



**Registration of a Charge**

Company name: **BOPARAN MIDCO LIMITED**

Company number: **07590228**



X9J82IYH

Received for Electronic Filing: **05/12/2020**

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**Details of Charge**

Date of creation: **26/11/2020**

Charge code: **0759 0228 0004**

Persons entitled: **WILMINGTON TRUST (LONDON) LIMITED**

Brief description:

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

Certified by: **MARK O'CONNOR**



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

Company number: 7590228

Charge code: 0759 0228 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th November 2020 and created by BOPARAN MIDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th December 2020 .

Given at Companies House, Cardiff on 7th December 2020

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

26 November 2020

**BOPARAN MIDCO LIMITED**

**(as Chargor)**

**and**

**WILMINGTON TRUST (LONDON) LIMITED**

**(as Security Agent)**

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**SECURITY AGREEMENT**

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**ROPES & GRAY**

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THIS DEED is made on 26 November 2020

BETWEEN:

- (1) **BOPARAN MIDCO LIMITED**, a company incorporated in England and Wales with registered number 07590228 (the “**Chargor**”); and
- (2) **WILMINGTON TRUST (LONDON) LIMITED**, as security trustee for itself and the other Secured Parties on the terms and conditions set out in the Intercreditor Agreement (the “**Security Agent**”).

IT IS AGREED AS FOLLOWS:

**1. INTERPRETATION**

**1.1 Definitions**

In this Deed:

“**Acceleration Event**” means a Super Senior Acceleration Event, a Senior Notes Acceleration Event or a Pari Passu Debt Acceleration Event, each as defined in the Intercreditor Agreement;

“**Agent**” means Wilmington Trust (London) Limited in its capacity as Super Senior Agent under the Intercreditor Agreement;

“**Agreed Guarantee and Security Principles**” has the meaning given to such term in the Senior Facilities Agreement;

“**Charged Property**” means all the assets and undertakings of the Chargor which from time to time are subject of the security created or expressed to be created in favour of the Security Agent by or pursuant to this Deed;

“**Company**” means Boparan Holdings Limited, a company incorporated in England and Wales with registered number 03558065;

“**Intercreditor Agreement**” means the intercreditor agreement dated on or about the date of this Deed between, among others, the Chargor (as Original Debtor), the Agent and the Security Agent;

“**Monetary Claims**” means any book and other debts and monetary claims owing to the Chargor by the Company under the Specific Contracts and any proceeds of such debts and claims;

“**Parties**” means each of the parties to this deed from time to time;

“**Quasi-Security**” means a transaction in which the Chargor:

- (a) sells, transfers or otherwise disposes of any of its assets on terms whereby they are or may be leased to or re-acquired by the Chargor or any other member of the Group;

- (b) sells, transfers or otherwise disposes of any of its receivables on recourse terms;
- (c) enters into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts;  
or
- (d) enters into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset;

**“Receiver”** means an administrator, a receiver and manager or (if the Security Agent so specifies in the relevant appointment) receiver in each case appointed under this Deed;

**“Related Rights”** means all dividends, distributions and other income paid or payable on a Share or Specific Contract, together with all shares or other property derived from any Share and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Share or Specified Contact (whether by way of conversion, redemption, bonus, preference, option or otherwise);

**“Restriction”** means any legal requirement or third party arrangement which would prevent or condition such asset from being subject to legal, valid, binding and enforceable security (or if such assets were the subject of security under this Deed, would give a third party the right to terminate or otherwise amend any rights, benefits and/or obligations of the Chargor in respect of those assets or require the Chargor to take any action in each case materially adverse to its interests), in each case to the extent of that prohibition and for so long as such prohibition is in existence or until consent has been received from the relevant third party and provided that the prohibition in respect of such legal requirement or third party arrangement was not included at the request of, or otherwise procured by, a member of the Group following the date of this Deed;

**“Secured Debt Documents”** means the Senior Secured Debt Documents under and as defined in the Intercreditor Agreement;

**“Secured Obligations”** has the meaning given to that term in the Intercreditor Agreement save that any reference to “Secured Party” or “Secured Debt Documents” therein shall bear the same meaning given to such terms in this Deed, and for the avoidance of doubt, excluding Liabilities which constitute Parallel Debt in respect of any Second Lien Lender Liabilities, the Second Lien Notes Liabilities, the Second Lien Agent Liabilities, the Second Lien Notes Trustee Amounts and the Second Lien Arranger Liabilities (as each such term is defined in the Intercreditor Agreement);

**“Secured Parties”** has the meaning given to that term in the Intercreditor Agreement excluding any Second Lien Creditors;

**“Senior Facilities Agreement”** means the facilities agreement dated 11 November 2020 between, among others, the Company as original borrower and original guarantor, and Wilmington Trust (London) Limited as agent and security agent;



**"Shares"** means all shares owned by the Chargor in the share capital of the Company from time to time; and

**"Specific Contracts"** means any document from time to time which creates or evidences any debt owed by the Company to the Chargor.

## **1.2 Construction**

In this Deed, unless a contrary intention appears, a reference to:

- (a) an **"agreement"** includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
- (b) an **"amendment"** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **"amend"**, **"amending"** and **"amended"** shall be construed accordingly;
- (c) **"assets"** includes present and future properties, revenues and rights of every description;
- (d) **"including"** means including without limitation and **"includes"** and **"included"** shall be construed accordingly;
- (e) **"losses"** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **"loss"** shall be construed accordingly;
- (f) a **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any two or more of the foregoing;
- (g) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and
- (h) the Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

## **1.3 Other References**

- (a) In this Deed, unless a contrary intention appears, a reference to:
  - (i) any Secured Party, Chargor or any other person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's successors in title, permitted assignees and transferees and in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Secured Debt Documents;
  - (ii) any Secured Debt Document or other agreement or instrument is to be construed as a reference to that agreement or instrument as amended or

novated, including by way of increase of the facilities or other obligations or addition of new facilities or other obligations made available under them or accession or retirement of the parties to these agreements but excluding any amendment or novation made contrary to any provision of any Secured Debt Document;

- (iii) any clause or schedule is a reference to, respectively, a clause of and schedule to this Deed and any reference to this Deed includes its schedules; and
  - (iv) a provision of law is a reference to that provision as amended or re-enacted.
- (b) The index to and the headings in this Deed are inserted for convenience only and are to be ignored in construing this Deed.
  - (c) Words importing the plural shall include the singular and vice versa.

#### **1.4 Incorporation by reference**

- (a) Unless the context otherwise requires or unless otherwise defined in this Deed, words and expressions defined in the Intercreditor Agreement have the same meanings when used in this Deed.
- (b) This Deed should be read and construed subject to the terms of the Intercreditor Agreement. In the event of any inconsistency between the terms of this Deed and the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail.

#### **1.5 Miscellaneous**

- (a) The terms of the documents under which the Secured Obligations arise and of any side letters between the Chargor and any Secured Party relating to the Secured Obligations are incorporated in this Deed to the extent required for any purported disposition of the Charged Property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (b) Notwithstanding anything to the contrary in this Deed (and without prejudice to the terms of the Intercreditor Agreement or any other Secured Debt Document in relation to the requirement for the Security Agent to enter into documentation in relation to this Deed (including releases)), nothing in this Deed shall (or shall be construed to) prohibit, restrict or obstruct any transaction, matter or other step (or the Chargor taking or entering into the same) or dealing in any manner whatsoever in relation to any asset (including all rights, claims, benefits, proceeds and documentation, and contractual counterparties in relation thereto) the subject of (or expressed to be the subject of) this Deed and the security arising thereunder in each case if not prohibited by the Secured Debt Documents or if otherwise consent of the Security Agent or the Agent has been obtained. The Security Agent shall promptly enter into such documentation and/or take such other action as is required by the Chargor (acting reasonably) in order to

facilitate any such transaction, matter or other step, including by way of executing any confirmation, consent to dealing, release or other similar or equivalent document, provided that any costs and expenses incurred by the Security Agent entering into such documentation and/or taking such other action at the request of the Chargor pursuant to this paragraph shall be for the account of the Chargor, in accordance with Clause 16 (*Costs and Expenses*).

- (c) The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no rights or benefits expressly or impliedly conferred by this Deed shall be enforceable under that Act against the Parties by any other person.
- (d) The parties hereto intend that this document shall take effect as a deed notwithstanding that any party may only execute this document under hand.

## 2. COVENANT TO PAY

The Chargor covenants with the Security Agent (for the benefit of itself and the other Secured Parties) that it will on demand pay the Secured Obligations when they fall due for payment in accordance with the terms of the Secured Debt Documents.

## 3. CHARGING PROVISIONS

### 3.1 Specific Security

The Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Security Agent with full title guarantee the following assets, both present and future from time to time owned by it or in which it has an interest, by way of first fixed charge:

- (a) all the Shares and all corresponding Related Rights; and
- (b) (to the extent not effectively assigned pursuant to Clause 3.2 (*Assignment of Specific Contracts*) below) all rights of its rights, title and interests in and to the Monetary Claims and all Related Rights in respect of those Monetary Claims.

### 3.2 Assignment of Specific Contracts

The Chargor assigns and agrees to assign absolutely, all of its rights, claims, title and interest from time to time in and to each Specific Contract and all Related Rights in connection thereto.

### 3.3 Property Restricting Charging

- (a) There shall be excluded from the charge created by Clause 3.1 (*Specific Security*) and Clause 3.2 (*Assignment of Specific Contracts*) and from the operation of Clause 4 (*Further Assurance*) the following assets (the “**Excluded Assets**”):
  - (i) any assets located in any jurisdiction, or governed by any laws, other than England and Wales; and

- (ii) any assets or any interest in an asset, which is otherwise subject to a Restriction.
- (b) For the avoidance of doubt, the Chargor shall have no obligation whatsoever to investigate title, provide or conduct other due diligence in respect of any Excluded Asset.

#### **4. FURTHER ASSURANCE**

##### **4.1 General**

- (a) The covenants set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in paragraphs (b) and (c) below.
- (b) Subject to the Agreed Guarantee and Security Principles, the Chargor shall promptly (and at its own expense) do all such acts (including payment of all stamp duties or fees) or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require):
  - (i) to perfect the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Agent, any Receiver or the other Secured Parties provided by or pursuant to this Deed or by law; and/or
  - (ii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created under this Deed.
- (c) Subject to the Agreed Guarantee and Security Principles, the Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to this Deed.

#### **5. NEGATIVE PLEDGE**

No Chargor may:

- (a) create or permit to subsist any Security or Quasi-Security over all or any part of the Charged Property;
- (b) sell, transfer, lend or otherwise dispose of all or any part of the Charged Property or the right to receive or to be paid the proceeds arising on the disposal of the same; or
- (c) dispose of the equity of redemption in respect of all or any part of the Charged Property,

except as not prohibited by the Secured Debt Documents or with the prior consent of the Security Agent.

## **6. PROTECTION OF SECURITY**

### **6.1 Title Documents**

- (a) The Chargor will (if requested by the Security Agent) as soon as reasonably practicable deposit with the Security Agent (or as it shall direct) all stocks and share certificates and other documents of title relating to the Shares together with stock transfer forms executed in blank and left undated on the basis that the Security Agent shall be able to hold such documents of title and stock transfer forms until the Secured Obligations have been irrevocably and unconditionally discharged in full and shall be entitled, at any time following the occurrence of an Acceleration Event which is continuing or if the Security Agent reasonably considers that the security constituted by this Deed is in jeopardy to complete, under its power of attorney given in this Deed, the stock transfer forms on behalf of the Chargor in favour of itself or such other person as it shall select.
- (b) Subject to the rights of any prior mortgagee and following an Acceleration Event which is continuing, the Chargor will (if requested by the Security Agent) promptly deposit with the Security Agent (or as it shall direct) all other documents relating to the Charged Property which the Security Agent may from time to time reasonably require.
- (c) The Security Agent may retain any document delivered to it under this Clause 6.1 or otherwise until the security created under this Deed is released and, if for any reason it ceases to hold any such document before that time, it may by notice to the Chargor require that the document be redelivered to it and the Chargor shall promptly comply (or procure compliance) with that notice.
- (d) Any document required to be delivered to the Security Agent under paragraphs (a) and (b) above which is for any reason not so delivered or which is released by the Security Agent to the Chargor shall be held on trust by the Chargor for the Security Agent.

### **6.2 Receivables**

- (a) Following the occurrence of an Acceleration Event which is continuing, the Chargor shall:
  - (i) as agent for the Security Agent, collect all Monetary Claims charged to the Security Agent under this Deed and hold those proceeds on trust for the Security Agent; and
  - (ii) not charge, factor, discount or assign any of the Monetary Claims in favour of any person other than the Security Agent or purport to do so.

## **7. UNDERTAKINGS**

### **7.1 General**

The Chargor undertakes to the Security Agent in the terms of this Clause 7 from the date of this Deed and for so long as any of the Secured Obligations are outstanding.

## **7.2 Voting and Distribution Rights**

- (a) Subject to the terms of the Secured Debt Documents, prior to the occurrence of an Acceleration Event which is continuing:
  - (i) the Chargor shall be entitled to receive and retain all dividends, distributions and other monies paid on or derived from its Shares; and
  - (ii) the Chargor shall be entitled to exercise all voting and other rights and powers attaching to its Shares provided that it shall not exercise any such voting rights or powers in a manner which would prejudice the interests of the Secured Parties under this Deed or adversely affect the validity, enforceability or existence of the Charged Property or the Security created under this Deed.
- (b) At any time after the occurrence of an Acceleration Event which is continuing, all voting rights in respect of the Shares shall be exercised by the Chargor as directed by the Security Agent, unless the Security Agent has notified the Chargor in writing that it wishes to give up this right.
- (c) At any time after the occurrence of an Acceleration Event which is continuing, the Chargor shall hold any dividends, distributions and other monies paid on or derived from the Shares on trust for the Secured Parties and pay the same to, or as directed by, the Security Agent.
- (d) If, at any time following an Acceleration Event which is continuing, any Shares are registered in the name of the Security Agent or its nominee, the Security Agent will not be under any duty to ensure that any dividends, distributions or other monies payable in respect of those Shares are duly and promptly paid or received by it or its nominee, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Shares.

## **8. SECURITY AGENT'S POWER TO REMEDY**

If the Chargor fails to comply with any obligation set out in Clause 6 (*Protection of Security*) or Clause 7 (*Undertakings*) and that failure is not remedied to the satisfaction of the Security Agent within 14 days of the Security Agent giving notice to the Chargor or the Chargor becoming aware of the failure to comply, it will allow (and irrevocably authorises) the Security Agent or any person which the Security Agent nominates to take any action on behalf of the Chargor which is necessary to ensure that those obligations are complied with.

## **9. CONTINUING SECURITY**

### **9.1 Continuing Security**

The Security constituted by this Deed shall be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other act, matter or thing.

### **9.2 Other Security**

The Security constituted by this Deed is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other Security or other right which the Security Agent and/or any other Secured Party may now or after the date of this Deed hold for any of the Secured Obligations, and this Security may be enforced against the Chargor without first having recourse to any other rights of the Security Agent or any other Secured Party.

## **10. ENFORCEMENT OF SECURITY**

### **10.1 Enforcement Powers**

For the purpose of all rights and powers implied or granted by statute, the Secured Obligations are deemed to have fallen due on the date of this Deed. The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 and all other enforcement powers conferred by this Deed shall be immediately exercisable at any time after an Acceleration Event has occurred and is continuing.

### **10.2 Statutory Powers**

The powers conferred on mortgagees, receivers or administrative receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (as the case may be) shall apply to the Security created under this Deed, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers contained in those Acts and those contained in this Deed, those contained in this Deed shall prevail.

### **10.3 Exercise of Powers**

All or any of the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Deed, and all or any of the rights and powers conferred by this Deed on a Receiver (whether expressly or impliedly), may be exercised by the Security Agent without further notice to the Chargor at any time after an Acceleration Event has occurred which is continuing, irrespective of whether the Security Agent has taken possession or appointed a Receiver of the Charged Property.

### **10.4 Appropriation under the Financial Collateral Regulations**

- (a) To the extent that any of the Charged Property constitutes “financial collateral” and this Deed and the obligations of the Chargor hereunder constitute “security financial collateral arrangement” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (as amended) (the “Regulations”)), the Security Agent shall have the right to appropriate all or any part of such financial collateral in or towards discharge of

the Secured Obligations and may exercise that right to appropriate by giving notice to the Chargor at any time after an Acceleration Event has occurred which is continuing.

- (b) The Parties agree that the value of any such appropriated financial collateral shall be: (x) in the case of securities, the price at which such securities can be disposed of by the Security Agent; and (y) in the case of any other asset, the market value of such financial collateral as determined by the Security Agent, in each case, in a commercially reasonable manner (including by way of an independent valuation). The Parties agree that the methods of valuation provided for in this paragraph shall constitute commercially reasonable methods of valuation for the purposes of the Regulations.

## **11. RECEIVERS**

### **11.1 Appointment of Receiver**

- (a) Subject to paragraph (c) below, at any time after an Acceleration Event has occurred or if so requested by the Chargor, the Security Agent may by writing under hand signed by any officer or manager of the Security Agent, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this Deed.
- (c) The Security Agent shall be entitled to appoint a Receiver save to the extent prohibited by section 72A Insolvency Act 1986.

### **11.2 Powers of Receiver**

Each Receiver appointed under this Deed shall have (subject to any limitations or restrictions which the Security Agent may incorporate in the deed or instrument appointing it) all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this Deed), so that the powers set out in Schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the Chargor, each Receiver shall, upon the occurrence of an Acceleration Event, have power to:

- (a) manage, develop, reconstruct, amalgamate or diversify any part of the business of the Chargor;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;
- (d) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;
- (e) exercise all voting and other rights attaching to the Shares and stocks, shares and other securities owned by the Chargor and comprised in the Charged



Property, but only following a written notification from either the Receiver or the Security Agent to the Chargor stating that the Security Agent shall exercise all voting rights in respect of the Shares and stocks, shares and other securities owned by the Chargor and comprised in the Charged Property;

- (f) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (g) appoint and discharge officers and others for any of the purposes of this Deed and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;
- (h) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating to any of the Charged Property; and
- (i) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 11.2, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the Chargor for all such purposes,

and in each case may use the name of the Chargor and exercise the relevant power in any manner which he may think fit.

### **11.3 Receiver as Agent**

Each Receiver shall be the agent of the Chargor, which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Security Agent will not be responsible for any misconduct, negligence or default of a Receiver.

### **11.4 Removal of Receiver**

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

### **11.5 Remuneration of Receiver**

The Security Agent may from time to time fix the remuneration of any Receiver appointed by it.

## **11.6 Several Receivers**

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Deed (unless the document appointing such Receiver states otherwise).

## **12. APPLICATION OF PROCEEDS**

### **12.1 Order of Application**

All moneys received or recovered by the Security Agent or any Receiver pursuant to this Deed shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified by the Intercreditor Agreement notwithstanding any purported appropriation by the Chargor.

### **12.2 Section 109 Law of Property Act 1925**

Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

### **12.3 Application against Secured Obligations**

Subject to Clause 12.1 above, any moneys or other value received or realised by the Security Agent from the Chargor or a Receiver under this Deed may be applied by the Security Agent to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Security Agent may determine.

### **12.4 Suspense Account**

Until the Secured Obligations are paid in full, the Security Agent or the Receiver (as applicable) may place and keep (for such time as it shall determine) any money received, recovered or realized pursuant to this Deed or on account of the Chargor's liability in respect of the Secured Obligations in a separate suspense account (to the credit of either the Chargor or the Security Agent or the Receiver as the Security Agent or the Receiver shall think fit) and the Security Agent or the Receiver may retain the same for the period which it considers expedient without having any obligation to apply all or any part of that money in or towards discharge of the Secured Obligations.

## **13. PROTECTION OF SECURITY AGENT AND RECEIVER**

### **13.1 No Liability**

Neither the Security Agent nor any Receiver shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his gross negligence or wilful default under the Secured Debt Documents.

### **13.2 Possession of Charged Property**

Without prejudice to Clause 13.1 above, if the Security Agent or the Receiver enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

### **13.3 Primary liability of Chargor**

The Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Secured Obligations and the Charged Property shall be deemed to be a principal security for the Secured Obligations. The liability of the Chargor under this Deed and the charges contained in this Deed shall not be impaired by any forbearance, neglect, indulgence, abandonment, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Security Agent or any other Secured Party, or by any other act, event or matter whatsoever whereby the liability of the Chargor (as a surety only) or the charges contained in this Deed (as secondary or collateral charges only) would, but for this provision, have been discharged.

### **13.4 Waiver of defences**

Clause 26.4 (*Waiver of Defences*) of the Intercreditor Agreement will apply in relation to this Deed as if incorporated in this Deed, but on the basis that the obligations of each Debtor (as defined in the Intercreditor Agreement) arising under those clauses will be deemed to be substituted by the obligations of the Chargor under this Deed.

### **13.5 Security Agent**

The provisions set out in clause 19 (*The Security Agent*) of the Intercreditor Agreement shall govern the rights, duties and obligations of the Security Agent under this Deed.

### **13.6 Delegation**

The Security Agent may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Security Agent will not be liable or responsible to the Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate.

### **13.7 Cumulative Powers**

The powers which this Deed confers on the Security Agent, the other Secured Parties and any Receiver appointed under this Deed are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Security Agent, the other Secured Parties or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Security Agent, the other Secured Parties and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

## **14. POWER OF ATTORNEY**

- (a) The Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any person nominated for the purpose by the Security Agent or any Receiver (in writing and signed by an officer of the Security Agent or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of this Deed, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Security Agent or any Receiver under this Deed or otherwise for any of the purposes of this Deed, and the Chargor covenants with the Security Agent and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney.
- (b) The Security Agent, Receiver or any person nominated (as the case may be) shall only be entitled to exercise the power of attorney, pursuant to paragraph (a) above, in the following circumstances:
  - (i) if an Acceleration Event has occurred and is continuing;
  - (ii) in order to carry out any further assurance or perfection obligation imposed on the Chargor by any Secured Debt Document (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Assets and perfecting and/or releasing the Security created or intended to be created in respect of that Charged Assets) with which the Chargor has failed to comply, provided that all times any action taken in connection with this paragraph is in accordance with the Agreed Guarantee and Security Principles; or
  - (iii) in order to remedy a breach of covenant by the Chargor of a Secured Debt Document to the extent such covenant relates to the Security created by or pursuant to this Deed.

## **15. PROTECTION FOR THIRD PARTIES**

### **15.1 No Obligation to Enquire**

No purchaser from, or other person dealing with, the Security Agent or any Receiver (or their agents) shall be obliged or concerned to enquire whether:

- (a) the right of the Security Agent or any Receiver to exercise any of the powers conferred by this Deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or
- (b) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

## **15.2 Receipt Conclusive**

The receipt of the Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys paid to or by the direction of the Security Agent or any Receiver.

## **16. COSTS AND EXPENSES**

Fees, costs and expenses payable under this Deed will be paid in accordance with clause 22 (*Costs and Expenses*) of the Intercreditor Agreement.

## **17. REINSTATEMENT AND RELEASE**

### **17.1 Amounts Avoided**

If any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the Chargor or otherwise, then for the purposes of this Deed that amount shall not be considered to have been paid.

### **17.2 Discharge Conditional**

Any settlement or discharge between the Chargor and any Secured Party shall be conditional upon no security or payment to that Secured Party by the Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Secured Party under this Deed) that Secured Party shall be entitled to recover from the Chargor the value which that Secured Party has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

### **17.3 Covenant To Release**

Once all the Secured Obligations have been irrevocably paid in full and none of the Security Agent nor any Secured Party has any actual or contingent liability to advance further monies to, or incur liability on behalf of, the Chargor, the Security Agent and each Secured Party shall, at the request and cost of the Chargor, execute any documents (or procure that its nominees execute any documents) or take any action (including, but not limited to, returning title documents, share certificates and related stock transfer forms) which may be necessary to release the Charged Property from the Security constituted by this Deed.

## **18. CURRENCY CLAUSES**

### **18.1 Conversion**

All monies received or held by the Security Agent or any Receiver under this Deed may be converted into any other currency which the Security Agent considers necessary to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Security Agent's spot rate of exchange then prevailing for purchasing that other currency with the existing currency.

## **18.2 No Discharge**

No payment to the Security Agent (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Security Agent has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Security Agent shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security constituted by this Deed to recover the amount of the shortfall.

## **19. SET-OFF**

### **19.1 Set-off rights**

Clause 36 (*Set-Off*) of the Senior Facilities Agreement will apply in relation to this Deed as if incorporated in full herein mutatis mutandis.

### **19.2 No Set-off**

Clause 35.7 (*Set-off by Obligors*) of the Senior Facilities Agreement will apply in relation to this Deed as if incorporated in full herein mutatis mutandis.

## **20. RULING OFF**

If the Security Agent or any other Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as not prohibited by the Secured Debt Documents) it may open a new account for the Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the Chargor), as from the time it receives that notice, all payments made by the Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

## **21. REDEMPTION OF PRIOR CHARGES**

The Security Agent may, at any time after an Acceleration Event has occurred and is continuing, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Security Agent all principal monies and interest and all losses incidental to any such redemption or transfer.

## **22. NOTICES**

Any notice under this Deed shall, without prejudice to any other effective mode of making the same, be deemed to have been properly served on the Chargor in the manner and at the address set out in clause 25 (*Notices*) of the Intercreditor Agreement.

## **23. CHANGES TO PARTIES**

The Security Agent may at any time assign or otherwise transfer all or any part of its rights under this Deed in accordance with the Secured Debt Documents.

## **24. MISCELLANEOUS**

### **24.1 Certificates Conclusive**

A certificate or determination of the Security Agent as to any amount payable under this Deed will be conclusive and binding on the Chargor, except in the case of manifest error.

### **24.2 Counterparts**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

### **24.3 Invalidity of any Provision**

If any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

### **24.4 Failure to Execute**

Failure by one or more Parties (“Non-Signatories”) to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other Parties who do execute this Deed.

## **25. GOVERNING LAW AND JURISDICTION**

- (a) This Deed and any non-contractual claims arising out of or in connection with it shall be governed by and construed in accordance with English law.
- (b) Subject to Clause (c) below, the Parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed, whether contractual or non-contractual (including a dispute regarding the existence, validity or termination of this Deed) (a “Dispute”). The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (c) The Parties agree that, for the benefit of the Secured Parties only, nothing in this Deed shall limit the right of the Secured Parties to bring any legal action against the Chargor in any other court of competent jurisdiction.

IN WITNESS whereof this Deed has been duly executed as a deed on the date first above written

**SIGNATORIES TO THE DEED**

**THE CHARGOR**

**EXECUTED** as a **DEED** by  
**BOPARAN MIDCO LIMITED**

acting by:

Signature:

Title:

*RANJIT SINGH*

In the presence of:

Witness:

Name:

*HELEN PARKER*

Address:

Occupation:

**Notice Details**

Address: Boparan Midco Limited  
Trinity Park House  
Trinity Business Park  
Fox Way  
Wakefield

WF2 8EE

Telephone: 01924 831300

Email: [Craig.Tomkinson@2sfg.com](mailto:Craig.Tomkinson@2sfg.com) and [Peter.Towner@2sfg.com](mailto:Peter.Towner@2sfg.com)

Attention: Craig Tomkinson / Peter Towner



THE SECURITY AGENT

SIGNED for and on behalf of  
WILMINGTON TRUST (LONDON) LIMITED acting by:



---

Name: Antony Girling  
Title: Vice President

Notice Details:

Address           Wilmington Trust (London) Limited  
                      Agency Services  
                      Third Floor, 1 King's Arms Yard  
                      London, EC2R 7AF

Telephone       + 44 (0) 20 7397 3600