



Registration of a Charge

Company name: **CALA GROUP (HOLDINGS) LIMITED**

Company number: **08428265**



X960731M

Received for Electronic Filing: **28/05/2020**

Details of Charge

Date of creation: **22/05/2020**

Charge code: **0842 8265 0005**

Persons entitled: **BANK OF SCOTLAND PLC AS SECURITY TRUSTEE FOR EACH OF THE SECURED PARTIES**

Brief description: **N/A**

Contains fixed charge(s).

Contains floating charge(s) .

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:

ALLEN & OVERY LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8428265

Charge code: 0842 8265 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd May 2020 and created by CALA GROUP (HOLDINGS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th May 2020 .

Given at Companies House, Cardiff on 29th May 2020

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



Companies House



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

EXECUTION VERSION

CONFIRMATORY SECURITY AGREEMENT

DATED 22 May **2020**

CALA GROUP (HOLDINGS) LIMITED
as the Chargor

and

BANK OF SCOTLAND PLC
as Security Trustee

ALLEN & OVERY

Allen & Overy LLP

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THIS DEED is dated 22 May 2020 and is made BETWEEN:

- (1) **CALA GROUP (HOLDINGS) LIMITED** registered in England and Wales with company number 08428265 (the **Chargor**); and
- (2) **BANK OF SCOTLAND PLC** as security trustee for each of the Secured Parties (the **Security Trustee**).

BACKGROUND:

- (A) Pursuant to a security agreement dated 10 July 2018 between the Chargor and the Security Trustee (the **Original Security Agreement**), the Chargor created Security over certain of its assets as security for, among other things, the present and future obligations and liabilities of each Obligor under the Finance Documents (as amended or supplemented).
- (B) The Senior Facility Agreement has been amended by an amendment and restatement agreement dated 26 July 2019 between, among others, the Chargor and the Security Trustee (the **Amendment and Restatement Agreement**) and further amended by an amendment and restatement agreement dated on or about the date of this Deed between, among others, the Chargor and the Security Trustee (the **Second Amendment and Restatement Agreement**).
- (C) The Chargor and Security Trustee entered into a confirmatory security agreement on 26 July 2019 to secure payment of the Secured Obligations (as defined in the Amendment and Restatement Agreement) in case payment of those Secured Obligations is not secured by the security interests created by the Chargor under the Original Security Agreement (the **First Confirmatory Security Agreement**, and together with the Original Security Agreement, the **Existing Security Agreements**).
- (D) The Chargor and the Security Trustee consider that the security interests created by the Chargor under the Existing Security Agreements secure payment of the Secured Obligations (as defined below), but enter into this Deed in case they do not.
- (E) This Deed is supplemental to the Existing Security Agreements.
- (F) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

IT IS AGREED as follows:

1. INTERPRETATION

- (a) In this Deed, **Secured Obligations** means the Senior Liabilities and the Pension Liabilities including those obligations and liabilities as they are amended by the Second Amendment and Restatement Agreement.
- (b) In this Deed, **Senior Facility Agreement** means the senior term loan facility agreement made between, amongst others, the Chargor, as Parent, and the Original Lenders (each term as defined therein) and dated 6 July 2018, as amended and restated on 26 July 2019 pursuant to an amendment and restatement agreement and as further amended and restated on or around the date of this Deed pursuant to an amendment and restatement agreement and as the same may be further amended, restated, supplemented, or varied from time to time.

- (c) Capitalised terms defined in the Original Security Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (d) The provisions of clause 1.7 (Construction) of the Original Security Agreement apply to this Deed as though they were set out in full in this Deed except that references to the Original Security Agreement will be construed as references to this Deed.
- (e) Any reference in this Deed to:
 - (i) a **Finance Document** or other agreement or instrument includes (without prejudice to any restriction on amendments) any amendment to that Finance Document or other agreement or instrument, including any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility;
 - (ii) any **rights** in respect of an asset include all amounts and proceeds paid or payable, all rights to make any demand or claim, and all powers, remedies, causes of action, security, guarantees and indemnities, in each case, in respect of or derived from that asset;
 - (iii) any **share, stock, debenture, bond or other security or investment** includes:
 - (A) any dividend, interest or other distribution paid or payable; and
 - (B) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;
 in each case, in relation to that share, stock, debenture, bond or other security or investment;
 - (iv) the term **this Security** means any security created by this Deed; and
 - (v) an agreement, instrument or other document to which it is a party includes any agreement, instrument or other document issued in the relevant person's favour or of which it otherwise has the benefit (in whole or in part).
- (f) Any covenant of the Chargor under this Deed (other than a payment obligation) remains in force until the Secured Obligations have been irrevocably paid or discharged in full to the satisfaction of the Security Trustee.
- (g) The terms of the other Finance Documents and of any side letters between any Parties in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition of any freehold or leasehold property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (h) Unless the context otherwise requires, a reference to a **Charged Asset** includes the proceeds of any disposal of that Charged Asset.

1.2 Third party rights

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.

- (c) Any Secured Party that is not a Party may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

2. CREATION OF SECURITY

2.1 General

- (a) All the security created under this Deed:
 - (i) is created in favour of the Security Trustee as agent and security trustee for each of the Secured Parties;
 - (ii) is created over present and future assets of the Chargor;
 - (iii) is security for the payment of the Secured Obligations; and
 - (iv) subject to any Permitted Security, is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) The Security Trustee holds the benefit of this Deed on trust for the Secured Parties.
- (c) All the security created under this Deed:
 - (i) is created in case the security created by the Existing Security Agreements does not secure all of the Secured Obligations; and
 - (ii) is created in addition to and does not affect the security created by the Existing Security Agreements.
- (d) Where this Deed purports to create a first fixed security interest, that security interest will be a third ranking security interest ranking subject to the equivalent security interests created by the Original Security Agreement and the First Confirmatory Security Agreement until such time as the security interests created by the Existing Security Agreements cease to have effect.
- (e) Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the Existing Security Agreements and the same asset or right is purported to be assigned (subject to a proviso for re-assignment on redemption) again under this Deed, that third assignment will take effect as a fixed charge over that right or asset and will only take effect as an assignment if the relevant security interests created by the Existing Security Agreements cease to have effect at a time when this Deed still has effect.

2.2 Fixed charges

To the extent not effectively assigned pursuant to Clause 2.4 (Assignment by way of security), the Chargor charges by way of first fixed charge:

- (a) all its rights under any agreement relating to the purchase of any freehold or leasehold property;
- (b) all its rights under any occupational lease, licence or other right of occupation;
- (c) all plant, machinery, computers, office equipment or vehicles owned by it and its interests in any plant, machinery or other items in its possession;

- (d) all its right, title, and interest in any Investment including all rights which the Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Investment;
- (e) all monies standing to the credit of any account maintained by it with any person or (to the extent of its interest) in which it has an interest and the debts represented by them and all its rights in such accounts;
- (f) all of its book debts and other debts, the proceeds of the same and all other monies due and owing to it and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any of the foregoing;
- (g) all its rights under any interest rate hedging arrangements;
- (h) its goodwill;
- (i) its uncalled capital;
- (j) to the extent they are capable of being charged, by way of first fixed charge all its right, title and interest in any Intellectual Property Rights belonging to it or (to the extent of its interest) in which it has an interest;
- (k) the benefit of all licenses, consents and authorisations (statutory or otherwise) held by it in connection with its business or the use of any Charged Asset specified in any other sub paragraph in this Clause and the right to recover and receive all compensation which may be payable to it in respect of them; and
- (l) any beneficial interest, claim or entitlement it has to any assets of any pension fund.

2.3 Exceptions to fixed security

The fixed security from time to time created by this Deed does not extend to any asset situated outside England and Wales or the rights to which are governed by any law other than the laws of England and Wales to the extent that and for so long as any such fixed security would be unlawful or ineffective under the laws of the jurisdiction in which such asset is situated.

2.4 Assignment by way of security

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its right, title and interest in:

- (a) the benefit of any agreement to which it is a party, any letter of credit issued in its favour and any bill of exchange or other negotiable instrument held by it; and
- (b) all Insurance Policies taken out by it or on its behalf or (to the extent of its interest) in which it has an interest and the right to all claims and returns of premiums in respect of any such Insurance Policies.

2.5 Floating charge

The Chargor charges by way of first floating charge the whole of its property (including uncalled capital) comprised from time to time in its property and undertaking and all other property, assets and rights of whatever nature and wherever situated which are not otherwise effectively charged or assigned pursuant to the foregoing provisions of this Clause 2.5 (Floating charge).

2.6 Automatic crystallisation of floating charge

The floating charge created by Clause 2.5 (Floating charge) shall (other than in respect of any Charged Assets situated in Scotland if and to the extent that a Receiver would not be capable of exercising his powers in Scotland in relation thereto under Section 72 of the Insolvency Act 1986 by reason of automatic conversion) immediately upon the occurrence of the relevant event convert into a fixed charge in respect of:

- (a) any Charged Asset which shall without the prior written consent of the Security Trustee become subject to a fixed charge in favour of any person other than the Security Trustee;
- (b) any Charged Asset in respect of which any person shall levy, or attempt to levy, any distress, diligence, execution, sequestration or other similar process; or
- (c) all Charged Assets if an Administrator is appointed by the Security Trustee or the Security Trustee receives notice of an intention to appoint an Administrator (as contemplated by the Insolvency Act 1986); or
- (d) all Charged Assets on the convening of any meeting of the members of the Chargor to consider a resolution to wind up the Chargor (or not to wind up the Chargor).

2.7 Crystallisation on notice of floating charge

The Security Trustee may at any time:

- (a) after the security created by this Deed has become enforceable in accordance with Clause 10 (When Security becomes Enforceable) of the Original Security Agreement; or
- (b) if the Chargor fails to comply or takes or threatens to take any action which in the reasonable opinion of the Security Trustee is likely to result in it failing to comply with its obligations under Clause 6 (Restriction on Dealings) of the Original Security Agreement; or
- (c) if the Security Trustee considers that any of the Charged Assets are in danger of being seized or sold as a result of any legal process, or are otherwise in jeopardy; or
- (d) if the Security Trustee considers that steps are being taken or have been taken are likely to lead to the appointment of an Administrator or the presentation of a petition for the winding up of the Chargor,

by giving notice in writing to that effect to the Chargor convert the floating charge created by Clause 2.5 (Floating charge) into a fixed charge as regards any asset specified in such notice. The conversion shall take effect immediately upon the giving of the notice.

2.8 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by Clause 2.5 (Floating charge) so that the floating charge created by Clause 2.5 (Floating charge) shall be a "qualifying floating charge" for the purposes of that paragraph.

2.9 Restrictions on the creation of security

If security cannot be created in respect of any asset of the Chargor without the consent of any third party:

- (a) the Chargor must notify the Security Trustee as soon as reasonably practicable upon becoming aware of the same;
- (b) this Deed shall not create any security in respect of that asset except to the extent permitted without the consent of any third party but will secure all amounts which the Chargor may receive in respect of that asset;
- (c) unless the Security Trustee otherwise agrees, the Chargor must use reasonable endeavours to obtain the consent of the third party to the creation of security over that asset pursuant to this Deed; and
- (d) on and from the date on which such consent is obtained, the security created by this Deed shall extend to and include that asset.

3. RESTRICTION ON DEALINGS

Save as permitted by the Finance Documents, the Chargor will not create or permit to subsist any Security (as defined in the Senior Facility Agreement) on any part of the Charged Assets or dispose of or otherwise deal with any part of the Charged Assets.

4. INCORPORATION

The provisions of Clause 4 (Provisions as to Security) to 26 (Financial Collateral) (inclusive) (other than Clause 6 (Restriction on Dealings)) of the Original Security Agreement are deemed to be incorporated into this Deed with all necessary modifications as if they were set out in full in this Deed.

5. MISCELLANEOUS

- (a) The Existing Security Agreements will remain in full force and effect.
- (b) This Deed is designated a Finance Document.

6. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

7. ENFORCEMENT

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a Dispute).
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

- (c) This Clause 7 (Enforcement) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

THIS DEED has been executed as a deed and delivered on the date stated at the beginning of this Deed.

SIGNATORIES

CHARGOR

EXECUTED as a DEED by
CALA GROUP (HOLDINGS) LIMITED
acting by its director in
the presence of:

)
)
)



Signature

Witness details:

Signature of witness:



Name of witness: JENNIFER WYLIE


Address: ADAM HOUSE

EDINBURGH, EH11 4DU

Occupation: SOLICITOR

THE SECURITY TRUSTEE

EXECUTED as a **DEED** by
BANK OF SCOTLAND PLC
acting by its duly authorised signatory in
the presence of:

)
)
)

Signature
JENNIFER ESPINER,
ASSOCIATE DIRECTOR,
AGENCY

Witness details:

Signature of witness:

_____

Name of witness: _____MICHAEL ESPINER_____

Address: _____

_____

Occupation: _____FUND ACCOUNTANT_____