



Registration of a Charge

Company name: **KODAK ALARIS HOLDINGS LIMITED**

Company number: **08550309**



X9FNT2G1

Received for Electronic Filing: **14/10/2020**

Details of Charge

Date of creation: **30/09/2020**

Charge code: **0855 0309 0027**

Persons entitled: **KPP (NO. 2) TRUSTEES LIMITED (AS TRUSTEE)**

Brief description: **NONE.**

Contains fixed 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: **GOWLING WLG (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8550309

Charge code: 0855 0309 0027

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th September 2020 and created by KODAK ALARIS HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th October 2020 .

Given at Companies House, Cardiff on 15th October 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

Specific security deed (marketable securities)

Shares in Kodak Alaris Australia Pty Limited

—

Kodak Alaris Holdings Limited (**Chargor**)

KPP (No. 2) Trustees Limited (**Security Agent**)

—

Specific security deed (marketable securities)

Shares in Kodak Alaris Australia Pty Limited

Details	5
Agreed terms	6
1. Defined terms & interpretation	6
1.1 Defined terms from Facility Agreement	6
1.2 Other defined terms	6
1.3 Australian PPSA terms incorporated	9
1.4 Interpretation	9
1.5 Facility Agreement provisions	9
1.6 Present and future assets	10
1.7 Security Agent assumes no obligation	10
2. Covenant to pay	10
2.1 Covenant to pay	10
2.2 Default interest	10
3. Grant of security	10
3.1 Security interest	10
4. Dealings with Charged Assets	10
4.1 Negative pledge and restriction on dealings	10
5. Priority	10
5.1 Priority of Security Interest in the Charged Assets	10
5.2 No agreement or consent to subordination or attachment	11
6. General security provisions	11
6.1 Continuing security and obligations	11
6.2 Cumulative rights	11
6.3 Release of Charged Assets	11
7. Representations and warranties	12
7.1 Representations and warranties	12
7.2 Repetition	12
7.3 Reliance and survival	12
8. Undertakings	13
8.1 General undertakings	13
8.2 Undertakings relating to Charged Assets	13
8.3 Voting powers and Proceeds	14
8.4 Further assurances	14
9. Chargor liability and exclusion of rights	15
9.1 Indemnity	15
9.2 Principal and independent obligation	15
9.3 Chargor's liabilities not affected	15
9.4 Exclusion of subrogation and other rights	16
9.5 Prove in Liquidation	16
9.6 Variations and replacements	17
10. Enforcement of security	17
10.1 Enforcement and consequences	17
10.2 Security Agent's general powers	17
10.3 Security Agent's Australian PPSA powers – sections 123 and 128	18
10.4 Security Agent's specific powers	18
10.5 Discharge or acquire prior Security Interest	19
10.6 Co-operation in exercise of power of sale	19

10.7	Appoint Receivers	19
10.8	Agency of Receiver	20
10.9	Receiver's powers	20
10.10	Appointment of Attorney	20
10.11	Investigating Experts	21
11.	Costs and expenses	21
12.	Receipt of money and application	21
12.1	Credit of received payment	21
12.2	Applying or appropriating money received	21
12.3	Suspense account	21
12.4	Surplus proceeds	21
12.5	Foreign currency amounts	22
13.	Statutory powers and notices	22
13.1	Exclusion of Australian PPSA provisions	22
13.2	Exercise of rights by Security Agent	22
13.3	No notice required unless mandatory	22
13.4	Appointment of nominee for registration	23
13.5	Other rights	23
14.	Assignment	23
14.1	No assignments or transfers by Chargor	23
14.2	Assignments by the Security Agent	23
14.3	Assistance	23
15.	Notices, demands and communications	23
16.	Protection of third parties	23
16.1	Receipt of Security Agent, Receiver or Attorney	23
16.2	Third parties need not enquire	23
17.	Protection of Security Agent, Secured Party, Receiver and Attorney	24
17.1	Notice, demand or lapse of time required by law	24
17.2	Security Agent, Secured Party and Receiver not restricted	24
17.3	Security Agent, Secured Party, Receiver and Attorney not mortgagee in possession or liable	24
17.4	Security Agent may set off	24
17.5	Reinstating avoided transaction	24
17.6	Authorised Representatives and communications	24
17.7	Security Agent's opinion	25
18.	General provisions	25
18.1	Consideration	25
18.2	Prompt performance	25
18.3	Performance of Chargor's obligations by Security Agent	25
18.4	Powers	25
18.5	Consent and waivers	25
18.6	Indemnities and reimbursement obligations	25
18.7	Notices or demands as evidence	25
18.8	Law and legislation	25
18.9	Severability	26
18.10	Variation	26
18.11	Governing law – security agreement	26
18.12	Governing law – Security Interest	26
18.13	Jurisdiction	26
18.14	Service of process	26
18.15	Counterparts	26
	Schedule 1 – Relevant Marketable Securities	27
	Signing pages	28

Details

Date 30 September 2020

Parties

Name	Kodak Alaris Holdings Limited , a company incorporated in England and Wales with company number 08550309
Entity type (for the purposes of the Australian PPS Regulations)	Body corporate
Short form name	Chargor
Notice details	Hemel One, Boundary Way, Hemel Hempstead, Hertfordshire, HP2 7YU, United Kingdom Email: john.oreilly@kodakalaris.com and legal@kodakalaris.com Attention: John O'Reilly

Name	KPP (No. 2) Trustees Limited
Capacity	As trustee for each of the Secured Parties on the terms and conditions set out in the Facility Agreement
Short form name	Security Agent
Notice details	KPP (No. 2) Trustees Limited, c/o Dalriada Trustees Limited, Linen Loft, Adelaide Street, Belfast, Northern Ireland, BT2 8FE Facsimile: 028 9041 2001 Attention: Sarah Ballantyne

Background

- A The Chargor agrees to grant the Security Agent a security interest in the Charged Assets to secure payment and discharge of the Secured Obligations.
- B The Chargor does this in return for the Security Agent and the other Secured Parties entering into the Finance Documents and the Loan Note Documents, the transactions contemplated by those documents and other valuable consideration.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms from Facility Agreement

Terms defined in (or incorporated by reference into) the Facility Agreement (as defined below) have the same meanings when used in this document unless otherwise defined in this document. Parties to the Facility Agreement referred to by short form name in this document are more fully described in the Facility Agreement.

1.2 Other defined terms

In this document:

Attorney means an attorney appointed by the Chargor under this document.

Authorised Representative means a director or company secretary, or:

- (a) in respect of the Chargor, a person it notifies to the Security Agent (with a certified copy of that person's specimen signature) as being its authorised representative for the purposes of the Finance Documents and the Loan Note Documents where the Security Agent has no notice of revocation of that authority; and
- (b) in respect of the Security Agent, a person whose title or acting title includes 'associate', 'manager', 'director', 'executive', 'chief', 'head', 'counsel' or 'president', or a person notified to the other parties as being its authorised representative for the purposes of the Finance Documents and the Loan Note Documents.

Avoidance has the meaning given to that term in clause 17.5.

Charged Assets means all of the Chargor's present and future Relevant Marketable Securities, Rights and Proceeds and any certificate, registration, title or other evidence of ownership of, or rights to, any of those things.

Collateral Rights means all rights, powers and remedies of the Security Agent provided by or pursuant to this document or by law.

Dollars and **A\$** mean the lawful currency of Australia.

External Administrator means an 'administrator', 'controller' or 'managing controller' (each as defined in the Australian Corporations Act), trustee, provisional liquidator, liquidator or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity.

Facility Agreement means the document titled '*Senior Facility Agreement*' dated on or about the date of this document between, among others, the Chargor and Kodak Alaris Limited (as Borrowers) and the Security Agent.

General Security Deed means the document titled '*General Security Deed*' dated on or about the date of this document between the Share Issuer and the Security Agent.

Government Agency means any government or governmental, semi-governmental, administrative, public, regulatory or judicial entity, body, department, commission, agency or authority.

Insolvency Event means, in respect of a person, any of the following occurring:

- (a) it becomes insolvent within the meaning of section 95A, or is taken to have failed to comply with a statutory demand under section 459F(1), or must be presumed by a court to be insolvent under section 459C(2), or is the subject of a circumstance specified in section 461 (whether or not an application to court has been made under that section) or, if the person is a Part 5.7 body, is taken to be unable to pay its debts under section 585, of the Australian Corporations Act;
- (b) except with the Security Agent's consent:
 - (i) it is the subject of a Liquidation, or an order or an application is made for its Liquidation; or

- (ii) an effective resolution is passed or meeting summoned or convened to consider a resolution for its Liquidation;
- (c) an External Administrator is appointed to it or any of its assets or a step is taken to do so or its Related Body requests such an appointment;
- (d) if a registered corporation under the Australian Corporations Act, a step is taken under sections 601AA, 601AB or 601AC of the Australian Corporations Act to cancel its registration;
- (e) if a trustee of a trust, it is unable to satisfy out of the assets of the trust the liabilities incurred by it as and when those liabilities fall due;
- (f) an analogous or equivalent event to any listed above occurs in any jurisdiction; or
- (g) it stops or suspends payment to creditors generally.

Liquidation means:

- (a) a winding up, dissolution, liquidation, provisional liquidation, administration, bankruptcy or other proceeding for which an External Administrator is appointed, or an analogous or equivalent event or proceeding in any jurisdiction; or
- (b) an arrangement, moratorium, assignment or composition with or for the benefit of creditors or any class or group of them.

Loss means a loss, claim, action, damage, liability, cost, charge, expense, penalty, compensation, fine or outgoing suffered, paid or incurred.

Marketable Security means:

- (a) a 'marketable security' (as defined in the Australian Corporations Act);
- (b) a negotiable instrument (within the ordinary meaning of that term);
- (c) a unit or other interest in a trust or partnership; and
- (d) a right or an option in respect of any of the above, whether issued or unissued.

Notice means a notice, demand, consent, approval or communication given in accordance with clause 15.

Permitted Restriction means:

- (a) each Permitted Security;
- (b) a Restriction disclosed in writing to, and consented to in writing by, the Security Agent on or before the date of this document (unless the consent was conditional and any of the conditions are not complied with); and
- (c) a Restriction created after the date of this document which was consented to by the Security Agent in writing on or before its creation (unless the consent was conditional and any of the conditions are not complied with).

Power means any right, power, discretion or remedy of the Security Agent or a Secured Party, a Receiver or an Attorney under any Finance Document, any Loan Note Document or applicable law.

Proceeds means all money (in whatever currency) and amounts payable to the Chargor or to which the Chargor is entitled now or in the future (whether alone or with any other person) on any account or in any way whatsoever under, or as holder of, any Relevant Marketable Securities or Rights, including:

- (a) distributions, dividends, bonuses, profits, return of capital, interest and all proceeds of sale (within the ordinary meaning of those words), redemption or disposal; and
- (b) all 'proceeds' (as defined in section 31 of the Australian PPSA), including all proceeds identified in sections 31(1)(a) to 31(1)(c) of the Australian PPSA.

Receiver means a receiver or receiver and manager appointed under this document.

Related Body means, regardless of any body's trustee or other capacity, a body corporate which would be related under section 50 of the Australian Corporations Act on the basis that the term 'subsidiary' in that section had the meaning given to that term in this document.

Relevant Marketable Securities means the Marketable Securities (present or future) owned by the Chargor in the Share Issuer as described in Schedule 1 and any other Marketable Securities:

- (a) that the Chargor deposits with the Security Agent;
- (b) acquired by the Chargor, or to which the Chargor becomes entitled, under its Rights; or
- (c) that the Chargor and Security Agent designate as 'Relevant Marketable Securities' for the purposes of this document.

Relevant Securities means all present and future Relevant Marketable Securities, Rights and Proceeds and any certificate, registration, title or other evidence of ownership of, or rights to, any of those things.

Restriction means any agreement, obligation or arrangement that restricts, or entitles another person to rights of pre-emption or refusal for, a sale, assignment or other dealing with Relevant Marketable Securities.

Rights means:

- (a) rights to acquire Marketable Securities arising because the Chargor has an interest in the Relevant Marketable Securities, including due to any allotment, offer, substitution, conversion, consolidation, reclassification, redemption, reconstruction, amalgamation, subdivision, reduction of capital, Liquidation or scheme of arrangement in relation to any Relevant Marketable Securities; and
- (b) any other rights of the Chargor of any kind in connection with the Relevant Marketable Securities, including in relation to any Proceeds.

Secured Obligations means all present and future obligations and liabilities at any time due, owing or incurred by each Obligor and each Borrower to the Security Agent (whether for its own account or as trustee for the Secured Parties) or any other Secured Party under or pursuant to each of:

- (a) the Finance Documents; and
- (b) the Loan Note Documents,

in each case whether actual or contingent, whether originally incurred by the Chargor or by any other person and whether incurred solely or jointly and as principal or surety or in any other capacity, including any liability in respect of any further advances made under the Finance Documents and/or the Loan Note Documents or resulting from any increase in the Total Commitments or any amount outstanding under the Loan Note Instrument (however fundamental), except for any obligation or liability which, if it were included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful, prohibited or invalid by or under any applicable law.

Security Interest means any:

- (a) 'security interest' (as defined in the Australian PPS Law);
- (b) security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge (whether fixed or floating), lien, pledge, hypothecation, encumbrance, trust, power or title retention arrangement, finance lease, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); and
- (c) thing or preferential interest or arrangement of any kind giving a person priority or preference over claims of other persons or creditors with respect to any property or asset,

and includes any agreement to create any of them or allow them to exist.

Security Period means the period beginning on the date of this document and ending on the date on which the Security Agent is satisfied that the Secured Obligations have been irrevocably and unconditionally paid or discharged in full and no Finance Party is under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor or any other person under any of the Finance Documents.

Share Issuer means a company specified as such in Schedule 1.

Title Documents means each certificate, confirmation, grant, assurance, conveyance, deed and other document of title or evidencing title to, or rights to acquire, possess, use or dispose of, any Charged Assets.

1.3 Australian PPSA terms incorporated

In this document, unless the context requires otherwise, the following words and expressions (and grammatical variations of them) have the same meanings given to them in the Australian PPSA or the Australian PPS Regulations (as applicable): **advance, after-acquired property, amendment demand, attach, consumer property, control, financing change statement, financing statement, future advance, investment instrument, personal property, purchase money security interest** and **verification statement**.

1.4 Interpretation

- (a) The provisions of clause 1.2 (*Construction*) of the Facility Agreement are incorporated in, and apply to, this document as if set out in full with any necessary amendments.
- (b) In this document:
 - (i) unless stated otherwise, all interest, amounts in the nature of interest (including discount amounts) and fees are to be calculated on a daily basis and a year of 365 days;
 - (ii) the singular includes the plural and vice versa, a gender includes other genders and different grammatical forms of defined expressions have corresponding meanings;
 - (iii) unless stated otherwise, anything (other than making a payment) required to be done on or by a day which is not a Business Day, must be done on or by the next Business Day;
 - (iv) no provision or expression is to be construed against a party on the basis that the party (or its advisers) was responsible for its drafting; and
 - (v) examples and use of the word 'including' and similar expressions do not limit what else may be included.
- (c) In this document, unless the context requires otherwise or expressly provided otherwise, a reference in this document to:
 - (i) an agreement includes any legally enforceable arrangement, understanding, undertaking or representation whether or not in writing;
 - (ii) any thing includes any part of it and a reference to a group of things or persons includes each thing or person in that group;
 - (iii) clauses, schedules and annexures are to those in this document, and a reference to this document includes any schedule and annexure;
 - (iv) a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
 - (v) time is to London time unless stated otherwise;
 - (vi) to '**grant a security interest**' includes to charge, mortgage, pledge, encumber, assign by way of security and transfer by way of security; and
 - (vii) '**property**' includes any real or personal, present or future, tangible or intangible property or asset and any right, interest, revenue or benefit in, under or derived from the property or asset.

1.5 Facility Agreement provisions

Clauses 1.4 (*Third party rights*), 13 (*Tax Gross Up and Indemnities*), 15 (*Other Indemnities*), 35.1 (*Accounts*), 35.2 (*Certificates and determinations*) and 38 (*Amendments and waivers*) of the Facility Agreement are deemed to form part of this document as if expressly incorporated into it and as if all references in those clauses to the Facility Agreement were references to this document.

1.6 Present and future assets

- (a) A reference in this document to any Charged Asset or other asset includes, unless the contrary intention appears, present and future Charged Assets and other assets.
- (b) The absence of or incomplete details of any Charged Assets in any Schedule shall not affect the validity or enforceability of any Security under this document.

1.7 Security Agent assumes no obligation

The Security Agent shall not be under any obligation in relation to the Charged Assets as a consequence of this document and the Chargor shall at all times remain liable to perform all obligations in respect of the Charged Assets.

2. Covenant to pay

2.1 Covenant to pay

The Chargor covenants with the Security Agent that it shall, on demand of the Security Agent pay, discharge and satisfy its Secured Obligations and indemnify the Security Agent and each of the Secured Parties against any losses, costs, charges, expenses and liabilities arising from any breach or failure to pay, discharge and satisfy its Secured Obligations in accordance with their respective terms.

2.2 Default interest

If the Chargor fails to pay any amount payable by it under this document on its due date, interest shall accrue on the overdue amount (both before and after judgment) from the date of demand until the date of payment calculated on a daily basis at the rate determined in accordance with and on the terms set out in, clause 10.4 (*Default interest*) of the Facility Agreement.

3. Grant of security

3.1 Security interest

- (a) The Chargor grants a security interest in the Charged Assets to the Security Agent (as trustee for the Secured Parties and the Security Agent shall hold the benefit of this document and the Security created by or pursuant to it on trust for the Secured Parties) to secure the payment and discharge of the Secured Obligations.
- (b) For the purposes of section 20(2)(b) of the Australian PPSA (but without limiting the meaning of 'Charged Assets' in this document), this security interest is taken in all the Chargor's present and after-acquired property, except any such property which is not Charged Assets.
- (c) This security interest is a charge. If for any reason it is necessary to determine the nature of this charge, it is a fixed charge over the Charged Assets.

4. Dealings with Charged Assets

4.1 Negative pledge and restriction on dealings

Except as permitted under the Facility Agreement, the Chargor must not at any time during the Security Period create or permit to subsist any Security over all or any part of the Charged Assets or dispose of or otherwise deal with any part of the Charged Assets.

5. Priority

5.1 Priority of Security Interest in the Charged Assets

The parties intend that each Security Interest created under this document:

- (a) takes priority over all other Security Interests and other interests in the Charged Assets at any time other than as agreed in writing by the Security Agent as having priority or as mandatorily preferred by law; and
- (b) has the same priority in relation to all Secured Obligations, including future advances.

5.2 No agreement or consent to subordination or attachment

Nothing in this document may be construed as an agreement or consent by the Security Agent to:

- (a) **(subordination)** subordinate a Security Interest created under this document in favour of any person;
- (b) **(security)** any Security Interest other than any Permitted Security attaching to, or being created in, any Charged Assets; or
- (c) **(deferral of attachment)** defer or postpone the date of attachment of a Security Interest created under this document in any Charged Assets.

6. General security provisions

6.1 Continuing security and obligations

- (a) The Security Interest created by or pursuant to this document shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Security Agent in writing.
- (b) No part of the Security Interest from time to time intended to be created by this document will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

6.2 Cumulative rights

- (a) The Security created by or pursuant to this document, and the Collateral Rights, shall be cumulative, in addition to and independent of every other Security which the Security Agent or any Secured Party may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law and shall operate as an independent Security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security.
- (b) No prior Security held by the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Parties over the whole or any part of the Charged Assets shall merge into the Security created by this document.

6.3 Release of Charged Assets

The Chargor may require the Security Agent to release the Charged Assets from this document or the Security Interest created under it if the Security Agent is satisfied that:

- (a) all Secured Obligations have been irrevocably paid in full and discharged and all commitments which might give rise to Secured Obligations have terminated;
- (b) all Secured Obligations have been satisfied and there are no liabilities or obligations which will subsequently fall within the description of the Secured Obligations; and
- (c) if an Event of Default has occurred and continued, the Security Agent has not sold or agreed to sell any Charged Assets and is not deemed to have taken any Charged Assets in satisfaction of the Secured Obligations.

7. Representations and warranties

7.1 Representations and warranties

The Chargor represents and warrants to the Security Agent (and for the benefit of the other Secured Parties), except as to matters disclosed by it to the Security Agent and accepted by the Security Agent in writing, that:

- (a) **(other representations and warranties)** all of its Repeating Representations are true, correct and not misleading when made or repeated (or if not yet made, will be true, correct and not misleading when made or repeated);
- (b) **(details of Chargor)** all information in the 'Details' section of this document is true, correct and complete and reflects the information contained in the source from which information in relation to the Chargor must be taken for the purposes of the Australian PPS Regulations in order to register a financing statement in respect of any Security Interest in the Charged Assets created by any Finance Document or any Loan Note Document;
- (c) **(no foreign property)** all the Charged Assets are situated in Australia;
- (d) **(consumer property)** none of the Charged Assets are consumer property;
- (e) **(ownership of Charged Assets)** it is the sole legal owner and sole beneficial owner of the Charged Assets, and it will be the sole legal owner and sole beneficial owner of any property or asset it acquires as Charged Assets;
- (f) **(Security Interests)** the Charged Assets are free from any Security Interest other than a Permitted Security;
- (g) **(no other owners)** there are no shareholders in the Share Issuer other than the Chargor;
- (h) **(disclosure of Marketable Securities)** it holds 100% of all issued Marketable Securities in the Share Issuer and there is no agreement, arrangement or understanding under which further Marketable Securities in the Share Issuer may be issued, or called to be issued, to any person other than the Chargor; and
- (i) **(no Restriction)** the Relevant Marketable Securities are free from any Restriction other than a Permitted Restriction.

7.2 Repetition

The Chargor repeats each representation and warranty in:

- (a) **(generally)** this clause 7 with reference to the facts and circumstances at the time when the Repeating Representations are repeated in the Facility Agreement; and
- (b) **(future and after-acquired property)** clauses 7.1(e) and 7.1(f) in respect of any Charged Assets (including future and after-acquired property) which come into existence, or in which the Chargor acquires rights or an interest, after the date of this document, at the time that those Charged Assets come into existence or the Chargor acquires rights or an interest in them.

7.3 Reliance and survival

The Chargor acknowledges that:

- (a) the Security Agent has, and each other Secured Party has, entered into the Finance Documents and the Loan Note Documents in reliance on the representations and warranties in this clause 7; and
- (b) those representations and warranties survive execution and delivery of the Finance Documents and the Loan Note Documents and the provision of financial accommodation under them.

8. Undertakings

8.1 General undertakings

The Chargor must:

- (a) **(no set-off)** not directly or indirectly claim, exercise or attempt to exercise a right of set-off or counterclaim (whether its or any other person's right) against the Security Agent;
- (b) **(Secured Obligations)** fully and punctually perform, satisfy, or procure the performance or satisfaction of, all of the Secured Obligations at the times and in the way specified in the relevant Finance Documents and the Loan Note Documents;
- (c) **(Obligor obligations)** ensure and procure the full and punctual performance and satisfaction of all of each Obligor's obligations under the Finance Documents and the Loan Note Documents at the times and in the way specified in those documents;
- (d) **(details of Chargor):**
 - (i) without limiting any restrictions contained in the Finance Documents, not change any of its details as set out in the 'Details' section of this document without giving the Security Agent 14 days' prior written notice; and
 - (ii) provide to the Security Agent, on request, a certified copy of each source or source document necessary (in the Security Agent's opinion), for the purposes of the Australian PPS Regulations, to verify the information in the 'Details' section of this document (or any part of it) or to otherwise register one or more financing statements in relation to any Security Interest in the Charged Assets created by any Finance Document or any Loan Note Document; and
- (e) **(no Event of Default)** ensure that no Event of Default occurs.

Without affecting any other obligations or liabilities or any Powers under any Finance Document or any Loan Note Document (including where a breach of clause 8.1(e) is also a breach of another provision of a Finance Document or a Loan Note Document), the Chargor will not be personally liable for damages for its breach of clause 8.1(e) but the Security Agent may exercise its Powers consequent upon or following that breach.

8.2 Undertakings relating to Charged Assets

The Chargor must:

- (a) **(other Security Interests)** comply with the terms of each Security Interest binding on it in respect of the Charged Assets from time to time, and unless the Security Agent first consents in writing, ensure that there is no increase in the amount secured under a Security Interest held by someone other than the Security Agent in respect of the Charged Assets;
- (b) **(Title Documents)** unless the Security Agent agrees otherwise in writing, deposit with the Security Agent:
 - (i) all Title Documents relating to the Chargor's interests in the Charged Assets; and
 - (ii) transfer forms for the Relevant Marketable Securities as specified by the Security Agent, in each case executed by the Chargor as transferor and blank as to the date, consideration and the transferee's name,on execution of this document;
- (c) **(replacement Title Documents)** where title to any Relevant Marketable Securities is evidenced by a certificate, obtain the issue of replacement certificates if the original certificates are lost or destroyed or reasonably believed by the Security Agent to be so;
- (d) **(protect title)** protect and enforce its title to, and the Security Agent's title as secured party and chargee of, the Charged Assets;
- (e) **(perform obligations, Taxes)** pay on time all Taxes, calls for payment, instalments and any other amounts for which it is liable as owner of the Charged Assets;
- (f) **(maintain value)** not do, allow or omit anything which is likely to materially lower the value of the Charged Assets;

- (g) **(Restrictions):**
 - (i) comply with the terms of each Permitted Restriction binding on it in respect of the Relevant Marketable Securities from time to time;
 - (ii) not create or permit to exist any Restriction over any Relevant Marketable Securities other than a Permitted Restriction; and
 - (iii) not release or vary any Permitted Restriction or waive the obligations of another person in relation to a Permitted Restriction;
- (h) **(new Relevant Securities)** immediately notify the Security Agent of any Rights, Proceeds or Marketable Securities acquired by or accruing to the Chargor, or to which the Chargor becomes entitled, after the date of this document;
- (i) **(exercise Rights)** at the Chargor's cost, exercise or take up all Rights (other than for Proceeds) immediately after being required to do so by the Security Agent;
- (j) **(delivery of notices, reports)** deliver to the Security Agent, promptly after receipt, a copy of any material report, notice, circular or other document issued to it as holder of any of the Relevant Marketable Securities (including any notice convening a meeting of the holders of the Relevant Marketable Securities); and
- (k) **(conversion, change of register)** on request by the Security Agent, do all things necessary to effect (but otherwise not consent to, request or effect without the Security Agent's prior written consent):
 - (i) a conversion of the title to any Relevant Marketable Securities as to being certificated or uncertificated; or
 - (ii) a change of register for any Relevant Marketable Securities (including to, from or within an electronic register system) from that on which they are recorded or registered at the date of this document (or if later acquired, the date on which they are recorded or registered).

8.3 Voting powers and Proceeds

- (a) Subject to clause (a), if the Relevant Marketable Securities are not registered in the Security Agent's name and if no Event of Default has occurred and is continuing, the Chargor may do any of the following without the need for consent or direction from the Security Agent:
 - (i) **(voting powers)** exercise any voting powers it has as holder of the Relevant Securities as it sees fit, provided that it does so prudently and does not otherwise cause or permit a breach of any of the Chargor's other obligations under the Finance Documents; and
 - (ii) **(Proceeds)** retain and use in the ordinary course of its business any Proceeds (other than Proceeds from a reduction of capital, a buy-back of shares under a buy-back scheme or otherwise under a scheme of arrangement).
- (b) If an Event of Default has occurred and is continuing, the rights of the Chargor under clauses 8.3(a)(i) and 8.3(a)(ii) immediately cease, and:
 - (i) **(voting powers)** the Security Agent is entitled to exercise all voting rights in respect of all of the Relevant Marketable Securities to the exclusion of the Chargor; and
 - (ii) **(Proceeds)** the Chargor must pay over amounts of any Proceeds, or otherwise must ensure that any Proceeds are paid directly, to the Security Agent to be applied in accordance with clause 12.2.
- (c) Nothing in this clause 8.3 obliges the Security Agent to vote or exercise other rights in relation to the Relevant Marketable Securities or to obtain any Proceeds, and the Security Agent will have no responsibility or liability for any Loss arising due to the Security Agent's failure or delay in so acting.

8.4 Further assurances

- (a) The Chargor shall promptly, at its own cost, do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notarisations,

registrations, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require) in favour of the Security Agent or its nominee(s):

- (i) to create, perfect, protect and/or maintain the Security created or intended to be created in respect of the Charged Assets (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Charged Assets) or for the exercise of the Collateral Rights;
 - (ii) to confer on the Security Agent Security over any asset or undertaking of the Chargor located in any jurisdiction outside Australia equivalent or similar to the Security intended to be conferred by or pursuant to this document to which it is a party; and/or
 - (iii) to facilitate the realisation of the Charged Assets.
- (b) Clause 8.4(a) shall not, save when an Event of Default has occurred and is continuing, require notice of charge or assignment to be given, or a specific charge executed over a particular asset or asset class, at a time not otherwise required under the terms of this document.

9. Chargor liability and exclusion of rights

9.1 Indemnity

The Chargor indemnifies the Security Agent and each other Secured Party against, and must pay to the Security Agent on demand amounts equal to, any Loss (including loss of profit) arising as a result of or in connection with:

- (a) the Chargor or an Obligor failing to:
 - (i) pay any Secured Obligations (or money which would be Secured Obligations if it were recoverable) on time; or
 - (ii) observe or perform its Secured Obligations on time;
- (b) an Insolvency Event in relation to the Chargor or an Obligor; or
- (c) any Secured Obligations (or money which would be Secured Obligations if it were recoverable) not being recoverable from the Chargor or an Obligor, or a liability or obligation to pay the Secured Obligations or perform any obligation under a Finance Document or a Loan Note Document not being enforceable against the Chargor or an Obligor,

for any reason and whether or not the Chargor, an Obligor or the Security Agent or a Secured Party knew or ought to have known anything about those matters.

9.2 Principal and independent obligation

Subject to clause 6.2, this document comprises principal and independent obligations of the Chargor and is not ancillary or collateral to, or affected by, any other obligation, Security Interest or guarantee.

9.3 Chargor's liabilities not affected

The Chargor's liabilities under this document are not affected by any act, omission or other thing which would reduce or discharge those liabilities, including:

- (a) a Secured Party granting time or any other indulgence or concession to an Obligor or any other person;
- (b) a Secured Party increasing the amount of, opening further accounts in connection with or otherwise varying or replacing the type or terms of, financial accommodation provided to an Obligor or any other person;
- (c) any transaction or agreement, or variation, novation or assignment of a transaction or agreement (including any Finance Document or any Loan Note Document), between a Secured Party and an Obligor or any other person;

- (d) an Insolvency Event in relation to an Obligor or any other person, or a Secured Party becoming a party to or bound by any Liquidation;
 - (e) any judgment, proceedings or order being obtained or made against an Obligor or any other person;
 - (f) an obligation of an Obligor or any other person or any provision of a Finance Document or a Loan Note Document being void, voidable, unenforceable, defective, released, waived, impaired, novated, enforced or impossible or illegal to perform;
 - (g) the whole or partial discharge or release of, or the granting of, a Security;
 - (h) any Secured Obligations not being recoverable or the liability of an Obligor or any other person to a Secured Party ceasing (including as a result of giving a release or discharge or by law);
 - (i) the failure of an Obligor or any other person to execute any Finance Document or any Loan Note Document, properly or at all;
 - (j) the Chargor not being a party to a Finance Document or a Loan Note Document (such as a Finance Document or a Loan Note Document solely between a Secured Party and an Obligor);
 - (k) a Secured Party exercising or not exercising its rights (including any right to elect to terminate a contract) under a Finance Document or a Loan Note Document or at law against an Obligor or any other person;
 - (l) any default, misrepresentation, negligence, breach of contract, misconduct, acquiescence, delay, waiver, mistake, failure to give notice or other action or inaction of any kind (whether or not prejudicial to the Chargor) by a Secured Party or any other person;
 - (m) any change to, or in the membership of, any partnership, joint venture or association; or
 - (n) any Charged Assets being destroyed, forfeited, extinguished, surrendered or resumed,
- whether or not the Chargor, an Obligor, a Secured Party or any other person is aware of it or consents to it and despite any legal rule to the contrary.

9.4 Exclusion of subrogation and other rights

Until there are no Secured Obligations, and each Secured Party is satisfied that it will not have to repay any money received by it, the Chargor must not (either directly or indirectly):

- (a) claim, exercise or attempt to exercise a right of set-off or counterclaim or any other right or raise any defence which might reduce or discharge the Chargor's liability under this document;
- (b) claim or exercise a right of subrogation or contribution or otherwise claim the benefit of:
 - (i) a Security or guarantee relating to the Secured Obligations; or
 - (ii) any Security Interest or guarantee which would rank in priority or preference to a Security or guarantee relating to the Secured Obligations,

and any money the Chargor receives in breach of this clause 9.4(b) will be held on trust for Security Agent and must be paid promptly to the Security Agent for the account of the Secured Parties; or
- (c) unless expressly permitted in a Finance Document or a Loan Note Document or the Security Agent has given a direction to do so (in which case it must do so in accordance with the direction as trustee for each Secured Party):
 - (i) prove, claim or vote in, or receive the benefit of a distribution, dividend or payment arising out of, the Liquidation of an Obligor; or
 - (ii) demand, or accept payment of, any money owed to the Chargor by an Obligor,

and any such money it receives will be held on trust for each Secured Party and must be paid promptly to a Secured Party for the account of each Secured Party.

9.5 Prove in Liquidation

- (a) The Chargor, for valuable consideration, irrevocably appoints the Security Agent and its Authorised Representatives separately as its attorney to prove in the Liquidation of an

Obligor for all money that the Chargor can claim against that person on any account whatever. The terms of appointment are that the attorney:

- (i) must pay to the Chargor dividends it receives in excess of the Secured Obligations, without interest, and any other dividends must be paid to the Security Agent; and
 - (ii) may delegate its powers (including the power to delegate) to any person for any period and may revoke the delegation.
- (b) The Chargor agrees to ratify anything done by an attorney under clause 9.5(a). The power of attorney created under clause 9.5(a) is granted to secure the Chargor's performance of its obligations under each Finance Document and each Loan Note Document to which it is expressed to be a party.

9.6 Variations and replacements

The Chargor acknowledges that the Finance Documents and the Loan Note Documents may be varied or replaced from time to time. The Chargor confirms that the Secured Obligations include any amount payable under any Finance Document and any Loan Note Document which is relevant to the Secured Obligations as varied or replaced. The Chargor confirms that this applies regardless of:

- (a) how a Finance Document or a Loan Note Document is varied or replaced;
- (b) the reasons for the variation or replacement; and
- (c) whether the Secured Obligations decrease or increase or a Finance Document or a Loan Note Document is otherwise more onerous as a result of the variation or replacement.

10. Enforcement of security

10.1 Enforcement and consequences

- (a) At any time after the occurrence of:
 - (i) an Event of Default (as long as it is continuing);
 - (ii) an Insolvency Event in relation to the Chargor;
 - (iii) any event or the receipt by the Security Agent of any information or the coming to the attention of the Security Agent of any other matter or thing whatsoever which causes the Security Agent to reasonably believe that all or any part of the Charged Assets of the Chargor are in danger of seizure, distress or other legal process or that all or any part of the Security created by or pursuant to this document is otherwise for any reason whatsoever in jeopardy; or
 - (iv) a request from such Chargor to the Security Agent that it exercise any of its powers under this document,the Security created by or pursuant to this document by the Chargor is immediately enforceable.
- (b) The Security Agent agrees that it will not exercise any Power to seize the Charged Assets under Chapter 4 of the Australian PPSA until after the occurrence of any event referred to in clauses 10.1(a)(i) to 10.1(a)(iv) above.

10.2 Security Agent's general powers

At any time after the Security created by or pursuant to this document by the Chargor has become enforceable in accordance with clause 10.1 (*Enforcement and consequences*), regardless of whether the Security Agent has appointed a Receiver, the Security Agent may, without demand or notice to anyone (unless notice is required as described in clause 17.1), do all things that a secured party with a Security Interest in, or a mortgagee or an absolute owner of, the Charged Assets can do, and exercise all rights, powers and remedies:

- (a) of a secured party with a Security Interest in, or a mortgagee or an absolute owner of, the Charged Assets;
- (b) given to a Receiver under the Australian Corporations Act; and

- (c) specified in clause 10.4.

10.3 Security Agent's Australian PPSA powers – sections 123 and 128

Without limiting any other provision of this document, any Security, any other Finance Document or any Loan Note Document, the Chargor agrees that, at any time after the Security created by or pursuant to this document by the Chargor has become enforceable in accordance with clause 10.1 (*Enforcement and consequences*), the Security Agent may:

- (a) seize any Charged Assets; and/or
- (b) dispose of any Charged Assets in such manner and generally on such terms and conditions as the Security Agent thinks desirable,

and otherwise do anything that the Chargor could do in relation to the Charged Assets.

10.4 Security Agent's specific powers

At any time after the Security created by or pursuant to this document by the Chargor has become enforceable in accordance with clause 10.1 (*Enforcement and consequences*), the Security Agent may do any or all of the following in connection with its Powers, whether in its or the Chargor's name or otherwise and whether or not it has possession of the Charged Assets:

- (a) **(recover, possess and control)** access, recover, manage, take or give up possession or 'control' (within the ordinary meaning of that term and as defined in the Australian PPSA) of, and surrender or release, any Charged Assets;
- (b) **(receive income and profits)** receive the income and profits of the Charged Assets;
- (c) **(insurance)** insure the Charged Assets and settle and compromise insurance claims;
- (d) **(sell, assign or exchange)** sell, assign or help sell all or any Charged Assets to any person or exchange it for any other property or rights, on terms the Security Agent thinks fit, with or without other property;
- (e) **(deposited documents)** complete and deal with any document deposited with the Security Agent relating to any Charged Assets, including any transfer in blank;
- (f) **(options and rights)** grant, acquire, renew, vary, accept the surrender of or terminate an option or other right over the Charged Assets on the terms it thinks fit, and with or without any other property;
- (g) **(hive off)** promote the formation of any company to acquire any Charged Assets or assume obligations of the Chargor or both;
- (h) **(contracts, instruments and rights)** perform or observe the Chargor's obligations or enforce or exercise the Chargor's rights, powers, discretions or remedies (or refrain from doing so) under:
 - (i) a contract, instrument, arrangement or Marketable Security forming part of the Charged Assets (including voting and proxy rights); or
 - (ii) a Finance Document (including to cure an Event of Default), a Loan Note Document or other document entered into by the Security Agent or a Receiver in exercise of a Power,

and vary, terminate or rescind any of them or novate or otherwise transfer to any person the Chargor's obligations under any of them;

- (i) **(Liquidation)** initiate and participate in any Liquidation of any person (including voting at meetings and appointing proxies);
- (j) **(proceedings)** commence, prosecute, defend, discontinue, compromise, submit to arbitration and settle proceedings in connection with this document or the Charged Assets, whether in or before a Government Agency;
- (k) **(Marketable Securities)** exercise the rights and powers of an absolute owner in connection with Marketable Securities which form part of the Relevant Securities (including voting at meetings and appointing proxies, and effecting conversion of the title to any Marketable Securities as to being certificated or uncertificated);

- (l) **(raise money)** obtain financial accommodation (including from the Security Agent or a Secured Party or its associate) and give guarantees, in each case with or without granting a Security Interest over the Charged Assets and regardless of priority ranking;
- (m) **(receipts)** give receipts for money and other property it receives;
- (n) **(employ and delegate)** employ and discharge staff, professional advisers, consultants, contractors, agents and auctioneers for the purposes of this document, and at the remuneration that the Security Agent thinks fit, and to delegate to any person any of its Powers (including this right of delegation);
- (o) **(Authorisations)** apply for any Authorisation which is necessary or desirable in connection with the exercise of a Power; and
- (p) **(incidental power)** do anything expedient or incidental to exercise any of its Powers, without limiting those Powers.

10.5 Discharge or acquire prior Security Interest

- (a) At any time after the Security created by or pursuant to this document by the Chargor has become enforceable in accordance with clause 10.1 (*Enforcement and consequences*), the Security Agent may do any one or more of the following:
 - (i) purchase a debt or liability secured by a prior Security Interest (including a debt secured by a Permitted Security);
 - (ii) pay the amount required to discharge or satisfy that debt or liability; and
 - (iii) take a transfer or assignment of that Security Interest and any guarantee, document or right ancillary or collateral to it.
- (b) If the Security Agent exercises its rights under clause 10.5(a):
 - (i) the Chargor is indebted to the Security Agent for the same amount paid by the Security Agent or the amount of the debt or liability acquired (whichever is higher) and that amount is immediately payable to the Security Agent and forms part of the Secured Obligations;
 - (ii) the Security Agent may rely on a written notice from the holder of a prior Security Interest (**Prior Secured Party**), or on an ancillary or collateral document, as to the amount and property secured by that prior Security Interest;
 - (iii) the Prior Secured Party need not enquire whether any amount is owing under a Finance Document or a Loan Note Document; and
 - (iv) the Chargor irrevocably directs any such Prior Secured Party to give the Security Agent any information it requires in connection with the prior Security Interest.

10.6 Co-operation in exercise of power of sale

If the Security Agent or a Receiver wishes to exercise a right to sell any Charged Assets, the Chargor must do or cause to be done all things necessary to enable an expeditious sale and transfer to the purchaser for the value as estimated by the Security Agent, in the manner and on terms the Security Agent thinks fit.

10.7 Appoint Receivers

- (a) At any time after the Security created by or pursuant to this document by the Chargor has become enforceable in accordance with clause 10.1 (*Enforcement and consequences*), the Security Agent may do any one or more of the following:
 - (i) appoint one or more persons (severally, unless specified otherwise in the instrument of appointment) to be a receiver or receiver and manager of all or any of the Charged Assets;
 - (ii) fix and vary the Receiver's remuneration at an amount agreed between the Security Agent and the Receiver from time to time;
 - (iii) terminate a receivership or remove or replace a Receiver; and
 - (iv) appoint an additional Receiver.

- (b) The Security Agent may do any of these things even if a resolution or order for the Chargor's Liquidation has been passed or made.
- (c) Each party agrees that if a Receiver is appointed under this document on the basis of an Event of Default which is continuing but subsequently ceases to continue, the Event of Default is taken to continue for the purposes of the Receiver's appointment under this document.

10.8 Agency of Receiver

To the extent permitted by law, a Receiver is the agent of the Chargor and the Chargor alone is responsible for the Receiver's costs, expenses, remuneration, acts, omissions and defaults. The Security Agent is not liable to the Chargor for the acts or omissions of the Receiver. To the extent that a Receiver is not, or ceases to be, the agent of the Chargor as a result of a resolution or order for the Chargor's Liquidation or by operation of law, the Receiver immediately becomes the agent of the Security Agent.

10.9 Receiver's powers

- (a) Unless the terms of a Receiver's appointment say otherwise, the Receiver has the following rights and powers over the Charged Assets which the Receiver is appointed to:
 - (i) deal with all the rights, powers, discretions or remedies given by law to mortgagees in possession, receivers or receivers and managers;
 - (ii) deal with all of the Security Agent's Powers under this document and at law (other than the power to appoint receivers or receivers and managers); and
 - (iii) obtain financial accommodation from the Security Agent or a Secured Party and give guarantees on terms that the Receiver considers expedient in connection with the Charged Assets, in each case whether alone or together with any other person, and with or without granting a Security Interest (regardless of priority ranking) over the Charged Assets.
- (b) The Receiver may exercise the rights and powers under clause 10.9(a) in the name of the Chargor or otherwise.

10.10 Appointment of Attorney

- (a) The Chargor for valuable consideration, to secure the payment and discharge of the Secured Obligations, irrevocably appoints the Security Agent, each Authorised Representative of the Security Agent and each Receiver separately as its attorney to do any or all of the following on the Chargor's behalf and in the Chargor's or the attorney's name at any time after the Security created by or pursuant to this document by the Chargor has become enforceable in accordance with clause 10.1 (*Enforcement and consequences*):
 - (i) prove in the Liquidation of an Obligor;
 - (ii) anything which the Chargor must do under a Finance Document, a Loan Note Document or under law in connection with a Finance Document or a Loan Note Document;
 - (iii) anything which the Attorney considers necessary or expedient to give effect to a Power or exercise of a Power, or to perfect any Finance Document or any Loan Note Document, including by signing any document for that purpose;
 - (iv) anything which an Attorney is expressly empowered to do under a Finance Document or a Loan Note Document on the Chargor's behalf; and
 - (v) exercise any Rights and voting rights in respect of the Relevant Securities, and direct payment of all Proceeds in accordance with this document.
- (b) The Chargor agrees to ratify anything done by its Attorney pursuant to the power of attorney granted by the Chargor under clause 10.10(a). An Attorney may delegate its powers (including the power to delegate) to any person for any period and may revoke the delegation.

10.11 Investigating Experts

The Security Agent may, at any time after the Security created by or pursuant to this document by the Chargor has become enforceable in accordance with clause 10.1 (*Enforcement and consequences*), appoint accountants, insolvency practitioners or other experts (**Investigating Experts**) to investigate and report on the affairs and financial position of the Chargor and on the Charged Assets. The Chargor:

- (a) authorises, and agrees to give all reasonable assistance to, the Investigating Experts to undertake the investigation, and must pay the Investigating Experts' costs on demand by the Security Agent; and
- (b) authorises the disclosure to the Security Agent and the Secured Parties and their advisers of all information and documentation in connection with the investigation.

11. Costs and expenses

The provisions of clause 17 (*Costs and expenses*) of the Facility Agreement are incorporated into this document as if set out in full *mutatis mutandis*.

12. Receipt of money and application

12.1 Credit of received payment

The Chargor is only credited with a payment of Secured Obligations from the date of actual receipt in cleared funds by the Security Agent (whether received from the Chargor or a Receiver).

12.2 Applying or appropriating money received

The Security Agent may apply or appropriate all money received under this document (even if insufficient to discharge all of the Chargor's obligations at that time) to reduce the Secured Obligations in the order, and to satisfy any part of the Secured Obligations, as the Security Agent sees fit (including as between principal, interest and other amounts owing to the Security Agent and including so as to enable the Security Agent to preserve any purchase money security interest). An application or appropriation by the Security Agent will override any appropriation made by the Chargor. For the purposes of section 14(6)(a) of the Australian PPSA, this clause 12.2 constitutes the method of payment application agreed by the parties.

12.3 Suspense account

- (a) The Security Agent may credit money received in or towards satisfaction of the Secured Obligations (including dividends received in any Liquidation) to a suspense account. The Security Agent may keep the money in that account for as long as, and at whatever interest rate, the Security Agent thinks fit. The Security Agent may apply the money (including interest) to reduce the Secured Obligations whenever the Security Agent thinks fit.
- (b) If the Secured Obligations have been fully and finally paid or discharged and the Security Agent is satisfied that such payment or discharge is not liable to be set aside, avoided or reversed, then the balance standing to the credit of the suspense account and any accrued interest must be paid to or for the account of the Chargor and the Security Agent will not have any further liability in relation to it.

12.4 Surplus proceeds

If the Security Agent, a Receiver or an Attorney (as the case may be) holds any surplus money after:

- (a) payment and discharge of the Secured Obligations in full and the application of proceeds in accordance with clause 12.2; and
- (b) the making of all payments that the Security Agent, Receiver or Attorney has the right or obligation to make under the Finance Documents, the Loan Note Documents or at law,

then:

- (c) no trust arises, or interest accrues, over that surplus money; and

- (d) the Security Agent, Receiver or Attorney may pay that money to an account in the name of the Chargor with any bank, in which case the Security Agent or a Secured Party, Receiver or Attorney will have no further liability in relation to that money.

12.5 Foreign currency amounts

- (a) For the purpose of or pending the discharge of any of the Secured Obligations the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to another, at the spot rate at which the Security Agent is able to purchase the currency in which the Secured Obligations are due with the amount received.
- (b) The obligations of the Chargor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

13. Statutory powers and notices

13.1 Exclusion of Australian PPSA provisions

To the extent the law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the Australian PPSA:
 - (i) the Security Agent need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and
 - (ii) sections 142 and 143 are excluded;
- (b) for the purposes of section 115(7) of the Australian PPSA, the Security Agent need not comply with sections 132 and 137(3); and
- (c) if the Australian PPSA is amended after the date of this document to permit the Chargor and the Security Agent to agree to not comply with or to exclude other provisions of the Australian PPSA, the Security Agent may notify the Chargor that any of these provisions is excluded, or that the Security Agent need not comply with any of these provisions, as notified to the Chargor by the Security Agent; and
- (d) the Chargor agrees not to exercise its rights to make any request of the Security Agent under section 275 of the Australian PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

13.2 Exercise of rights by Security Agent

If the Security Agent exercises a Power in connection with this document, that exercise is taken not to be an exercise of a right, power or remedy under the Australian PPSA unless the Security Agent states otherwise at the time of exercise. However, this clause does not apply to a Power which can only be exercised under the Australian PPSA.

13.3 No notice required unless mandatory

- (a) To the extent the law permits, the Chargor waives:
 - (i) its rights to receive any notice that is required by:
 - (A) any provision of the Australian PPSA (including a notice of a verification statement); or
 - (B) any other law before a secured party or Receiver exercises a Power; and
 - (ii) any time period that must otherwise lapse under any law before a secured party or Receiver exercises a Power.
- (b) If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).
- (c) However, nothing in this clause prohibits the Security Agent or any Receiver from giving a notice under the Australian PPSA or any other law.

13.4 Appointment of nominee for registration

For the purposes of section 153 of the Australian PPSA, the Security Agent appoints the Chargor as its nominee, and authorises the Chargor to act on its behalf, in connection with a registration under the Australian PPSA of any security interest in favour of the Chargor which is:

- (a) evidenced or created by chattel paper;
- (b) perfected by registration under the Australian PPSA; and
- (c) transferred to the Security Agent under this document.

This authority ceases when the registration is transferred to the Security Agent.

13.5 Other rights

Where the Security Agent has Powers in addition to, or existing separately from, those in Chapter 4 of the Australian PPSA, those Powers will continue to apply and are not limited or excluded (or otherwise adversely affected) by the Australian PPSA. This is despite clause 13.1 or any other provision of a Finance Document or a Loan Note Document.

14. Assignment

14.1 No assignments or transfers by Chargor

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this document.

14.2 Assignments by the Security Agent

The Security Agent may assign all or any of its rights under this document. The Security Agent shall be entitled to disclose such information concerning the Chargor and this document as the Security Agent considers appropriate to any actual or proposed direct or indirect assignee or to any person to whom information may be required to be disclosed by any applicable law.

14.3 Assistance

The Chargor agrees to do or execute anything reasonably requested by the Security Agent to effect an assignment, transfer, novation or other dealing under this clause 14.

15. Notices, demands and communications

Any communication to be made under or in connection with this document shall be made in accordance with clause 34 (*Notices*) of the Facility Agreement.

16. Protection of third parties

16.1 Receipt of Security Agent, Receiver or Attorney

A receipt given by the Security Agent or a Secured Party (or its Authorised Representative), a Receiver or an Attorney for any money payable to it, or any asset receivable by it, relieves the person paying that money or delivering the asset from all liability to enquire as to the dealing with, or application of, that money or asset.

16.2 Third parties need not enquire

A person dealing with the Security Agent or a Secured Party, a Receiver or an Attorney is protected from any impropriety or irregularity of that dealing, and need not enquire whether:

- (a) any of them has been properly appointed or has executed or registered an instrument or exercised a Power properly or with authority; or
- (b) any Secured Obligations have become due, a Finance Document or a Loan Note Document is enforceable or a default (however described) has occurred under a Finance Document or a Loan Note Document.

17. Protection of Security Agent, Secured Party, Receiver and Attorney

17.1 Notice, demand or lapse of time required by law

If a notice, demand or lapse of time is required by law before the Security Agent or a Secured Party can exercise a Power, then for the purposes of this document:

- (a) that notice, demand or lapse of time is dispensed with to the extent allowed by that law; or
- (b) if not allowed to be dispensed with, but the period of notice, demand or lapse of time is allowed by that law to be shortened or fixed, it is shortened and fixed to one day.

17.2 Security Agent, Secured Party and Receiver not restricted

The Security Agent, a Secured Party or a Receiver need not:

- (a) exercise a Power, give a consent or make a decision under this document unless a Finance Document or a Loan Note Document expressly provides otherwise; or
- (b) resort to a Security or Power before resorting to any other of them.

17.3 Security Agent, Secured Party, Receiver and Attorney not mortgagee in possession or liable

To the extent permitted by law, the Security Agent, a Secured Party or a Receiver and any Attorney will:

- (a) not be, nor account or be liable as, mortgagee in possession due to exercise of a Power; or
- (b) not be liable to anyone for any Loss in relation to an exercise or attempted exercise of a Power, or a failure or delay in exercising a Power.

17.4 Security Agent may set off

The Chargor authorises the Security Agent (but the Security Agent shall not be obliged to exercise such right), after the occurrence of an Event of Default which is continuing in relation to the Chargor, to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Security Agent to the Chargor, and apply any credit balance to which the Chargor is entitled on any account with the Security Agent in accordance with clause 12.2 (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

17.5 Reinstating avoided transaction

- (a) The Chargor agrees that if a payment or other transaction relating to the Secured Obligations is void, voidable, unenforceable or defective for any reason or a related claim is upheld, conceded or settled (each an **Avoidance**), then even though the Security Agent knew or should have known of the Avoidance:
 - (i) each Power and the Chargor's liability under each Finance Document and each Loan Note Document will be what it would have been, and will continue, as if the payment or transaction the subject of the Avoidance had not occurred; and
 - (ii) the Chargor will immediately execute and do anything required by the Security Agent to restore the Security Agent to its position immediately before the Avoidance (including reinstating any Finance Document and any Loan Note Document).
- (b) This clause 17.5 survives any termination or full or partial discharge or release of any Finance Document and any Loan Note Document.

17.6 Authorised Representatives and communications

The Chargor irrevocably authorises the Security Agent to rely on a certificate by any person purporting to be its director or company secretary as to the identity and signatures of its Authorised Representatives, and to rely on any Notice or other document contemplated by any Finance Document and any Loan Note Document which bears the purported signature (whether given by facsimile or otherwise) of its Authorised Representative. The Chargor warrants that those persons have been authorised to give notices and communications under or in connection with the Finance Documents and the Loan Note Documents.

17.7 Security Agent's opinion

An opinion or view of the Security Agent for the purposes of this document may be formed or held on its behalf by its Authorised Representative, its board of directors or by any other person it authorises to act on its behalf in relation to the Finance Documents and the Loan Note Documents.

18. General provisions

18.1 Consideration

The Chargor acknowledges entering this document in return for the Security Agent and the other Secured Parties entering into the Finance Documents and the Loan Note Documents, the transactions contemplated by those documents and other valuable consideration.

18.2 Prompt performance

If a time is not specified for the performance by the Chargor of an obligation under this document, it must be performed promptly.

18.3 Performance of Chargor's obligations by Security Agent

The Security Agent may do anything which the Chargor fails to do as required by, or in accordance with, this document. This does not limit or exclude the Security Agent's Powers in any way.

18.4 Powers

Powers under the Finance Documents and the Loan Note Documents are cumulative and do not limit or exclude Powers under law. Full or partial exercise of a Power does not prevent a further exercise of that or any other Power. No failure or delay in exercising a Power operates as a waiver or representation. Unless expressly provided in a Finance Document or a Loan Note Document, no Power or Finance Document or Loan Note Document merges in, limits or excludes any other Power, Finance Document, Loan Note Document or judgment which the Security Agent, a Secured Party or a Receiver (or anyone claiming through it) may have or obtain.

18.5 Consent and waivers

A consent or waiver by the Security Agent or a Receiver in relation to this document is effective only if in writing. If given subject to conditions, the consent or waiver only takes effect subject to compliance with those conditions to the Security Agent's or Receiver's satisfaction.

18.6 Indemnities and reimbursement obligations

The Security Agent or a Receiver need not incur an expense or make a payment before enforcing an indemnity or reimbursement obligation in a Finance Document or a Loan Note Document. Unless otherwise stated, each such indemnity or reimbursement obligation is separate and independent of each other obligation of the party giving it, is absolute, irrevocable, unconditional and payable on demand and continues despite any settlement of account, termination of any Finance Document or any Loan Note Document or anything else.

18.7 Notices or demands as evidence

A notice or certificate from or demand by the Security Agent stating that an Event of Default has occurred, or that a specified sum of money is owing or payable under a Finance Document or a Loan Note Document or stating any other fact or determination relevant to the rights or obligations of the Security Agent or a Secured Party or the Chargor under a Finance Document or a Loan Note Document, is taken to be correct unless proved incorrect.

18.8 Law and legislation

To the extent permitted by law:

- (a) each Finance Document and each Loan Note Document to which the Chargor is expressed to be a party prevails to the extent of inconsistency with any law; and

- (b) any present or future legislation operating to reduce the Chargor's obligations under a Finance Document or a Loan Note Document or the effectiveness of the Powers is excluded.

18.9 Severability

A provision of this document that is illegal, invalid or unenforceable in a jurisdiction is ineffective in that jurisdiction to the extent of the illegality, invalidity or unenforceability. This does not affect the validity or enforceability of that provision in any other jurisdiction, nor the remainder of this document in any jurisdiction.

18.10 Variation

A variation of this document must be in writing and signed by or on behalf of each party to it.

18.11 Governing law – security agreement

This document is governed by the laws New South Wales, Australia.

18.12 Governing law – Security Interest

- (a) Subject to clause (b), each Security Interest created under this document is governed by the laws of New South Wales, Australia.
- (b) Clause (a) does not apply to the extent that a Security Interest is created under this document in any personal property described in section 237(2) of the Australian PPSA, in which case the law determined by the Australian PPSA will govern the Security Interest in that property.

18.13 Jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia (and any court of appeal) and waives any right to object to an action being brought in those courts, including on the basis of an inconvenient forum or those courts not having jurisdiction.

18.14 Service of process

Without preventing any other mode of service, any document in an action or process may be served on any party by being delivered to or left for that party at its address for service of Notices under this document. The Chargor appoints the Share Issuer as its agent to accept service of process under or in connection with this document, and the Share Issuer accepts the appointment pursuant to clause 19.4 (*Service of process*) of the General Security Deed. The appointment may not be revoked without the Security Agent's consent.

18.15 Counterparts

This document may be executed in any number of counterparts. Each counterpart constitutes an original of this document, all of which together constitute one instrument. A party who has executed a counterpart of this document may exchange it with another party by faxing, or by emailing a pdf (portable document format) copy of, the executed counterpart to that other party, and if requested by that other party, will promptly deliver the original by hand or post. Failure to make that delivery will not affect the validity of this document.

Schedule 1 – Relevant Marketable Securities

Shares:

Chargor (who holds shares in a Share Issuer)	ACN / ABN / ARBN	Share Issuer	Relevant Marketable Securities
Kodak Alaris Holdings Limited	N/A	Kodak Alaris Australia Pty Limited (ACN 164 376 881)	100% of the issued capital of the Share Issuer, which as at the date of this document consists of 530,010 ordinary shares fully paid to A\$530,010 value, together with all other shares in the Share Issuer legally or beneficially owned by the Chargor from time to time.

Signing pages

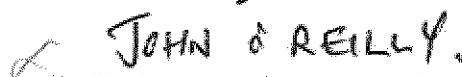
EXECUTED as a deed.


Each attorney signing this document under a power of attorney certifies, by the attorney's signature, that the attorney has no notice of the revocation of the power of attorney.

Chargor

Signed sealed and delivered by Kodak Alaris Holdings Limited in the presence of


Signature of witness


Name of witness (print)


Signature of authorised signatory


Name of authorised signatory (print)

Security Agent

Signed sealed and delivered by KPP (No. 2)
Trustees Limited in the presence of


Signature of witness

CHARLES WARD
Name of witness (print)


Signature of authorised signatory

TOMISLAV LUKIC FOR
Name of authorised signatory (print)

DALZIADA TRUSTEES LTD