



Registration of a Charge

Company Name: **DENBY HOLDINGS LIMITED**

Company Number: **06760049**



XA3XCR9D

Received for filing in Electronic Format on the: **06/05/2021**

Details of Charge

Date of creation: **16/04/2021**

Charge code: **0676 0049 0008**

Persons entitled: **PAUL MC GOWAN**

Brief description:

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

Certified by: **FOOT ANSTEY LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6760049

Charge code: 0676 0049 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th April 2021 and created by DENBY HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th May 2021 .

Given at Companies House, Cardiff on 7th May 2021

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



Companies House



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

Guarantee and Debenture

Dated 16 APRIL 2021

Denby Holdings Limited (1)
Each of the Chargors (as defined) (2)
Paul Mc Gowan (3)

This Deed is subject to the Intercreditor Deed
(as defined in this Deed)

This Deed is made on 16 April 2021

Between

- (1) Denby Holdings Limited (registered in England with number 06760049) (the **Company**);
- (2) The subsidiary of the Company listed in Schedule 1 (*The Chargors*) (together with the Company, the **Original Chargors**); and
- (3) Paul Mc Gowan of La Roccabella, Bloc B, 12eme etage 24, Avenue Princesse Grace, 98000, Monaco as security trustee for itself and the other Secured Parties (as defined below) (the **Security Trustee**).

It is agreed

1 Definitions and interpretation

1.1 Definitions

Terms defined in the Share Purchase Agreement (as defined below) shall, unless otherwise defined in this Deed, have the same meaning in this Deed. In addition, the following definitions apply in this Deed:

Account means any account opened or maintained by any of the Chargors with any financial institution (and any replacement account or subdivision or sub-account of that account);

Assigned Asset has the meaning given to it in Clause 4.3 (*Assignment*);

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration, or any other similar permission;

Chargor means an Original Chargor;

Chattels means any plant, machinery, vehicles, computers, furniture, furnishings, equipment, tools and other chattels (excluding any for the time being forming part of any Chargor's stock in trade or work in progress);

Debts means, in relation to any Chargor, all book and other debts, revenues and monetary claims of or owing to, or other amounts recoverable or receivable by, that Chargor and any rights, claims, guarantees, security or other collateral in respect of such debts, revenues and monetary claims (and including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment and any contract or agreement to which a Chargor is party);

Direction has the meaning given to it in Clause 8.1(d) (*Planning directions*);

DPIL means Denby Property Investments Limited, a company incorporated in the Isle of Man with registered number 005355V;

Event of Default means any of the following events or circumstances set out in Schedule 7;

Floating Charge Assets means all the assets and undertaking from time to time subject to the floating charge created under Clause 4.4 (*Floating charge*);

Guarantee means the guarantee and indemnity set out in Clause 2.2 (*Guarantee*);

Insurance Policies means, in respect of a Chargor, all policies of insurance present and future in which it has an interest;

Intellectual Property means:

- (a) any patents, trademarks, service marks, designs, business names, copyrights (including rights in computer software), design rights, moral rights, database rights, inventions, confidential information, know-how, trade names, formulas and other intellectual property rights and interests, whether registered or unregistered, in each case which may subsist anywhere in the world; and
- (b) the benefit of all applications for, rights to use and interest in (including by way of licence or covenant not to sue) such assets;

Intercreditor Deed means the intercreditor deed dated on or around the date of this Deed between, among others, PNC Business Credit (a trading style of PNC Financial Services UK

Ltd, a company registered in England and Wales with the number 07341483), Valco Capital Partners IV Limited Partnership (LP021409), Bank of Scotland plc (SC327000), the Company, DPIL and certain of its subsidiaries, the Sellers and the Security Trustee;

Investments means:

- (a) any stocks, shares, debentures, bonds, coupons, negotiable instruments, securities and certificates of deposit (but not including the Subsidiary Shares);
- (b) all interests in collective investment schemes;
- (c) all warrants, options and other rights to subscribe for or acquire any of the investments described in paragraphs (a) and (b) above,

in each case whether held directly by or to the order of any Chargor or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system);

Investor Loan Agreements means the loan agreements between certain of the Sellers (defined as the Investors in the Share Purchase Agreement) and DPIL from time to time, as such agreements may be varied, amended, supplemented or transferred;

Legal Reservations means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Act 1980 and the Foreign Limitation Periods Act 1984, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) similar principles, rights and defences under the laws of any relevant jurisdiction; and
- (d) any other matters which are set out as qualifications or reservations as to matters of law of general application in any legal opinions delivered in connection with this Deed;

LPA 1925 means the Law of Property Act 1925;

Occupational Lease means, in respect of a Chargor, a lease of a Secured Property in respect of which it is landlord;

Party means a party to this Deed;

Permitted Disposal means:

- (a) a disposal of an asset which is subject only to the floating charge created by this Deed and where such disposal is in the ordinary course of business of the Chargor and is on arm's length terms;
- (b) a disposal of an asset which has been consented to by the Security Trustee acting on the instructions of a Seller Majority, save in relation to the disposal of the Properties or the shares in the Properties Owner where the Security Trustee must act in accordance with the instructions of a Qualified Seller Majority;
- (c) a disposal of a fixed asset with a value of less than £50,000 which is subject only to the floating charge created by this Deed and where such disposal is on arm's length terms;
- (d) a disposal by the Company of its receivables or inventory pursuant to any invoice finance facilities it may have in place at any time; and
- (e) a transfer of the Properties to a Permitted Transferee which would be a Permitted Disposal under the terms of the Share Purchase Agreement.

Permitted Security means, any Security granted by any Original Chargor as at the date of this Deed, and any Security granted by a Permitted Transferee in favour of the Security Trustee in compliance with the Share Purchase Agreement;

Planning Acts means the Town and Country Planning Acts 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and any regulations or subordinate legislation made under any of the foregoing and any other statute or regulation governing or controlling the use or development of land and buildings;

Property Debt means a Debt owed to DPIL (or any Permitted Transferee) by any occupier of any of the Properties (or any part thereof) in respect of such occupation;

Properties mean the properties (if any) listed in Schedule 2 (*Properties*);

Properties Owner means the legal owner of the Properties.

Qualified Seller Majority means at any time such expression as it is defined in the Security Trust Deed.

Real Property means:

- (a) any freehold, leasehold, commonhold or immovable property;
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold, commonhold or immovable property;
- (c) all easements, rights, agreements and other benefits in respect of that property; and
- (d) the benefit of any covenants for title given or entered into by any predecessor in title of a Chargor in respect of that property;

Receiver means a receiver or receiver and manager or (where permitted by law) administrative receiver of the whole or any part of the Secured Assets and that term will include any appointee made under a joint and/or several appointment;

Related Rights means as applicable to any asset:

- (a) the proceeds of sale of all or any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all Authorisations, rights, benefits, claims, contracts, warranties, remedies, guarantees, security, indemnities or covenants for title in respect of that asset; and
- (d) all monies and proceeds (including (as applicable and without limitation) all rent, dividends, distributions, profits, compensation, damages, income or interest) paid or payable in respect of that asset;

Relevant Agreement means:

- (a) Each Occupational Lease in respect of the Properties in existence on the date of this Deed; and
- (b) each other agreement designated as a Relevant Agreement from time to time by the Security Trustee and the Company in writing;

Relevant Policies means all Insurance Policies (other than any policies in respect of third party liabilities) together with all monies payable in respect of those policies;

Secured Assets means all the assets and undertaking of any Chargor which from time to time are the subject of the Security created or expressed to be created in favour of the Security Trustee by, under or supplemental to this Deed;

Secured Obligations means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Chargor to any Secured Party, under or pursuant to the Transaction Documents, whatever their nature or basis, in any currency or currencies, and however they are described, together with all costs, charges and expenses incurred by any Secured Party in connection with the protection, preservation or enforcement of their rights under the Transaction Documents or any other document evidencing or securing any such liabilities provided that "Secured Obligations" shall not include or extend to any obligation or liability or sum which

would, but for this proviso, give rise to unlawful financial assistance in any applicable jurisdiction or otherwise be unlawful or prohibited by any applicable law;

Secured Party means a Seller, the Security Trustee, a Receiver or any of their delegates;

Secured Property means at any time the Properties and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to this Deed;

Security means a mortgage, charge, pledge, lien, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

Security Period means the period beginning on the date of this Deed and ending on the date on which the Security Trustee is satisfied that the Secured Obligations have been irrevocably and unconditionally paid in full and all facilities made available by the Secured Parties under or pursuant to the Transaction Documents (or any of them) have been cancelled;

Security Trust Deed means the deed between the Security Trustee and the Sellers dated on or around the date of this Deed pursuant to which the Security Trustee agrees to act as the security trustee for the Sellers;

Seller Majority means at any time such expression as it is defined in the Security Trust Deed.

Sellers has the meaning given to the term "Sellers" in the Share Purchase Agreement.

Share Purchase Agreement means the share purchase agreement dated on or around the date of this Deed between the Sellers (as sellers) and the Company (as buyer) and DPIL in respect of the purchase by the Company of the entire issued share capital of DPIL;

Subsidiary Shares means, in respect of a Chargor, all shares present and future held by it in its Subsidiaries listed in Schedule 3 (*Subsidiary Shares*);

Third Parties Act means the Contracts (Rights of Third Parties) Act 1999;

Transaction Documents means the Share Purchase Agreement, the Investor Loan Agreements, the Security Trust Deed and this Deed, together with any other document which the Security Trustee with the prior consent of a Qualified Seller Majority, and the Company, designate as a Transaction Document and any Permitted Security granted in favour of the Security Trustee in accordance with the Share Purchase Agreement.

1.2

Construction and interpretation

- (a) A term defined in this Deed (including those defined by reference to those incorporated by reference to the Share Purchase Agreement) has, unless otherwise expressly provided, the same meaning when used in any notices, acknowledgements or other documents issued under, or in connection with, this Deed.
- (b) In this Deed a reference to:
 - (i) **assets** includes present and future property, revenue, rights and interests of every kind;
 - (ii) the **Security Trustee**, a **Chargor**, a **Seller** or any other person shall be construed so as to include its or their (and any subsequent) successors and any permitted assignees or permitted transferees;
 - (iii) **full title guarantee** shall be construed in accordance with the Law of Property (Miscellaneous Provisions) Act 1994;
 - (iv) **guarantee** includes any guarantee or indemnity and any other financial support (including any participation or other assurance against loss and any deposit or payment) in respect of any person's indebtedness;
 - (v) **regulation** includes all guidelines, official directives, regulations, requests and rules (in each case, whether or not having the force of law) of any governmental, inter-governmental or supranational agency, body or

department or of any regulatory or other authority or organisation (whether statutory or non-statutory, governmental or non-governmental);

- (vi) **set-off** includes analogous rights and obligations in other jurisdictions; and
 - (vii) **tax** includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment).
- (c) Use in this Deed of the words **including** or **in particular** or **otherwise** is intended to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used).
 - (d) Unless this Deed expressly states otherwise or the context requires otherwise, (a) each reference in this Deed to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Deed) and (b) each reference in this Deed to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Deed and whether amended or re-enacted since the date of this Deed).
 - (e) Each reference to this Deed (or to any other agreement or deed) means, at any time, this Deed (or as applicable such other agreement or deed) as amended, novated or supplemented, at that time, provided that the relevant amendment, novation or supplement does not breach any term of this Deed.
 - (f) Wherever this Deed states that the Chargor must not take a particular step without the consent of the Security Trustee, the Security Trustee has discretion whether to give its consent and can impose conditions on any such consent it gives.
 - (g) Unless otherwise stated, references in this Deed to any Clause or Schedule shall be to a clause or schedule contained in this Deed.
 - (h) An Event of Default is **continuing** if it has not been remedied, or waived by the Security Trustee.
 - (i) The fact that no or incomplete details of any particular Secured Asset are included or inserted in any relevant Schedule shall not affect the validity or enforceability of the charges created by this Deed.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Transaction Document, a person who is not at the relevant time a Chargor, the Security Trustee or any of the Secured Parties, has no right under the Third Parties Act to enforce or enjoy the benefit of any term of this Deed or any other Transaction Document issued or entered into under, or in connection with, it.
- (b) Unless expressly provided to the contrary in any Transaction Document, the consent of any person who is not a Party is not required to rescind or vary this Deed.
- (c) Any Receiver and any employee, director, partner, officer, agent, adviser, nominee or delegate of a Secured Party or any Receiver (each a **specified third party**) may, subject to this Clause 1.3 (*Third party rights*) and the Third Parties Act, rely on any clause or provision of this Deed which expressly confers rights on that specified third party.

1.4 Law of Property (Miscellaneous Provisions) Act 1989 - Incorporated Terms

The terms of any documents under which the Secured Obligations arise and of any side letters relating to those documents or the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Secured Assets to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.5 Intercreditor Deed

This Deed is subject to the terms of the Intercreditor Deed and in the event of any inconsistency between the terms of this Deed and the Intercreditor Deed the terms of the Intercreditor Deed shall prevail.

1.6 Effect as a deed

It is intended that this Deed takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

2 Covenant to pay

2.1 Covenant to pay

Each Chargor, as principal debtor and not just as surety, covenants with the Security Trustee and each of the Secured Parties to pay and discharge the Secured Obligations on demand as and when they become due for payment and discharge in the manner provided for in the Transaction Documents.

2.2 Guarantee

Each Chargor hereby irrevocably and unconditionally:

- (a) guarantees to the Security Trustee and each of the Secured Parties the punctual performance by each other Chargor of the Secured Obligations and agrees that it will immediately discharge such Secured Obligations on demand;
- (b) undertakes to the Security Trustee and each of the Secured Parties that whenever a Chargor does not pay any amount when due under or in connection with the Secured Obligations, that it will immediately, on demand, pay that amount to the Security Trustee as if it were the principal obligor in respect of that amount; and
- (c) agrees to indemnify the Security Trustee and each of the Secured Parties, on demand, against any costs, losses or liabilities suffered or incurred by the Security Trustee or any of the Secured Parties if (i) a Chargor fails to pay any amount when due to the Security Trustee or any of the Secured Parties or if (ii) the guarantee given under Clause 2.2(a), or any obligation guaranteed by it under this Deed, is or becomes unenforceable, invalid or illegal. In the case of (ii) the amount of the cost, loss or liability shall be equal to the amount which the Security Trustee and the Secured Parties would otherwise have been entitled to recover.

3 Security created by this Deed

3.1 General

- (a) All the Security created by this Deed is:
 - (i) a continuing security for the payment and discharge of the Secured Obligations;
 - (ii) granted with full title guarantee;
 - (iii) (unless otherwise expressly provided) granted in respect of all the right, title and interest (if any), present and future, of that Chargor in and to the relevant Secured Asset; and
 - (iv) granted in favour of the Security Trustee.
- (b) The Security Trustee holds the benefit of this Deed and this Security on trust for the Secured Parties.

3.2 Continuing Security

The Security created by this Deed shall be continuing security for the payment and discharge of the Secured Obligations and shall remain in full force and effect regardless of any intermediate payment or discharge by any Chargor or any other person of the whole, or any part, of the Secured Obligations.

3.3 Independent Security

The Security created by this Deed shall be in addition to, and independent of, any other Security or guarantee that any Secured Party may hold for any of the Secured Obligations at

any time. No other Security or guarantee now or subsequently held by the Security Trustee on trust for the Secured Parties shall merge into, or otherwise prejudice, the Security created by this Deed.

4 Grant of Security

4.1 First legal mortgages

Each Chargor charges by way of legal mortgage:

- (a) all its right, title and interest in and to the Properties;
- (b) all its right, title and interest in and to any other Real Property owned by it as at the date of this Deed.

4.2 First fixed charges

Each Chargor charges by way of fixed charge all its right, title and interest in and to:

- (a) all other interests and estates in any Real Property not otherwise effectively mortgaged under Clause 4.1 (*First legal mortgages*);
- (b) its Subsidiary Shares;
- (c) its Investments;
- (d) its Debts;
- (e) all monies from time to time standing to the credit of each Account held by that Chargor
- (f) its Intellectual Property;
- (g) its Chattels;
- (h) its goodwill and uncalled capital;
- (i) all rights, benefits and interests under each agreement to which it is party that is not an Assigned Asset and any agreement in, under or to which it has any rights pursuant to the Third Parties Act;
- (j) to the extent that the purported assignment of any Assigned Asset in Clause 4.3 (*Assignment*) is ineffective or any Assigned Asset is incapable for any reason of being assigned, that Assigned Asset; and
- (k) all Related Rights relating to any of the Secured Assets to the extent not assigned under Clause 4.3 (*Assignment*).

4.3 Assignment

- (a) Each Chargor with full title guarantee assigns to the Security Trustee absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Obligations, all of its right, title and interest in respect of:
 - (i) the Relevant Policies to which is a party; and
 - (ii) the Relevant Agreements to which it is a party,in each case together with all Related Rights (collectively, the **Assigned Assets**).
- (b) Each Chargor shall remain liable to perform all its obligations in respect of the Assigned Assets.

4.4 Floating charge

Each Chargor charges by way of floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under Clauses 4.1 (*First legal mortgages*), 4.2 (*First fixed charges*) or 4.3 (*Assignment*) respectively.

4.5 Qualifying floating charge

The floating charge created pursuant to Clause 4.4 (*Floating Charge*) is a qualifying floating charge for the purposes of paragraph 14 of Schedule B1 of the Insolvency Act 1986.

4.6 Conversion of floating charge to a fixed charge

The Security Trustee may at any time by notice in writing to any Chargor convert the floating charge created under Clause 4.4 (*Floating charge*) into a fixed charge as regards any Floating Charge Asset as it shall specify in the notice if:

- (a) an Event of Default has occurred; or
- (b) the Security Trustee considers (acting reasonably) those Floating Charge 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.

4.7 Automatic conversion of floating charge to a fixed charge

If (unless permitted in writing by the Security Trustee or expressly permitted under the terms of a Transaction Document):

- (a) a Chargor creates or attempts to create any Security over any of its Floating Charge Assets other than any Permitted Security;
- (b) any person levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset; or
- (c) any corporate action, legal proceedings or other procedures or steps are taken for the winding up, dissolution, administration or reorganisation of any Chargor,

the floating charge created by this Deed will automatically and immediately without notice be converted into a fixed charge over the relevant assets or, in the circumstances described in Clause 4.7(c) over all of the Floating Charge Assets.

5 Title Documentation, Perfection and Further Assurance

5.1 Real Property

Each Chargor shall:

- (a) deposit with the Security Trustee all deeds and documents of title relating to its Secured Property or otherwise procure that its solicitors grant the Security Trustee an undertaking (on terms acceptable to the Security Trustee) that such deeds and documents will be held by those solicitors to the Security Trustee's order for the duration of the Security Period;
- (b) ensure that a restriction is entered on the register of the title of any registered Secured Property at the Land Registry in accordance with paragraph 3 of Schedule 5 to the Share Purchase Agreement;
- (c) promptly notify the Security Trustee of its intention to acquire any Real Property after the date of this Deed including the proposed date of such acquisition;
- (d) by no later than 3 Business Days after being required to do so by the Security Trustee, at its cost, execute and deliver to the Security Trustee, a legal mortgage (in form and substance satisfactory to the Security Trustee and in substantially the same terms as this Deed) in favour of the Security Trustee as security trustee for the Secured Parties of any Real Property which it acquires after the date of this Deed;
- (e) obtain any consents required for the Security referred to in Clause 5.1(d); and
- (f) if applicable procure that notice of this Deed is noted in the appropriate manner on the title to any Real Property which becomes vested in it after the date of this Deed.

5.2 Subsidiary Shares and Investments

Each Chargor shall on the later of:

- (a) the date of this Deed; and
- (b) the date of, as applicable, the acquisition or issue of the applicable Subsidiary Shares or Investments (including for, the avoidance of doubt, the issuance of additional shares or investments in respect of Subsidiary Shares or Investments which are already subject to the Security created by this Deed),

deliver to the Security Trustee:

- (i) all certificates of title and other documents of title or evidence of ownership in respect of its Subsidiary Shares and Investments; and
- (ii) such transfer documents (undated and with the transferee and consideration left blank but otherwise duly completed and executed by or on behalf of such Chargor) or any other documents as the Security Trustee may require or otherwise request in respect of those Subsidiary Shares and Investments.

5.3 Intellectual Property

Promptly following the request of the Security Trustee made following an Event of Default, each Chargor shall procure that an entry is made in each relevant public register of its Intellectual Property to record the existence of this Deed and the restrictions imposed by it.

5.4 Consents of third parties

Each Chargor shall use all reasonable endeavours to obtain (in a form and substance satisfactory to the Security Trustee) as soon as possible any consents necessary to enable the assets of such Chargor to be the subject of an effective (as applicable) mortgage, charge or assignment pursuant to Clause 4 (*Grant of Security*) and, upon obtaining such consent, the asset concerned shall immediately become subject to such security and such Chargor shall promptly deliver a copy of such consent to the Security Trustee.

5.5 Notices of charge or assignment

Each Chargor shall, promptly following a written request from the Security Trustee, serve a notice of, as applicable, each charge or assignment created by it under this Deed in respect of:

- (a) each of the Relevant Policies in respect of which it is the beneficiary by sending a notice substantially in the form specified in Part 1 (*Form of notice of assignment*) of Schedule 4 (*Relevant Policies: Notices*) to the relevant insurer;
- (b) each of the Relevant Agreements to which it is party by sending a notice substantially in the form specified in Part 1 (*Form of notice of assignment*) of Schedule 5 (*Relevant Agreements: Notices*) to the relevant counterparty.

5.6 Acknowledgement of notice of security

Each Chargor shall use reasonable endeavours to procure that each notice served by it under Clause 5.5 (*Notice of charge or assignment*) is acknowledged by the recipient in the form attached to such notice within 15 Business Days of such notice being given.

5.7 Further assurance

Each Chargor shall promptly do all such acts and execute all such documents as the Security Trustee may specify (and in such form as the Security Trustee may require) in favour of the Security Trustee or its nominee(s):

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Trustee provided by or pursuant to this Deed or by law;
- (b) to confer on the Secured Parties, Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
- (c) if an Event of Default has occurred to facilitate the realisation 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 Security Trustee 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 Security Trustee may consider necessary or desirable.

5.8 Costs

Any document, registration, notice or other step or action required under this Clause 5 (*Title Documentation, Perfection and Further Assurance*) will be prepared or, as applicable, undertaken at the cost of the relevant Chargor.

6 Representations

6.1 Each Chargor represents and warrants to the Security Trustee on the date of this Deed and on each day during the Security Period that:

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction or incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.
- (c) The obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations.
- (d) The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents and the granting of the Security do not and will not conflict with:
 - (i) any law or regulation applicable to it;
 - (ii) its constitutional documents; or
 - (iii) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.
- (e) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.
- (f) All Authorisations required:
 - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and
 - (ii) to make the Transaction Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,have been obtained or effected and are in full force and effect.
- (g) All Authorisations necessary for the conduct of the business, trade and ordinary activities of the Chargors have been obtained or effected and are in full force and effect.
- (h) Subject to the Legal Reservations,
 - (i) the choice of the governing law of the Transaction Documents will be recognised and enforced in its jurisdiction of incorporation; and
 - (ii) any judgment obtained in relation to a Transaction Document in the jurisdiction of the governing law of that Transaction Document will be recognised and enforced in its jurisdiction of incorporation.
- (i) It is not required to make any tax deduction from any payment it may make under any Transaction Document to a Secured Party.
- (j) The Chargor named as owner of any Property has good and marketable title to that Property free from any Security other than the Security created by this Deed or any Permitted Security.
- (k) For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its jurisdiction of incorporation and it has no "establishment" (as that term is used in Article 2(10) of the Regulations) in any other jurisdiction.

7 General Undertakings

7.1 Negative pledge

- (a) No Chargor shall create or permit to subsist any Security over any of its assets.
- (b) No Chargor shall:
 - (i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Chargor or any other member of the Group;
 - (ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
 - (iv) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.
- (c) Paragraphs (a) and (b) above do not apply to any Security or arrangement which is Permitted Security or is otherwise expressly permitted by or consented to by the Security Trustee in writing with the consent of a Seller Majority, save where it relates to the Properties or the shares in the Properties Owner where the consent of the Qualified Seller Majority is required, or which is granted over any asset (not being Real Property) in order solely to secure the repayment of moneys borrowed to enable the purchase of such asset.

7.2 Restrictions on disposals

- (a) No Chargor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to convey, sell, lease, transfer, assign or otherwise dispose of any Secured Assets.
- (b) Paragraph (a) above not apply to:
 - (i) any Permitted Disposal or any conveyance, sale, lease, transfer, assignment or disposal expressly permitted by, or consented to by the Security Trustee (with the consent of a Seller Majority, save in respect of the Properties or the shares in the Properties Owner which shall require the consent of a Qualified Seller Majority) in writing; or
 - (ii) the insertion of an intermediate parent company as a direct subsidiary of the Company provided that the intermediate parent company shall have delivered a Guarantee and Debenture in favour of the Security Trustee in the same form as this Deed.

7.3 Value of Security

No Chargor shall do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Secured Parties of the Security created by this Deed.

7.4 Information

The Chargors shall provide the following information to the Security Trustee in sufficient copies for each Seller:

- (a) within 180 days after the end of each of its financial years, its annual financial statements (audited if required by applicable law) and consolidated in the case of the Company;
- (b) within 45 days after the end of each financial quarter, consolidated management accounts for that Financial Quarter;

- (c) promptly on request, such other consolidated financial information relating to the Company, any Chargor, the Transaction Documents, the Properties or the Secured Obligations as a Seller may request of a Chargor in writing; and
- (d) promptly on request, confirmation of whether or not an Event of Default has occurred or is outstanding.

8 Asset specific undertakings

8.1 Real Property

- (a) Access

Each Chargor will permit the Security Trustee and such person or persons as the Security Trustee shall nominate at all reasonable times and on reasonable notice to enter on any part of its Secured Property.
- (b) Repair

Each Chargor shall keep its Secured Property in good and substantial repair and condition (ordinary wear and tear excepted).
- (c) Planning

No Chargor shall do or allow or omit to be done anything which may infringe or contravene the Planning Acts affecting its Secured Property, nor make any application for the grant of planning permission within the meaning of the Planning Acts without the prior written consent of the Security Trustee (acting on the instructions of a Qualified Seller Majority), which may not be unreasonably withheld in the case of an application for such planning permission which is reasonably necessary for the conduct of the relevant occupier's business and which, if the relevant development were carried out would not be likely to lead to a diminishing in the applicable Secured Property's value.
- (d) Planning directions
 - (i) Within 5 Business Days of receipt by a Chargor of any notice or order (a **Direction**) served on or issued to it by any local or other authority (whether under the Planning Acts or otherwise) in respect of any part of its Secured Property, it shall give full particulars of the Direction to the Security Trustee and, if so requested by the Security Trustee, produce the Direction or a copy of it to the Security Trustee.
 - (ii) The relevant Chargor shall advise the Security Trustee of all steps taken or proposed to be taken by it from time to time to comply with the terms of the Direction.
 - (iii) The relevant Chargor shall take all necessary steps to comply with the Direction.
 - (iv) The relevant Chargor shall at the request of the Security Trustee (but at the cost of the relevant Chargor) make or join with the Security Trustee in making such objections, representations against, appealing against or in respect of any proposal contained in the Direction as the Security Trustee shall deem expedient in order to protect the Secured Parties' interests.
- (e) Development
 - (i) No Chargor shall carry out any development (as defined in the Planning Acts) on any part of its Secured Property without the prior written consent of the Security Trustee; and
 - (ii) No Chargor shall change the use of any part of its Secured Property without the prior written consent of the Security Trustee;

save, in either case, where the relevant development or change of use would not be likely to lead to a diminishing in the applicable Secured Property's value, in which case the Security Trustee's consent may not be withheld unreasonably.

(f) Outgoings

Each Chargor will punctually pay and indemnify the Security Trustee and any Receiver against all present and future rents, rates, taxes, assessments and outgoings of whatsoever nature imposed on or payable in respect of its Secured Property or any part of it or payable by the owner or occupier of it.

(g) Investigation of title

On request by the Security Trustee, a Chargor shall grant the Security Trustee or its advisers (at the cost of the relevant Chargor) all facilities within its power to enable the Security Trustee or its advisers or delegates to carry out such investigations of title to and enquiries into its Secured Property or other Secured Assets as may be carried out by a prudent mortgagee or chargee.

(h) Lease and covenant compliance

Each Chargor shall:

- (i) perform all the terms on its part contained in any lease or agreement for lease under which it holds an interest in a Secured Property or to which any of its Secured Property is subject;
- (ii) properly perform (and indemnify the Security Trustee and each Receiver for any breach of) any covenants and stipulations of whatsoever nature affecting any of its Secured Property;
- (iii) not make any election or take any other action so as to alter the treatment of any Occupational Lease for the purposes of value added tax;
- (iv) not, without the prior written consent of the Security Trustee, serve notice on any former tenant under any Occupational Lease under section 17(2) of the Landlord and Tenant (Covenants) Act or on any guarantor of any such former tenant under section 17(3) of that act; and
- (v) immediately notify the Security Trustee of any notice received by it under section 146 of the Law of Property Act 1925 or any proceedings commenced or steps taken against it for the forfeiture of any lease under which it holds an interest in a Secured Property.

(i) No variation to lease

A Chargor shall not, without the prior written consent of the Security Trustee, alter or vary or agree to alter or vary the terms of any lease under which it holds any Secured Property or (save where the tenant is a member of the Group) any lease to which any Secured Property is subject.

(j) No surrender or termination

A Chargor shall not, without the prior written consent of the Security Trustee, surrender or otherwise terminate any lease under which it holds a Secured Property or (save where the tenant is a member of the Group) terminate, forfeit or accept a surrender of any lease to which any Secured Property is subject.

(k) Compliance by tenants

Each Chargor shall use reasonable endeavours to procure that each tenant under an Occupational Lease complies with the terms of that Occupational Lease.

(l) Lease or right to occupy

Save in respect the occupancy of a Property by a member of the Group on terms that such occupancy shall be terminable upon the enforcing of the mortgages comprised in this deed a Chargor shall not without the prior written consent of the Security Trustee:

- (i) grant any lease or tenancy or exercise any other power of leasing of the whole or part of any Secured Property; or

- (ii) grant any person any contractual licence or the right to occupy any Secured Property or part with possession of it.
- (m) Forfeiture
No Chargor shall do or permit anything which may render any lease or agreement for lease under which it holds an interest in a Secured Property, or to which the Secured Property is subject, liable to forfeiture or otherwise determinable.

8.2 **Subsidiary Shares and Investments**

- (a) A Chargor may not:
 - (i) take or permit the taking of any action which may adversely affect the value of its Subsidiary Shares or Investments or result in the rights attaching to the Subsidiary Shares or Investments being altered or diluted;
 - (ii) with respect to its Subsidiary Shares, take or permit the taking of any action which may prejudice the interests of the Secured Parties under any Transaction Document; or
 - (iii) except where the Security Trustee so requires or permits, nominate another person to enjoy or exercise any of its rights in relation to any of its Subsidiary Shares or Investments.
- (b) Provided that no Event of Default is continuing, and subject to Clause 8.2(a), a Chargor may:
 - (i) receive and retain all dividends or other income paid or payable in respect of its Subsidiary Shares; and
 - (ii) exercise all voting and other rights attaching to its Subsidiary Shares.
- (c) While any Event of Default is continuing, a Chargor shall:
 - (i) hold any dividends or other income received in respect of its Subsidiary Shares on trust for the Security Trustee as security trustee of the Secured Parties and pay such amounts into an account the subject of this Security or otherwise as the Security Trustee may direct; and
 - (ii) exercise all voting and other rights attaching to its Subsidiary Shares as the Security Trustee may direct.
- (d) The Security Trustee shall have no duty to ensure that any dividends or other amounts are paid or received or to take any action in connection with any distribution rights in respect of any of the Subsidiary Shares.
- (e) Each Chargor shall make all payments which may become due and payable in respect of any of its Subsidiary Shares. If it fails to make any such payments, the Security Trustee may but shall not be obliged to make such payment on behalf of the relevant Chargor. Any sums so paid by the Security Trustee shall be repayable by the relevant Chargor to the Security Trustee on demand and pending such repayment shall constitute part of the Secured Obligations.
- (f) Each Chargor shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of its Subsidiary Shares and the Security Trustee shall not be required to perform or fulfil any obligation of any Chargor in respect of any Subsidiary Shares.
- (g) Each Chargor shall comply with any notice served on it under the Companies Act 2006 or pursuant to the articles of association or any other constitutional document of any relevant entity in respect of or in connection with the Subsidiary Shares or Investments and will promptly provide to the Security Trustee a copy of that notice.
- (h) Without prejudice to the generality of paragraph (g) above, each Chargor shall promptly copy to the Security Trustee and comply with all requests for information which are made under sections 790D or 790E or paragraph 1(2) of Schedule 1B of the Companies Act 2006 relating to the Subsidiary Shares or Investments. If it fails

to do so, the Security Trustee may elect to provide such information as it may have on behalf of the relevant Chargor.

- (i) Each Chargor shall:
 - (i) ensure that the Subsidiary Shares and Investments are at all times free from any restriction on transfer (whether under any relevant constitutional documents or otherwise) by the Security Trustee (or its nominee(s)) to perfect or enforce the Security created or intended to be created by this Deed; and
 - (ii) procure that the board of directors of each company whose Subsidiary Shares are charged pursuant to the Security created by this Deed approves any transfer of any of the Subsidiary Shares and Related Rights desired to be made by the Security Trustee in the exercise of the rights, powers and remedies conferred upon it by this Deed or by law.
- (j) It shall ensure that none of its Subsidiary Shares or Investments are converted into uncertificated form without the prior written consent of the Security Trustee.
- (k) Immediately on conversion of any of its Subsidiary Shares, Investments or Related Rights from a certificated to an uncertificated form, and on the acquisition by it of any Subsidiary Shares, Investments or Related Rights in an uncertificated form, it shall give such instructions or directions and take such other steps and enter into such documentation as the Security Trustee may require in order to protect or preserve the Security intended to be created by this Deed.
- (l) At any time while an Event of Default is continuing, the Security Trustee may complete any transfer documents held by it in respect of the Subsidiary Shares and/or the Related Rights in favour of itself or such other person or nominee as it shall select.

8.3 Debts

DPIL (or any Permitted Transferee) shall:

- (a) promptly collect each Property Debt when due for payment;
- (b) promptly take and pursue all action necessary to recover any Property Debt which is not paid when due in accordance, if applicable, with any instructions from the Security Trustee;
- (c) not agree to postpone, waive, set-off or settle any Property Debt or do or omit to do anything which may delay or prejudice the full recovery of any Property Debt, other than with the prior written consent of the Security Trustee; and
- (d) not factor or discount any Property Debt or enter into any agreement for such factoring or discounting, other than with the prior written consent of the Security Trustee (with the consent of a Qualified Seller Majority) or as otherwise permitted under the Transaction Documents.

8.4 Accounts

- (a) Subject to Clause 8.4(b), each Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account.
- (b) After the Security Trustee has enforced any Security from DPIL (or any Permitted Transferee), DPIL (or any Permitted Transferee) shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Security Trustee.

8.5 Chattels

- (a) Each Chargor will keep all its Chattels comprised in its Secured Assets in good and substantial repair and in good working order and condition (ordinary wear and tear excepted).
- (b) Each Chargor shall repair any defect or damage to any of its Chattels promptly and if it fails to do so the Security Trustee may, but shall not be obliged to, do so.

8.6

Insurance

- (a) Each Chargor shall maintain insurances with reputable independent insurance companies or underwriters on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
- (b) No Chargor shall do any act nor commit any default by which any Insurance Policy may become void or voidable.
- (c) Each Chargor shall (and the Company shall ensure that each Chargor will):
 - (i) promptly pay all premiums and other monies payable under all Insurance Policies and supply on request copies of each Insurance Policy required to be maintained in accordance with this Clause 8.6 (*Insurance*) together with the current premium receipts relating to each such policy;
 - (ii) ensure that each Insurance Policy shall contain a standard mortgagee clause whereby, among other things, the insurance shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against any Chargor;
 - (iii) ensure that each Insurance Policy shall contain a provision to the effect that the insurance shall not be invalidated as against the Security Trustee for non-payment of any premium due without the insurer first giving to the Security Trustee not less than 14 days' written notice; and
 - (iv) ensure that the Security Trustee is named as composite insured in respect of its own separate insurable interest under each Insurance Policy (other than public liability and third party liability insurances) but without:
 - (A) any liability on the part of the Security Trustee for any premium in relation to each Insurance Policy (unless the Security Trustee has expressly and specifically requested to be made liable in respect of any Insurance Policy); or
 - (B) any obligation on the part of the Security Trustee to make any disclosure to any insurer or any insurance broker in relation to a Insurance Policy unless and until the Security Trustee becomes a mortgagee in possession of any Properties, in which circumstance an obligation shall apply on the part of the Security Trustee to make disclosure to any insurer or any insurance broker in relation to such Insurance Policy in respect of such Properties pursuant to the terms of that Insurance Policy.
- (d) DPIL (or any Permitted Transferee) shall ensure that the name of the Security Trustee is noted on each Insurance Policy in respect of each Property, as mortgagee and first loss payee;
- (e) If a Chargor shall be in default of effecting or maintaining insurances or in producing any such policy or receipt to the Security Trustee on demand, the Security Trustee may take out or renew such insurances in any sum which the Security Trustee may think expedient and all monies expended and costs incurred by the Security Trustee under this provision shall be for the account of any such Chargor.
- (f) All monies which are not paid directly by the insurers to the Security Trustee and are received by a Chargor under any Insurance Policies relating to the Secured Assets shall (subject to the rights and claims of any person having prior rights to such monies):
 - (i) to the extent that they relate to the Properties:
 - (A) to the extent required by the basis of settlement under any Insurances or under any document relating to an Occupational Lease, each Chargor must apply moneys received under any Insurances in respect of a Property towards replacing, restoring or reinstating that Property;

- (B) to the extent that the basis of settlement or any document relating to an Occupational Lease does not require the proceeds of Insurance to be applied towards replacing, restoring or reinstating a Property then:
 - (I) prior to the occurrence of an Event of Default which is continuing, be applied towards replacing, restoring or reinstating that Property; and
 - (II) after the occurrence of an Event of Default which is continuing, be held by such Chargor on trust for the Security Trustee pending payment to the Security Trustee for application in accordance with Clause 14 (*Application of monies*) and such Chargor waives any right it may have to require that any such monies are applied in reinstatement of any part of the relevant Secured Assets.
- (ii) To the extent that they relate to any Secured Assets other than the Properties, as required by the basis of settlement under the relevant Insurances and prior to an Event of Default which is continuing, as determined by the relevant Chargor and after an Event of Default which is continuing in accordance with the instructions of the Security Trustee.

9 Power to remedy

- (a) If a Chargor fails to comply with any of its undertakings or obligations in this Deed, it shall allow, and irrevocably authorises, the Security Trustee and/or such persons as the Security Trustee shall nominate to take such action on behalf of that Chargor as shall be necessary to ensure that it complies with those undertakings or obligations.
- (b) Without prejudice to the generality of paragraph (a) above, if any Chargor fails to perform any obligation or other covenant affecting the Secured Property, each Chargor shall permit the Security Trustee or its agents and contractors:
 - (i) to enter on the Secured Property;
 - (ii) to comply with or object to any notice served on any Chargor relating to the Secured Property; and
 - (iii) to take any action the Security Trustee may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.
- (c) Each Chargor shall within 3 Business Days of demand indemnify the Security Trustee against any cost, loss or liability incurred by it in taking any of the steps referred to in this Clause 9 (*Power to remedy*).
- (d) The Security Trustee is not obliged to perform any undertaking or obligation of a Chargor nor to take any action which it may be entitled to take under this Deed.

10 Security power of attorney

- (a) Each Chargor, by way of security for the performance of its obligations under this Deed, irrevocably and severally appoints the Security Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney (with full power of substitution) to execute any documents and do any acts and things that:
 - (i) that Chargor is required to execute and/or do under this Deed but has failed to do within the relevant timescales;
 - (ii) 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 Security Trustee, any Receiver or any of their delegates or sub-delegates.
- (b) Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause 10 (*Security power of attorney*).

- (c) Each Chargor agrees to indemnify the attorney against all actions, claims, demands and proceedings taken or made against it and all costs, damages, expenses, liabilities and losses incurred by the attorney as a result of or in connection with anything lawfully done by it under or in connection with this power of attorney.

11 Enforcement of Security

11.1 When Security is enforceable

On the occurrence of any Event of Default, the Security created by this Deed is immediately enforceable.

11.2 Immediate recourse

Each Chargor waives any right it may have of first requiring the Security Trustee to proceed against or enforce any other rights or security or claim payment from any person before claiming from, or otherwise enforcing its rights against, that Chargor under this Deed. This waiver applies irrespective of any law or any provisions of a Transaction Document to the contrary.

11.3 Acts of enforcement

The Security Trustee may (i) at any time after the Security created by this Deed is enforceable or (ii) following a request by any Chargor:

- (a) sell, appropriate, realise or transfer (including to itself or any other person), all or any part of the Secured Assets;
- (b) exercise any of the rights, powers, authorities and discretions conferred on mortgagees, administrators or receivers by the LPA 1925 (as varied and extended by this Deed), the Insolvency Act 1986, any other legislation or regulation or under this Deed;
- (c) appoint a Receiver to all or any part of the Secured Assets;
- (d) appoint an administrator in respect of any Chargor and take any steps to do so;
- (e) if permitted by law, appoint an administrative receiver in respect of any Chargor; or
- (f) take such further action as it sees fit to enforce all or any part of the Security created by this Deed.

11.4 Extension and variation of statutory powers

- (a) The power of sale or other disposal conferred on the Security Trustee, its nominee(s) and any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under section 101 of the LPA 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Deed.
- (b) The following statutory provisions do not apply to this Deed or any Security created by this Deed:
 - (i) the restriction on the consolidation of mortgages in section 93 of the LPA 1925;
 - (ii) the restrictions on the power to grant or accept the surrender of leases in sections 99 and 100 of the LPA 1925;
 - (iii) the conditions to the exercise of a power of sale in section 103 of the LPA 1925;
 - (iv) the restrictions on the application of proceeds by a mortgagee or receiver in sections 105, 107(2) and 109(8) of the LPA 1925; and
 - (v) the restrictions on the appointment of a receiver in section 109(1) of the LPA and the provisions regarding a receiver's remuneration in section 109(6) of the LPA 1925.
- (c) Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 and the Insolvency Act 1986 on

mortgagees and Receivers when such Receivers have been duly appointed under the relevant Act.

11.5 **Contingencies**

If the Security Trustee enforces the Security created by this Deed at a time when no amounts are due to the other Secured Parties under the Transaction Documents but at a time when amounts may or will become so due, the Security Trustee (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

11.6 **Redemption of prior Security**

At any time after the Security created by this Deed has become enforceable, the Security Trustee or a Receiver may:

- (a) redeem any prior form of Security over any Secured Asset; and/or
- (b) procure the transfer of that Security to itself or its nominee; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargors,

and all amounts paid by the Security Trustee or a Receiver under this clause will form part of the Secured Obligations.

11.7 **Financial collateral**

- (a) To the extent that any of the Secured Assets constitute "financial collateral" and this Deed and the obligations of any Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the **Regulations**)) the Security Trustee shall, at any time after the Security created by or under this Deed is enforceable, have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations.
- (b) For this purpose, the Parties agree that the value of such financial collateral so appropriated shall be:
 - (i) in the case of cash, the amount standing to the credit of the relevant bank account to which such cash is credited together with any accrued but unposted interest, at the time the right of appropriation is exercised; and
 - (ii) in the case of any Investments and/or Subsidiary Shares, the market price of such Investments and/or Subsidiary Shares determined by the Security Trustee by reference to a public index or by such other process as the Security Trustee may select, including independent valuation.
- (c) In each case, the Parties agree that the method of valuation provided for in this Clause 11.7 (*Financial collateral*) shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

12 **Receiver**

12.1 **Appointment of Receiver**

Any Receiver appointed under this Deed shall be the agent of the relevant Chargor and that Chargor shall be solely responsible for the Receiver's acts or defaults and for the Receiver's remuneration and liable on any contracts or engagements made or entered into by the Receiver and in no circumstances whatsoever shall the Security Trustee be in any way responsible for any misconduct, negligence or default of the Receiver.

12.2 **Removal**

The Security Trustee may by written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receiver) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

12.3 **Powers of Receiver**

(a) General

- (i) In addition to those conferred by the LPA 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this Clause 12.3 (*Powers of Receiver*).
- (ii) If there is more than one Receiver holding office at the same time, unless the document of a Receiver's appointment states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver who is an administrative receiver of a Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.
- (iv) A Receiver may, in the name of any Chargor:
 - (A) do all other acts and things which the Receiver may consider expedient for realising any Secured Asset; and
 - (B) exercise in relation to any Secured Asset all the powers, authorities and things which the Receiver would be capable of exercising if the Receiver were its absolute beneficial owner.

(b) Borrow money

A Receiver may raise and borrow money (either unsecured or on the security of any Secured Asset, either in priority to the Security created by this Deed or otherwise) on any terms and for whatever purpose which the Receiver thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

(c) Carry on business

A Receiver may carry on the business of any relevant Chargor as the Receiver thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as the Receiver considers appropriate.

(d) Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of any relevant Chargor or relating in any way to any Secured Asset.

(e) Delegation

A Receiver may delegate any of its powers in accordance with Clause 19 (*Delegation*).

(f) Employees

A Receiver, on behalf of the relevant Chargor or for itself as Receiver, may:

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as the Receiver may think proper; and
- (ii) discharge any such persons appointed by the relevant Chargor.

(g) Leases

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

- (h) Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the relevant Chargor in relation to any Secured Asset as the Receiver considers expedient.
- (i) Possession

A Receiver may take immediate possession of, get in and collect any Secured Asset.
- (j) Protection of assets

A Receiver may, in each case as the Receiver may think fit:

 - (i) make and effect all repairs and insurances and do all other acts which the relevant Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets;
 - (ii) commence and/or complete any building operations on the Secured Property or other Secured Asset; and
 - (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.
- (k) Receipts

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset.
- (l) Sale of assets

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which the Receiver thinks proper. The consideration for any such transaction may consist of cash, debenture 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 such period as the Receiver thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the relevant Chargor.
- (m) Subsidiaries

A Receiver may form a Subsidiary of the relevant Chargor and transfer to that Subsidiary any Secured Asset.
- (n) Deal with Secured Assets

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as the Receiver may think fit.
- (o) Voting rights

A Receiver may exercise all voting and other rights attaching to the Investments, Subsidiary Shares, Related Rights, and stocks, shares and other securities owned by that Chargor and comprised in the Secured Assets in such manner as the Receiver may think fit.

- (p) **Security**
A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on that Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.
- (q) **Acquire land**
The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.
- (r) **Development**
A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.
- (s) **Landlord's obligations**
A Receiver may on behalf of a Chargor and without consent of or notice that Chargor exercise all the powers conferred on a landlord or a tenant by any applicable legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.
- (t) **Uncalled capital**
A Receiver may make calls conditionally or unconditionally on the members of any relevant Chargor in respect of uncalled capital.
- (u) **Incidental matters**
A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the relevant Chargor for all the purposes set out in this Clause 12.3 (*Powers of Receiver*).

13 Protection of third parties

- (a) No person (including any purchaser of a Secured Asset) dealing with the Security Trustee or a Receiver or its or the Receiver's agents has an obligation to enquire of the Security Trustee, the Receiver or others:
 - (i) whether the Secured Obligations have become payable;
 - (ii) whether any power which the Security Trustee or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
 - (iii) whether any Secured Obligations or other monies remain outstanding;
 - (iv) how any monies paid to the Security Trustee or to the Receiver shall be applied; or
 - (v) the status, propriety or validity of the acts of the Security Trustee or Receiver.
- (b) The receipt by the Security Trustee or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve the purchaser of any obligation to see to the application of any monies paid to or by the direction of the Security Trustee or any Receiver.
- (c) For the purposes of this Clause 13 (*Protection of third parties*) a purchaser includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

14 Application of monies

14.1 All monies received or recovered by the Security Trustee or any Receiver under this Deed or in connection with the realisation or enforcement of all or part of the Security created by this Deed shall (subject to the rights and claims of any person having a security ranking in propriety to the Security created by this Deed and subject to the Intercreditor Deed, be applied in the following order of priority:

- (a) first, in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Security Trustee (and any Receiver, delegate, attorney or agent appointed by the Security Trustee) under or in connection with this Deed and of all remuneration due to any Receiver under or in connection with this Deed;
- (b) secondly, in or towards payment of those Secured Obligations which constitute the Purchase Price under the Share Purchase Agreement, including all accrued interest;
- (c) thirdly, in or toward payment of those Secured Obligations which constitute payment of all amounts due in respect of the Investor Loan Agreements, including all accrued interest;
- (d) fourthly, in or toward any other Secured Obligations; and
- (e) fifthly, in payment of the surplus (if any) to the relevant Chargor or other person entitled to it.

14.2 Until all amounts which may be or become payable by the Chargors under or in connection with the Transaction Documents have been irrevocably paid in full, the Security Trustee or any Receiver may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Security Trustee or any Receiver in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from any Chargor or on account of any Chargor's liability under this Deed without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

15 Releases

Upon the expiry of the Security Period (and subject to Clauses 16.1 (*Avoidable payments*) and 16.2 (*Settlements conditional*) below), the Security Trustee shall, at the request and cost of the Chargors, take whatever action is necessary to (in each case without recourse to, or any representation or warranty by, the Security Trustee):

- (a) release the Secured Assets from the Security created by this Deed; and/or
- (b) reassign to each relevant Chargor that Chargor's Assigned Assets assigned under this Deed,

and return all documents or deeds of title delivered to it under this Deed.

16 Saving Provisions

16.1 Avoidable payments

If the Security Trustee believes that any amount paid by a Chargor or any other person in respect of the Secured Obligations is capable of being avoided, set aside or ordered to be refunded or reduced for any reason, then for the purposes of this Deed, such amount shall not be considered to have been irrevocably and unconditionally paid and the Security Period shall continue.

16.2 Settlements conditional

Any settlement, discharge or release between a Chargor and the Security Trustee shall be conditional upon no Security or payment to or for the Security Trustee by that Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any

law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such settlement, discharge or release:

- (a) the Security Trustee 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 Security Trustee deems necessary to provide the Security Trustee with security against any such avoidance, order for refund or reduction; and
- (b) the Security Trustee may recover the value or amount of such Security or payment from the relevant Chargor subsequently as if the settlement, discharge or release had not occurred.

16.3 **Waiver of defences**

The obligations of each Chargor under this Deed and the Security created under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Deed or the Security created under this Deed (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Chargor or any other person;
- (b) the release of any other Chargor or any other person under the terms of any composition or arrangement with any creditor of that Chargor or other person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Transaction Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Transaction Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Document or any other document or security; or
- (g) any insolvency or similar proceedings.

16.4 **Deferral of Chargor's rights**

Until all amounts which may be or become payable by the Chargors under or in connection with the Transaction Documents have been irrevocably paid in full and unless the Security Trustee otherwise directs, no Chargor may exercise any rights which it may have by reason of performance by it of its obligations under this Deed or any other Transaction Document or by reason of any amount being payable, or liability arising, under the Transaction Documents:

- (a) to be indemnified by any other Chargor;
- (b) to claim any contribution from any other Chargor or guarantor of any Chargor's obligations under the Transaction Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Trustee under the Transaction Documents or of any other guarantee or security taken by the Security Trustee pursuant to, or in connection with, the Transaction Documents;
- (d) to bring legal or other proceedings for an order requiring any Chargor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity;

- (e) to exercise any right of set-off against any Chargor; and/or
- (f) to claim or prove as a creditor of any Chargor in competition with any Secured Party.

If any Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Chargors under or in connection with the Transaction Documents to be repaid in full on trust for the Security Trustee and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with Clause 14 (*Application of monies*).

16.5 **No withholding**

- (a) All sums due and payable by any Chargor under this Deed shall be made in full without set-off or counter-claim and free and clear of and (subject as provided in the next sentence) without deduction for or on account of any future or present taxes
- (b) If:
 - (i) any Chargor is required by any law to make any deduction or withholding from any sum payable by the Chargor to the Security Trustee hereunder; or
 - (ii) the Security Trustee or any other Secured Party is required by law to make any payment, on account of tax (other than tax on its overall net income) or otherwise, on or in relation to any amount received or receivable by the Secured Parties hereunder;

then the sum payable by the Chargor in respect of which such deduction, withholding or payment is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction, withholding or payment, (and after taking account of any deduction, withholding or payment which is required to be made as a result of the increase) the Security Trustee receives and retains a net sum equal to the sum which it and the other Secured Parties would have received and so retained had no such deduction, withholding or payment been made.

17 **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).

18 **Changes to the Parties**

- (a) The Security Trustee may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it to any person to whom it may assign or transfer any of its rights and/or obligations under, and in accordance with, the Security Trust Deed.
- (b) The Security Trustee shall be entitled to disclose information concerning each Chargor, the Secured Assets and this Deed to any person to whom it may assign or transfer any of its rights under and in accordance with paragraph (a) above or to any person to whom information may be required to be disclosed by any applicable law.
- (c) No Chargor may assign any of its rights, or transfer any of its rights or obligations, under this Deed.

19 **Delegation**

Each of the Security Trustee and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Security Trustee or the Receiver itself. Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to any Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

20 Certificates and determinations

A certificate or determination by the Security Trustee as to the amount of all or any of the Secured Obligations for the time being due to it from any Chargor under this Deed or in connection with any other Transaction Document shall be, in the absence of any manifest error, conclusive evidence of the amount due.

21 Protections and exclusions of liability

21.1 No liability

None of the Security Trustee, its nominee(s) or any Receiver shall be liable by reason of taking any action permitted by this Deed or any neglect or default in connection with the Secured Assets or taking possession of or realising all or any part of the Secured Assets.

21.2 No liability as mortgagee in possession

Without prejudice to the generality of Clause 21.1 (*No liability*), neither the Security Trustee nor any Receiver will be liable, by reason of entering into possession of any Secured Property, 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 otherwise be liable.

21.3 Officers and agents

No Chargor may take proceedings against any employee, director, partner, officer, agent, adviser, nominee or delegate of the Security Trustee or Receiver in respect of any claim it might have against the Security Trustee or Receiver or in respect of any act or omission of any kind by that employee, director, partner, officer, agent, adviser, nominee or delegate in relation to this Deed and any employee, director, partner, officer, agent, adviser, nominee or delegate of the Security Trustee or Receiver may, subject to the Third Parties Act, rely on this Clause 21.3 (*Officers and agents*).

21.4 Security Trust Deed

The Security Trustee shall not agree to any change in or replacement of either or both of the definitions "*Seller Majority*" and "*Qualified Seller Majority*" without the prior written consent of the Chargor.

21.5 No duty to enquire

Where any action or consent by the Security Trustee can, under this deed, only be carried out or given with the consent or approval of a Qualified Seller Majority or Seller Majority the Chargor shall, when such consent is given by or action is taken by the Security Trustee, be under no obligation to enquire of the Security Trustee or otherwise verify whether or not the requisite consent or approval of or by the Qualified Seller Majority or Seller Majority (as applicable) has been obtained, but may rely entirely upon the action of the Security Trustee.

22 Fees, costs and expenses

22.1 Transaction expenses

The Company shall, within 3 Business Days of demand, pay (or procure the payment to) the Security Trustee of the amount of all costs, fees and expenses (including legal fees) together with any associated VAT reasonably incurred by the Secured Parties in connection with the negotiation, preparation, printing, execution and perfection of this Deed and any other Transaction Document contemplated by, or referred to in, this Deed.

22.2 Amendment costs

If a Chargor requests an amendment or waiver of, or any consent in connection with, this Deed or any other Transaction Document contemplated by, or referred to in, this Deed, the Company shall (or shall procure that another Chargor shall), within 3 Business Days of demand, reimburse the Secured Parties for the amount of all costs, fees and expenses (including legal fees) together with any associated VAT reasonably incurred by them in responding to, evaluating, negotiating or complying with that request.

22.3 Enforcement and preservation costs

The Company shall (or shall procure that another Chargor shall), within 3 Business Days of demand, pay to the Security Trustee for the Secured Parties the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by the Secured Parties in connection with the enforcement of or the preservation of any rights under this Deed and any other Transaction Document contemplated by, or referred to in, this Deed, including (but not limited to) in connection with any proceedings instituted by or against any Secured Party as a consequence of taking or holding the Security contemplated by this Deed or enforcing these rights.

23 Indemnity

- (a) Without prejudice to Clause 22 (*Fees, costs and expenses*), each Chargor shall (on a joint and several basis) indemnify each Secured Party and their respective employees, directors, partners, officers, agents, advisers, nominees or delegates 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:
 - (i) 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;
 - (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the Security created by this Deed; or
 - (iii) any default or delay by a Chargor in performing any of its obligations under this Deed.
- (b) Any past or present employee, director, partner, officer, agent, adviser, nominee or delegate may enforce the terms of this Clause 23 (*Indemnity*) subject to and in accordance with the provisions of the Third Parties Act.
- (c) The Security Trustee may indemnify itself out in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause and shall have a lien on the proceeds of the enforcement of the Security created by this Deed for all monies payable to it.

24 Notices

Any communication or notice under this Deed shall be made and given in accordance with the terms of clause 12 (*Notices*) of the Share Purchase Agreement.

25 Remedies, waivers and amendments

- (a) No failure to exercise, nor any delay in exercising, on the part of the Security Trustee or any Receiver, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.
- (b) A waiver given, or consent granted, by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
- (c) 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).

26 Partial Invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed or of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security intended to be

created by this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security.

27 Counterparts

This Deed and any Transaction Document entered into under, or in connection with, this Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed or such Transaction Document.

28 Governing law

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

29 Enforcement

29.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 29.1 (*Jurisdiction of English courts*) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, a Secured Party may take concurrent proceedings in any number of jurisdictions.

29.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Chargor (not being incorporated in England and Wales):
 - (i) irrevocably appoints Denby Holdings Limited as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed and any other Transaction Document contemplated by, or referred to in, this Deed (and Denby Holdings Limited, by its execution of this Deed, accepts that appointment); and
 - (ii) agrees that failure by an agent for service of process to notify the relevant Chargor of the process will not invalidate the proceedings concerned.
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, each Chargor must immediately (and in any event within 5 Business Days of such event taking place) appoint another agent on terms acceptable to the Security Trustee. Failing this, the Security Trustee may appoint another agent for this purpose.
- (c) Denby Property Investments Limited expressly agrees and consents to the provisions of this Clause 29 (*Enforcement*) and Clause 28 (*Governing law*).

This Deed has been entered into as a deed on the date given at the beginning of this Deed.

Schedule 1
The Chargors

Name	Jurisdiction of incorporation	Registered number
Denby Holdings Limited	England	06760049
Denby Property Investments Limited	Isle of Man	005355V

Schedule 2

Properties

Part 1 - Registered Land

(Freehold or leasehold property (if any) in England and Wales of which the relevant Chargor is registered as the proprietor at the Land Registry as at the date of this Deed)

Chargor	Address of Property	Title number	Freehold/Leasehold
Denby Property Investments Limited	Denby, Derbyshire, DE5 8NX	DY391649, DY279126 and DY319102	Freehold

Part 2 - Unregistered Land

(Freehold or leasehold property (if any) in England and Wales title to which is not registered at the Land Registry of which the relevant Chargor is the owner as at the date of this Deed)

Chargor	Description	Date	Document	Parties
None	None	None	None	None

Schedule 3

Subsidiary Shares

Chargor	Name and registered number of Subsidiary	Number and class of shares
Denby Holdings Limited	Denby Property Investments Limited registered in the Isle of Man with registered number 005355V	100,000 Ordinary Shares

Schedule 4
Relevant Policies: Notices
Part 1- Form of notice of assignment

To: [Name of insurer]

Dated: [♦]

Dear Sirs,

The insurance policies described in the attached schedule (the Relevant Policies)

We hereby notify you that we have assigned (by way of security and subject to a provision for reassignment) to [♦] (as security trustee for the Secured Parties as referenced in the guarantee and debenture referred to below) (the **Security Trustee**) all our right, title and interest in and to the Relevant Policies pursuant to a guarantee and debenture dated [♦] between us and the Security Trustee.

We hereby irrevocably and unconditionally authorise and instruct you to:

- 1 make all payments and claims under or arising from the Relevant Policies (in accordance with the terms of those policies) to us until such time as you receive notice from the Security Trustee instructing you otherwise (a **Payment Notice**). Upon receipt of a Payment Notice we instruct you to comply with all payment instructions in respect of any claims and payments under or arising from the Relevant Policies as set out in such Payment Notice; and
- 2 disclose to the Security Trustee, without further approval from us, such information regarding the Relevant Policies as the Security Trustee may from time to time request and to send it copies of all notices issued by you under the Relevant Policy;

We will remain liable to perform all our obligations under the Relevant Policies and the Security Trustee is under no obligation of any kind whatsoever under the Relevant Policies nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Relevant Policies.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Trustee and the other copy to us.

Yours faithfully,

.....
for and on behalf of

[♦]

Schedule

Date of policy	Insured	Policy type	Policy number
[♦]	[♦]	[♦]	[♦]

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: *[name of Security Trustee]*

[address]

To: *[name of Chargor who sent notice]* (the **Chargor**)

[address]

We acknowledge receipt of the notice of assignment (the **Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- (a) there has been no amendment, waiver or release of any rights or interests in any Relevant Policy since the date of such policy;
- (b) we have noted the Security Trustee's interest as mortgagee and first loss payee on each Relevant Policy;
- (c) we will not agree to any amendment, waiver or release of any provision of any Relevant Policy without the prior written consent of the Security Trustee;
- (c) no termination of any Relevant Policy shall be effective unless we have given the Security Trustee thirty days written notice of such termination;
- (d) we shall act in accordance with the Notice;
- (e) as at the date of this acknowledgement, we have not received any notice of assignment or charge of the Chargor's interest in any Relevant Policy or the proceeds of any Relevant Policy in favour of any other person;
- (f) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to any Relevant Policy.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of

.....
[Name of insurance company]

Schedule 5
Relevant Agreements: Notices
Part 1 - Form of notice of assignment

To: [♦]

Dated: [♦]

Dear Sirs,

The agreement described in the attached schedule (the Agreement)

We hereby notify you that we have assigned (by way of security and subject to a provision for reassignment) to [♦] (as security trustee for the Secured Parties as referenced in the guarantee and debenture referred to below) (the **Security Trustee**) all our right, title and interest in and to the Agreement (including all monies which may be payable to us in respect of the Agreement) pursuant to a guarantee and debenture dated [♦] between us and the Security Trustee.

With effect from the date of your receipt of this notice:

1. all payments by you to us under or arising from the Agreement should be made to us until such time as you receive notice from the Security Trustee instructing you otherwise (a **Payment Notice**). Upon receipt of a Payment Notice we instruct you to comply with all payment instructions in respect of any payments to be made under or arising from the Agreement as set out in the Payment Notice;
2. upon your receipt of a Payment Notice from the Security Trustee:
 - (a) all remedies provided for in the Agreement or available at law or in equity are exercisable by the Security Trustee;
 - (b) all rights to compel performance of the Agreement are exercisable by the Security Trustee although we shall remain liable to perform all the obligations under the Agreement; and
 - (c) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Agreement belong to the Security Trustee to the exclusion of us;
3. we may not at any time without the prior consent of the Security Trustee:
 - (a) agree to any amendment, supplement, extension, waiver, surrender, release or termination of the Agreement;
 - (b) consent to any assignment or transfer of your interest under the Agreement; or
 - (c) assign any of our rights or transfer any of our rights or obligations under the Agreement;
4. you are authorised and instructed, without requiring further approval from us, to provide the Security Trustee with such information relating to the Agreement as it may from time to time request and to send it copies of all notices issued by you under the Agreement to the Security Trustee as well as to us; and
5. these instructions may not be revoked, nor may the terms of the Agreement be amended, varied or waived without the prior written consent of the Security Trustee.

We will at all times remain liable to perform all our obligations under the Agreement and the Security Trustee is under no obligation of any kind whatsoever under the Agreement nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Agreement.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Trustee and the other copy to us.

Yours faithfully,

for and on behalf of
[♦]

Schedule

Date	Parties	Description
[♦]	[♦]	[♦]

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: *[name of Security Trustee]*

[address]

To: *[name of Chargor]* (the **Chargor**)

[address]

We acknowledge receipt of the notice of assignment (the **Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- (a) there has been no amendment, supplement, extension, waiver, surrender, release or termination of any rights or interests in the Agreement since the date of the Agreement;
- (b) we shall act in accordance with the Notice (and as a result acknowledge, without limitation, that we will not agree to any amendment, supplement, extension, waiver, surrender, release or termination of any provision of the Agreement without the prior written consent of the Security Trustee);
- (c) as at the date of this acknowledgement we have not received any notice of assignment or charge of the Chargor's interest in the Agreement in favour of any other person;
- (d) as at the date of this acknowledgement, we are not aware of any breach by the Chargor of the terms of the Agreement; and
- (e) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to the Agreement.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

.....
For and on behalf of

[♦]

Schedule 6
GUARANTEE PROVISIONS

- 1 The Guarantee is in addition to and shall not merge with or otherwise prejudice or affect or be prejudiced by any other right, remedy, guarantee, indemnity or security and may be enforced without first having recourse to the same or any other bill, note, mortgage, charge, pledge or lien now or hereafter held by or available to the Security Trustee or the other Secured Parties.
- 2 Notwithstanding that the Guarantee ceases to be continuing for any reason whatever the Security Trustee any of the other Secured Parties may continue any accounts of any Chargor or open one or more new accounts and the liability of a Chargor hereunder shall not in any manner be reduced or affected by any subsequent transactions or receipts or payments into or out of any such accounts.
- 3 The liability of each Chargor shall not be affected nor shall the Guarantee be discharged or diminished by reason of:
 - 3.1 any present or future bill, note, guarantee, indemnity, mortgage, charge, pledge, lien or other security or right or remedy held by or available to the Secured Parties becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Secured Parties from time to time dealing with, exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or
 - 3.2 the Secured Parties compounding with, discharging, releasing or varying the liability of or granting any time, indulgence or concession to any Chargor or any other person or renewing, determining, varying or increasing any bill, promissory note or other negotiable instrument, accommodation, facility or transaction in any manner whatsoever or concurring in, accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from a Chargor or any other person; or
 - 3.3 any act or omission which would not have discharged or affected the liability of a Chargor had it been principal debtor instead of guarantor or by anything done or omitted which, but for this provision, might operate to exonerate a Chargor.
- 4 Each Chargor warrants to the Secured Parties that it has not taken or received and undertakes that it will not take or receive the benefit of any security from any other Chargor in connection with the Guarantee. If any such security is taken each Chargor hereby declares that such security and all moneys at any time received in respect thereof shall be held on trust for the Secured Parties and as security for the liabilities of such Chargor under this Guarantee.
- 5 Each Chargor hereby agree to pay interest to the Security Trustee for the account of the Secured Parties on all sums demanded under the Guarantee from the date of demand until actual payment (as well after as before any judgment) at the rate of two (2) per cent. above the interest rate specified in the Investor Loan Agreements calculated on a day to day basis. Such interest shall be compounded monthly but without prejudice to the right of the Security Trustee to require payment of such interest.
- 6 The Secured Parties shall not be obliged before taking steps to enforce this Guarantee:
 - 6.1 to take action or obtain judgment in any court against any Chargor or any other person; or
 - 6.2 to make or file any claim in a bankruptcy or liquidation of any Chargor or any other person; or
 - 6.3 to make, enforce or seek to enforce any claim against any Chargor or any other person under any security or other document, agreement or arrangement.

Schedule 7

EVENTS OF DEFAULT


Each of the events or circumstances set out in this Schedule 7 is and Event of Default (other than paragraph 15):

- 1 A Chargor does not pay on the due date any amount payable to a Seller pursuant to a Transaction Document unless the failure to pay is caused by an administrative or technical error and the payment is made within 3 Business Days of its due date.
- 2 A Chargor does not comply with any provision of the Transaction Documents (other than those referred to in paragraph 1 above) and if the failure to comply is capable of remedy, the relevant Chargor has not remedied that failure within 10 Business Days of the earlier of (i) the Security Trustee giving notice to that Chargor and (ii) that Chargor becoming aware of the failure to comply.
- 3 Any representation or statement made or deemed to be made by a Chargor in the Transaction Documents or any other document delivered by or on behalf of any Chargor under or in connection with any Transaction Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
- 4 Any financial indebtedness of any Chargor in excess of £250,000 is not paid when due nor within any originally applicable grace period.
- 5 Any financial indebtedness of any Chargor in excess of £250,000 is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (howsoever described).
- 6 Any creditor of a Chargor becomes entitled to declare any financial indebtedness of any Chargor in excess of £250,000 due and payable prior to its specified maturity as a result of an event of default (howsoever described).
- 7 A Chargor:
 - 7.1 is unable or admits inability to pay its debts as they fall due;
 - 7.2 is deemed to, or is declared to, be unable to pay its debts under applicable law;
 - 7.3 suspends or threatens to suspend making payments on any of its debts; or
 - 7.4 by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Seller in its capacity as such) with a view to rescheduling any of its indebtedness.
- 8 The value of the assets of any Chargor is less than its liabilities (taking into account contingent and prospective liabilities).
- 9 A moratorium is declared in respect of any indebtedness of any Chargor. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium.
- 10 Any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - 10.1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Chargor;
 - 10.2 a composition, compromise, assignment or arrangement with any creditor of any Chargor;
 - 10.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Chargor or any of its assets; or

- 10.4 enforcement of any Security over any assets of any Chargor,
or any analogous procedure or step is taken in any jurisdiction.
- 11 Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of a Chargor and is not discharged within 21 days.
- 12 It is or becomes unlawful for a Chargor to perform any of its obligations under the Transaction Documents or any Security created or expressed to be created or evidenced by this deed ceases to be effective or any subordination created under the Intercreditor Deed is or becomes unlawful.
- 13 Any Transaction Document ceases to be in full force and effect or this deed or any subordination created under the Intercreditor Deed ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than a Seller) to be ineffective.
- 14 Any part of any Property is compulsorily purchased or the applicable local authority makes an order for the compulsory purchase of all or any part of any Property and in the opinion of the Seller Majority, taking into account the amount and timing of any compensation payable, the compulsory purchase has or will have a material adverse effect on the ability of a Chargor to discharge the Secured Obligations.
- 15 On and at any time after the occurrence of an Event of Default which is continuing, the Security Trustee may, and shall if so directed by a Qualified Seller Majority:
- 15.1 by notice to the Company:
- (a) declare all or part of the Secured Obligations be immediately due and payable, whereupon they shall become immediately due and payable; and /or
 - (b) declare all or part of the Secured Obligations be payable on demand, whereupon they shall immediately become payable on demand by the Security Trustee on the instructions of the Qualified Seller Majority; and/or
- 15.2 exercise any or all of its rights, remedies, powers or discretions under this deed in accordance with the Security Trust Deed and this deed.

SIGNATURES TO THE DEBENTURE


Company

Executed as a deed by) 
Denby Holdings Limited) Director
acting by a director, in the presence of:)

Witness:

Signature: 

Name: PAUL NASH

Address: 

Chargor

Executed as a deed by)
Denby Property Investments Limited) Director
acting by a director, in the presence of:)

Witness:

Signature:

Name:

Address:

SIGNATURES TO THE DEBENTURE

Company

Executed as a deed by)
Denby Holdings Limited) Director
acting by a director, in the presence of:)

Witness:

Signature:

Name:

Address:

Chargor

Executed as a deed by)
Denby Property Investments Limited) Director
acting by a director, in the presence of:)

Witness: Peter Carroll

Signature:

Name: Peter Carroll

Address:

Occupation: Banking

Security Trustee

Executed as a deed

By Paul Mc Gowan

in the presence of:

)
)
)
)
)

Witness

Signature

Name

Address

[Redacted Signature]

ELEONORA MOTTI

[Redacted Address]