally or beneficially owned by or on behalf of the Borrower.

LPA 1925: the Law of Property Act 1925.

Permitted Security: The charges shown as "outstanding" in the charges register of the Borrower's record at Companies House as at the date of this Deed.

Receiver: a receiver, receiver and manager or administrative receiver appointed by the Lender under clause 15.

Secured Assets: all the assets, property and undertaking of the Borrower which are, or are expressed to be, subject to the Security created by, or pursuant to, this Deed (and references to the Secured Assets shall include references to any part of them).

Secured Liabilities: all present and future obligations and liabilities of the Borrower to the Lender, created on or after 1 October 2020, 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 Facility Agreement or this Deed (including, without limitation, those arising under clause 29), together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

Security Financial Collateral Arrangement: has 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 the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

VAT: value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 Interpretation

In this Deed:

1.2.1 clause and Schedule headings shall not affect the interpretation of this Deed;

- 1.2.2** 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);
- 1.2.3** unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4** unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5** a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this Deed shall be binding on, and enure to the benefit of, the parties to this Deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6** a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7** a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8** a reference to **writing** or **written** includes fax but not email;
- 1.2.9** an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10** 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;
- 1.2.11** unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this Deed;
- 1.2.12** 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;
- 1.2.13** a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- 1.2.14** a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;

- 1.2.15 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;
- 1.2.17 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
- 1.2.18 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 Lender considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

1.4 Nature of Security Over Real Property

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

- 1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of that Charged Property at any time;
- 1.4.2 the proceeds of the sale of any part of that Charged Property and any other monies paid or payable in respect of or in connection with that Charged Property;
- 1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Charged Property, and any monies paid or payable in respect of those covenants; and
- 1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property.

1.5 Nature of Security Over Investments

A reference in this Deed to any share, stock, debenture or other security or investment includes:

- 1.5.1 any dividend, interest or other distribution paid or payable in respect of that share, stock, debenture or other security or investment;

1.5.2 any right, money, shares or property accruing, offered or issued at any time in relation to that share, stock, debenture or other security or investment by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

1.6 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 Facility Agreement and of any side letters between any parties in relation to the Facility Agreement are incorporated into this Deed.

1.7 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).

1.8 Schedules

The Schedules form part of this Deed and shall have effect as if set out in full in the body of this Deed. Any reference to this Deed includes the Schedules.

2. Covenant to Pay

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

3. Grant of Security

3.1 Legal Mortgage

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of a first legal mortgage, all estates or interests in any freehold, leasehold or commonhold property now owned by it, including the real property (if any) specified in Schedule 1.

3.2 Fixed Charges

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

3.2.1 all present and future estates or interests of the Borrower in, or over, any freehold, leasehold or commonhold property (other than any such property effectively mortgaged under clause 3.1);

3.2.2 the benefit of all other contracts, guarantees, appointments and warranties relating to each Charged Property and other documents to which the Borrower is a party or which are in its favour or of which it has the benefit relating to any

letting, development, sale, purchase, use or the operation of any Charged Property or otherwise relating to any Charged Property (Including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them);

- 3.2.3 all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business or the use of any Secured Asset, and all rights in connection with them;
- 3.2.4 all its present and future goodwill;
- 3.2.5 all its uncalled capital;
- 3.2.6 all the Equipment;
- 3.2.7 all the Intellectual Property;
- 3.2.8 all the Book Debts;
- 3.2.9 all the Investments;
- 3.2.10 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account), together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 3.2.11 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3.

3.3 Assignment

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- 3.3.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and
- 3.3.2 the benefit of all other agreements, instruments and rights relating to the Secured Assets.

3.4 Floating Charge

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

3.5 Qualifying Floating Charge

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

3.6 Automatic Crystallisation of Floating Charge

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

3.6.1 the Borrower:

3.6.1.1 creates, or attempts to create, without the prior written consent of the Lender, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this Deed or the Facility Agreement); or

3.6.1.2 disposes, or attempts to 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);

3.6.2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets;

3.6.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower; or

3.6.4 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed

3.7 Crystallisation of Floating Charge By Notice

Except as provided in clause 3.8, the Lender may, in its sole discretion, at any time and by written notice to the Borrower, convert the floating charge created under this Deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice.

3.8 Part A1 Moratorium

3.8.1 Subject to paragraph (b) below, the floating charge created by clause 3.4 may not be converted into a fixed charge solely by reason of obtaining a moratorium

(or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986.

3.8.2 Paragraph (a) above does not apply to any floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

3.9 Assets Acquired After Any Floating Charge Has Crystallised

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

4. Liability of the Borrower

4.1 Liability Not Discharged

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

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Lender 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
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

4.2 Immediate Recourse

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

5. Representations and Warranties

5.1 Times for Making Representations and Warranties

The Borrower makes the representations and warranties set out in this clause 5 to the Lender on the date of this Deed and the representations and warranties contained in clause 5 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

5.2 Ownership of Secured Assets

The Borrower is the sole legal and beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

5.3 No Security

The Secured Assets are free from any Security other than Permitted Security and the Security created by this Deed.

5.4 No Adverse Claims

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

5.5 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 Charged 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 Borrower or otherwise.

5.10 Environmental Compliance

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

5.11 Enforceable Security

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

5.12 Investments

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

5.12.2 No constitutional document of an issuer of an Investment, nor any other agreement:

5.12.2.1 restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this Deed; or

5.12.2.2 contains any rights of pre-emption in relation to the Investments.

5.12.3 The Borrower has complied with all notices relating to all or any of the Investments received by it pursuant to sections 790D and 790E of the Companies Act 2006.

5.12.4 No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Investments.

6. General Covenants

6.1 Negative Pledge and Disposal Restrictions

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

6.1.1 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 any Permitted Security;

6.1.2 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

6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

6.2 Preservation of Secured Assets

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, 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

6.3.1 The Borrower shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

6.3.2 The Borrower shall:

- 6.3.2.1 comply with the requirements of any law or regulation relating to or affecting the Secured Assets or the use of it or any part of them;
- 6.3.2.2 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
- 6.3.2.3 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 Borrower shall use its best endeavours to:

- 6.4.1 procure the prompt observance and performance by each counterparty to any agreement or arrangement with the Borrower forming part of the Secured Assets of the covenants and other obligations imposed on that counterparty; and
- 6.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets as the Lender may require from time to time.

6.5 Notice of Misrepresentation and Breaches

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

- 6.5.1 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
- 6.5.2 any breach of any covenant set out in this Deed.

6.6 Title Documents

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

- 6.6.1 all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Borrower (and if they are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all those deeds and documents of title);
- 6.6.2 all Insurance Policies and any other Insurance policies relating to any of the Secured Assets that the Borrower is entitled to possess;
- 6.6.3 all deeds and documents of title (if any) relating to the Book Debts as the Lender may specify from time to time.

6.7 Insurance

- 6.7.1** The Borrower shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Secured Assets against:
- 6.7.1.1** loss or damage by fire or terrorist acts, including any third party liability arising from such acts;
 - 6.7.1.2** other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and
 - 6.7.1.3** any other risk, perils and contingencies as the Lender may reasonably require.
- 6.7.2** Any such insurance must:
- 6.7.2.1** be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender;
 - 6.7.2.2** include property owners' public liability and third party liability insurance;
 - 6.7.2.3** be for not less than the replacement value of the relevant Secured Assets (meaning in the case of any premises on any Charged Property, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for shoring or propping up, demolition, site clearance and reinstatement with adequate allowance for inflation).
- 6.7.3** The Borrower shall, if requested by the Lender, produce to the Lender each policy, certificate or cover note relating to any insurance as is required by clause 6.7.1 (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).
- 6.7.4** The Borrower shall, if requested by the Lender, procure that a note of the Lender's interest is endorsed on each insurance policy (other than public liability and third party liability insurances) effected or maintained by it or any person on

its behalf in accordance with clause 6.7.1 but without the Lender having any liability for any premium in relation to those Insurance policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy.

6.8 Insurance Premiums

The Borrower shall:

6.8.1 promptly pay all premiums in respect of each insurance policy as is required by clause 6.7.1 and do all other things necessary to keep that policy in full force and effect; and

6.8.2 (if the Lender so requires) give to the Lender copies of the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy as is required by clause 6.7.1 (or where, in the case of leasehold property, insurance is effected by the landlord, such evidence of the payment of premiums as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).

6.9 No invalidation of Insurance

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy as is required by clause 6.7.1.

6.10 Proceeds from Insurance Policies

All monies payable under any insurance policy maintained by the Borrower in accordance with clause 6.7.1 at any time (whether or not the security constituted by this Deed has become enforceable) shall:

6.10.1 be paid immediately to the Lender;

6.10.2 if they are not paid directly to the Lender by the insurers, be held, pending such payment, by the Borrower as trustee of the same for the benefit of the Lender; and

6.10.3 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 Lender so directs, in or towards discharge or reduction of the Secured Liabilities.

6.11 Information

The Borrower shall:

- 6.11.1 give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require;
- 6.11.2 permit any persons designated by the Lender 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
- 6.11.3 promptly notify the Lender in writing of any action, claim, notice or demand made by or against It in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

6.12 Payment of Outgoings

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

7. Property Covenants

7.1 Repair and Maintenance

The Borrower shall keep all premises and fixtures and fittings on each Charged Property:

- 7.1.1 In good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings which have become worn out or otherwise unfit for use with others of a like nature and equal value.

7.2 No Alterations

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

- 7.2.1 pull down or remove the whole, or any part of, any building forming part of any Charged Property or permit the same to occur;
- 7.2.2 make or permit to be made any material alterations to any Charged Property, or sever or remove or permit to be severed or removed, any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 7.1); or

- 7.2.3 remove or make any material alterations to any of the Equipment belonging to, or in use by, the Borrower on any Charged Property (except to effect necessary repairs or replace them with new or improved models or substitutes).

7.3 Conduct of Business on Charged Properties

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

7.4 Notices or Claims Relating to the Property

7.4.1 The Borrower shall:

- 7.4.1.1 give full particulars to the Lender of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a Notice) that specifically applies to any Charged Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Notice; and

- 7.4.1.2 (if the Lender so requires) immediately, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Lender in making, any objections or representations in respect of that Notice that the Lender thinks fit.

- 7.4.2 The Borrower shall give full particulars to the Lender of any claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to any Charged Property.

7.5 Compliance With and Enforcement of Covenants

The Borrower shall:

- 7.5.1 observe and perform all covenants, stipulations and conditions to which each Charged Property, or the use of it, is or may be subject, and (if the Lender so requires) produce to the Lender evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed; and
- 7.5.2 diligently enforce all covenants, stipulations and conditions benefiting each Charged Property and shall not (and shall not agree to) waive, release or vary any of the same.

7.6 Payment of rent and Outgoings

The Borrower shall:

- 7.6.1 where a Charged Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and
- 7.6.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Charged Property or on its occupier.

7.7 Leases and Licences Affecting the Charged Properties

The Borrower shall not, without the prior written consent of the Lender (which consent, in the case of clause 7.7.4, is not to be unreasonably withheld or delayed in circumstances in which the Borrower may not unreasonably withhold or delay its consent):

- 7.7.1 grant any licence or tenancy affecting the whole or any part of any Charged Property, or exercise the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925);
- 7.7.2 in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of any Charged Property (or agree to dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of any Charged Property);
- 7.7.3 let any person into occupation of or share occupation of the whole or any part of any Charged Property; or
- 7.7.4 grant any consent or licence under any lease or licence affecting any Charged Property.

7.8 Environment

The Borrower shall in respect of each Charged Property:

- 7.8.1 comply with all the requirements of Environmental Law; and
- 7.8.2 obtain and comply with all Environmental Licences.

7.9 No Restrictive Obligations

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

7.10 Proprietary Rights

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

7.11 Inspection

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

7.12 Property Information

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

7.13 VAT Option to Tax

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

7.13.1 exercise any VAT option to tax in relation to any Charged Property; or

7.13.2 revoke any VAT option to tax exercised, and disclosed to the Lender, before the date of this Deed.

7.14 Registration of Legal Mortgage at the Land Registry

The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to each Charged Property over which the Lender has a legal mortgage:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of [NAME OF PARTY] referred to in the charges register or their conveyancer."

8. Investments Covenants

8.1 Deposit of Title Documents

8.1.1 The Borrower shall:

8.1.1.1 on the execution of this Deed, deposit with the Lender, or as the Lender may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any investments owned by the Borrower at that time; and

8.1.1.2 on the purchase or acquisition by it of investments after the date of this Deed, deposit with the Lender, or as the Lender may direct, all

stock or share certificates and other documents of title or evidence of ownership relating to those Investments.

8.1.2 At the same time as depositing documents with the Lender, or as the Lender may direct, in accordance with clause 8.1.1, the Borrower shall also deposit with the Lender, or as the Lender may direct:

8.1.2.1 all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Borrower, but with the name of the transferee, the consideration and the date left blank; and

8.1.2.2 any other documents (In each case duly completed and executed by or on behalf of the Borrower) that the Lender may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments, so that the Lender may, at any time and without notice to the Borrower, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

8.2 Nominations

8.2.1 The Borrower shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:

8.2.1.1 does not exercise any rights in respect of any Investments without the prior written approval of the Lender; and

8.2.1.2 immediately on receipt by it, forward to the Lender all communications or other information received by it in respect of any Investments for which it has been so nominated.

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

8.3 Pre-emption Rights and Restrictions on Transfer

The Borrower shall:

8.3.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Investments,

for the transfer of the Investments to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this Deed; and

- 8.3.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that the Lender may require in order to permit the transfer of the Investments to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this Deed.

8.4 Dividends and Voting Rights Before Enforcement

- 8.4.1 Before the security constituted by this Deed becomes enforceable, the Borrower may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Lender or any of its nominees, the Lender will hold all those dividends, interest and other monies received by it for the Borrower and will pay them to the Borrower promptly on request.

- 8.4.2 Before the security constituted by this Deed becomes enforceable, the Borrower may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Lender or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:

8.4.2.1 It shall not do so in any way that would breach any provision of the Facility Agreement or this Deed or for any purpose inconsistent with the Facility Agreement or this Deed; and

8.4.2.2 the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Lender's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Lender's security under this Deed.

- 8.4.3 The Borrower shall indemnify the Lender against any loss or liability incurred by the Lender (or its nominee) as a consequence of the Lender (or its nominee) acting in respect of the Investments at the direction of the Borrower.

- 8.4.4 The Lender 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 Lender considers prejudicial to, or impairing the value of, the security created by this Deed.

8.5 Dividends and Voting Rights After Enforcement

After the security constituted by this Deed has become enforceable:

8.5.1 all dividends and other distributions paid in respect of the Investments and received by the Borrower shall be held by the Borrower on trust for the Lender and immediately paid into a Designated Account or, if received by the Lender, may be applied by the Lender in accordance with clause 18.1; and

8.5.2 all voting and other rights and powers attaching to the Investments may be exercised by, or at the direction of, the Lender and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Lender may give, in its absolute discretion, concerning the exercise of those rights and powers.

8.6 Calls on Investments

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

8.7 No Alteration of Constitutional Documents or Rights Attaching to Investments

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

8.7.1 the memorandum or articles of association, or any other constitutional documents, of any issuer of the Investments that is not a public company; or

8.7.2 the rights or liabilities attaching to, or conferred by, all or any of the Investments.

8.8 Preservation of Investments

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

8.8.1 consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;

8.8.2 issue any new shares or stock; or

8.8.3 refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, the Lender or the Borrower in accordance with this Deed.

8.9 Investments Information

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

8.10 Compliance With Requests for Information

The Borrower shall promptly send a copy to the Lender of, and comply with, all requests for information which is within its knowledge and which are made under any law or regulation or any similar provision in any articles of association or other constitutional document, or by any listing or other authority, relating to any of the investments. If it fails to do so, the Lender may elect to provide such information as it may have on behalf of the Borrower.

9. Equipment Covenants

9.1 Maintenance of Equipment

The Borrower shall:

- 9.1.1 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;
- 9.1.2 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
- 9.1.3 not permit any Equipment to be:
 - 9.1.3.1 used or handled other than by properly qualified and trained persons; or
 - 9.1.3.2 overloaded or used for any purpose for which it is not designed or reasonably suitable.

9.2 Payment of Equipment Taxes

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

9.3 Notice of Charge

- 9.3.1 The Borrower shall, if so requested by the Lender, 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 [LENDER]."

9.3.2 The Borrower shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 9.3.1.

10. Book Debts Covenants

10.1 Realising Book Debts

The Borrower shall, if called on to do so by the Lender, execute a legal assignment of the Book Debts to the Lender on such terms as the Lender may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

10.2 Preservation of Book Debts

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

11. Intellectual Property Covenants

11.1 Preservation of Rights

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

11.2 Registration of Intellectual Property

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

11.3 Maintenance of Intellectual Property

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

12. Powers of the Lender

12.1 Power to Remedy

12.1.1 The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this Deed.

12.1.2 The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.

12.1.3 The Borrower shall reimburse the Lender, on a full Indemnity basis, for any monies the Lender expends in remedying a breach by the Borrower of its obligations contained in this Deed, and such monies shall carry interest in accordance with clause 19.1.

12.2 Exercise of Rights

12.2.1 The rights of the Lender under clause 12.1 are without prejudice to any other rights of the Lender under this Deed.

12.2.2 The exercise of any rights of the Lender under this Deed shall not make the Lender liable to account as a mortgagee in possession.

12.3 Lender Has Receiver's Powers

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

12.4 Conversion of Currency

12.4.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this clause 12.4) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.

12.4.2 Any such conversion shall be effected at Lloyds Bank plc then prevailing spot selling rate of exchange for such other currency against the existing currency.

12.4.3 Each reference in this clause 12.4 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.

12.5 New Accounts

12.5.1 If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the Borrower in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

12.5.2 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 12.5.1, then, unless the Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lender shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender.

12.6 Indulgence

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

12.7 Appointment of An Administrator

12.7.1 The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this Deed becomes enforceable.

12.7.2 Any appointment under this clause 12.7 shall:

12.7.2.1 be in writing signed by a duly authorised signatory of the Lender;
and

12.7.2.2 take effect in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

12.7.3 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 12.7 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

12.8 Further Advances

The Lender covenants with the Borrower that it shall perform its obligations to make advances under the Facility Agreement (including any obligation to make available further advances).

13. When Security Becomes Enforceable

13.1 Security Becomes Enforceable on Event of Default

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

13.2 Discretion

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

14. Enforcement of Security

14.1 General

14.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.

14.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed) shall be immediately exercisable at any time after the security constituted by this Deed has become enforceable under clause 13.1.

14.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this Deed.

14.2 Extension of Statutory Powers of Leasing

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

14.2.1 grant a lease or agreement for lease;

14.2.2 accept surrenders of leases; or

14.2.3 grant any option in respect of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

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

14.3 Access on Enforcement

14.3.1 At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this Deed or the Facility Agreement, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.

14.3.2 At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 14.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

14.4 Redemption of Prior Security

14.4.1 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 Lender may:

14.4.1.1 redeem any prior Security over any Secured Asset;

14.4.1.2 procure the transfer of that Security to itself; and

14.4.1.3 settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower).

14.4.2 The Borrower shall pay to the Lender immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this Deed as part of the Secured Liabilities.

14.5 Protection of Third Parties

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

14.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;

14.5.2 whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or

14.5.3 how any money paid to the Lender, any Receiver or any Delegate is to be applied.

14.6 Privileges

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

14.7 No Liability As Mortgagee In Possession

Neither the Lender nor any Receiver or Delegate shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

14.8 Conclusive Discharge to Purchasers

The receipt of the Lender, 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 Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

15. Receiver

15.1 Appointment

15.1.1 At any time after the security constituted by this Deed has become enforceable, or at the request of the Borrower, the Lender 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.

15.1.2 The Lender may not appoint a Receiver solely as a result of the obtaining of a moratorium (or as a result of anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 other than in respect of a floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

15.2 Removal

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

15.3 Remuneration

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

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 Lender 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 Lender despite any prior appointment in respect of all or any part of the Secured Assets.

15.6 Agent of the Borrower

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

16. Powers of Receiver

16.1 General

16.1.1 Any Receiver appointed by the Lender under this Deed shall, in addition to the powers conferred on it by statute, have the rights, powers and discretions set out in clause 16.2 to clause 16.23.

16.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.

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

- 16.1.4** Any exercise by a Receiver of any of the powers given by clause 16 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 16.16) or itself.
- 16.2 Repair and Develop Charged Properties**
A Receiver may undertake or complete any works of repair, alteration, building or development on the Charged 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 Grant or Accept Surrenders of Leases**
A Receiver may grant, or accept, surrenders of any leases or tenancies affecting any Secured Asset on any terms, and subject to any conditions, that it thinks fit.
- 16.4 Employ Personnel and Advisers**
16.4.1 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 it thinks fit.
16.4.2 A Receiver may discharge any such person or any such person appointed by the Borrower.
- 16.5 Make and Revoke VAT Options to Tax**
A Receiver may make, exercise or revoke any VAT option to tax as it 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 it) that the Lender may prescribe or agree with it.
- 16.7 Possession**
A Receiver may take immediate possession of, get in and realise any Secured Asset.
- 16.8 Manage or Reconstruct the Borrower's Business**
A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower.
- 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 it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it 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 Charged Property without the consent of the Borrower.

16.11 Sell Book Debts

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

16.12 Valid Receipts

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

16.14 Legal Action

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

16.15 Improve the Equipment

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

16.16 Make Calls on Borrower Members

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

16.17 Insure

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 19, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the Insurance required to be maintained by the Borrower under this Deed.

16.18 Subsidiaries

A Receiver may form a subsidiary of the Borrower and transfer to that subsidiary any Secured Asset.

16.19 Borrow

A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Lender consents, 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 Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

16.21 Delegation

A Receiver may delegate its 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 it would be capable of exercising as, and do all those acts and things, 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 that it:

- 16.23.1 may consider desirable or necessary for realising any of the Secured Assets;
- 16.23.2 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
- 16.23.3 lawfully may or can do as agent for the Borrower.

17. Delegation

17.1 Delegation

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

17.3 Liability

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

18. Application of Proceeds

18.1 Order of Application of Proceeds

All monies received or recovered by the Lender, a Receiver or a Delegate under this Deed or in connection with the realisation or enforcement of all or part of the security constituted by this Deed (other than sums received under any Insurance Policy), 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 (but without prejudice to the Lender's right to recover any shortfall from the Borrower):

- 18.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Lender (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;
- 18.1.2 in or towards payment of the Secured Liabilities in any order and manner that the Lender determines; and
- 18.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.

18.2 Appropriation

Neither the Lender, 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 Lender, a Receiver or a Delegate under this Deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):

- 18.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to a suspense account;
- 18.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
- 18.3.3 may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

19. Costs and Indemnity

19.1 Costs

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

19.1.1 this Deed or the Secured Assets;

19.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this Deed; or

19.1.3 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, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of the Borrower) at the rate and in the manner specified in the Facility Agreement.

19.2 Indemnity

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

19.2.1.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Deed or by law in respect of the Secured Assets;

19.2.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Deed; or

19.2.1.3 any default or delay by the Borrower in performing any of its obligations under this Deed.

19.2.2 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 Borrower shall promptly, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

20.1.1 creating, perfecting or protecting the security created or intended to be created by this Deed;

20.1.2 facilitating the realisation of any Secured Asset; or

20.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Lender may consider necessary or desirable.

21. Power of Attorney

21.1 Appointment of Attorneys

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

21.1.1 the Borrower is required to execute and do under this Deed; or

21.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Lender, any Receiver or any Delegate.

21.2 Ratification of Acts of Attorneys

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 21.1.

22. Release

22.1 Subject to clause 29.3, at the end of the Security Period, the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

22.1.1 release the Secured Assets from the security constituted by this Deed; and

22.1.2 reassign the Secured Assets to the Borrower.

23. Assignment and Transfer

23.1 Assignment By Lender

23.1.1 At any time, without the consent of the Borrower, the Lender may assign or transfer any or all of its rights and obligations under this Deed.

23.1.2 The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this Deed that the Lender considers appropriate.

23.2 Assignment By Borrower

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

24. Set-off

24.1 Lender's Right of Set-off

The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its 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 Exclusion of Borrower's Right of Set-off

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

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

25.2.1 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.

25.2.2 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 Lender 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

27.1.1 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.

27.1.2 Transmission of an executed counterpart of this Deed (but for the avoidance of doubt not just a signature page) by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

28. Third Party Rights

28.1 Third Party Rights

28.1.1 Except as expressly provided elsewhere in this Deed], a person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third

Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

28.1.2 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

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

29.2 Continuing Security

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

29.3 Discharge Conditional

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

29.3.1 the Lender or its nominee may retain this Deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and

29.3.2 the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

29.4 Certificates

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

29.5 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 given to a party under or in connection with this Deed shall be:

30.1.1 in writing;

30.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and

30.1.3 sent to:

30.1.3.1 the Borrower at:

194 Osmaston Road, Derby, DE23 8JZ

Attention: Chris Oakes

30.1.3.2 the Lender at:

RSM, Festival Park, Stoke-On-Trent, ST1 5BB

Attention: Kevin Oakes

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

30.2 Receipt By Borrower

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

30.2.1 if delivered by hand, at the time it is left at the relevant address;

30.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and

30.2.3 if sent by fax, when received in legible form.

A notice or other communication given as described in clause 30.2.1 or clause 30.2.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

30.3 Receipt By Lender

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

30.4 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.

30.5 No Notice By Email

A notice or other communication given under or in connection with this Deed is not valid if sent by email.

31. Governing Law and Jurisdiction

31.1 Governing Law

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

31.2 Jurisdiction

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

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

Schedule 1 - Real Property

Part 1 - Registered Property

[DETAILS OF REGISTERED PROPERTY, INCLUDING TITLE NUMBER]

Executed as deed by THE ROYAL CROWN DERBY PORCELAIN
COMPANY LIMITED acting by a director, in the presence of:



Director



[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

STLEE
194 OSMASTON ROAD,
DERBY.
DE23 8JZ.
ACCOUNTANT

Executed as deed by ACORN59 INVESTMENTS LIMITED acting by
a director, in the presence of:



Director



[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

STLEE
194 OSMASTON ROAD,
DERBY.
DE23 8JZ
ACCOUNTANT

