



**Registration of a Charge**

Company Name: **TOTALLY WICKED LIMITED**

Company Number: **08140744**



XCAOWMD5

Received for filing in Electronic Format on the: **25/08/2023**

**Details of Charge**

Date of creation: **25/08/2023**

Charge code: **0814 0744 0007**

Persons entitled: **FRASER CROPPER AS SECURITY TRUSTEE.**

Brief description: **NOT APPLICABLE.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **ADDLESHAW GODDARD LLP**



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

Company number: 8140744

Charge code: 0814 0744 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 25th August 2023 and created by TOTALLY WICKED LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th August 2023 .

Given at Companies House, Cardiff on 25th August 2023

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** 25 August **2023**

**TOTALLY WICKED HOLDINGS LIMITED**  
**as the Company**

**THE COMPANIES LISTED IN SCHEDULE 1**  
**as Chargors**

**FRASER CROPPER**  
**as Security Trustee**

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**COMPOSITE GUARANTEE**  
**DEBENTURE**

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**This composite guarantee and debenture is subject to the terms of  
the Intercreditor Deed (as defined herein)**

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This composite guarantee and debenture is made on 25 August 2023

**Between**

- (1) **Totally Wicked Holdings Limited** (registered in England with number 11501975) (**Company**);
- (2) **The companies** listed in Schedule 1 (The Original Chargors) (**Original Chargors**); and
- (3) **FRASER CROPPER** of The Higher Barn, Bampton Devon EX16 9LB as security trustee for the Secured Parties (**Security Trustee**, which term shall include any person appointed as security trustee or as an additional trustee in accordance with the terms of the Security Trust Deed).

**It is agreed**

**1 Definitions and interpretation**

**1.1 Definitions**

In this Deed:

**Account** has the meaning given to it in clause 3.4(h) (First fixed charges)

**Additional Chargor** means a company which creates Security over its assets and grants a guarantee in favour of the Security Trustee by executing a Security Deed of Accession

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

**Business Day** means a day (other than a Saturday or Sunday) on which banks are open for general business in London

**CA2006** means the Companies Act 2006

**Chargor** means an Original Chargor or an Additional Chargor

**Chattels** has the meaning given to it in clause 3.4(d) (First fixed charges)

**Debts** has the meaning given to it in clause 3.4(g) (First fixed charges)

**Direction** has the meaning given to it in clause 12.1(d) (Planning directions)

**Event of Default** means any event or circumstance specified as an event of default in the Loan Note Documents

**Environmental Law** means any applicable law or regulation which relates to:

- (a) the pollution or protection of the environment
- (b) harm to or the protection of human health
- (c) the conditions of the workplace or
- (d) any emission or substance capable of causing harm to any living organism or the environment

**Financial Indebtedness** means any indebtedness for or in respect of:

- (a) monies borrowed
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with the generally accepted accounting principles in the United Kingdom, be treated as a finance or capital lease
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis)
- (f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the marked to market value as at the relevant date on which Financial Indebtedness is calculated (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account)
- (g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution
- (h) any amount of any liability under an advance or deferred purchase agreement if (a) one of the primary reasons behind entering into the agreement is to raise finance or (b) the agreement is in respect of the supply of assets or services and payment is due more than 60 Business Days after the date of supply
- (i) any amount raised under any other transaction (including any forward sale or purchase agreement and any sale and leaseback arrangement) having the commercial or economic effect of a borrowing and
- (j) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (i)

**Fixtures** means in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Secured Property

**Floating Charge Assets** means all the assets and undertaking from time to time subject to the floating charge created under clause 3.5 (Floating charge)

**Group** means the Company and each of its Subsidiaries for the time being

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

**Intellectual Property** means:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, topography rights, domain names, moral rights, inventions, confidential information, knowhow and any other associated or similar intellectual property rights and interests anywhere in the world (which may now or in the future subsist), and in each case whether registered or unregistered and
- (b) the benefit of all applications, rights to apply for and rights to use such assets (including, without limitation, any licences and sub-licences of the same granted by it or to it) of each Chargor (which may now or in the future subsist)

**Intercreditor Deed** means the intercreditor deed dated on or about the date of this Deed and made between, among others, the Company, the other Chargors, HSBC UK Bank plc and the Intra-Group Lenders (each as defined in the Intercreditor Deed)

**Investments** means any shares, stocks, debenture security, securities, bonds and investments of any type (other than the Subsidiary Shares) whatever, including but not limited to, negotiable instruments, certificates of deposit, eligible debt securities, interests in collective investment schemes, or other investments referred to in section 22 of, and as defined in Part II of schedule 2 to, the Financial Services and Markets Act 2000 and Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, whether certificated or uncertificated, physical or dematerialised, registered or unregistered, held by a Chargor or by a trustee or clearance system or nominee

**Key-man Policies** means the policies of insurance described in Schedule 4 (Key-man Policies) and all insurance policies in respect of the life, disability or critical illness of a member of management put on risk after the date of this Deed and in respect of which the relevant Chargor is the insured party, together with all monies payable in respect of those policies

**Loan Note Documents** means:

- (a) the Loan Note Instruments
- (b) the Loan Notes
- (c) the Security Trust Deed
- (d) this Deed
- (e) any other document designated as such by the Security Trustee and the Company in writing and
- (f) any other document which creates or purports to create Security for the obligations under the documents listed in paragraphs (a) to (e) above

**Loan Note Holders** means the holders of any Loan Notes from time to time

**Loan Note Instruments** means V1 Loan Note Instrument (TWB), the V2 Loan Note Instrument (TWB), V1 Loan Note Instrument (TWH) and the V2 Loan Note Instrument (TWH)

**Loan Notes** means the the V1 Loan Notes (TWH) and the V2 Loan Notes (TWH)

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



**Party** means a party to this Deed

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

**Premises** means any building on a Secured Property

**Properties** mean the properties listed in Schedule 2 (Properties)

**Receiver** means any receiver, manager or administrative receiver appointed by the Security Trustee in respect of any Chargor or any of the Secured Assets

**Related Rights** means, in respect of any Investment or Subsidiary Share:

- (a) all monies paid or payable in respect of that Investment or Subsidiary Share (whether as income, capital or otherwise)
- (b) all shares, investments or other assets derived from that Investment or Subsidiary Share and
- (c) all rights derived from or incidental to that Investment or Subsidiary Share

**Relevant Agreement** means the agreements (if any) detailed in Schedule 7 (Relevant Agreements) and each other agreement from time to time designated in writing as a Relevant Agreement by the Security Trustee and the Company in writing

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

**Secured Assets** means in respect of any Chargor, all of its assets and undertaking the subject of any Security created by, under or supplemental to, this Deed in favour of the Security Trustee

**Secured Obligations** means in respect of any Chargor, all monies and liabilities now or after the date of this Deed due, owing or incurred by that Chargor to the Secured Parties (or any of them) under the Loan Note Documents (or any of them), in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by any Secured Party under any Loan Note Document, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

**Secured Party** has the meaning given to that term in the Security Trust Deed

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

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

**Security Deed of Accession** means a deed in the form set out in Schedule 10 (Form of Security Deed of Accession) by which a person will become a party to this Deed as a Chargor

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Security Trustee is satisfied that:

- (a) none of the Secured Parties is under any obligation (whether actual or contingent) to make advances or to provide other financial accommodation to any Chargor under any of the Loan Note Documents; and
- (b) all Secured Obligations have been irrevocably and unconditionally satisfied in full

**Security Trust Deed** means the security trust deed entered into on or about the date of this deed between the companies listed therein as original debtors, the companies listed therein as original secured parties and the Security Trustee

**Subsidiary** means a subsidiary undertaking within the meaning of section 1162 of the CA2006 and any company which would be a subsidiary undertaking within the meaning of section 1162 of the CA2006 but for any Security subsisting over the shares in that company from time to time

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

**Treasury Transaction** means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price

**Unpaid Sum** means (without double counting in respect of guarantee obligations) any sum due and payable by any Chargor to any Secured Party but unpaid by that Chargor

**V1 Loan Note Instrument (TWH)** means the instrument dated on or about the date of this Agreement pursuant to which the V1 Loan Notes (TWH) are, or are to be, constituted

**V1 Loan Note (TWH)** means the £96,338,307 V1 nil rate secured loan notes 2028 of the Company

**V2 Loan Note Instrument (TWH)** means the instrument dated on or about the date of this Agreement pursuant to which the V2 Loan Notes (TWH) are, or are to be, constituted

**V2 Loan Notes (TWH)** means the £3,917,027 V2 nil rate secured loan notes 2028 of the Company

**VAT** means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature

## 1.2 Interpretation

- (a) Unless a contrary indication appears, a reference in this Deed to:
  - (i) the **Security Trustee**, any **Chargor**, any **Party** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) **assets** includes present and future properties, revenues and rights of every description (including any right to receive such revenues);

- (iii) a **Loan Note Document** or any other agreement or instrument is a reference to that Loan Note Document or other agreement or instrument as amended, novated, supplemented or restated (however fundamentally) or replaced;
  - (iv) **guarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
  - (v) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (vi) a **person** includes any individual person, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality) or any other entity or body of any description;
  - (vii) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law, then being a type with which persons to which it applies customarily comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (viii) a provision of law is a reference to a provision, of any treaty, legislation, regulation, decree, order or by-law and any secondary legislation enacted under a power given by that provision, as amended, applied or re-enacted or replaced (whether with or without modification) whether before or after the date of this Deed;
  - (ix) a time of day is a reference to London time;
  - (x) **sterling** and **£** shall be construed as a reference to the lawful currency of the United Kingdom; and
  - (xi) **dispose** includes any sale, lease, licence, transfer or loan.
- (b) Clause and schedule headings are for ease of reference only.
  - (c) Any word importing the singular shall include the plural and vice versa.
  - (d) An Event of Default is **continuing** if it has not been waived to the satisfaction of the Security Trustee.
  - (e) Any certificate provided by a director of a Chargor pursuant to the terms of this Deed shall be given without incurring any personal liability.
  - (f) A term defined in this Deed has the same meaning when used in any notices, acknowledgements or other documents issued under or in connection with this Deed.

### 1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Loan Note Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Loan Note Document issued or entered into under or in connection with it.
- (b) Unless expressly provided to the contrary in any Loan Note Document, the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Loan Note Document entered into under or in connection with it.

#### 1.4 **Administration**

- (a) Any reference in this Deed, or any other Loan Note Document entered into under or in connection with it, to the making of an administration order shall be treated as including a reference to the appointment of an administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of a Chargor's assets) or 22 (by a Chargor or the directors of a Chargor) of Schedule B1 to the Insolvency Act 1986 or any steps taken toward such order or appointment.
- (b) Any reference in this Deed or any other Loan Note Document entered into under or in connection with it, to making an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an administrator under paragraph 14 or 22 of that Schedule, or giving notice under paragraph 15 or 26 of that Schedule of intention to appoint an administrator or any steps taken towards such application or notice.

#### 1.5 **Incorporated terms**

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

#### 1.6 **Intercreditor Deed**

This Deed is subject to the terms of the Intercreditor Deed. If there is any inconsistency between any provision of this Deed and any provision of the Intercreditor Deed, the provisions of the Intercreditor Deed shall prevail.

### 2 **Covenant to pay**

Each Chargor covenants with the Security Trustee as security trustee for the Secured Parties to pay and discharge the Secured Obligations when they become due for payment and discharge.

### 3 **Charging provisions**

#### 3.1 **General**

All Security created by a Chargor under clauses 3.2 to 3.5 inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;

- (c) granted in respect of all the right, title and interest (if any), present and future, of that Chargor in and to the relevant Secured Asset; and
- (d) granted in favour of the Security Trustee as security trustee for the Secured Parties.

### 3.2 **First legal mortgages**

Each Chargor charges by way of first legal mortgage the Properties and all Premises and Fixtures on each of the Properties.

### 3.3 **Assignments**

- (a) Each Chargor assigns:
  - (i) the Key-man Policies to which is a party;
  - (ii) the Relevant Agreements to which it is a party; and
  - (iii) the Relevant Policies to which it is a party.
- (b) Each Chargor shall remain liable to perform all its obligations under the Key-man Policies, the Relevant Agreements and the Relevant Policies.

### 3.4 **First fixed charges**

Each Chargor charges by way of first fixed charge:

- (a) all interests and estates in any freehold, leasehold or commonhold property now or subsequently owned by it (other than any freehold, leasehold or commonhold property effectively charged by way of legal mortgage under clause 3.2) and, in each case, the Premises and Fixtures on each such property;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (d) all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, (together **Chattels**) present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them;
- (e) the Subsidiary Shares together with all Related Rights;
- (f) the Investments together with all Related Rights;
- (g) all book and other debts due to the relevant Chargor and their proceeds (both collected and uncollected) (together **Debts**) and all rights, guarantees, security or other collateral in respect of the Debts (or any of them) and the benefit of any judgment or order to pay a sum of money and all rights to enforce the Debts (or any of them);
- (h) all monies from time to time standing to the credit of each account held by the relevant Chargor with any bank, building society, financial institution or other person (each an **Account**);

- (i) all its Intellectual Property;
- (j) all its goodwill and uncalled capital;
- (k) the benefit of all Authorisations held or utilised by it in connection with its business or the use of any of its assets and the right to recover and receive compensation payable in respect of any of them; and
- (l) to the extent that any assignment in clause 3.3 is ineffective as an assignment, the assets referred to in that clause.

### 3.5 **Floating charge**

Each Chargor charges by way of first floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under clauses 3.2, 3.3 or 3.4.

### 3.6 **Qualifying floating charge**

This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 of the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

### 3.7 **Conversion of floating charge to a fixed charge**

The Security Trustee may at any time by notice in writing to any Chargor convert the floating charge created under clause 3.5 into a fixed charge as regards any Floating Charge Asset as it shall specify in the notice if:

- (a) an Event of Default is continuing; or
- (b) in the opinion of the Security Trustee that Floating Charge Asset is in danger of being seized or any legal process or execution is being enforced against that Floating Charge Asset.

### 3.8 **Automatic conversion of floating charge to a fixed charge**

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

- (a) a Chargor creates or attempts to create any Security over any of its Floating Charge Assets;
- (b) any person levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset; or
- (c) any corporate action, legal proceedings or other procedures or steps are taken for the winding up, dissolution, administration or reorganisation of any Chargor,
- (d) the floating charge created by this Deed will automatically and immediately without notice be converted into a fixed charge over the relevant assets or, in the circumstances described in clause 3.8(c), over all of the Floating Charge Assets.

### 3.9 **Small company moratorium**

Where a Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986, then the obtaining of a moratorium, including any preliminary decision, or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986 shall not cause the floating charge created by this Deed to crystallise into a fixed charge, nor cause restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by that Chargor.

#### **4 Continuing security**

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

#### **4.2 Recourse**

The Security constituted by this Deed:

- (a) is in addition to any other Security which the Security Trustee may hold at any time for the Secured Obligations (or any of them); and
- (b) may be enforced without first having recourse to any other rights of the Security Trustee.

#### **5 Negative pledge**

5.1 No Chargor shall create or permit to subsist any Security over any of its assets.

5.2 No Chargor shall:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Chargor or any other member of the Group;
- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having a similar effect,

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

5.3 Clauses 5.1 and 5.2 do not apply to any Security or arrangement which is permitted by the Security Trustee in writing or expressly permitted under the terms of any Loan Note Document.

#### **6 Restrictions on disposals**

6.1 No Chargor shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets.

6.2 Clause 6.1 does not apply to any disposal which is permitted by the Security Trustee in writing or expressly permitted under the terms of any Loan Note Document.

## **7 Further assurance**

- 7.1 Each Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require) in favour of the Security Trustee or its nominee(s):
- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Trustee or the Secured Parties provided by or pursuant to this Deed or by law;
  - (b) to confer on the Security Trustee or the Secured Parties Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
  - (c) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.
- 7.2 Each 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 Trustee or the Secured Parties by or pursuant to this Deed.
- 7.3 Any document required to be executed by a Chargor under this clause 7 will be prepared at the cost of that Chargor.

## **8 Land Registry**

### **8.1 Application for restriction**

- (a) In relation to land and buildings situated in England and Wales title to which is registered or is to be registered at the Land Registry, each Chargor consents to an application being made to the Chief Land Registrar for registration of a restriction on the register of title of all present and future registered freehold, leasehold or commonhold property of that Chargor (and any unregistered properties subject to compulsory first registration at the date of this Deed).
- (b) Each Chargor confirms that so far as any of the Secured Property is unregistered, such land is not affected by any disclosable overriding interests within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003.

### **8.2 Tacking and further advances**

The Loan Note Holders are, subject to the terms of the Loan Note Documents, under an obligation to make further advances to the Chargors and this security has been made for securing such further advances. The Security Trustee and each Chargor by this Deed consent to an application being made to the Chief Land Registrar to enter a note of such obligation on the register of title to all present and future registered property of that Chargor (and any unregistered properties subject to compulsory first registration at the date of this Deed).



## **9 Future property**

If a Chargor acquires (or intends to acquire) any freehold or leasehold or other interest in property after the date of this Deed it must:

- (a) notify the Security Trustee immediately of such acquisition or its intention to acquire such property;
- (b) immediately on request by the Security Trustee and at the cost of that Chargor, execute and deliver to the Security Trustee, a legal mortgage in favour of the Security Trustee of such property in such form as the Security Trustee may require;
- (c) obtain such consents as are required for the Security referred to in this clause 9;
- (d) if the title to such freehold or leasehold property is registered at the Land registry or required to be so registered, to give the Land Registry written notice of the Security; and
- (e) if applicable, ensure that the Security is correctly noted in the register of title against that title at the Land Registry.

## **10 Notices of assignments and charges**

### **10.1 Key-man Policies**

- (a) Each Chargor which is an insured party under a Key-man Policy shall promptly, upon the request of the Security Trustee, give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 5 to the insurer under each Key-man Policy that the Chargor has assigned to the Security Agent all its right, title and interest in that Key-man Policy.
- (b) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 5 within 5 Business Days of that notice being given.

### **10.2 Relevant Agreements**

- (a) Each Chargor which is party to a Relevant Agreement shall promptly, upon the request of the Security Trustee, give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 7 (Relevant Agreements) to the other parties to each Relevant Agreement that the Chargor has assigned to the Security Trustee all its right, title and interest in that Relevant Agreement.
- (b) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 7 (Relevant Agreements) within 5 Business Days of that notice being given.

### **10.3 Insurance Policies**

- (a) Each Chargor which is an insured party under a Relevant Policy shall promptly, upon the request of the Security Trustee, give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 8 (Relevant Policies) to each insurer under each Relevant Policy

that the Chargor has assigned to the Security Trustee all its right, title and interest in that Relevant Policy.

- (b) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 8 (Relevant Policies) within 10 Business Days of that notice being given.

#### 10.4 **Register of Trade Marks**

Each Chargor as registered proprietor hereby appoints the Security Trustee as its agent to apply for the particulars of this Deed and the interest of the Secured Parties in the Intellectual Property and any other or future trade marks or trade mark applications registered or to be registered in the United Kingdom in the name of that Chargor, to be made on the Register of Trade Marks under section 25(1) of the Trade Marks Act 1994. Each Chargor hereby agrees to execute all documents and forms required to enable such particulars to be entered on the Register of Trade Marks.

#### 10.5 **Charge over accounts**

- (a) Each Chargor holding an Account shall promptly, following a request by the Security Trustee, give notice in the form specified in part 1 (Form of notice of charge) of Schedule 10 (Form of Security Deed of Accession) to the financial institution at which such Account is held that the Chargor has created a fixed charge over the balance standing to the credit of that Account.
- (b) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice substantially in the form specified in part 2 (Form of acknowledgement) of Schedule 10 within 10 Business Days of that notice being given.

### 11 **Guarantee and indemnity**

#### 11.1 Each Chargor irrevocably and unconditionally jointly and severally:

- (a) guarantees to each Secured Party punctual performance by each other Chargor of all that Chargor's obligations under the Loan Note Documents;
- (b) undertakes with each Secured Party that whenever another Chargor does not pay any amount when due under or in connection with any Loan Note Document, that Chargor shall immediately on demand pay that amount as if it was the principal obligor; and
- (c) agrees with each Secured Party that if for any reason, any amount claimed by a Secured Party under this clause 11 is not recoverable on the basis of a guarantee, it will be liable as a principal debtor and primary obligor to indemnify that Secured Party against any cost, loss or liability it incurs as a result of a Chargor not paying any amount expressed to be payable by it under any Loan Note Document on the date when it is expressed to be due. The amount payable by a Chargor under this indemnity will not exceed the amount it would have had to pay under this clause 11 if the amount claimed had been recoverable on the basis of a guarantee.

#### 11.2 **Continuing Guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Chargor under the Loan Note Documents, regardless of any intermediate payment or discharge in whole or in part.

### 11.3 **Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Chargor or any Security for those obligations or otherwise) is made by a Secured Party in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Chargor under this clause 11 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### 11.4 **Waiver of defences**

The obligations of each Chargor under this clause 11 will not be affected by an act, omission, matter or thing which, but for this clause 11, would reduce, release or prejudice any of its obligations under this clause 11 (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Chargor or other person;
- (b) the release of any other Chargor or any other person under the terms of any composition or arrangement with any creditor of any such entity or person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, any Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Chargor or any other person;
- (e) any amendment (however fundamental) or replacement of a Loan Note Document or any Security or any agreement or other instrument providing for or entered into in connection with any obligation of any Chargor to any Secured Party;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Security or any agreement or other instrument; or
- (g) any insolvency or similar proceedings.

### 11.5 **Intent**

Without prejudice to the generality of clause 11.4, each Chargor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any Loan Note Document and/or any facility or amount made available under any Loan Note Document for the purposes of or in connection with any of the following:

- (a) business acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;

- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### 11.6 **Immediate recourse**

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from that Chargor under this clause 11. This waiver applies irrespective of any law or any provision of any agreement or other instrument to the contrary.

#### 11.7 **Appropriations**

Until all amounts which may be or become payable by the Chargors under or in connection with the Loan Note Documents have been irrevocably paid in full, the Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other monies, Security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from any Chargor or on account of any Chargor's liability under this clause 11.7.

#### 11.8 **Deferral of Chargors' rights**

Until all amounts which may be or become payable by the Chargors under or in connection with the Loan Note Documents have been irrevocably paid in full and unless the Security Trustee otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations to the Secured Parties or by reason of any amount being payable, or liability arising, under this clause 11:

- (a) to be indemnified by a Chargor;
- (b) to claim any contribution from any other guarantor of any Chargor's obligations under the Loan Note Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties in respect of the Secured Obligations or of any other guarantee or Security taken pursuant to, or in connection with, the Loan Note Documents by any Secured Party;

- (d) to bring legal or other proceedings for an order requiring any Chargor to make any payment, or perform any obligation, in respect of which any Chargor has given a guarantee, undertaking or indemnity under clause 11.1;
- (e) to exercise any right of set-off against any Chargor; and/or
- (f) to claim or prove as a creditor of any Chargor in competition with the Security Trustee.

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

#### 11.9 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by or on behalf of the Secured Parties.

### 12 **Undertakings**

Each Chargor undertakes to the Security Trustee in accordance with this clause 12. The undertakings in this clause 12 shall remain in force during the Security Period.

#### 12.1 **Real property**

##### (a) **Access**

It will permit the Security Trustee and such person or persons as the Security Trustee shall nominate at all reasonable times and on reasonable notice to enter on any part of its Secured Property.

##### (b) **Repair**

- (i) It shall keep its Secured Property in good and substantial repair and condition and decorative order.
- (ii) It shall repair any defect or damage to any of its Secured Property promptly and if it fails to do so the Security Trustee may, but shall not be obliged to, do so.

##### (c) **Planning**

It shall not do or allow or omit to be done anything which would infringe or contravene the Planning Acts affecting its Secured Property, nor make any application for the grant of planning permission within the meaning of the Planning Acts without the prior written consent of the Security Trustee.

##### (d) **Planning directions**

- (i) Within 10 Business Days of receipt by it of any notice or order (**Direction**) served on or issued to it by any local or other authority (whether under the Planning Acts or otherwise) in respect of any part of its Secured Property, it shall give full particulars of

the Direction to the Security Trustee and, if so requested by the Security Trustee, produce the Direction or a copy of it to the Security Trustee.

(ii) It shall advise the Security Trustee of all steps taken or proposed to be taken by it from time to time to comply with the terms of the Direction in all material respects.

(iii) It shall take all necessary steps to comply with the Direction in all material respects.

(e) **Development**

(i) It shall not carry out any development (as defined in the Planning Acts) on any part of its Secured Property without the prior written consent of the Security Trustee.

(ii) It shall not change the use of any part of its Secured Property without the prior written consent of the Security Trustee.

(f) **Future acquisitions and legal mortgage**

It shall:

(i) notify the Security Trustee immediately of its intention to acquire any freehold, leasehold or other interest in property including the proposed date of such acquisition (and for the purposes of this clause 12.1(f) the date of exchange of contracts for such an acquisition shall be deemed the date of acquisition);

(ii) at its cost, execute and deliver to the Security Trustee on demand, a legal mortgage (in form and substance satisfactory to the Security Trustee and in substantially the same terms as this Deed) in favour of the Security Trustee of any freehold or leasehold or other interest in property which becomes vested in it after the date of this Deed;

(iii) obtain any consents required for the Security referred to in this clause 12.1(f); and

(iv) if applicable procure that notice of this Deed is noted in the appropriate manner on the title to any property which becomes vested in it after the date of this Deed.

(g) **Deposit of title deeds**

It shall deposit with the Security Trustee all deeds and documents to title relating to its Secured Property.

(h) **Outgoings**

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

(i) **Notices**

It will deliver to the Security Trustee promptly a certified true copy of any statutory or other notice (including any notice issued under the Regulatory Reform (Fire Safety) Order 2005 and

all regulations, guidance, measures and notices issued under it), in respect of the Secured Property.

## 12.2 Leases

### (a) Lease and covenant compliance

It shall:

- (i) perform all the terms on its part contained in any lease or agreement for lease under which it holds an interest in a Secured Property or to which any of its Secured Property is subject;
- (ii) properly perform (and indemnify the Security Trustee and each Receiver for any breach of) any covenants and stipulations of whatsoever nature affecting any of its Secured Property;
- (iii) not make any election or take any other action so as to alter the treatment of any Occupational Lease for the purposes of value added tax;
- (iv) not, without the prior written consent of the Security Trustee, serve notice on any former tenant under any Occupational Lease under section 17(2) of the Landlord and Tenant (Covenants) Act 1995 or on any guarantor of any such former tenant under section 17(3) of that act; and
- (v) immediately notify the Security Trustee of any notice received by it under section 146 of the Law of Property Act 1925 or any proceedings commenced or steps taken against it for the forfeiture of any lease under which it holds an interest in a Secured Property.

### (b) Landlord's consent

If under the terms of any lease under which it holds an interest in any Secured Property, a Chargor is not permitted to charge its interest in such Secured Property without the consent of the landlord;

- (i) it undertakes promptly to make an application for landlord's consent to the creation of the fixed charge contained in clause 3.4 (First fixed charges) and any charge to be created under clause 7, (Further assurance) shall use all reasonable endeavours to obtain such consent as soon as possible and shall keep the Security Trustee informed of the progress of its negotiations with such landlord;
- (ii) subject to clause 12.2(b)(iii):
  - (A) no breach of any representation in the Loan Note Documents shall occur by virtue of the relevant Chargor's failure to have obtained such landlord's consent; and
  - (B) if the landlord indicates in writing that it proposes to commence, or commences an action of forfeiture of the lease, the Security Trustee shall release from such fixed charge, the relevant Chargor's interest in the lease;

- (iii) clause 12.2(b)(ii) shall only apply where the relevant Chargor has complied with its obligations under clause 12.2(b)(i), but the landlord has not given the consent requested of it;
- (iv) upon receipt by the Security Trustee of evidence in writing of the consent of the landlord to the creation and existence of the fixed charge over the Chargor's interest in such lease, clause 12.2(b)(ii) shall cease to apply in respect of the relevant Secured Property.

(c) **No variation to lease**

It shall not without the prior written consent of the Security Trustee alter or vary or agree to alter or vary the terms of any lease under which it holds any Secured Property or any lease to which any Secured Property is subject.

(d) **No surrender or termination**

It shall not without the prior written consent of the Security Trustee surrender or otherwise terminate any lease under which it holds a Secured Property or terminate, forfeit or accept a surrender of any lease to which any Secured Property is subject.

(e) **Compliance by tenants**

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

(f) **Lease or right to occupy**

It will not without the prior written consent of the Security Trustee:

- (i) grant any lease or tenancy or exercise any other power of leasing of the whole or part of any Secured Property; or
- (ii) grant any person any contractual licence or the right to occupy any Secured Property or part with possession of it.

(g) **Forfeiture**

It shall not do or permit anything which may render any lease or agreement for lease under which it holds an interest in a Secured Property, or to which the Secured Property is subject, liable to forfeiture or otherwise determinable.

### 12.3 **Subsidiary Shares and Investments**

(a) On the later of:

- (i) the date of this Deed; and
- (ii) the date of acquisition of those Subsidiary Shares, Investments or Related Rights

it shall:



- (A) deliver to the Security Trustee all certificates of title and other documents of title or evidence of ownership in respect of its Subsidiary Shares or Investments and the Related Rights; and
  - (B) deliver to the Security Trustee such transfer documents (with the transferee left blank) or any other documents as the Security Trustee may require or otherwise request in respect of those Subsidiary Shares, Investments and Related Rights.
- (b) Until any steps are taken to enforce the Security created by or under this Deed, it shall be entitled to receive and retain all dividends, distributions and other monies receivable in respect of its Subsidiary Shares, Investments and Related Rights.
  - (c) It shall not exercise its voting and other rights in respect of its Subsidiary Shares, Investments and Related Rights in a manner which is prejudicial to the interests of the Security Trustee.
  - (d) It shall make all payments which may become due and payable in respect of any of its Subsidiary Shares, Investments and Related Rights. If it fails to make any such payments, the Security Trustee may but shall not be obliged to make such payment on behalf of the relevant Chargor. Any sums so paid by the Security Trustee shall be repayable by the relevant Chargor to the Security Trustee on demand and pending such repayment shall constitute part of the Secured Obligations.
  - (e) It shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of its Subsidiary Shares, Investments and Related Rights and the Security Trustee shall not be required to perform or fulfil any obligation of any Chargor in respect of any Subsidiary Shares, Investments or Related Rights.
  - (f) It shall comply with any notice served on it under CA2006 or pursuant to the articles of association or any other constitutional document of any relevant entity in respect of or in connection with the Subsidiary Shares, Investments or Related Rights and will promptly provide to the Security Trustee a copy of that notice.
  - (g) It shall ensure that none of its Subsidiary Shares are converted into uncertificated form without the prior written consent of the Security Trustee.
  - (h) Immediately on conversion of any of its Subsidiary Shares, Investment or Related Rights from a certificated to an uncertificated form, and on the acquisition by it of any Subsidiary Shares, Investments or Related Rights in an uncertificated form, it shall give such instructions or directions and take such other steps and enter into such documentation as the Security Trustee may require in order to protect or preserve the Security intended to be created by this Deed.

#### 12.4 Insurance

- (a) It shall effect and maintain, in a form and amount and with an insurance company or underwriters acceptable to the Security Trustee, such insurance on and in respect of its business and its assets as the Security Trustee (acting reasonably) considers a prudent company carrying on the same or substantially similar business as that Chargor would effect.
- (b) It shall promptly pay all premiums and do all other things necessary to keep all of the policies of insurance in which it has an interest in full force and effect.

- (c) It shall ensure that:
  - (i) the name of the Security Trustee be noted on each policy of insurance as mortgagee and first loss payee;
  - (ii) each policy of insurance shall contain a standard mortgagee clause whereby, among other things, the insurance shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against any Chargor; and
  - (iii) each policy of insurance shall contain a provision to the effect that the insurance shall not be invalidated as against the Security Trustee for non-payment of any premium due without the insurer first giving to the Security Trustee not less than 14 days' written notice.
- (d) It shall not do or permit to be done anything to render the insurance void or voidable.
- (e) If a Chargor shall be in default of effecting or maintaining insurances or in producing any such policy or receipt to the Security Trustee on demand, the Security Trustee may take out or renew such insurances in any sum which the Security Trustee may think expedient and all monies expended and costs incurred by the Security Trustee under this provision shall be for the account of any such Chargor.
- (f) All proceeds of insurance shall be applied towards replacing or reinstating the property in respect of which the proceeds are received.
- (g) It shall procure that there is given to the Security Trustee copies of the insurances in which it has an interest, and such other information in connection with them as the Security Trustee may reasonably require. It will notify the Security Trustee in writing of all renewals, material variations and cancellations of policies made or, to its knowledge of it, threatened or pending.

#### 12.5 **Book and other debts**

- (a) It shall collect and realise the Debts in the ordinary course of trading and pay their proceeds into an Account immediately on receipt. It shall hold all such proceeds on trust for the Security Trustee pending payment of them into an Account.
- (b) It shall not set off, postpone or release any of the Debts or do or omit to do anything which may delay or prejudice the full recovery of all Debts without the prior written consent of the Security Trustee.

#### 12.6 **General**

It shall not do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Security Trustee of the Security created by or under this Deed.

### 13 **Power to remedy**

- 13.1 If a Chargor fails to comply with any of the undertakings set out in clause 12 (Undertakings), it shall allow and irrevocably authorises the Security Trustee and/or such persons as it shall nominate to take such action on its behalf as shall be necessary to ensure that it complies with those undertakings.

- 13.2 If a Chargor fails to perform any obligation or other covenant affecting the Secured Property or other Secured Asset, each Chargor shall permit the Security Trustee or its agents and contractors:
- (a) to enter on the Secured Property;
  - (b) to comply with or object to any notice served on any Chargor relating to the Secured Property or other Secured Asset; and
  - (c) to take any action the Security Trustee may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.
- 13.3 Each Chargor shall within 3 Business Days of demand indemnify the Security Trustee against any cost, loss or liability incurred by it in taking any of the steps referred to in this clause 13.

#### **14 Security power of attorney**

Each Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed. Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 14.

#### **15 Enforcement of security**

##### **15.1 When security is enforceable**

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

##### **15.2 Acts of enforcement**

The Security Trustee may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable:

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets;
- (d) appoint an administrator in respect of any Chargor and take any steps to do so;
- (e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or
- (f) if permitted by law, appoint an administrative receiver in respect of any Chargor.

### 15.3 **Right of appropriation**

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Secured Assets constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 (**Regulations**), the Security Trustee shall have the right on giving prior notice to the relevant Chargor, at any time after the Security becomes enforceable, to appropriate all or any part of those Secured Assets in or towards discharge of the Secured Obligations. The Parties agree that the value of the appropriated Secured Assets shall be, in the case of cash, the amount of cash appropriated and, in the case of Subsidiary Shares and Investments, determined by the Security Trustee by reference to any publicly available market price and, in the absence of which, by such other means as the Security Trustee (acting reasonably) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Regulations, each Chargor agrees that any such determination by the Security Trustee will constitute a valuation "in a commercially reasonable manner".

### 15.4 **Statutory powers - general**

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on the Security Trustee are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Security Trustee is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

### 15.5 **Contingencies**

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

### 15.6 **Mortgagee in possession - no liability**

Neither the Security Trustee nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

### 15.7 **Redemption of prior mortgages**

At any time after the Security created by or under this Deed has become enforceable, the Security Trustee may, at the sole cost of the Chargors (payable to the Security Trustee on demand):

- (a) redeem any prior form of Security over any Secured Asset; and/or

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

**15.8 Subsidiary Shares and Investments – following an Event of Default**

- (a) If an Event of Default is continuing, each Chargor shall on request by the Security Trustee:
  - (i) deliver to the Security Trustee such stock transfer forms or other transfer documents as the Security Trustee may require to enable the Security Trustee or its nominee or nominees to be registered as the owner of, and to obtain legal and beneficial title to, the Subsidiary Shares, the Investments and/or Related Rights referred to in such request;
  - (ii) provide to the Security Trustee certified copies of all resolutions and authorisations approving the execution of such transfer forms and registration of such transfers as the Security Trustee may reasonably require;
  - (iii) procure that each such transfer is promptly registered by the relevant company or other entity;
  - (iv) procure that, immediately on their issue, all share certificates or other documents of title in the appropriate form, in respect of the relevant Subsidiary Shares, Investments and/or Related Rights, are delivered to the Security Trustee in each case showing the registered holder as the Security Trustee or its nominee or nominees (as applicable); and
  - (v) exercise all voting rights in respect of its Subsidiary Shares, Investments and Related Rights only in accordance with the instructions of the Security Trustee.
- (b) At any time while an Event of Default is continuing, the Security Trustee may complete any transfer documents held by it in respect of the Subsidiary Shares, the Investments and/or the Related Rights in favour of itself or such other person or nominee as it shall select.
- (c) At any time after the Security created by or under this Deed has become enforceable, the Security Trustee and its nominee or nominees may sell all or any of the Subsidiary Shares, Investments or Related Rights of the Chargors (or any of them) in any manner permitted by law and on such terms as the Security Trustee shall in its absolute discretion determine.
- (d) If any Chargor receives any dividends, distributions or other monies in respect of its Subsidiary Shares, Investments and Related Rights at a time when the Security Trustee has made a request under clause 15.8(a) or taken any steps to enforce the Security created by or under this Deed under clause 15.2, the relevant Chargor shall immediately pay such sums received directly to the Security Trustee for application in accordance with clause 18 (Application of monies) and shall hold all such sums on trust for the Security Trustee pending payment of them to such account as the Security Trustee shall direct.

**16 Receiver****16.1 Appointment of Receiver**

(a)

- (i) At any time after any Security created by or under this Deed is enforceable, the Security Trustee may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 15.2(c) (Acts of enforcement).
- (ii) At any time, if so requested in writing by any Chargor, without further notice, the Security Trustee may appoint a Receiver to all or any part of the Secured Assets as if the Security Trustee had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.

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

(c) Where a Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:

- (i) obtaining a moratorium; or
- (ii) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

**16.2 Removal**

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

**16.3 Powers of Receiver**(a) **General**

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 16.3.
- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.

(iii) A Receiver of a Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.

(iv) A Receiver may, in the name of any Chargor:

(A) do all other acts and things which he may consider expedient for realising any Secured Asset; and

(B) exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

(b) **Borrow money**

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

(c) **Carry on business**

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

(d) **Compromise**

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

(e) **Delegation**

A Receiver may delegate his powers in accordance with clause 17 (Delegation).

(f) **Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate for the purpose of the proper discharge of his function, on behalf of the relevant Chargor or for himself as Receiver, may:

(i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and

(ii) discharge any such persons appointed by the relevant Chargor.

(g) **Leases**

A Receiver may let any Secured Asset over which he is appointed Receiver for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of

any lease or tenancy of any such Secured Assets on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

(h) **Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the relevant Chargor in relation to any Secured Asset over which he is appointed Receiver as he considers expedient.

(i) **Possession**

A Receiver may take immediate possession of, get in and collect any Secured Asset over which he is appointed Receiver.

(j) **Protection of assets**

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

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

(k) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset over which he is appointed Receiver.

(l) **Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Secured Asset over which he is appointed Receiver by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the relevant Chargor.

(m) **Subsidiaries**

A Receiver may form a Subsidiary of the relevant Chargor and transfer to that Subsidiary any Secured Asset.



(n) **Deal with Secured Assets**

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

(o) **Voting rights**

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

(p) **Security**

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

(q) **Acquire land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

(r) **Development**

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property over which he is appointed Receiver and do all acts and things incidental to such Secured Property.

(s) **Landlord's obligations**

A Receiver may on behalf of a Chargor and without consent of or notice to that Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property over which he is appointed Receiver.

(t) **Uncalled capital**

A Receiver may make calls conditionally or unconditionally on the members of any relevant Chargor in respect of uncalled capital.

(u) **Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets over which he is appointed Receiver and to use the name of the relevant Chargor for all the purposes set out in this clause 16.3.

**16.4 Remuneration**

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

**17 Delegation**

17.1 The Security Trustee and any Receiver 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 the Security Trustee and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Security Trustee and Receiver (as appropriate) may think fit.

17.2 The Security Trustee and any Receiver will not be liable or responsible to any Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

**18 Application of monies**

18.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

18.2 All monies received by the Security Trustee or any Receiver under this Deed shall be applied in accordance with the terms of the Security Trust Deed.

18.3 The Security Trustee and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

**19 Remedies and waivers**

19.1 No failure to exercise, nor any delay in exercising, on the part of the Security Trustee or any Receiver, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

19.2 A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

**20 Protection of third parties**

- 20.1 No person (including a purchaser) dealing with the Security Trustee or a Receiver or its or his agents has an obligation to enquire of the Security Trustee, Receiver or others:
- (a) whether the Secured Obligations have become payable;
  - (b) whether any power purported to be exercised has become exercisable;
  - (c) whether any Secured Obligations or other monies remain outstanding;
  - (d) how any monies paid to the Security Trustee or to the Receiver shall be applied; or
  - (e) the status, propriety or validity of the acts of the Receiver or Security Trustee.
- 20.2 The receipt by the Security Trustee 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 monies paid to or by the direction of the Security Trustee or any Receiver.
- 20.3 In clauses 20.1 and 20.2, **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

**21 Additional security**

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by the Security Trustee.

**22 Settlements conditional**

- 22.1 If the Security Trustee (acting reasonably) believes that any amount paid by a Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- 22.2 Any settlement, discharge or release between a Chargor and the Security Trustee shall be conditional upon no Security or payment to or for the Security Trustee by that Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

**23 Notices****23.1 Communications in writing**

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

**23.2 Addresses**

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

- (a) in the case of each other Original Chargor, that identified with its name below; and

(b) in the case of the Security Trustee, that identified with its name below,

or any substitute address or department or officer as the Party may notify to the others by not less than 7 days' notice.

### 23.3 **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 3 Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address, and, if a particular department or officer is specified as part of its address details provided under clause 23.2, if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by the Security Trustee and then only if it is expressly marked for the attention of the department or officer identified with the Security Trustee's signature below (or any substitute department or officer as the Security Trustee shall specify for this purpose).
- (c) Any communication or document made or delivered to the Company in accordance with this clause 23.3 will be deemed to have been delivered to each of the Chargors.
- (d) Any communication or document which becomes effective in accordance with clauses 23.3(a) to 23.3(c) after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

## 24 **Set-off**

The Security Trustee may, set off any matured obligation due from a Chorgor (to the extent beneficially owned by the Security Trustee) against any matured obligation owed by the Security Trustee to that Chorgor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security Trustee may convert either obligation at a market rate of exchange for the purpose of the set-off.

## 25 **Invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability 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.

## 26 **Assignment**

The Security Trustee may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it to any person to whom it is entitled to assign or otherwise transfer its rights under or in respect of the Loan Note Documents.

## 27 **Releases**

Upon the expiry of the Security Period, the Security Trustee shall, at the request and cost of the Chargors, take whatever action is necessary to release and reassign to each relevant Chorgor:

- (a) its rights arising under this Deed;
  - (b) the Secured Assets from the Security created by and under this Deed,
- and return all documents or deeds of title delivered to it under this Deed.

## 28 Currency clauses

- 28.1 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
- (a) any reference in this Deed to, and any obligations arising under this Deed in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Security Trustee (after consultation with the Company); and
  - (b) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Security Trustee (acting reasonably).
- 28.2 If a change in any currency of a country occurs, this Deed will, to the extent the Security Trustee (acting reasonably) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.
- 28.3 If a payment is made to the Security Trustee under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Security Trustee may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Chargors will remain liable for such shortfall.

## 29 Certificates and determinations

Any certification or determination by the Security Trustee of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## 30 Indemnity

### Chargors' indemnity

- (a) Each Chargor shall promptly indemnify the Security Trustee and every Receiver and Delegate (each an **Indemnified Person**) against any cost, loss or liability together with any associated VAT incurred by any of them as a result of:
  - (i) the taking, holding, protection or enforcement of this Deed;
  - (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee and each Receiver and Delegate by this Deed or by law; and
  - (iii) any default by any Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed.

- (b) Each Chargor shall indemnify the Security Trustee against any and all costs, losses, liabilities or expenses together with any associated VAT incurred by the Security Trustee arising (directly or indirectly) out of or in connection with:
- (i) any breach or potential breach of or liability (whether civil and/or criminal) under any Environmental Law;
  - (ii) any responsibility on the part of the Security Trustee in respect of any clean-up, repair or other corrective action; or
  - (iii) the business or any real property of any Chargor.
- (c) The Security Trustee may indemnify itself out in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause and shall have a lien on this Deed and the proceeds of the enforcement of this Deed for all monies payable to it.

### **31 Exclusion of liability**

#### **31.1 No liability**

Neither the Security Trustee nor any Receiver shall be liable in respect of all or any part of the Secured Assets 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 such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.

#### **31.2 Officers and agents**

No Chargor may take proceedings against any officer, employee or agent of the Security Trustee in respect of any claim it might have against the Security Trustee or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Deed and any officer, employee or agent of the Security Trustee may rely on this clause.

### **32 Fees, costs and expenses**

#### **32.1 Amendment costs**

If a Chargor requests an amendment, waiver or consent of this Deed, the relevant Chargor shall, within 3 Business Days of demand, reimburse the Security Trustee for the amount of all costs and expenses (including legal fees) together with any associated VAT reasonably incurred by the Security Trustee in responding to, evaluating, negotiating or complying with the request or requirement.

#### **32.2 Enforcement and preservation costs**

The Chargors shall, within 3 Business Days of demand, pay to the Security Trustee the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by the Security Trustee in connection with the enforcement of or the preservation of any rights under this Deed and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the Security created or expressed to be created in favour of the Security Trustee under this Deed or enforcing these rights.

#### **32.3 Interest on late payments**

- (a) If any Chargor fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the annual percentage rate equal to the aggregate of 2 per cent and the highest rate of interest applicable to the Secured Obligations. Any interest accruing under this clause 32.3 shall be immediately payable by the relevant Chargor on demand by the Security Trustee.
- (b) Default interest (if unpaid) arising on Unpaid Sums will be compounded with the overdue amount at the end of each Interest Period applicable to that Unpaid Sum but will remain immediately due and payable.

### **33 Counterparts**

This Deed or any Loan Note Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Loan Note Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

### **34 Governing law**

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

### **35 Enforcement**

#### **35.1 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (**Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This clause 35 is for the benefit of the Security Trustee. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.

#### **35.2 Service of process**

- (a) The Civil Procedure Rules regarding service and deemed service will not apply to any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed, which shall instead be served in accordance with this clause 35.2.
- (b) Any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed may not be made by way of fax and must be made pursuant to clause 23 (Notices).

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

**Schedule 1****The Original Chargors**

<b>Name</b>	<b>Registered Office/Address</b>	<b>Registered number and jurisdiction of incorporation (if applicable)</b>
Totally Wicked Holdings Limited	Stancliffe Street, Blackburn, Lancashire, United Kingdom, BB2 2QR	11501975, England
Totally Wicked Bidco Limited	Stancliffe Street, Blackburn, Lancashire, United Kingdom, BB2 2QR	11501969, England
Totally Wicked Limited	Stancliffe Street, Blackburn, Lancashire, United Kingdom, BB2 2QR	08140744, England
Pillbox 38 (UK) Limited	Stancliffe Street, Blackburn, Lancashire, United Kingdom, BB2 2QR	06781419, England
The Electronic Cigarette Company (UK) Limited	Stancliffe Street, Blackburn, Lancashire, United Kingdom, BB2 2QR	06578518, England
UK Vapour Brands Limited	Stancliffe Street, Blackburn, Lancashire, United Kingdom, BB2 2QR	07814632, England



Schedule 2

Properties

Registered Land<sup>1</sup>

Chargor	Country and district (or address or description and London borough)	Title number
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Unregistered Land

<sup>1</sup> Second charges over 3 properties mortgaged to the bank to be confirmed.

**Schedule 3****Subsidiary Shares**

<b>Chargor</b>	<b>Name and registered number of Subsidiary</b>	<b>Number and class of shares</b>
Totally Wicked Holdings Limited	Totally Wicked Bidco Limited	The entire issued share capital
Totally Wicked Holdings Limited	Totally Wicked Limited	The entire issued share capital
Totally Wicked Limited	Pillbox 38 (UK) Limited	The entire issued share capital
Totally Wicked Limited	UK Vapour Brands Limited	The entire issued share capital
Totally Wicked Limited	The Electronic Cigarette Company (UK) Limited	The entire issued share capital

Schedule 4

Key-man Policies

Chargor	Insurer	Life assured	Commencement Date of policy	Policy number	Amount of cover
---------	---------	-----------------	--------------------------------	---------------	-----------------

None at the date of this Deed.

**Schedule 5****Key-man Policies****Part 1 - Form of notice of assignment**

To: ◆

Dated: ◆

Dear Sirs

**The Key-man policies described in the attached schedule (Key-man Policies)**

We hereby notify you that we have assigned to ◆ (**Security Trustee**) as security trustee all our right, title and interest in and to the Key-man Policies.

We hereby irrevocably and unconditionally authorise and instruct you [upon receipt of a notice from the Security Agent]:

- 1 without notice or reference to or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Security Trustee relating to the Key-man Policies (or any of them); and
- 2 to pay all sums payable by you under the Key-man Policies (or any of them) directly to the Security Trustee at:

Bank: ◆

Account number: ◆

Sort code: ◆

or such other account as the Security Trustee may specify from time to time.

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

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

Yours faithfully

.....  
for and on behalf of◆ **Limited**

The Schedule

Policy Number	Insured	Life assured	Amount of cover		Date of policy
			Death	Critical illness	
◆	◆	◆	◆	◆	◆

[Attach form of acknowledgment]

**Part 2 - Form of acknowledgement**

To: [name of Security Trustee]  
[address]

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

Dated: ♦

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

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

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

For and on behalf of  
[insurance company]

**Schedule 6**

**Relevant Agreements**

None at the date of this Deed.

**Schedule 7****Relevant Agreements****Part 1- Form of notice of assignment**

To: ♦

Dated: ♦

Dear Sirs

**The agreement described in the attached schedule (Agreement)**

We hereby notify you that we have assigned to ♦ (**Security Trustee**) all our right, title and interest in and to the Agreement.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 without notice or reference to, or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Security Trustee relating to the Agreement and any rights under or in connection with the Agreement; and
- 2 to pay all sums payable by you under the Agreement directly to the Security Trustee at:

Bank: ♦

Account number: ♦

Sort code: ♦

or such other account as the Security Trustee may specify from time to time.

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

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

Yours faithfully

.....

for and on behalf of

♦ **Limited**



The Schedule

Date	Parties	Description
◆	◆	◆

[Attach form of acknowledgment]

**Part 2- Form of acknowledgement**

To: [name of Security Trustee]

[address]

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

[address]

Dated: ♦

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

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

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

For and on behalf of

♦

**Schedule 8****Relevant Policies****Part 1- Form of notice of assignment**

To: [insurer]

Dated: ♦

Dear Sirs

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

We hereby notify you that we have assigned to ♦ (**Security Trustee**) all our right, title and interest in and to the Relevant Policies.

We hereby irrevocably and unconditionally authorise and instruct you:

1 without notice or reference to or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Security Trustee relating to the Relevant Policies (or any of them); and

2 to pay all sums payable by you under the Relevant Policies (or any of them) directly to the Security Trustee at:

Bank: ♦

Account number: ♦

Sort code: ♦

or such other account as the Security Trustee may specify from time to time.

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

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

Yours faithfully

.....

for and on behalf of

♦ **Limited**

The Schedule

Date of policy	Insured	Policy type	Policy number
◆	◆	◆	◆

[Attach form of acknowledgment]

**Part 2- Form of acknowledgement**

To: [name of Security Trustee]

[address]

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

[address]

Dated: ♦

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

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

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

For and on behalf of

[insurance company]

Schedule 9

Accounts

Part 1 – Form of notice of charge

To: [insert name and address of account holding institution]

Account number: ♦ (Account)  
Sort code: ♦  
Account holder: ♦ Limited

We hereby notify you that we have charged by way of first fixed charge to [♦] Limited (**Security Trustee**) all our right, title and interest in and to the monies from time to time standing to the credit of the Account.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 to hold all monies from time to time standing to the credit of the Account to the order of the Security Trustee and accordingly to pay all or any part of those monies to the Security Trustee (or as it may direct) promptly following receipt of written instructions from the Security Trustee to that effect; and
- 2 to disclose to the Security Trustee such information relating to us and the Account as the Security Trustee may from time to time request you to provide.

By countersigning this notice, the Security Trustee authorises you to permit us to withdraw and otherwise deal with funds standing to the credit of the Account until:

- (a) you receive a notice in writing to the contrary from the Security Trustee;
- (b) a petition is presented for a winding up order in respect of us or an application is made for an administration order in respect of us,

(whichever occurs first).

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

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

Yours faithfully

.....

for and on behalf of ♦ Limited

Countersigned for and on behalf of

the Security Trustee:

.....

[Attach form of acknowledgment]

**Part 2 – Form of acknowledgement**

To: [♦] Limited [*Security Trustee*]  
[*address*]

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

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

We confirm that:

- (a) we shall act in accordance with the Notice;
- (b) as at the date of this acknowledgement we have not received any notice of assignment or charge or other security over the Chargor's interest in the Account in favour of any other person; and
- (c) we will not exercise any right of combination of accounts, set-off or lien over any monies standing to the credit of the Account.

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

For and on behalf of  
[*account holding institution*]

## Schedule 10

### Form of Security Deed of Accession

**This Deed** is made on ♦

#### **Between**

- (1) ♦ (registered in England with number ♦) (**Acceding Chargor**); and
- (2) ♦ the Security Trustee (registered in England with number ♦) (**Security Trustee**).

#### **Whereas**

- (A) This Deed is supplemental to a debenture dated ♦ between, inter alia, the Chargors and the Security Trustee (**Debenture**).

#### **It is agreed**

### **1 Definitions and interpretation**

#### **1.1 Definitions**

- (a) Save to the extent otherwise defined in this Deed, terms defined in the Debenture have the same meaning when used in this Deed.
- (b) In this Deed, **Subsidiary Shares** means all shares present and future held by the Acceding Chargor or its Subsidiaries including those listed in schedule 2 (Subsidiary Shares) to this Deed.

#### **1.2 Interpretation**

Clauses 1.2 (Interpretation), 1.3 (Third party rights), 1.4 (Administration), 1.5 (Incorporated terms) and 1.6 (Intercreditor Deed) of the Debenture are incorporated in this Deed as if they were set out in full in this Deed, but so that references in those clauses to **this Deed** shall be construed as references to this Security Deed of Accession.

### **2 Accession of Acceding Chargor**

#### **2.1 Accession**

The Acceding Chargor agrees to be a Chargor for the purposes of the Debenture with immediate effect and agrees to be bound by all of the terms of the Debenture as if it had originally been a party to it.

#### **2.2 Covenant to pay**

The Acceding Chargor covenants with the Security Trustee that it will pay and discharge the Secured Obligations when they become due for payment and discharge.

#### **2.3 Charging provisions**

All security created by the Acceding Chargor under clauses 2.4 to 2.7 inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;



- (c) granted in respect of all the right, title and interest (if any), present and future of the Acceding Chargor in and to the relevant Secured Asset; and
- (d) in favour of the Security Trustee.

## 2.4 First legal mortgages

The Acceding Chargor charges by way of first legal mortgage the properties described in 1 (Properties) to this Deed and, in each case, all Premises and Fixtures on each of the Properties.

## 2.5 Assignments

- (a) The Acceding Chargor assigns:
  - (i) the Key-man policies described in Schedule 3 (Key-man Policies) to this Deed
  - (ii) the agreements described in Schedule 4 (Relevant Agreements) to this Deed; and
  - (iii) its Relevant Policies.
- (b) The Acceding Chargor shall remain liable to perform all its obligations under the Key-man Policies, the Relevant Agreements, and the Relevant Policies.

## 2.6 First fixed charges

The Acceding Chargor charges by way of first fixed charge:

- (a) all interests and estate in any freehold, leasehold or commonhold property now or subsequently owned by it (other than any freehold, leasehold or commonhold property effectively charged by way of legal mortgage under clause 2.4) and, in each case, the Premises and Fixtures on each such property;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (d) all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, (together the **Chattels**) present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them;
- (e) the Subsidiary Shares together with all Related Rights;
- (f) the Investments together with all Related Rights;
- (g) all book and other debts due to the relevant Chargor and their proceeds (both collected and uncollected) (together **Debts**) and all rights, guarantees, security or other collateral in respect of the Debts (or any of them) and the benefit of any judgment or order to pay a sum of money and all rights to enforce the Debts (or any of them);
- (h) all monies from time to time standing to the credit of each account held by the relevant Chargor with any bank, building society, financial institution or other person (each an **Account**);

- (i) all its Intellectual Property;
- (j) all its goodwill and uncalled capital;
- (k) the benefit of all Authorisations held or utilised by it in connection with its business or the use of any of its assets and the right to recover and receive compensation payable in respect of any of them; and
- (l) to the extent that any assignment in clause 2.5 is ineffective as an assignment, the assets referred to in that clause.

## 2.7 **Floating charge**

The Acceding Chargor charges by way of first floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under clauses 2.4, 2.5 or 2.6.

## 2.8 **Qualifying floating charge**

This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

## 3 **Consent of existing charging companies**

The Chargors agree to the terms of this Deed and agree that its execution will in no way prejudice or affect any Security granted by any of them by or under the Debenture.

## 4 **Security power of attorney**

The Acceding Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Acceding Chargor is obliged to take under this Deed or the Debenture. The Acceding Chargor ratifies and confirms whatever any attorney does or prompts to do pursuant to its appointment under this clause 4.

## 5 **Notices**

The Acceding Chargor confirms that its address details for notices in relation to clause 23 (Notices) of the Debenture are as follows:

Address:           ◆

Facsimile:        ◆

Attention:         ◆

## 6 **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.

## 7 **Governing law and jurisdiction**

Clause 34 (Governing law) of the Debenture shall be incorporated in this Deed as if set out here in full but so that references to the Debenture shall be construed as references to this Deed.

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

**Schedule 1**

**Properties**

**Schedule 2**

**Subsidiary Shares**

**Schedule 3**

**Key-man Policies**

**Schedule 4**

**Relevant Agreements**

***[Insert execution blocks]***

SIGNATURES TO THE DEBENTURE

Company

Signed as a deed, and delivered when dated, by )  
**Totally Wicked Holdings Limited** acting by a )  
director in the presence of )

[Redacted Signature]

[Redacted Signature]

Signature of witness

Name **Paul Eastham**

Address [Redacted Address]

Notices

Address: Stancliffe Street, Blackburn,  
Lancashire, United Kingdom, BB2 2QR

Attention: Ben Williamson

Chargors

Signed as a deed, and delivered when dated, by )  
**Totally Wicked Holdings Limited** acting by a )  
director in the presence of )

[Redacted Signature]

[Redacted Signature]

Signature of witness

Name **Paul Eastham**

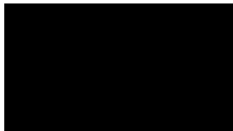
Address [Redacted Address]

Notices

Address: Stancliffe Street, Blackburn,  
Lancashire, United Kingdom, BB2 2QR

Attention: Ben Williamson

Signed as a deed, and delivered when dated, by )  
**Totally Wicked Bidco Limited** acting by a )  
director in the presence of )



Signature of witness

Name **Paul Eastham**

Address 

**Notices**

Address: Stancliffe Street, Blackburn,  
Lancashire, United Kingdom, BB2 2QR


Attention: Ben Williamson

Signed as a deed, and delivered when dated, by )  
**Totally Wicked Limited** acting by a director in )  
the presence of )



Signature of witness

Name **Paul Eastham**

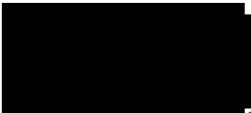
Address 

**Notices**

Address: Stancliffe Street, Blackburn,  
Lancashire, United Kingdom, BB2 2QR

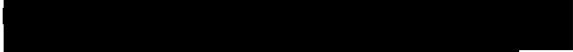
Attention: Ben Williamson

Signed as a deed, and delivered when dated, by )  
**Pillbox 38 (UK) Limited** acting by a director in )  
the presence of )



ss

Name **Paul Eastham**

Address 

**Notices**

Address: Stancliffe Street, Blackburn,  
Lancashire, United Kingdom, BB2 2QR

Attention: Ben Williamson

Signed as a deed, and delivered when dated, by )  
**The Electronic Cigarette Company (UK)** )  
**Limited** acting by a director in the presence of )



ess

Name **Paul Eastham**

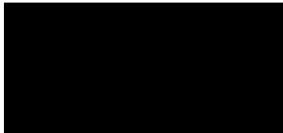
Address 

**Notices**

Address: Stancliffe Street, Blackburn,  
Lancashire, United Kingdom, BB2 2QR

Attention: Ben Williamson

Signed as a deed, and delivered when dated, by )  
**UK Vapour Brands Limited** acting by a director )  
in the presence of )



Signature or witness

Name **Paul Eastham**

Address 

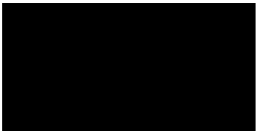
**Notices**

Address: Stancliffe Street, Blackburn,  
Lancashire, United Kingdom, BB2 2QR

Attention: Ben Williamson

**Security Trustee**

Executed as a deed by )  
**FRASER CROPPER** )  
in the presence of )



Signature or witness

Name **Paul Eastham**

Address 

**Notices**

Address: The Higher Barn, Bampton Devon EX16 9LB