



**Registration of a Charge**

Company name: **CARTER BROTHERS (ROCHDALE) LIMITED**

Company number: **06886640**



X7Z9P0UG

Received for Electronic Filing: **14/02/2019**

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**Details of Charge**

Date of creation: **08/02/2019**

Charge code: **0688 6640 0009**

Persons entitled: **REWARD CAPITAL LIMITED**

Brief description: **CORREA 20 BED MILL TYPE MACHINE (2010) – SERIAL NUMBER 625015  
BROADBENT STANLEY FLAT BED LATHE MODEL FB2680 – SERIAL  
NUMBER BSL 0883 BROADBENT STANLEY HEAVY DUTY CNC LATH  
MODEL LD50 – SERIAL NUMBER BSL 1029**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by:

**CLARION SOLICITORS**



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

Company number: 6886640

Charge code: 0688 6640 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th February 2019 and created by CARTER BROTHERS (ROCHDALE) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th February 2019 .

Given at Companies House, Cardiff on 15th February 2019

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

**DATED**

8 February

**2019**

**(1) REWARD CAPITAL LIMITED**

**AND**

**(2) CARTER BROTHERS (ROCHDALE) LIMITED**

**MORTGAGE OF CHATTELS**

**Clarion**

Clarion Solicitors Limited

Elizabeth House

13-19 Queen Street

Leeds

LS1 2TW

Ref: RS/JJM/43668.556

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**THIS DEED** is made on

8 February 2019

**BETWEEN**

- (1) **REWARD CAPITAL LIMITED** incorporated and registered in England and Wales with company number 09432492 whose registered office is at Central House, 47 St Pauls Street, Leeds, LS1 2TE (the "**Lender**");
- (2) **CARTER BROTHERS (ROCHDALE) LIMITED** incorporated and registered in England and Wales with company number 06886640 whose registered office is at Unit 30 Stakehill Industrial Estate, Middleton, Manchester, Lancashire, M24 2RW (the "**Borrower**").

**BACKGROUND**

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

**AGREED TERMS**

**1. Definitions and Interpretation**

- 1.1 The following definitions apply in this deed:

**Assets**

the equipment, plant, machinery, tools, vehicles, chattels or other tangible movable property as described in Schedule 1 (including any component parts of those assets from time to time held by the Borrower (whether or not attached to those assets)), together with all additions, alterations, substitutions, replacements, renewals or modifications of or to those assets from time to time, and all accessories to those assets from time to time (including maintenance and other records, manuals, handbooks, data, drawings and schematics relating to those assets or documents relating to warranties and patent indemnities given by manufacturers or suppliers of those

	assets);
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>Charged Property</b>	all the assets, property and undertaking for the time being subject to any Security Interest created by this deed (and references to the Charged Property shall include references to any part of it);
<b>Delegate</b>	any person appointed by the Lender or any Receiver pursuant to clause 12, and any person appointed as attorney of the Lender, Receiver or Delegate;
<b>Environment</b>	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media;
<b>Environmental Law</b>	all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes insofar as they relate to or apply to the Environment;
<b>Event of Default</b>	has the meaning given to that expression in the Facility Agreement;
<b>Facility Agreement</b>	the facility agreement dated on or around the date of this deed between the Borrower and the Lender for the provision of the loan facilities secured by this deed;

<b>Insurance Policies</b>	all the contracts and policies of insurance effected or maintained from time to time in respect of the Assets;
<b>LPA 1925</b>	the Law of Property Act 1925;
<b>Receiver</b>	a receiver, receiver and manager or administrative receiver of any or all of the Charged Property appointed by the Lender under clause 10;
<b>Relevant Agreement</b>	means: <ul style="list-style-type: none"> <li>(a) each agreement for the maintenance, repair or upkeep of the Assets and any guarantee, warranty or security for the performance of any such agreement; and</li> <li>(b) all other contracts, guarantees, appointments, warranties, indemnities and other documents relating to the Assets to which the Borrower is a party, which are in its favour or of which it has the benefit,</li> </ul> the details of which are set out in Schedule 2;
<b>Secured Liabilities</b>	all present and future monies, obligations and liabilities owed by the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Agreement, this deed (including, without limitation, those arising under clause 23.3.2) or otherwise together with all interest (including, without limitation, default interest) accruing in respect of such monies or liabilities;
<b>Security Interest</b>	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other



agreement or arrangement having a similar effect; and

**Security Period**

the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

1.2 In this deed:

- 1.2.1 reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or re-enactment or extension and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts;
- 1.2.2 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.3 unless the context otherwise requires, words in the singular include the plural and in the plural include the singular;
- 1.2.4 a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and references to paragraphs are to paragraphs of the relevant Schedule, unless the context otherwise requires;
- 1.2.5 a reference to **continuing** in relation to an Event of Default means an Event of Default which has not been waived;
- 1.2.6 a reference to **this deed** (or any provision of it) or any other document shall be construed as a reference to this deed, that provision or that document as it is in force for the time being and as amended in accordance with its terms or with the agreement of the relevant parties;
- 1.2.7 a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);

- 1.2.8 a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);
- 1.2.9 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.10 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.11 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.12 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the discretion of the person making it;
- 1.2.13 a reference to the **Borrower** or the **Lender** shall include its successors, permitted transferees and permitted assigns;
- 1.2.14 clause, schedule and paragraph headings shall not affect the interpretation of this deed; and
- 1.2.15 where any statement is qualified by the expression **so far as Borrower is aware or to Borrower's knowledge** or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.

### **Clawback**

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

### **Third-party rights**

- 1.4 A third party (being any person other than the Borrower, the Lender and its permitted successors and assigns, any Receiver and any Delegate) has no right

under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed.

### **Perpetuity period**

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

### **Schedules**

- 1.6 The schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the schedules.

## **2. Covenant to Pay**

- 2.1 The Borrower shall, on demand, pay to the Lender and discharge the Secured Liabilities.

## **3. Grant of Security**

### **Legal mortgage**

- 3.1 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of first legal mortgage, the Assets.

### **Fixed charge**

- 3.2 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of first fixed charge:
- 3.2.1 all its rights in each Insurance Policy, including the proceeds of any claims under any Insurance Policy, to the extent not effectively assigned under clause 3.3;
  - 3.2.2 the benefit of each Relevant Agreement, to the extent not effectively assigned under clause 3.3;
  - 3.2.3 the benefit of all other contracts, guarantees, appointments, warranties relating to the Assets and other documents to which the Borrower is a party, which are in its favour or of which it has the benefit (including, in

each case, but without limitation, the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them), to the extent not effectively assigned under clause 3.3; and

- 3.2.4 all authorisations (statutory or otherwise) held or required in connection with the use of any Charged Property, and all rights in connection with them.

### **Assignment**

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

- 3.3.1 all its rights in each Insurance Policy, including the proceeds of any claims under any Insurance Policy;
- 3.3.2 the benefit of each Relevant Agreement;
- 3.3.3 the benefit of all other contracts, guarantees, appointments, warranties relating to the Assets and other documents to which the Borrower is a party, which are in its favour or of which it has the benefit (including, in each case, but without limitation, the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them), to the extent not effectively assigned under clause 3.3.1 or clause 3.3.2; and
- 3.3.4 all authorisations (statutory or otherwise) held or required in connection with the use of any Charged Property, and all rights in connection with them,

provided that nothing in this clause 3.3 shall constitute the Lender as mortgagee in possession.

#### **4. Liability of the Borrower**

##### **Liability not discharged**

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

4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is or becomes wholly or partially illegal, void or unenforceable on any ground;

4.1.2 the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

4.1.3 any other act or omission, which but for this clause 4.1 might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

##### **Immediate recourse**

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

#### **5. Representations and Warranties**

##### **Representations and warranties**

5.1 The Borrower makes the representations and warranties set out in this clause 5 to the Lender.

##### **Ownership of Charged Property**

5.2 The Borrower is the legal and beneficial owner of, and has good, valid and marketable title to the Charged Property.

##### **No Security Interests**

5.3 The Charged Property is free from any Security Interest other than the Security Interests created by this deed.

**No adverse claims**

- 5.4 The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Property or any interest in them.

**No fixing**

- 5.5 None of the Assets (or any part of them) is or will be treated as being fixed to any land, premises or other property.

**No adverse covenants**

- 5.6 There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever, which materially and adversely affect the Charged Property.

**No breach of laws**

- 5.7 There is no breach of any law or regulation, which materially and adversely affects the Charged Property.

**No interference in enjoyment**

- 5.8 No facility necessary for the enjoyment and use of the Charged Property is subject to terms entitling any person to terminate or curtail its use.

**Avoidance of security**

- 5.9 No Security Interest expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

**No prohibitions**

- 5.10 There is no prohibition on assignment in any Insurance Policy or Relevant Agreement, and the entry into this deed by the Borrower does not and will not constitute a breach of any Insurance Policy or Relevant Agreement or any other agreement, instrument or obligation binding on the Borrower or its assets.

**Environmental compliance**

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

### **Enforceable security**

- 5.12 This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower and is and will continue to be effective security over all and every part of the Charged Property in accordance with its terms.

### **Times for making representations and warranties**

- 5.13 The representations and warranties set out in clause 5.2 to clause 5.12 are made by the Borrower on the date of this deed and the representations and warranties contained in clause 5.2 to clause 5.9 and clause 5.11 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

## **6. Covenants**

### **Negative pledge and disposal restrictions**

- 6.1 The Borrower shall not at any time, except with the prior written consent of the Lender:
- 6.1.1 create, purport to create or permit to subsist any Security Interest on, or in relation to, any Charged Property other than any Security Interest created by this deed;
  - 6.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Charged Property; or
  - 6.1.3 create or grant (or purport to create or grant) any interest in any Charged Property in favour of a third party.

### **Preservation of Charged Property**

- 6.2 The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender or diminish the value of any of the Charged Property (except for expected fair wear and tear) or the effectiveness of the security created by this deed.

### **Relevant Agreements**

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

- 6.3.1 waive any of its rights under any Relevant Agreement; or
- 6.3.2 supplement, amend, novate, terminate or permit termination of any Relevant Agreement.

**Borrower's waiver of set-off**

- 6.4 The Borrower waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Borrower under this deed).

**Compliance with laws and regulations**

- 6.5 The Borrower:
  - 6.5.1 shall not, without the Lender's prior written consent, use or permit the Charged Property to be used in any way contrary to law;
  - 6.5.2 shall:
    - 6.5.2.1 comply with the requirements of any law and regulation relating to or affecting the Charged Property or the use of them or any part of them;
    - 6.5.2.2 obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Property or its use or that are necessary to preserve, maintain or renew any Charged Property; and
    - 6.5.2.3 promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Charged Property.

**Enforcement of rights**

- 6.6 The Borrower shall use its best endeavours to:
  - 6.6.1 procure the prompt observance and performance of the covenants and other obligations imposed on the Borrower's counterparties; and



- 6.6.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Property that the Lender may require from time to time.

**Notice of misrepresentations and breaches**

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

- 6.7.1 any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 6.7.2 any breach of any covenant set out in this deed.

**Notices to be given by Borrower**

- 6.8 The Borrower shall:

- 6.8.1 Immediately on the execution of this deed:
- 6.8.1.1 give notice to the relevant insurers of the assignment of the Borrower's rights and interest in, and under, each Insurance Policy (including the proceeds of any claims under that Insurance Policy) pursuant to clause 3.3.1 and procure that each addressee of such notice promptly provides an acknowledgement of the Lender's interest to the Lender;
- 6.8.1.2 give notice to the other parties to each Relevant Agreement of the assignment of the Borrower's rights and interest in and under that Relevant Agreement pursuant to clause 3.3.2 and procure that each addressee of such notice will promptly provide an acknowledgement of the Lender's interest to the Lender; and
- 6.8.1.3 give notice to the other parties to each other contract, guarantee, appointment, warranty or authorisation relating to the Assets and any other document to which the Borrower is a party of the assignment of the Borrower's rights and interest in and under it pursuant to clause 3.3.3 or clause 3.3.4 and procure that each addressee of such notice will promptly

provide an acknowledgement of the Lender's interest to the Lender.

- 6.8.2 obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause 6.8.

#### **Notice of mortgage**

- 6.9 The Borrower:

- 6.9.1 shall, if so requested by the Lender, affix to and maintain on each Asset in a conspicuous place, a clearly legible identification plate containing the following wording:

"NOTICE OF LEGAL MORTGAGE

This [DESCRIPTION OF ITEM] and all additions to it [and ancillary equipment] are subject to a legal mortgage dated 2019 in favour of Reward Capital Limited."

- 6.9.2 shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with clause 6.9.

#### **Appointment of accountants**

- 6.10 The Borrower shall:

- 6.10.1 at its own cost, if at any time so required by the Lender, appoint an accountant or firm of accountants nominated by the Lender to investigate the financial affairs of the Borrower and those of its subsidiaries and report to the Lender; and

- 6.10.2 co-operate fully with any accountants so appointed and immediately provide such accountants with all information requested.

- 6.11 The Borrower authorises the Lender to make an appointment as it shall think fit at any time, without further authority from the Borrower. In every case, the Borrower shall pay, or reimburse the Lender for, the fees and expenses of those accountants.

#### **Maintenance of Assets**

- 6.12 The Borrower shall:

- 6.12.1 at its own expense, maintain each Asset in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- 6.12.2 at its own expense, renew and replace any parts of the Assets when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value;
- 6.12.3 keep or procure to be kept accurate, complete and up to date records of all repairs, servicing and maintenance carried out on the Assets;
- 6.12.4 permit the Lender, or such persons as it may nominate, at all reasonable times and on reasonable notice to enter on any premises of the Borrower to effect such maintenance or repairs to the Assets as the Lender or its nominee considers necessary; and
- 6.12.5 not permit any Asset to be:
  - 6.12.5.1 used or handled, other than by properly qualified and trained persons;
  - 6.12.5.2 modified, upgraded, supplemented or altered other than for the purpose of effecting maintenance or repairs permitted by this deed; or
  - 6.12.5.3 to be overloaded or used for any purpose for which it is not designed or reasonably suitable or in any manner which would invalidate or otherwise prejudice any of the Insurance Policies.

## **Documents**

- 6.13 The Borrower shall, if so required by the Lender, deposit with the Lender and the Lender shall, for the duration of this deed, be entitled to hold all:
  - 6.13.1 invoices, deeds and documents of title and log books relating to the Charged Property, which are in the possession or control of the Borrower and, if these are not within the possession and/or control of the Borrower, the Borrower undertakes to obtain possession of all invoices, deeds and documents of title and log books;
  - 6.13.2 Insurance Policies; and

6.13.3 Relevant Agreements.

**Information**

6.14 The Borrower shall:

- 6.14.1 give the Lender such information concerning the location, condition, use and operation of the Charged Property as the Lender may require;
- 6.14.2 permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Charged Property, and the records relating to the Charged Property, at all reasonable times and on reasonable prior notice; and
- 6.14.3 promptly notify the Lender in writing of any action, claim or demand made by or against it in connection with all or any part of the Charged Property or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

**Insurance**

6.15 The Borrower shall insure, and keep insured, the Charged Property against:

- 6.15.1 loss or damage by fire or terrorist acts;
- 6.15.2 other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and
- 6.15.3 any other risk, perils and contingencies as the Lender may reasonably require.

6.16 Any such insurance must be with an insurance company or underwriters and on such terms as are reasonably acceptable to the Lender, and must be for not less than the replacement value of or, if higher, the cost of reinstating the Charged Property.

- 6.17 The Borrower shall, if requested by the Lender, produce to the Lender the policy, certificate or cover note relating to any such Insurance required by clause 6.15; and
- 6.18 The Borrower shall, if requested by the Lender, procure that a note of the Lender's interest is endorsed upon each Insurance Policy maintained by it or any person on its behalf in accordance with clause 6.15 and that the terms of each such Insurance Policy require the insurer not to invalidate the policy as against the Lender by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 (thirty) days' prior written notice to the Lender.

#### **Insurance premiums**

- 6.19 The Borrower shall:
- 6.19.1 promptly pay all premiums in respect of each Insurance Policy and do all other things necessary to keep that Insurance Policy in full force and effect; and
- 6.19.2 (if the Lender so requires) give to the Lender copies of the receipts for all premiums and other payments necessary for effecting and keeping up each Insurance Policy.

#### **No invalidation of insurance**

- 6.20 The Borrower shall not do or omit to do, or permit to be done or omitted, any thing that may invalidate or otherwise prejudice any Insurance Policy.

#### **Proceeds from Insurance Policies**

- 6.21 All monies payable under any Insurance Policy at any time (whether or not the security constituted by this deed has become enforceable) shall:
- 6.21.1 immediately be paid to the Lender;
- 6.21.2 (if they are not paid directly to the Lender by the insurers) be held by the Borrower as trustee of the same for the benefit of the Lender (and the Borrower shall account for them to the Lender); and
- 6.21.3 at the option of the Lender, be applied in making good or recouping expenditure in respect of the loss or damage for which such monies are

received or in or towards discharge or reduction of the Secured Liabilities.

#### **Payment of outgoings**

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

#### **Compliance with covenants**

- 6.23 The Borrower shall observe and perform all covenants, stipulations and conditions to which any Charged Property, or the use of it, is or may be subjected and (if the Lender so requires) produce to the Lender evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed.

#### **Maintenance of interests in Charged Property**

- 6.24 The Borrower:

- 6.24.1 shall not, without the prior written consent of the Lender:

6.24.1.1 grant, or agree to grant, any licence or lease affecting the whole or any part of any Charged Property; or

6.24.1.2 in any other way dispose of, or agree to dispose of, surrender or create any legal or equitable interest in the whole or any part of any Charged Property;

- 6.24.2 shall keep the Charged Property (to the extent not otherwise in the possession of the Lender pursuant to clause 6.13) in its sole and exclusive possession at the location (if any) specified in Schedule 1 or at such other location as the Lender may consent in writing and shall not take the Charged Property, or allow it to be taken, out of England and Wales; and

- 6.24.3 shall, if required by the Lender, in the case of any Charged Property located on leasehold premises, obtain evidence in writing from any lessor of such premises that it waives absolutely all and any rights it may have now or at any time over any such Charged Property.

## **Annexation**

- 6.25 The Borrower shall not, without the Lender's prior written consent, annex, fix or otherwise secure or allow any such annexation, fixing or securing of any Asset to any premises, land or buildings if the result of such action or omission is that the Asset, or any part of it, would or might become a fixture or fitting.

## **Registration restrictions**

- 6.26 The Borrower shall procure that no person shall be registered as proprietor of any Asset without the prior written consent of the Lender.

## **Environment**

- 6.27 The Borrower shall, in respect of each Asset:
- 6.27.1 comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or use of that Asset; and
  - 6.27.2 obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law.

## **7. Powers of the Lender**

### **Power to remedy**

- 7.1 The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.
- 7.2 The Borrower irrevocably authorises the Lender and its agents to do all such things as are necessary or desirable for that purpose.
- 7.3 Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed, shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with clause 14.1.

### **Exercise of rights**

- 7.4 The rights of the Lender under clauses 7.1 to 7.3 are without prejudice to any other rights of the Lender under this deed. The exercise of any rights of the

Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

#### **Lender has Receiver's powers**

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

#### **Conversion of currency**

- 7.6 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 7.6 and clause 7.7) from their existing currencies of denomination into such other currencies of denomination as the Lender may think fit.
- 7.7 Each reference in clause 7.6 and this clause 7.7 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **New accounts**

- 7.8 If the Lender receives, or is deemed to have received, notice of any subsequent Security Interest, or other interest, affecting all or part of the Charged Property, the Lender may open a new account for the Borrower in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 7.9 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 7.8, then, unless the Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lender shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Lender.



## **Indulgence**

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

## **8. When Security becomes Enforceable**

### **Event of Default**

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

### **Discretion**

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

## **9. Enforcement of Security**

### **Enforcement powers**

- 9.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
- 9.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 8.1.
- 9.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

### **Extension of statutory powers**

- 9.4 The statutory powers of sale, leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and/or by any other statute shall be exercisable by the Lender under this deed and are extended so as to authorise the Lender and any Receiver, whether in its own name or in that of the Borrower, to:

- 9.4.1 grant a lease or agreement to lease;
- 9.4.2 accept surrenders of leases; or
- 9.4.3 grant any option of the whole or any part of the Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lender or Receiver thinks fit.

#### **Access on enforcement**

- 9.5 At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Facility Agreement, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any of the Charged Property and for that purpose to enter on any premises where Charged Property is situated (or where the Lender or a Receiver reasonably believes Charged Property to be situated) without incurring any liability to the Borrower for, or by any reason of, such entry.
- 9.6 At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 9.5 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

#### **Prior Security Interest**

- 9.7 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security Interest having priority to this deed shall have become exercisable, the Lender may:
  - 9.7.1 redeem such or any other prior Security Interest;
  - 9.7.2 procure the transfer of that Security Interest to it; and
  - 9.7.3 settle and pass any account of the holder of any prior Security Interest.

The settlement and passing of any such account shall, in the absence of any manifest error, be conclusive and binding on the Borrower. All monies paid by the

Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Borrower to the Lender on current account and shall bear interest at the default rate of interest specified in the Facility Agreement and be secured as part of the Secured Liabilities.

#### **Protection of third parties**

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

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

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

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

#### **Privileges**

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

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

9.10 Neither the Lender, any Receiver nor any Delegate shall be liable, by reason of entering into possession of any Charged Property or for any other reason, to account as mortgagee in possession in respect of all or any of the Charged Property, nor shall any of them be liable for any loss on realisation of, or for any act, neglect or default of any nature in connection with, all or any of the Charged Property for which a mortgagee in possession might be liable as such.

#### **Conclusive discharge to purchasers**

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

## **10. Receiver**

### **Appointment**

- 10.1 At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more person or persons to be a Receiver of all or any part of the Charged Property.

### **Removal**

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

### **Remuneration**

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

### **Power of appointment additional to statutory powers**

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

### **Power of appointment exercisable despite prior appointments**

- 10.5 The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Charged Property.

### **Agent of the Borrower**

- 10.6 Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver

and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

## **11. Powers of Receiver**

### **General**

- 11.1 Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 11.4 to clause 11.21.
- 11.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- 11.3 Any exercise by a Receiver of any of the powers given by clause 11 may be on behalf of the Borrower, the directors of the Borrower or himself.

### **Repair and improve Charged Property**

- 11.4 A Receiver may undertake or complete any works or repairs, alterations, additions, replacements or other acts for the protection or improvement of the Charged Property as he thinks fit.

### **Grant or surrender leases**

- 11.5 A Receiver may grant, or accept surrenders of, any leases, lettings or hire affecting any of the Assets on such terms and subject to such conditions as he thinks fit.

### **Employ personnel and advisers**

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

### **Remuneration**

- 11.7 A Receiver may charge and receive such sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) as the Lender may prescribe or agree with him.

### **Realise Charged Property**

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

### **Remove Charged Property**

- 11.9 A Receiver may enter any premises where any Charged Property is located and sever, dismantle and remove any Charged Property from the premises without the Borrower's consent.

### **Manage Charged Property**

- 11.10 A Receiver may do all such things as may be necessary for the ownership, management or operation of the Charged Property.

### **Dispose of Charged Property**

- 11.11 A Receiver may grant options and licences over all or any part of the Assets, sell, assign, lease and accept surrenders of leases of (or concur in selling, assigning, leasing or accepting surrenders of leases of), all or any of the Charged Property in respect of which he is appointed in such manner (including, without limitation, by public auction or private sale) and generally on such terms and conditions as he thinks fit. Any such sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Charged Property to be sold.

### **Valid receipts**

- 11.12 A Receiver may give valid receipt for all monies and execute all assurances and things which may be proper or desirable for realising any of the Charged Property.

### **Make settlements**

- 11.13 A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person which he may think expedient.

### **Bring proceedings**

- 11.14 A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Property as he thinks fit.

### **Insurance**

- 11.15 A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 14, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, such insurance.

### **Powers under LPA 1925**

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

### **Borrow**

- 11.17 A Receiver may, for any of the purposes authorised by this clause 11, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Charged Property in respect of which he is appointed on such terms as he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

### **Redeem prior Security Interest**

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

### **Delegation**

- 11.19 A Receiver may delegate his powers in accordance with this deed.

### **Absolute beneficial owner**

- 11.20 A Receiver may, in relation to any of the Charged Property, exercise all powers, authorisations and rights he would be capable of exercising, and do all such acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Charged Property or any part of the Charged Property.

### **Incidental powers**

- 11.21 A Receiver may do all such other acts and things that he:

11.21.1 may consider desirable or necessary for realising any of the Charged Property;

11.21.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or

11.21.3 lawfully may or can do as agent for the Borrower.

## **12. Delegation**

- 12.1 The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 16.1).

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

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

## **13. Application of Proceeds**

### **Order of application of proceeds**

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



- 13.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- 13.1.2 in or towards payment of or provision for the Secured Liabilities in such order and manner as the Lender determines; and
- 13.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.

### **Appropriation**

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

### **Suspense account**

- 13.3 All monies received by the Lender, a Receiver or a Delegate under this deed (other than sums received pursuant to any Insurance Policy, which are not going to be applied in or towards discharge of the Secured Liabilities):
  - 13.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;
  - 13.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
  - 13.3.3 may be held in such account for so long as the Lender, Receiver or Delegate thinks fit.

## **14. Costs and Indemnity**

### **Costs**

- 14.1 The Borrower shall promptly on demand, pay to, or reimburse, the Lender and any Receiver on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-

pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with:

14.1.1 this deed or the Charged Property;

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

14.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate and in the manner specified in the Facility Agreement.

### **Indemnity**

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

14.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Charged Property;

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

14.2.3 any default or delay by the Borrower in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 14.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **15. Further Assurance**

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

15.1.1 creating, perfecting or protecting the security intended to be created by this deed;

15.1.2 facilitating the realisation of any of the Charged Property; or

15.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any of the Charged Property,

including, without limitation, if the Lender or Receiver thinks it expedient, the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of, or intended to form part of, the Charged Property (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **16. Power of Attorney**

### **Appointment of attorneys**

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

16.1.1 the Borrower is required to execute and do under this deed; and/or

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

### **Ratification of acts of attorneys**

16.2 The Borrower ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 16.1.

## **17. Release**

- 17.1 Subject to clause 23.3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to release the Charged Property from the security constituted by this deed.

## **18. Assignment and Transfer**

### **Assignment by Lender**

- 18.1 At any time, without the consent of the Borrower, the Lender may assign or transfer the whole or any part of the Lender's rights and/or obligations under this deed to any person.
- 18.2 The Lender may disclose to any actual or proposed assignee or transferee such information about the Borrower, the Charged Property and this deed that the Lender considers appropriate.

### **Assignment by Borrower**

- 18.3 The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed or enter into any transaction that would result in any of those rights or obligations passing to another person.

## **19. Set-Off**

### **Lender's set-off rights**

- 19.1 The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 19.1 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

### **No obligation to set-off**

- 19.2 The Lender is not obliged to exercise its rights under clause 19.1. If, however, it does exercise those rights it must notify the Borrower of the set-off that has been made.

#### **Exclusion of Borrower's right of set-off**

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

### **20. Amendments, waivers and consents**

#### **Amendments**

- 20.1 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).

#### **Waivers and consents**

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

#### **Rights and remedies**

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

### **21. Severance**

- 21.1 If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary

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

## **22. Counterparts**

- 22.1 This deed may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.
- 22.2 Transmission of an executed counterpart of this deed (but for the avoidance of doubt not just a signature page) by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

## **23. Further provisions**

### **Independent security**

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

### **Continuing security**

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

### **Discharge conditional**

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

- 23.3.1 the Lender or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Property, for such period as the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
- 23.3.2 the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if such release, discharge or settlement had not occurred.

#### **Certificates**

- 23.4 A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower shall be, in the absence of any manifest error, conclusive evidence of the amount due.

#### **Consolidation**

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

### **24. Notices**

#### **Service**

- 24.1 Each notice or other communication required to be given under or in connection with this deed shall be:

24.1.1 in writing;

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

24.1.3 sent:

24.1.3.1 to the Lender at:

Address: Central House, 47 St Pauls Street, Leeds, LS1  
2TE

Fax: 0113 2439187

Attention: The Directors,

24.1.3.2 to the Borrower at:

Address: Unit 30 Stakehill Industrial Estate, Middleton,  
Manchester, Lancashire, M24 2RW

Attention: The Directors

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

**Receipt by Borrower**

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

24.2.1 if sent by fax, when received in legible form;

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

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

24.3 A notice or other communication given as described in clause 24.2.1 or clause 24.2.2 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

**Receipt by Lender**

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

**Service of Proceedings**

24.5 This clause 24 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.



## **25. Governing Law and Jurisdiction**

### **Governing law**

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

### **Jurisdiction**

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

### **Other service**

- 25.3 The Borrower irrevocably consents to any legal action or process in any proceedings under clause 25.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

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

### **Schedule 1 Assets**

Correa 20 Bed Mill Type Machine (2010) – serial number 625015

Broadbent Stanley Flat Bed Lathe Model FB2680 – serial number BSL 0883

Broadbent Stanley Heavy Duty CNC Lath Model LD50 – serial number BSL 1029

## **Schedule 2 Relevant Agreements**

**EXECUTED** as a **DEED** by

.....  
as attorney for and on behalf of **REWARD  
CAPITAL LIMITED**

.....  
Attorney

Witness Signature: .....

Witness Name: .....

Witness Address: .....

.....  
Witness Occupation: .....

**EXECUTED** as a **DEED** by

.....  
as attorney for and on behalf of **REWARD  
CAPITAL LIMITED**

.....  
Attorney

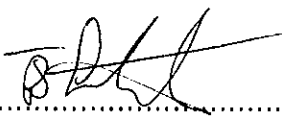
Witness Signature: .....

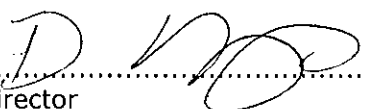
Witness Name: .....

Witness Address: .....

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Witness Occupation: .....

**EXECUTED** as a **DEED** by **CARTER  
BROTHERS (ROCHDALE) LIMITED**  
acting by **DEBBIE ANNE HARGREAVES**, a  
director and **PETER JONATHON  
FLETCHER**, a director

  
.....  
Director

  
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Director