

100355 £13

In accordance with  
Sections 859A and  
859J of the Companies  
Act 2006

# MR01

## Particulars of a charge



Companies House

**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](http://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 an instrument. Use form MR08

For further information, please  
refer to our guidance at  
[companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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



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

WEDNESDAY



### 1 Company details

Company number 0 5 9 7 6 6 1 8  
Company name in full Future Capital Partners (FS) Limited

For official use

→ **Filing in this form**  
Please complete in typescript or in  
bold black capitals  
All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 1 1 0 8 2 0 1 4

### 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 Blue Mountain Advisers Limited

Name

Name

Name

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

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

# MR01

## Particulars of a charge

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### Brief description

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

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

Please limit the description to the available space

Brief description

As a continuing security for the payment and discharge of the Secured Liabilities, each Company with full title guarantee charges to Blue Mountain by way of fixed charge all the Intellectual Property (all capitalised words are defined in the instrument)

5

### Other charge or fixed security

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

☒ Yes

☐ No

6

### Floating charge

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

☒ Yes Continue

☐ No Go to **Section 7**

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

☒ Yes

7

### Negative Pledge

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

☒ Yes

☐ No

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### Trustee statement <sup>①</sup>

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

☐

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

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### Signature

Please sign the form here

Signature

Signature

X

X

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

# MR01

## Particulars of a charge



### Presenter information

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

Contact name  
Angela Wood

Company name  
Towerstone Partners Limited

Address  
10 Old Burlington Street

Post town  
London

County/Region

Postcode  
W 1 S 3 A G

Country

DX

Telephone  
020 009 6864



### 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](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto: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](http://www.companieshouse.gov.uk)



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 5976618

Charge code: 0597 6618 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th August 2014 and created by FUTURE CAPITAL PARTNERS (FS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th August 2014

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Given at Companies House, Cardiff on 20th August 2014



**Companies House**



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

DATED 11 August 2014

**GUARANTEE AND DEBENTURE**

FUTURE CAPITAL PARTNERS GROUP HOLDINGS LIMITED

and

CERTAIN DEFINED SUBSIDIARIES

and

BLUE MOUNTAIN ADVISERS LIMITED

I hereby certify that  
this is a true and  
accurate copy of the  
original.

~~A~~ Wood  
Angele Wood  
Solicitor

10 Old Burlington Street, London W1S 3AG

11.8.14

THIS COMPOSITE GUARANTEE AND DEBENTURE is dated 11 August 2014 and made BETWEEN

- (1) **Future Capital Partners Group Holdings Limited**, a company registered in England and Wales with registered number 04010585 and whose registered office is at 10 Old Burlington Street London W1S 3AG (the "**FCGH**"),
- (2) the Companies whose respective names and registered offices are set out in Schedule 1 (collectively the "**Charging Subsidiaries**"),
- (3) **Blue Mountain Advisers Limited**, a limited company incorporated in England and Wales with registered number 09140485 and whose registered office is at 10 Old Burlington Street London W1S 3AG ("**Blue Mountain**")

WHEREAS

- (A) Pursuant to the BMA Services Agreement FCGH appointed Blue Mountain to perform the Services
- (B) Pursuant to the First Ranking Security the Charging Group have provided first ranking security in favour of Cocoon Wealth LLP for certain secured liabilities
- (C) This Debenture is given by the Charging Group to provide security in favour of Blue Mountain for the Secured Liabilities, subject to the Cocoon Debenture
- (D) For as long as the Cocoon Debenture shall remain in force, where applicable the terms of this Deed shall be construed as being subject to the Cocoon Debenture which shall rank in priority to the security provided pursuant to this Debenture

NOW THIS DEED WITNESSES as follows

**1. DEFINITIONS**

In this Deed the following expressions shall unless the context otherwise requires bear the following meanings

<b>"Book Debts"</b>	all present and future book and other debts, and monetary claims due or owing to each Company, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by each Company in relation to any of them,
<b>"BMA Services Agreement"</b>	means the agreement between FCGH and Blue Mountain dated the date hereof pursuant to which FCGH appointed Blue Mountain to perform the Services for the benefit of the Charging Group
<b>"Charged Assets"</b>	means the goodwill undertaking property assets revenues and rights of each Company charged by this Deed,
<b>"Charging Group"</b>	means the FCGH and the Charging Subsidiaries and reference to the Charging Group includes a reference to any one or more of the members of the Charging Group severally,

<b>"Cocoon Debenture"</b>	means the debenture dated 16 June 2014 granted by Future Capital Global Holdings Limited and the Charging Subsidiaries in favour of Cocoon Wealth LLP securing the obligations under the Cocoon Services Agreement,
<b>"Cocoon Services Agreement"</b>	means the agreement between FCP and Cocoon Wealth LLP dated 18 May 2014 pursuant to which FCP appointed Cocoon Wealth LLP to perform certain services
<b>"Company"</b>	means the members of the Charging Group and includes any one or more of the same,
<b>"Default Rate"</b>	means four per cent per annum over the sterling base rate from time to time of Barclays Bank plc,
<b>"Event of Default"</b>	means any event or circumstance specified as such in Clause 8 ( <i>Event of Default</i> ) of this Deed,
<b>"FCP"</b>	means Future Capital Partners Limited,
<b>"Intellectual Property"</b>	means each Company's present and future patents, trademarks, 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,
<b>"Insurance Policy"</b>	each contract and policy of insurance effected or maintained by each Company from time to time in respect of their respective assets or businesses (including, without limitation, any insurances relating to the Properties),
<b>"Investments"</b>	means, in respect of any Company, all stocks, shares, bonds, debentures and securities, investments or interests of any kind (whether marketable or otherwise) and all other interests (including, without limitation, loan capital) in any person owned by it and/or held by any nominee on its behalf,
<b>"Permitted Security"</b>	means the security provided pursuant to the Cocoon Debenture,
<b>"Properties"</b>	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 any member of the Charging Group, or in which any of them holds an interest (including, but not limited to, the properties specified in Schedule 2), and Property means any of them,

<b>"Receiver"</b>	includes an administrative receiver and a receiver and/or manager,
<b>"Secured Liabilities"</b>	all present and future monies, obligations and liabilities owed by the any member of the Charging Group to Blue Mountain, 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 BMA Services Agreement or this Deed, together with all interest (including, without limitation, default interest) accruing in respect of those monies or liabilities,
<b>"Security"</b>	means the security provided pursuant to this Deed,
<b>"Services"</b>	shall have the meaning ascribed to it in the BMA Services Agreement,

The expressions the "Parent Company", "Company", the "Charging Subsidiaries", "Guarantor" and "Blue Mountain" where the context admits include their respective successors and assigns whether immediate or derivative Any appointment or removal of a receiver under Clause 9 (*Receiver and Administrator*) and any consents hereunder may be made or given in writing signed or sealed by any such successors or assigns of Blue Mountain and each Company hereby irrevocably appoints each successor and assign of Blue Mountain and Blue Mountain to be its attorney in the terms and for the purposes set out in Clause 15 (*Power of Attorney*)

In this Deed

- (a) reference to Clauses, Sub-clauses and Schedules are references to clauses, sub-clauses and schedules to this Deed,
- (b) any liability or power which may be exercised or any determination which may be made hereunder by Blue Mountain may be exercised or made in their absolute and unfettered discretion and they shall not be obliged to give reasons therefor,
- (c) references to statutory provisions shall be construed as references to those provisions as respectively replaced amended or re-enacted from time to time and all secondary legislation made thereunder,
- (d) the headings to the Clauses are for convenience only and have no legal effect,
- (e) the covenants agreements obligations and liabilities of the members of the Charging Group herein contained or implied on their part are joint and several and shall be construed accordingly,
- (f) this Deed shall be enforceable notwithstanding any reconstruction reorganisation or change in the constitution of any one or more of Blue Mountain or its/their absorption in or amalgamation with or the acquisition of all or part of its/ their undertaking by any other person



## **2. COVENANT TO PAY**

FCGH hereby covenants that it will on demand pay to Blue Mountain 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, each Company with full title guarantee charges to Blue Mountain, by way of legal mortgage, each Property specified in Schedule 2 (if any)

### **3.2 Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, each Company with full title guarantee charges to Blue Mountain by way of fixed charge

- (a) all Properties acquired by each of the Companies in the future,
- (b) all present and future interests of each of the Companies 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 FCGH's business or the use of any Charged Asset, and all rights in connection with them,
- (e) all its present and future goodwill,
- (f) all its uncalled capital,
- (g) all the Intellectual Property,
- (h) all the Book Debts,
- (i) all the Investments, and
- (j) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person

### **3.3. Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, each Company with full title guarantee assigns to Blue Mountain absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy

### **3.4 Floating charge**

As a continuing security for the payment and discharge of the Secured Liabilities, each Company with full title guarantee charges to Blue Mountain, by way of floating charge, all the undertaking, property, assets and rights of each Company at any time not effectively mortgaged, charged or assigned pursuant to Clause 1

### **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) be converted into a fixed charge over the assets subject to that floating charge if

- (a) any Company
  - (i) creates, or attempts to create, without the prior written consent of Blue Mountain, a security interest or a trust in favour of another person over all or any part of the Charged Asset (except as expressly permitted by the terms of this Deed or the BMA Services Agreement), or
  - (ii) disposes, or attempts to dispose of, all or any part of the Charged Assets (other than Charged 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 Charged Assets, or
- (c) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the FCGH

### **3.7. Crystallisation of floating charge by notice**

Blue Mountain may, in its sole discretion, by written notice to a Company, convert the floating charge created under this Deed into a fixed charge as regards any part of the Charged Assets specified by Blue Mountain in that notice if

- (a) an Event of Default occurs and is continuing, or
- (b) Blue Mountain considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy

### **3.8. Assets acquired after any floating charge has crystallised**

Any asset acquired by the Companies 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 Blue Mountain confirms otherwise to each of the Companies in writing) be charged to Blue Mountain by way of fixed charge

## **4. REPRESENTATIONS AND WARRANTIES**

### **4.1 General**

Each Company represents and warrants to Blue Mountain that

- (a) it is a limited company, duly incorporated and validly existing under the laws of England and Wales and has power to own its own assets and carry on its business as it is being conducted,

- (b) it has power to enter into and perform and deliver, and has taken all necessary action to authorise its entry into and performance and delivery of, this Deed and its obligations under this Deed and no limitation on its powers will be exceeded as a result of the execution and delivery of this Deed or the performance of its obligations under this Deed,
- (c) this Deed constitutes valid and legally binding obligations of each Company enforceable in accordance with its terms and creates the security which this Deed purports to create and that security is valid and effective and it is not liable to be avoided or otherwise set aside on the liquidation or administration of each Company or otherwise,
- (d) the entry into and performance of its obligations under and the transactions contemplated by this Deed do not and will not
  - (i) conflict with any applicable law or regulation,
  - (ii) conflict with any agreement or instrument binding on it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument,
  - (iii) conflict with its constitutional documents, or
  - (iv) result in the creation of or oblige any Company to create any security in favour of any person other than Blue Mountain,
- (e) it is able to pay its debts, and other liabilities, contingent obligations and commitments, as they mature and become due in the normal course of business and its assets are greater than its liabilities, taking into account its actual contingent and prospective liabilities for the purposes of section 123(2) of the Insolvency Act 1986,
- (f) no action has been taken, or is pending, no other steps have been taken and no legal proceedings have been commenced or are threatened or are pending for
  - (i) the winding up, liquidation, provisional liquidation, dissolution, administration or reorganisation of any Company, or
  - (ii) any Company to enter into any composition or arrangement with its creditors, or
  - (iii) the appointment of a receiver, administrator, administrative receiver, trustee or similar officer in respect of each Company or any of its assets,

and no event equivalent to any of the foregoing has occurred in or under the laws of any relevant jurisdiction,

- (g) no litigation, arbitration or administrative proceeding of or before any court, arbitral body or agency is taking place, pending or to the knowledge of the officers of FCGH threatened against it which could have a material adverse effect on the business, assets or financial condition of FCGH,
- (h) no Event of Default is continuing and no other event or circumstance is outstanding which constitutes or would (with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing) constitute a default or termination (however described) under any other agreement or instrument, in each case relating to indebtedness or liability (whether as principal or surety) for borrowed monies, to which FCGH is a party or by which it may be bound, and
- (i) it has good and marketable title to the Charged Assets, which it owns beneficially free and clear of any security, and has full power and authority to grant to Blue Mountain this Security and to execute, deliver and perform its obligations in accordance with the terms of this Deed without the consent or approval of any other person other than any consent or approval which has been obtained

#### **4.2. Times for making representations**

- (a) The representations set out in this Deed (including, without limitation, in Clause 4 (*General*)) are made on the date of this Deed
- (b) Unless a representation is expressed to be given at only at a specific date, each representation under this Deed is deemed to be repeated by each Company on each day during the Security Period. When a representation is repeated, it is applied to the circumstances existing at the time of repetition

### **5. RESTRICTIONS ON DEALINGS**

#### **5.1. Security**

Other than in respect of the Permitted Security, each Company shall not, without the prior written consent of Blue Mountain, create or attempt to create or permit to subsist in favour of any person, other than Blue Mountain, any security on any Charged Asset

#### **5.2. Disposals**

Other than pursuant to enforcement of the Permitted Security, each Company shall not, without the prior written consent of Blue Mountain, sell, transfer, assign, licence, lease or otherwise dispose of or agree to sell, transfer, assign, licence, lease or otherwise dispose of any Charged Asset or any part of an interest in any Charged Asset or attempt or agree so to do, except for the disposal in the ordinary course of trade of any Charged Asset subject only to an uncrystallised floating charge created under this Deed and not expressed in this Deed to be subject to a fixed charge under Clause 3.2 (*Fixed Charge*)

### **6. UNDERTAKINGS**

- 6 1 Each Company will conduct and carry on its business in a proper and efficient manner and keep or cause or procure to be kept proper books of account relating to such business and not make any material alteration in the nature or mode of conduct of any such business
- 6 2 Each Company will observe and perform all covenants, burdens, stipulations, requirements and obligations from time to time affecting the Charged Assets and / or the use, ownership, occupation, possession, operation, repair, maintenance or other enjoyment or exploitation of the Charged Assets whether imposed by statute, contract, lease, licence, grant or otherwise, and carry out all registrations or renewals and generally do all other acts and things (including, without limitation, the taking of legal proceedings) necessary or desirable to maintain, defend or preserve its right, title and interest to and in the Charged Assets without infringement by any third party and will not without the prior written consent of Blue Mountain enter into any onerous or restrictive obligations affecting any of the same or agree any rent review relating to any interest in any of the Properties
- 6 3 None of the Companies will do or cause or permit to be done anything which may in any way depreciate jeopardise or otherwise prejudice the value to Blue Mountain of any of the Charged Assets
- 6 4 After this Security becomes enforceable, FCGH shall
- (a) deposit with Blue Mountain or as Blue Mountain may direct (or procure the deposit with Blue Mountain or as Blue Mountain may direct) all certificates and other documents of title or evidence of ownership in relation to the Charged Assets,
  - (b) execute and deliver to Blue Mountain (or procure the execution and delivery to Blue Mountain of) all share transfers duly executed (in each case with the name of the transferee, date and consideration left blank) and any other documents as Blue Mountain may request (in all cases in form and on terms satisfactory to Blue Mountain) and take such further action as Blue Mountain may require in order to enable Blue Mountain or its nominee or any purchaser, following an Event of Default, to be registered as the owner or otherwise obtain a legal title to any Investment
- 6 5 Before this Security becomes enforceable, unless Blue Mountain otherwise directs, each Company will, for so long as it remains the owner (registered or otherwise) of any of the Investments, continue to be entitled to exercise the rights attaching to such Investments as beneficial owner and to receive and retain any dividends or interest paid on them, in any case so long as such exercise, receipt and / or retention is not prejudicial to the interests of Blue Mountain
- 6 6 After this Security becomes enforceable or, notwithstanding Clause 6 5, if Blue Mountain considers any of the Investments to be in jeopardy, whether in danger of being seized or sold under any form of distress, execution or other similar process or otherwise

- (a) Blue Mountain may complete any necessary share transfers and any other documents as delivered to it pursuant to Clause (b) in favour of itself or such other person as it may select and Blue Mountain may then exercise (in the name of the relevant Company and without any further consent or authority on the part of the relevant Company) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Investment or Related Investment Right or any person who is the holder of any Investment or Related Investment Right or otherwise (including any powers given to trustees by sections 3 to 7 of the Trustee Act 2000), and
- (b) all dividends, interest and other income forming part of the Investments and Related Investment Rights shall be paid without set-off or deduction to an interest bearing suspense account in the name of Blue Mountain or its nominee and shall be retained by Blue Mountain or its nominee and any such monies which may be received by the relevant Company shall, pending such payment, be held in trust for Blue Mountain

## **7. ENFORCEMENT OF SECURITY**

### **7.1. Time of enforcement**

- (a) On the occurrence of any Event of Default, the Secured Liabilities shall immediately become payable on demand
- (b) This Security will become immediately enforceable at any time after the occurrence of an Event of Default

### **7.2. Discretion**

After this Security has become enforceable, Blue Mountain may in its absolute discretion enforce all or any part of this Security in any manner it sees fit

### **7.3. Statutory powers**

- (a) The power of sale and other powers conferred by section 101 of the Law of Property Act 1925, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable
- (b) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed
- (c) Sections 103 and 93 of the Law of Property Act 1925 do not apply to this Security or to any security given to Blue Mountain pursuant to this Deed

### **7.4. No liability as mortgagee in possession**

Neither Blue Mountain nor any Receiver will be liable, by reason of entering into possession of a Charged Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable

### **7.5. Privileges**

Each Receiver and Blue Mountain is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 on mortgagees and receivers duly appointed under the Law of Property Act 1925 except that section 103 of the Law of Property Act 1925 does not apply

**7.6. Protection of third parties**

No person (including, without limitation, a purchaser) dealing with Blue Mountain or a Receiver or its or his agent will be concerned to enquire

- (a) whether the Secured Liabilities have become payable,
- (b) whether any power which Blue Mountain or a Receiver is purporting to exercise has become exercisable or is being properly exercised,
- (c) whether any part of the Secured Liabilities remains outstanding, or
- (d) how any money paid to Blue Mountain or to that Receiver is to be applied

**7.7. Leasing**

- (a) During the continuance of this Security the statutory and any other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not be exercisable by each Company in relation to the Charged Assets or any part of them
- (b) Blue Mountain shall have the power to lease and make agreements for leases at a premium or otherwise to accept surrenders of leases and to grant options on such terms as Blue Mountain shall consider expedient and without the need to observe any of the provisions of sections 99 and 100 of the Law of Property Act 1925

**7.8. Redemption of prior security**

- (a) At any time after this Security has become enforceable, Blue Mountain may
  - (i) redeem any prior security against any Charged Asset, and/or
  - (ii) procure the transfer of that security to itself, and/or
  - (iii) settle and pass the accounts of the prior mortgagee, Blue Mountain or encumbrancer, and accounts so settled or passed will be, in the absence of manifest error, conclusive and binding on each of the Companies
- (b) FCGH must pay to Blue Mountain, immediately on demand, the costs and expenses incurred by Blue Mountain in connection with any such redemption and / or transfer, including, without limitation, the payment of any principal or interest

**7.9. Blue Mountain's right to remedy Company's default**

- (a) If any of the Companies at any time default in complying with any of their obligations contained in this Deed Blue Mountain shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and each Company irrevocably authorises Blue Mountain and its employees and agents by way of security to do all such things (including, without limitation, entering such Company's property) necessary or desirable in connection with such task
- (b) Any monies so expended by Blue Mountain shall be repayable by each Company to Blue Mountain on demand together with interest accruing daily at the Default Rate from the date of payment by Blue Mountain until such repayment both before and after judgment Such interest shall be compounded monthly

#### **7 10. Contingencies**

If this Security is enforced at a time when no amount is due under the BMA Services Agreement but at a time when amounts may or will become due, Blue Mountain (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it

#### **8. EVENTS OF DEFAULT**

Each of the events or circumstances set out in this Clause 8 is an Event of Default

- 8 1 Any of the Companies fail to pay any sum or perform any obligation under this Deed when due or comply with any provision of this Deed
- 8 2 FCGH fails to pay any sum or perform any obligation under the BMA Services Agreement in each case when due
- 8 3 There is an event of default or termination event (however described) under the BMA Services Agreement

#### **9. RECEIVER AND ADMINISTRATOR**

##### **9.1. Appointment of Receiver or Administrator**

- (a) Except as provided below, Blue Mountain may appoint any one or more persons to be a Receiver of all or any part of the Charged Assets if
  - (i) this Security has become enforceable, or
  - (ii) FCGH so requests Blue Mountain in writing at any time
- (b) Any appointment of a Receiver under Clause 9 1(a) may be by deed, under seal or in writing under the hand of Blue Mountain
- (c) Except as provided in Clauses (d) and (e), any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including, without limitation, under section 109(1) of the Law of Property Act 1925) does not apply to this Deed



- (d) Blue Mountain is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under the Insolvency Act 2000 except with the leave of the court
- (e) Blue Mountain may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Charged Assets if Blue Mountain is prohibited from doing so by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies
- (f) Blue Mountain may appoint an Administrator

## **9.2. Removal**

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

## **9.3. Remuneration**

Blue Mountain may from time to time fix the remuneration of any Receiver appointed by it and the maximum rate specified in section 109(6) of the Law of Property Act 1925 will not apply. A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm

## **9.4 Agent of the Company**

- (a) A Receiver will (save as otherwise required or provided as a matter of law) be deemed to be the agent of each Company for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Law of Property Act 1925. The relevant Company alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver and for his remuneration
- (b) Blue Mountain will incur no liability (either to the Company or to any other person) by reason of the appointment of a Receiver or for any other reason

## **9.5 Exercise of Receiver powers by Blue Mountain**

At any time after this Security becomes enforceable, or if requested by a Company, Blue Mountain may, without further notice and without the restrictions contained in section 103 of the Law of Property Act 1925 and whether or not a Receiver shall have been appointed, exercise all the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Deed and any right, power or discretion conferred by this Deed (either expressly or impliedly) upon the Receiver of the Charged Assets

## **9.6. Right of appropriation**

To the extent that any of the Charged Assets constitute "financial collateral" and this Deed and the obligation of the Charged Group under this Deed constitutes a "security financial collateral arrangement" in each case defined in and for the purpose of the provisions of the Financial Collateral Arrangements (No 2) Regulations 2003, Blue Mountain shall have the right, while this Security is enforceable, to appropriate all or any part of that Charged Asset in or towards payment or discharge of the Secured Liabilities. The parties to this Deed agree that the value of such Charged Assets shall be determined by Blue Mountain as being

- (a) in the case of cash on account at any bank, financial institution or other person, the amount standing to the credit of that account, together with any accrued interest, at the time of appropriation, and
- (b) in the case of any Investments, their market value determined by Blue Mountain by reference to a public index, independent valuation or by such other process as Blue Mountain may select

## **10. POWERS OF RECEIVER**

### **10.1. General**

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause 10 in addition to those conferred on it by any law, including, without limitation
- (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

### **10.2. Possession**

A Receiver may take possession of, get in and collect any Charged Asset

### **10.3. Carry on business**

A Receiver may carry on any business of each Company in any manner he considers fit

### **10.4. Employees**

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

### **10.5. Borrow money**

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

#### **10.6. Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Charged Asset by public auction or private contract and generally in any manner and on any term which he thinks fit
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit
- (c) Plant, machinery and other fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the relevant Company

#### **10.7. Leases**

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

#### **10.8. Calls on members**

A Receiver may make calls conditionally or unconditionally on the members of the Charged Group in respect of uncalled capital

#### **10.9 Compromise**

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

#### **10.10. Legal actions**

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

#### **10.11. Receipts**

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

#### **10.12. Subsidiaries**

A Receiver may form a Subsidiary of each Company and transfer to that Subsidiary any Charged Asset or otherwise arrange for such Subsidiary to trade or cease to trade and to purchase, lease, licence or otherwise acquire all or any of the Charged Assets on such terms and conditions as he may think fit

#### **10.13. Delegation**

A Receiver may delegate his powers in accordance with this Deed

#### **10.14 Lending**

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

#### **10.15. Contracts**

A Receiver may make any arrangement or compromise or enter into or cancel any contracts which he thinks expedient

#### **10.16. Execution of documents**

A Receiver may sign any document, execute any deed and do all such other acts and things as may be considered by him to be incidental or conducive to any of the matters or powers in this Clause 10 or to the realisation of this Security and to use the name of the relevant Company for such purposes

#### **10.17. Protection of assets**

A Receiver may

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

in each case as he thinks fit

#### **10.18. Property**

A Receiver may without any further consent by or notice to any Company exercise for and on behalf of each Company all the powers and provisions conferred on a landlord or a tenant by the Landlord and Tenant Acts, the Rents Acts, the Housing Acts or the Agricultural Holdings Act or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Properties, but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised

#### **10 19. Other powers**

A Receiver may

- (a) do all other acts and things which he may consider to be desirable or necessary for realising any Charged Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law,

- (b) exercise all the powers of Blue Mountain under this Deed,
- (c) exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Asset, and
- (d) use the name of each Company for any of the above purposes

without any liability in respect of powers so exercised or omitted to be exercised

## **11. APPLICATION OF PROCEEDS**

11 1 All monies received by Blue Mountain or any Receiver on enforcement of this Security must (subject to any requirement of law to the contrary) be applied in the following order of priority

- (a) in or towards payment of any unpaid costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration,
- (b) in or towards payment and discharge of any outgoings paid and liabilities incurred by the Receiver in the exercise of any of his powers,
- (c) in or towards payment of unpaid costs, charges and expenses incurred by Blue Mountain under or in connection with this Deed,
- (d) in or towards the satisfaction of the Secured Liabilities in such order as Blue Mountain may conclusively determine, and
- (e) in payment of the surplus (if any) to the relevant Company or other person entitled to it,

and section 109(8) of the Law of Property Act 1925 shall be deemed varied and extended in such respect

11 2 This Clause 11 is subject to the payment of any claims having priority over this Security This Clause does not prejudice the right of Blue Mountain to recover any shortfall from each Company

## **12. EXPENSES AND INDEMNITY**

12 1 Each Company must

- (a) immediately on demand pay all costs and expenses (including, without limitation, legal fees) incurred in connection with this Deed by Blue Mountain, any Receiver, attorney, manager, agent or other person appointed by Blue Mountain under this Deed on a full indemnity basis,
- (b) keep each of them indemnified against all losses, damages, costs, charges, awards, claims, demands, expenses, judgments, actions, proceedings or other liabilities whatsoever

- (i) incurred by or arising from any failure or delay in paying those costs or expenses including (without limitation) any arising from any actual or alleged breach by any person of any law or regulation,
  - (ii) which it may sustain as a consequence of any breach by a Company of the provisions of this Deed or the exercise or purported exercise of any of the rights and powers conferred on it by this Deed, save where the same arises as a result of the fraud, gross negligence or wilful default of such person, and
  - (iii) in respect of any matter or thing done or omitted in any way in relation to this Deed, save where the same arises as a result of the fraud, gross negligence or wilful default of such person, and
- (c) pay interest on the sum demanded at the Default Rate

### **13. DELEGATION**

#### **13.1. Power of Attorney**

Blue Mountain or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed

#### **13.2. Terms**

Any delegation under Clause 15 (*Power of Attorney*) may be made upon any terms (including, without limitation, power to sub-delegate) which Blue Mountain or any Receiver may think fit

#### **13.3 Liability**

Neither Blue Mountain nor any Receiver will be in any way liable or responsible to any Company for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate

### **14. FURTHER ASSURANCES**

Each Company must, at its own expense, take whatever action Blue Mountain or a Receiver may require

- 13 4 for creating, perfecting or protecting the security created (or intended to be created) by this Deed, or
- 13 5 for facilitating the realisation of any Charged Asset, or the exercise of any right, power or discretion exercisable by Blue Mountain or any Receiver or any of its delegates or sub-delegates in respect of any Charged Asset, or
- 13 6 to confer on Blue Mountain security over any asset or undertaking of each Company located in any jurisdiction outside England and Wales and equivalent or similar to the security intended to be conferred by or pursuant to this Deed,
- 13 7 and this includes, without limitation

- 13 8 the prompt delivery on demand of any documents of title relating to any Security Asset,
- 13 9 the execution of any transfer, conveyance, assignment or assurance of any property, whether to Blue Mountain or to its nominee, or
- 13 10 the giving of any notice, order or direction and the making of any registration, which, in any such case, Blue Mountain may think expedient

## **15 POWER OF ATTORNEY**

15 1 Each Company by way of security irrevocably and severally appoints Blue Mountain, each Receiver and any of its delegates or sub-delegates to be its attorney and in its name, on its behalf and as its act and deed

- (a) to take any action which each Company is obliged to take under this Deed,
- (b) to execute and complete any documents or instruments which Blue Mountain or such Receiver may require for perfecting the title of Blue Mountain to the Charged Assets or for vesting the same in Blue Mountain, its nominees or any purchaser,
- (c) to sign, execute, seal and deliver and otherwise perfect any further security document referred to in Clause 14 (*Further Assurances*), and
- (d) otherwise generally to sign, seal, execute and deliver all deeds, assurances agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on Blue Mountain or a Receiver under this Deed or which may be deemed expedient by Blue Mountain or a Receiver in connection with any disposition, realisation or getting in by Blue Mountain or such Receiver of the Charged Assets or any part of them or in connection with any other exercise of any power under this Deed

15 2 Each Company ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 15

## **16. PRESERVATION OF SECURITY**

### **16 1. Continuing security**

This Security is a continuing security and will secure the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part

### **16.2. Reinstatement**

- (a) If any discharge, release or arrangement (whether in respect of the obligations of each Company or any security for those obligations or otherwise) or arrangement is made by Blue Mountain in whole or in part on the faith of any payment, security or other disposition which is avoided or

must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Company under this Deed will continue or be reinstated as if the release, discharge, release or arrangement had not occurred

- (b) Blue Mountain may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration

### **16.3. Waiver of defences**

The obligations of each Company under this Deed will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed (whether or not known to each Company or Blue Mountain) This includes

- (a) any time, waiver or consent granted to, or composition with, each Company or any other person,
- (b) the release of any person under the terms of any composition or arrangement with any creditor of each Company,
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, each Company or any other person,
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to perfect, enforce or realise the full value of any security,
- (e) any incapacity or lack of power, authority or legal personality of or insolvency or dissolution or change in the members or status of each Company or any other person,
- (f) any amendment (however fundamental) or replacement of any Principal Document or any other document or security so that references to that document or security in this Clause 16 include any amendment to or replacement of that document or security,
- (g) any unenforceability, illegality, invalidity, voidability or non-provability of any obligation of any person under any Principal Document or any other document or security (including, without limitation, under this Deed), or
- (h) any postponement, discharge, reduction, non-provability or other similar circumstance affecting the Secured Liabilities or any other obligation of each Company resulting from any insolvency, liquidation, dissolution or similar proceedings or from any law, regulation or order so that each obligation shall for the purposes of each Company's obligations under this Deed be construed as if there were no such circumstances

### **16.4 Voluntary Arrangements**



Each Company's liability under the Guarantee and this Clause 16.4 shall, without prejudice to the generality of Clause 16.3 (*Waiver of Defences*), not be affected in any way by Blue Mountain voting in favour of (if Blue Mountain chooses to do so) any company voluntary arrangement, compromise, scheme of arrangement or analogous procedure proposed by or in respect of a Company (or the implementation of any compromise or scheme of arrangement or any analogous procedure to any of the foregoing in any other jurisdiction) under which each Company's obligations to Blue Mountain are compromised in any way

**16.5 Immediate Recourse**

Each Company waives any right it may have of first requiring Blue Mountain (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the relevant Company under this Deed and no action taken or omitted by Blue Mountain in connection with such security or other means of payment shall discharge, reduce, prejudice or affect the liability of the relevant Company

**16.6 Appropriations**

Blue Mountain (or any trustee or agent on its behalf) may at any time during the Security Period without affecting the liability of each Company under this Deed

- (a) refrain from applying or enforcing any other monies, security or rights held or received by Blue Mountain (or any trustee or agent on its behalf) in respect of those amounts,
- (b) apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and none of the Companies shall be entitled to the same, and / or
- (c) hold in a suspense account any monies received from or on account of the liability of each Company under this Deed

**16.7 Non-competition**

Unless the Security Period has expired or Blue Mountain otherwise requests, none of the Companies will, after a claim has been made under this Deed or by virtue of any payment or performance by it under this Deed

- (a) be subrogated to any rights, security or monies held, received or receivable by Blue Mountain (or any trustee or agent on its behalf), or
- (b) be entitled to any right of contribution or indemnity in respect of any payment made or monies received on account of that Company's liability under this Deed, or require Blue Mountain to effect or implement marshalling

**16.8 No security**

Each Company warrants to Blue Mountain that it has not taken or received and undertakes that it will not take or receive the benefit of any security from any other

person in respect of any liability of or payment by each Company under this Deed or otherwise in connection with this Deed

**16.9. Binding obligations**

This Deed shall remain binding on each Company notwithstanding any change in the constitution of Blue Mountain or the absorption of Blue Mountain in, or amalgamation with, or the acquisition of all or part of its undertakings or assets by, any other person, or any reconstruction or reorganisation of any kind, to the intent that this Deed shall remain valid and effective in all respects in favour of any assignee, transferee or other successor in title had been named in this Deed as a party instead of, or in addition to, Blue Mountain

**16.10. Additional security**

This Security is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by Blue Mountain

**17. ASSIGNMENT AND TRANSFER**

None of the Companies may assign any of its rights or transfer any of its rights or obligations under this Deed. Blue Mountain may assign and / or transfer all or any part of its rights and obligations under this Deed

**18. THIRD PARTY RIGHTS**

18.1 Subject to Clauses 18.2, 18.3 and 18.4

- (a) the Receiver may rely upon and enforce the rights conferred upon it under this Deed, including, without limitation, those set out in Clauses 9 (*Receiver and Administrator*), 9.3 (*Remuneration*), 10 (*Powers of Receiver*), 11 (*Application of Proceeds*), 12 (*Expenses and Indemnity*) and 15 (*Power of Attorney*) against a Company,
- (b) any assignee of Blue Mountain may rely upon and enforce the undertakings given by any Company in this Deed against any Company, and
- (c) the indemnified parties may rely upon and enforce the rights conferred upon them under Clause 12 (*Expenses and Indemnity*)

18.2 The third party rights referred to in Clause 18.1 (and any other terms of this Deed which provide that a third party may in his own right enforce a term of this Deed) may only be enforced by the relevant third party with the prior written consent of Blue Mountain and subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999 (the "1999 Act") and all other relevant terms of this Deed, including, without limitation, Clause 23 (*Applicable Law and Jurisdiction*)

18.3 Notwithstanding any other provision of this Deed (including, without limitation, Clause 18), Blue Mountain and the Companies may by agreement in writing rescind or vary any of the provisions in this Deed in any way without the consent of any third party, and accordingly section 2(1) of the 1999 Act shall not apply

- 18.4 Except as provided in Clause 18.1 (or insofar as this Deed otherwise expressly provides that a third party may in his own right enforce a term of this Deed), a person who is not a party to this Deed has no right under the 1999 Act to rely upon or enforce any term of this Deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act

## **19. MISCELLANEOUS**

### **19.1. Set-off**

Each Company agrees that Blue Mountain may at any time after this Security has become enforceable, without notice or further demand, combine or consolidate all or any of its then existing accounts including any accounts in the name of Blue Mountain or of each Company jointly with others (whether current, deposit, loan or any other nature whatsoever subject to notice or not and whether in sterling or in any other currency) and set-off or transfer any sum standing to the credit of any one or more of those accounts in or towards satisfaction of the Secured Liabilities

### **19.2. Ruling off**

- (a) If any subsequent charge or other interest affects any Charged Asset, Blue Mountain may open a new account with or for each Company
- (b) If Blue Mountain does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that security or other interest
- (c) As from that time all payments made to Blue Mountain will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability

### **19.3. Blue Mountain's discretion**

Any liability or power which may be exercised or any determination which may be made under this Deed in each case by Blue Mountain may be exercised or made in its absolute and unfettered discretion and Blue Mountain shall not be obliged to give reasons

### **19.4. Remedies and waivers**

No failure to exercise, nor any delay in exercising on the part of Blue Mountain any power, right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise or waiver of any power, right or remedy prevent any further or other exercise or the exercise of any other power, right or remedy. The rights, powers and remedies provided in this Deed are cumulative and are not, nor are they to be construed as, exclusive of any rights, powers or remedies provided by law or otherwise and may be exercised from time to time and as often as Blue Mountain deems expedient

### **19.5. Severance**

If any provision of this Deed shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Deed which shall remain in full force and effect. If any provision of this Deed is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such deletion(s) as may be necessary to make it valid.

**19.6. Non-Signatories**

Failure by one or more parties ("**Non-Signatories**") to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other parties who execute this Deed. Such Non-Signatories may execute this Deed (or a counterpart thereof) on a subsequent date and will thereupon become bound by its provisions.

**20. RELEASE**

At the end of the Security Period Blue Mountain must, at the request and cost of each Company, take whatever action is necessary to release the Charged Assets from this Security.

**21. COUNTERPARTS**

This Deed may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

**22. NOTICES**

**22.1. Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

**22.2. Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Deed for any communication or document to be made or delivered under or in connection with this Deed is

- (a) in the case of each of the Companies **Future Capital Global Holdings Limited**

Attention Director

Fax +44 (0) 20 7009 6601

Address 10 Old Burlington Street, London W1S 3AG, and

- (b) in the case of Blue Mountain **Blue Mountain Advisers Limited**

Attention      The Director  
Fax            +44 (0) 20 7009 6601  
Address      10 Old Burlington Street, London W1S 3AG

or any substitute address, fax number, or department or officer as the FCGH may notify to Blue Mountain (or Blue Mountain may notify to FCGH, if a change is made by Blue Mountain) by not less than five Business Days' notice

### **22.3. Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective

(i) if by way of fax, at the time of transmission, or

(ii) if by way of letter, when it has been left at the relevant address or two business days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 22.2 (*Addresses*), if addressed to that department or officer

(b) Any communication or document to be made or delivered to Blue Mountain will be effective only when actually received by Blue Mountain and then only if it is expressly marked for the attention of the department or officer identified with Blue Mountain's signature below (or any substitute department or officer as Blue Mountain shall specify for this purpose)

(c) Any communication or document made or delivered to each Company in accordance with this Clause 22 will be deemed to have been made or delivered to each Company

## **23. APPLICABLE LAW AND JURISDICTION**

### **23.1. Applicable law**

The validity, construction and performance of this Deed (and any claim, dispute or matter arising under or in connection with it or its enforceability and any non-contractual obligations arising out of or in connection with this Deed) shall be governed by and construed in accordance with the law of England

### **23.2. Jurisdiction**

Each Party irrevocably agrees for the exclusive benefit of Blue Mountain that the English courts shall have exclusive jurisdiction over any claim, dispute or matter arising under or in connection with this Deed or its enforceability including any non-contractual obligations arising out of or in connection with this Deed and that accordingly any proceedings in respect of any such claim, dispute or matter may be brought in such courts

**THIS DEED** has been executed and delivered by or on behalf of the parties on the date at the top of page 1

**Schedule 1**  
**The Charging Subsidiaries**

<b><i>Company</i></b>	<b><i>Number</i></b>	<b><i>Registered Office</i></b>
Future Capital Global Holdings Limited	06547443	10 Old Burlington Street London W1S 3 AG
Future Capital Partners Limited	04048804	10 Old Burlington Street London W1S 3 AG
Future Capital Project Finance Limited	05471315	10 Old Burlington Street London W1S 3 AG
Future Films (Management Services) Limited	04555288	10 Old Burlington Street London W1S 3 AG
LM Investments Limited	04139516	10 Old Burlington Street London W1S 3 AG
Future Capital Partners (FS) Limited	05976618	10 Old Burlington Street London W1S 3 AG
Future Design and Build Services Limited	05928055	10 Old Burlington Street London W1S 3 AG

## Schedule 2

### Land

#### Part A – Details of Registered Land

(1)	(2)	(3)	(4)
<i>County/District/ London Borough</i>	<i>Title No</i>	<i>Address Property</i>	<i>of Company</i>

The address for service of Blue Mountain in the case of any registered land

IS .....

#### Part B – Details of Unregistered Land

[Here insert name of Company concerned]

.



**SIGNATURE PAGE**

**EXECUTED as a DEED by**  
**FUTURE CAPITAL PARTNERS**  
**GROUP HOLDINGS LIMITED**

)  
) Director  
)

Director/Secretary

**EXECUTED as a DEED by**  
**FUTURE CAPITAL GLOBAL**  
**HOLDINGS LIMITED**

)  
) Director  
)

Director/Secretary

**EXECUTED as a DEED by**  
**FUTURE CAPITAL PARTNERS**  
**LIMITED**

)  
) Director  
)

Director/Secretary

**EXECUTED as a DEED by**  
**FUTURE CAPITAL PROJECT**  
**FINANCE LIMITED**

)  
) Director  
)

Director/Secretary

**EXECUTED as a DEED by**  
**FUTURE FILMS (MANAGEMENT**  
**SERVICES) LIMITED**

)  
) Director  
)

Director/Secretary

**EXECUTED as a DEED by**  
**LM INVESTMENTS LIMITED**

)  
) Director  
)

Director/Secretary

**EXECUTED as a DEED by**  
**FUTURE CAPITAL PARTNERS (FS)**  
**LIMITED**

)  
) Director  
)

Director/Secretary

**EXECUTED as a DEED by**  
**FUTURE DESIGN AND BUILD**  
**SERVICES LIMITED**

)  
) Director  
)

Director/Secretary

EXECUTED as a DEED by

BLUE MOUNTAIN LIMITED acting by ) Director  
its Director )



in the presence of

Witness' Name

ANGEL WOOD

Witness' Signature



Witness' Address

10 Old Burlington Street, London W1S 3AG

Witness' Occupation

Solicitor