

MR01

Particulars of a charge

38 3832 / L13

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

☐ **What this form is NOT for**
You may not use this form to
register a charge where the charge
instrument Use form MR01

TUESDAY



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08/03/2016

#290

COMPANIES HOUSE

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

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

1

Company details

Company number 07488898

Company name in full SPH 2011 Limited

For official use

→ **Filling in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2

Charge creation date

Charge creation date 04/03/2016

3

Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name HSBC Bank Plc

Name

Name

Name

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

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

MR01

Particulars of a charge

4

Brief description

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

Brief description

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

Please limit the description to the available space

5

Other charge or fixed security

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

☒ Yes

☐ No

6

Floating charge

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

☐ Yes Continue

☒ No Go to Section 7

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

☐ Yes

7

Negative Pledge

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

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

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

9

Signature

Please sign the form here

Signature

Signature

X *DeA Pym UK LLP* X

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

MR01**Particulars of a charge****Presenter information**

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

Contact name **Mike Ford**Company name **DLA Piper UK LLP**Address **Princes Exchange****Princes Square****LEEDS**

Post town

County/Region

Postcode **L S 1 4 B Y**

Country

DX **DX 12017 LEEDS**Telephone **08700 111 111****Certificate**

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.

**Checklist**

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy

**Important information**

Please note that all information on this form will appear on the public record

**How to pay**

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'

**Where to send**

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales:
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1

**Further information**

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

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



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7488898

Charge code: 0748 8898 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th March 2016 and created by SPH 2011 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th March 2016

Given at Companies House, Cardiff on 14th March 2016



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED

4th March

2016

(1) SPH 2011 LIMITED

- and -

(2) HSBC BANK PLC

**CHARGE OVER BANK
ACCOUNT**



I CERTIFY THAT, SAVE FOR MATERIAL REDACTED
PURSUANT TO s859G OF THE COMPANIES ACT 2006,
THIS IS A TRUE, COMPLETE AND CORRECT COPY
OF THE ORIGINAL INSTRUMENT

DATE 4 March 2016

SIGNED DLA Piper UK LLP
DLA PIPER UK LLP

HSBC 

HSBC Bank plc
HSBC House
1 Bond Court
Leeds
LS1 2JZ

THIS DEED is made on

4 March

2016

BETWEEN

- (1) **SPH 2011 LIMITED** a company incorporated in England & Wales (registered number 07488898) whose registered office is at Welton Grange, Welton, Brough, East Yorkshire HU15 1NB (the Borrower), and
- (2) **HSBC BANK PLC** (the Lender)

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed.

Account Balance means all monies standing to the credit of the Security Account and

- (a) all interest at any time accrued or accruing on such monies,
- (b) all investments at any time made out of such monies or account, and
- (c) all rights to repayment of any of the same,

Affiliate means a Subsidiary of a company, a Holding Company of that company or any other Subsidiary of that Holding Company,

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration,

Finance Documents means:

- (1) the facility letter dated 14 May 2014 and made between (1) the Borrower and (2) the Lender (the "Original Facility Letter") (as amended from time to time, including on or about the date of this Deed); and
- (2) the counter-indemnity dated on or about the date of the Original Facility Letter and made between (1) the Borrower and (2) the Lender; and
- (3) the charge over bank account dated 14 May 2014 and made between (1) the Borrower and (2) the Lender

Holding Company has the meaning given in section 1159 of the Companies Act 2006,

Receiver means a receiver and/or manager of any or all of the Borrower's assets appointed by the Lender under the Security,

Secured Liabilities means all monies from time to time due or owing and all other actual or contingent liabilities from time to time incurred by the Borrower to the Lender under the Finance Documents,

Security means the Security Interests created or intended to be created by or pursuant to this Deed,

Security Account means the account or accounts held with HSBC Private Bank (UK) Limited and/or HSBC Bank plc with account reference number [REDACTED] together with

- (a) all additions or renewals or replacements of such account (in whatever currency) and all investments made out of the same, and

- (b) all rights, benefits and proceeds in respect of such account (including interest and rights to repayment of any monies standing to the credit of such account),

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

Subsidiary has the meaning given in section 1159 of the Companies Act 2006

1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to
 - (i) **assets** includes present and future properties, revenues and rights of every description,
 - (ii) **the Lender** shall be construed to include its successors in title, permitted assigns and permitted transferees,
 - (iii) **a disposal** includes a licence, transfer, sale or other disposal of any kind,
 - (iv) **includes** or **including** shall be read and construed as including the phrase **without limitation**,
 - (v) this **Deed** or any other agreement or instrument is a reference to this Deed, or other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the Borrower's obligations or provides for further advances),
 - (vi) a provision of law is a reference to that provision as amended or re-enacted, and
 - (vii) the singular includes the plural and vice versa
- (b) When any provision of this Deed refers to an approval or consent by the Lender that provision shall be construed so as to require that consent or approval to be given in writing
- (c) Where the Borrower includes two or more entities a reference to the Borrower shall mean to each of the entities severally as well as all of the entities jointly
- (d) References to clauses and paragraphs are to be construed, unless otherwise stated, as references to clauses and paragraphs of this Deed
- (e) Clause headings are for ease of reference only and shall not affect the construction of this Deed
- (f) If the Lender reasonably considers that an amount paid by the Borrower is capable of being avoided or otherwise set aside on the bankruptcy, liquidation or administration of the Borrower, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed

1.3 Third party rights

Only a Receiver has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed

1.4 Delivery

The parties intend this Deed to be delivered on the first date specified on page 1 of this Deed and that this Deed shall take effect as a deed notwithstanding the fact that the Lender may only execute this Deed under hand

2 COVENANT TO PAY

2.1 Covenant to pay

The Borrower shall pay or discharge each of the Secured Liabilities when the same fall due for payment

2.2 Further advances

This Deed is made to secure any further advances or other facilities but it does not create any obligation on the Lender to make any further advances or make other facilities available

2.3 Default interest

- (a) Any amount which is not paid under this Deed when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the rate that is two per cent above the Lender's base lending rate from time to time
- (b) Default interest will accrue from day to day on a year of 365 days and will be compounded at such intervals as the Lender considers are appropriate

3. SECURITY

3.1 Nature of security

All Security and dispositions created or made by or pursuant to this Deed are created or made in favour of the Lender with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 as security for the discharge of the Secured Liabilities

3.2 Fixed charge

The Borrower charges and agrees to charge, by way of first fixed charge all of its present and future right, title and interest in and to the Security Account and the Account Balance

3.3 Notice of Security

This Deed constitutes notice to the Lender of the Security but this shall not prohibit the Lender from exercising any right of set-off against the Account Balance or otherwise enforcing this Deed

4. DEPOSIT CONDITIONS

4.1 Non-assignability

None of the Account Balance, the Security Account and the rights and benefits relating thereto is capable of being assigned to any third party or being the subject of any Security Interest except with the prior written consent of the Lender

4.2 Overriding provisions of this Deed

If there is any inconsistency between the terms on which all or any part of the Account Balance may have been deposited and any provision of this Deed, the provisions of this Deed shall prevail

4.3 Interest on the Account Balance

- (a) Interest will accrue on the monies standing to the credit of the Security Account at a rate as may be determined from time to time by the Lender in its discretion
- (b) Interest shall be credited to the Security Account at such times as the Lender shall determine

5. REPRESENTATIONS

5.1 General

The Borrower makes the representations and warranties set out in this clause 5 (*Representations*) to the Lender on the date of this Deed and on the first anniversary of the date of this Deed

5.2 Status

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation
- (b) It has the power to own its assets and carry on its business as it is being conducted

5.3 Binding obligations

- (a) Its obligations in this Deed are legal, valid, binding and enforceable obligations
- (b) The Security Interests which this Deed purports to create are valid and effective and are not liable to be avoided or otherwise set aside on its liquidation or administration

5.4 Non-conflict with other obligations

The entry into and performance by it of its obligations under this Deed and the granting of the Security do not and will not conflict with

- (a) any law or regulation applicable to it,
- (b) its constitutional documents, or
- (c) 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

5.5 Power and authority

- (a) It has the power to enter into, perform and deliver, and have taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the grant of the Security
- (b) No limit on its powers will be exceeded as a result of the grant of the Security

5.6 Validity and admissibility in evidence

- (a) All Authorisations required or desirable to enable it lawfully to enter into, and comply with its obligations under this Deed and to grant the Security have been obtained or effected and are in full force and effect

- (b) All Authorisations necessary for the conduct of its business, trade and ordinary activities have been obtained or effected and are in full force and effect

5.7 Solvency

As at the date of this Deed it is able to meet its debts as they fall due and is not deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or any analogous provision in any relevant jurisdiction

5.8 Security

No Security Interest exists over the Security Account other than as permitted by this Deed

5.9 Ranking

The Security has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* ranking Security Interest

5.10 Title to assets

Subject to the Security Interests created by this Deed, it is the sole legal and beneficial owner of the Security Account

5.11 Centre of main interest and establishments

For the purposes of The Council of the European Union Regulation No 1346/2000 on Insolvency Proceedings (the **Regulation**), its "*centre of main interest*" (as that term is used in Article 3(1) of the Regulation) is situated in England and Wales and it has no "*establishment*" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction

6. GENERAL UNDERTAKINGS

6.1 Negative pledge

The Borrower shall not create or permit to subsist any Security Interest over the Security Account or Account Balance without the consent of the Lender

6.2 Covenants and payments

The Borrower must

- (a) observe and perform all covenants and other obligations and matters (whether or not contained in any agreement or other document) from time to time affecting the Security Account and on the Lender's reasonable request produce evidence to satisfy the Lender that it is complying with this obligation, and
- (b) not permit any breach of any bye-laws, other laws and regulations affecting the Security Account

6.3 Enforcement of rights

The Borrower must at its cost use reasonable endeavours to enforce any rights and institute, continue or defend any proceedings relating to the Security Account which the Lender may require from time to time

6.4 No withdrawals

The Borrower shall not withdraw or attempt or be entitled to withdraw (or direct any transfer of) all or any part of the Account Balance without the prior written consent of the Lender

7. FURTHER ASSURANCE

The Borrower shall at its own expense ensure any documents are executed and any acts and things are done which the Lender may reasonably require from time to time for

- (a) giving effect to, perfecting or protecting the Security,
- (b) facilitating the realisation of the Account Balance, or
- (c) facilitating the exercise of all powers, authorities and discretions vested in the Lender or in any Receiver

8. ENFORCEMENT

8.1 Remedying defaults

The Lender or a Receiver may (but is not obliged to) take any action to remedy a failure by the Borrower to observe and perform the provisions of this Deed at the Borrower's cost

8.2 Timing of enforcement

- (a) The Secured Liabilities are deemed to have become due on the date of this Deed
- (b) The Security shall become enforceable on the earlier of
 - (i) the date the Lender demands repayment of any of the Secured Liabilities following a demand made by it under the counter-indemnity referred to in paragraph (2) of the definition of Finance Documents and in relation to which the Borrower does not satisfy such demand,
 - (ii) the date the Borrower breaches a provision of this Deed or any document evidencing the facilities to which the Secured Liabilities relate, or
 - (iii) the Borrower's request
- (c) Neither section 93(1) nor section 103 of the Law of Property Act 1925 shall apply to this Deed

8.3 Powers of the Lender

At any time after the Security becomes enforceable or if requested by the Borrower, the Lender may without further notice (unless required by law)

- (a) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Account and/or of the income of the Security Account, and/or
- (b) appoint or apply for the appointment of any person who is appropriately qualified as the Borrower's administrator, and/or
- (c) exercise all or any of the powers conferred on mortgagees by the Law of Property Act 1925 (as amended or extended by this Deed) and/or all or any of the powers which are conferred by

this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver

8.4 No liability

Neither the Lender nor any Receiver shall be liable as a mortgagee in possession or otherwise to account in relation to the Security Account for any loss on realisation or for any other default or omission. No exercise of the right in clause 8.1 (*Remedying defaults*) shall render the Lender or a Receiver a mortgagee in possession.

9. RECEIVER

9.1 Removal and replacement

The Lender may from time to time remove any Receiver appointed by it and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

9.2 Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Security Account and/or the income of the Security Account, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

9.3 Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Lender (or, failing such agreement, to be fixed by the Lender).

9.4 Payment by Receiver

Only monies actually paid by a Receiver to the Lender in relation to the Secured Liabilities shall be capable of being applied by the Lender in discharge of the Secured Liabilities.

9.5 Borrower's agent

Any Receiver shall be the Borrower's agent and the Borrower shall (subject to the Companies Act 2006 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Lender shall not incur any liability (either to the Borrower or to any other person) by reason of the appointment of a Receiver or for any other reason.

10. POWERS OF RECEIVER

10.1 General powers

- (a) Any Receiver shall have
 - (i) all the powers which are conferred by the Law of Property Act 1925 on mortgagees in possession and receivers appointed under that Act,
 - (ii) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986, and
 - (iii) all powers which are conferred by any other law conferring power on receivers
- (b) To the extent that the Security Account constitutes "*financial collateral*" and this Deed and the Borrower's obligations under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral

Arrangements (No 2) Regulations 2003 (SI 2003/3226) each Receiver and the Lender shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards that satisfaction of the Secured Liabilities

- (c) For the purpose of clause 10 1(b), the value of the financial collateral appropriated shall be such amount as the Receiver or Lender reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it

10.2 Additional powers

In addition to the powers referred to in clause 10 1 (*General powers*), a Receiver shall have the following powers

- (a) to take possession of, collect and get in all or any part of the Security Account and/or income in respect of which he was appointed,
- (b) to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise,
- (c) to sell or concur in selling or otherwise disposing of all or any part of the Security Account in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Law of Property Act 1925, and, without limitation
 - (i) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party), and
 - (ii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit,
- (d) to carry out any sale or other disposal of all or any part of the Security Account by conveying, transferring or assigning the same in the Borrower's name and, for that purpose, to enter into covenants and other contractual obligations in the Borrower's name and so as to bind the Borrower,
- (e) to take any such proceedings in the Borrower's name as he shall think fit in respect of the Security Account and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment),
- (f) to enter into or make any such agreement, arrangement or compromise as he shall think fit,
- (g) to form one or more subsidiaries of the Borrower and to transfer to any such subsidiary all or any part of the Security Account, and
- (h) to
 - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of the Security Account,
 - (ii) exercise in relation to the Security Account all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Account, and
 - (iii) use the Borrower's name for any of the above purposes

10.3 Limitation

- (a) The Lender may in the instrument by which a Receiver is appointed limit the powers of the Receiver
- (b) The Receiver shall be under no duty to the Borrower to exercise any power he may have and shall not incur any liability to the Borrower either by virtue of the exercise of such powers or by virtue of a failure to exercise such powers

11. APPROPRIATION OF RECEIPTS

11.1 Application

- (a) Subject to clause 11.2 (*Suspense account*), any monies received by the Lender in respect of the Security (subject to the payment of any claims having priority to the Security, but in substitution for section 109(8) of the Law of Property Act 1925) shall be applied in the following order of priority
 - (i) in discharging the remuneration of any Receiver and all costs, charges and expenses of and incidental to his or her appointment, together with interest on that remuneration and those costs, charges and expenses at the Lender's base lending rate,
 - (ii) in or towards payment or discharge of the Secured Liabilities, and
 - (iii) in payment of the surplus (if any) to the Borrower or other person entitled to it
- (b) The Lender may apply sums received towards the payment or discharge of the Secured Liabilities in reduction of any part of the Secured Liabilities in any order or manner as it thinks fit. The Lender may override any appropriation made by the Borrower

11.2 Suspense account

Any monies received by the Lender or any Receiver may be placed in an interest bearing suspense or securities realised account and kept there for so long as the Lender considers prudent

12. SET-OFF

- (a) The Lender may (but shall not be obliged to) set off any obligation which is due and payable by the Borrower and unpaid against any obligation (whether or not matured) owed by the Lender to the Borrower, regardless of the place of payment, booking branch or currency of either obligation
- (b) If either obligation is unliquidated or unascertained, the Lender may set off in an amount estimated by it in good faith to be the amount of that obligation

13. CURRENCY CONVERSION

All monies received or held by the Lender or any Receiver under this Deed may be converted from their existing currency into such other currency as the Lender or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Lender's spot rate of exchange

14. NEW ACCOUNT

If the Lender receives or is deemed to be affected by notice (whether actual or constructive) of any subsequent Security Interest affecting the Security Account, then the Lender may open a new account for the Borrower. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, the notice. As from that time, any payment made to

the Lender for the Borrower's account shall be credited (or be treated as having been credited) to the new account and shall not operate to reduce the amount for which the Security applies

15. DELEGATION AND APPOINTMENT OF ATTORNEYS

15.1 Delegation

- (a) The Lender may delegate to any person or persons all or any of the powers, authorities and discretions which are exercisable under this Deed. A delegation may be made in any manner (including by power of attorney) in and on any terms (including power to sub-delegate) which the Lender thinks fit
- (b) The Lender shall not be liable or responsible to the Borrower for any loss or damage arising from any act, default, omission or misconduct on the part of any of its delegates or sub-delegates

15.2 Attorneys

- (a) By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every delegate or sub-delegate appointed under clause 15.1 (*Delegation*) separately to be its attorney on its behalf, in its name
 - (i) to execute and do any documents, acts and things which it is required to execute and do under this Deed or any other document relating to the Secured Liabilities and which it has omitted to do after receipt of written notice from the Lender, and
 - (ii) to execute and do any documents, acts and things which any attorney may deem proper or desirable in exercising any powers, authorities and discretions conferred by this Deed any documents relating to the Secured Liabilities or by law on the Lender or any Receiver
- (b) The Borrower ratifies and confirms anything which any of its attorneys does in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this clause 15.2 (*Attorneys*)

16. REDEMPTION OF PRIOR SECURITY INTERESTS

16.1 Redemption

The Lender may at any time redeem, or procure the transfer to it of, any prior Security Interest over the Security Account at the Borrower's cost

16.2 Costs of redemption

All principal monies, interest, costs, charges and expenses incurred in and incidental to any redemption or transfer under clause 16.1 (*Redemption*) shall be paid by the Borrower on demand, in each case together with interest calculated and in the manner referred to in clause 20 (*Indemnities*)

17. RELEASES

17.1 Releases conditional

- (a) Any release, settlement, discharge, re-assignment or arrangement in respect of the Security (in this clause 17 (*Releases*), a release) made by the Lender on the faith of any assurance, security or payment shall be conditional on that assurance, security or payment not being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency

- (b) If any avoidance, reduction, or clawback occurs or any order is made as referred to in clause 17.1 (*Releases conditional*), then the release shall have no effect and shall not prejudice the Lender's right to enforce the Security in respect of the Secured Liabilities. As between the Borrower and the Lender, the Security shall (notwithstanding the release) be deemed to have remained at all times in effect and held by the Lender as security for the Secured Liabilities.

17.2 Retention

- (a) If and for so long as any assurance, security or payment as is mentioned in clause 17.1 (*Releases conditional*) remains in the reasonable opinion of the Lender susceptible of being avoided, reduced, clawed back or ordered to be repaid under any law relating to liquidation, bankruptcy or insolvency, the Lender may in its absolute discretion retain all or part of the Security and other rights under this Deed as security for the Secured Liabilities after they have been paid and discharged in full.
- (b) If, at any time while all or part of the Lender's rights under this Deed are so retained:
 - (i) an application is made to a competent court for a winding-up order to be made in respect of the Borrower,
 - (ii) steps are taken to wind the Borrower up,
 - (iii) an application is made to a competent court for an administration order to be made in respect of the Borrower,
 - (iv) a notice of intention to appoint an administrator to the Borrower is filed at court, or
 - (v) the appointment of an administrator to the Borrower takes effect,

then the Lender may continue to retain all or part of its rights under this Deed for any further period as the Lender may determine in its absolute discretion.

18. CONTINUING SECURITY

18.1 Continuing security

The Security is continuing security and shall secure the ultimate balance of the Secured Liabilities, notwithstanding

- (a) intermediate payment or discharge of the whole or part of the Secured Liabilities,
- (b) the Borrower's liquidation or other incapacity or any change in its constitution, name or style,
- (c) any change in the Lender's constitution, name or style, its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person, or
- (d) any other event, matter or thing.

18.2 Additional to other rights

The Security is in addition to (and shall not merge with, otherwise prejudice or affect or be prejudiced or affected by) any other remedy, guarantee, indemnity, Security Interest or other right which may be or have been created (by the Borrower or otherwise) in favour of the Lender. Accordingly, the Borrower's liability under this Deed shall not be prejudiced or affected by, and this Deed may be enforced notwithstanding

- (a) the existence or invalidity of all or any of those rights, or

- (b) at any time, the Lender exchanging, releasing, varying, abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of those rights

19. THIRD PARTY PROTECTION

No purchaser, mortgagee or other person dealing with the Lender or a Receiver shall be concerned

- (a) to enquire whether any of the Secured Liabilities have become due or payable or remain unpaid or undischarged,
- (b) whether the power which the Lender or Receiver is purporting to exercise has become exercisable, or
- (c) to see to the application of any money paid to the Lender or to a Receiver

20. INDEMNITIES

The Borrower agrees to fully indemnify the Lender and any Receiver (and in the case of legal costs and expenses on a solicitor and own client basis) on demand against all liabilities, losses, claims, actions, damages, costs and expenses incurred by, made or brought against the Lender or Receiver (or any manager or agent appointed by the Lender or Receiver)

- (a) as a result of the Borrower's failure to perform any of its obligations under this Deed,
- (b) in the exercise (or purported exercise) of any of the powers or other rights conferred by this Deed,
- (c) in respect of any costs, charges or expenses incurred in connection with clause 13 (*Currency conversion*),
- (d) in respect of the redemption of any prior Security Interest over the Security Account under clause 16 (*Redemption of prior Security Interests*), or
- (e) in respect of any other matter or thing done or omitted relating to the Security Account,

together in each case with interest at the Lender's base lending rate calculated on a daily basis from the date it is incurred or becomes payable to the Lender or the Receiver until the date of payment, whether before or after any judgment

21. CALCULATIONS AND CERTIFICATES

Any certificate of or determination by the Lender specifying the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence against the Borrower of the matters to which it relates

22. PARTIAL INVALIDITY

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired

23. REMEDIES AND WAIVERS

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Borrower 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 are cumulative and not exclusive of any rights or remedies provided by law.

24. AMENDMENTS AND WAIVERS

Any provision of this Deed may be amended only if the Borrower and the Lender agree in writing and any breach of this Deed may be waived before or after it occurs only if the Lender so agrees in writing. A waiver given or consent granted by the Lender 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.

25. TRANSFER AND CONFIDENTIALITY

25.1 Transfer

- (a) The Lender may assign and/or transfer its rights and obligations under this Deed.
- (b) The Borrower shall not assign any of its rights or transfer any of its obligations under this Deed.

25.2 Confidentiality

The Lender may disclose to

- (a) any transferee or potential transferee,
- (b) any assignee or potential assignee,
- (c) any person with (or through) whom it enters into (or may potentially enter into), whether directly or indirectly, any sub-participation in relation to or including the Secured Liabilities,
- (d) any ratings agency,
- (e) any of the officers, directors, employees, professional advisers, auditors, partners and representatives of the persons referred to in sub-clauses 25.2(a) to 25.2(d),
- (f) any of its Affiliates and to any of its or their officers, directors, employees, professional advisers, auditors, partners and representatives, and
- (g) any person to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any relevant stock exchange or pursuant to any applicable law or regulation,

such confidential information as the Lender shall consider appropriate if any person to whom the confidential information is to be given is informed in writing of its confidential nature.

26. COUNTERPARTS

This Deed may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same instrument and any party may enter into this Deed by executing a counterpart.

27. NOTICES

27.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing in the English language and, unless otherwise stated, must be made by letter

27.2 Addresses

The Lender may deliver any communication, document or notice to the Borrower relating to this Deed to its registered office, or address to which a notice under any facility relating to the Secured Liabilities might be sent or any additional address the Borrower may notify to the Lender by not less than five business days' notice

27.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective when it has been left at the relevant address or five business days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address
- (b) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose)

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

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including disputes regarding the existence, validity or termination of this Deed, the Security Interests intended to be created by it or any non-contractual obligations arising out of or in connection with it) (a **Dispute**)
- (b) The Borrower agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary
- (c) This clause 29.1 is for the benefit of the Lender only. The Lender may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions

IN WITNESS WHEREOF the borrower has executed this Deed as a Deed the year and date appearing on the first page of it

EXECUTION PAGE

Executed as a deed, but not delivered until the)
first date specified on page 1, by **SPH 2011**)
LIMITED acting by)

Director



Witness signature

Amanda

Witness name

Amanda Standish

Witness address

Brooklands House

Wimbledon

HU15 1QR

Address: Wellton Grange, Brough, East Yorkshire HU15 1N13

Facsimile No: 01482 66226

Attention: Andrew Fish

THE LENDER

SIGNED for and on behalf of)

HSBC BANK plc)