

MR01

Particulars of a charge

04 9236/20



Companies House

A fee is payable with this form  
Please see 'How to pay' on the  
last page

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Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge instrument. Use

For further information, please  
refer to our guidance at  
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This form must be delivered to the Registrar for re  
21 days beginning with the day after the date of creat  
delivered outside of the 21 days it will be rejected unles  
court order extending the time for delivery



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

MONDAY



**1 Company details**

Company number 0 8 5 8 2 8 9 2

Company name in full GREENFIELDS (A) LIMITED

1

For official use

**Filing in this form**  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

**2 Charge creation date**

Charge creation date 2 4 1 2 2 0 1 4

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

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

Name ROUNDSHIELD LUXEMBOURG I, S A R L

Name

Name

Name

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

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

MR01

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4

**Brief description**

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

Brief description

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

Please limit the description to the available space

5

**Other charge or fixed security**

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

☒ **Yes**

☐ **No**

6

**Floating charge**

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

☒ **Yes** Continue

☐ **No** Go to **Section 7**

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

☒ **Yes**

7

**Negative Pledge**

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

☒ **Yes**

☐ **No**

8

**Trustee statement <sup>1</sup>**

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

☐

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

9

**Signature**

Please sign the form here

Signature

Signature

X WATSON FARLEY & WILLIAMS LLP X

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

# MR01

## Particulars of a charge



### Presenter information

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

Contact name TIM WILLIAMS - 552457081 7

Company name WATSON FARLEY & WILLIAMS LLP

Address 15 APPOLD STREET

Post town LONDON

County/Region

Postcode E C 2 A 2 H B

Country UNITED KINGDOM

DX

Telephone 020 7814 8000



### Certificate

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



### Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

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



### Important information

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



### How to pay

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

Make cheques or postal orders payable to 'Companies House'.



### Where to send

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

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

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

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



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

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

Company number: 8582892

Charge code: 0858 2892 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th December 2014 and created by GREENFIELDS (A) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th January 2015

*P*

Given at Companies House, Cardiff on 16th January 2015



**Companies House**



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

EXECUTION FORM

DATED

24 December 2014

- (1) GREENFIELDS (A) LIMITED
- (2) ROUNDSHIELD LUXEMBOURG I, S À R L

---

DEBENTURE

---



ORRICK, HERRINGTON & SUTCLIFFE (EUROPE) LLP  
LONDON

OHSEUROPE 552457081 7

WE HEREBY CERTIFY THIS DOCUMENT TO BE A TRUE  
COPY OF THE ORIGINAL  
WATSON FARLEY & WILLIAMS LLP  
WATSON FARLEY & WILLIAMS LLP  
15 Appold Street  
London EC2A 2HB  
United Kingdom

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THIS DEED is dated 24 December 2014

#### PARTIES

- (1) **GREENFIELDS (A) LIMITED** incorporated and registered in England and Wales with company number 08582892 whose registered office is at Manor Offices, Chelvey Road, Backwell, North Somerset, BS48 3BD ("**Chargor**")
- (2) **ROUNDSHIELD LUXEMBOURG I, S.A R L** incorporated and registered in Luxembourg whose registered office is at 7 rue Lou Hemmer, L-1748 Luxembourg-Findel Grand-Duché de Luxembourg ("**Lender**")

#### BACKGROUND

- (A) The Lender has agreed, pursuant to the Acquisition Facility Agreement, to provide the Chargor with loan facilities on a secured basis
- (B) Under this Deed, the Chargor provides security to the Lender for the loan facilities made available under the Acquisition Facility Agreement

#### AGREED TERMS

##### 1. DEFINITIONS AND INTERPRETATION

###### 1.1 Definitions

Terms defined in the Acquisition Facility Agreement shall, unless otherwise defined in this Deed or in any Supplemental Legal Mortgage, have the same meaning in this Deed. In addition, the following definitions apply in this Deed

**"Account"** any account opened or maintained by the Chargor with any bank or financial institution or any other person (and any replacement account or subdivision or subaccount of that account) (but excluding the Designated Accounts), the debt or debts represented thereby and all related rights in connection with such accounts

**"Acquisition Facility Agreement"** the facility agreement dated on or around the date hereof between, inter alia, the Borrower and the Lender, to which the Chargor has become party as Additional Guarantor pursuant to an Accession Deed dated on or about the date of this Deed

**"Administrator"** an administrator appointed to manage the affairs, business and property of the Chargor pursuant to clause 6.8

**"Book Debts"** all present and future book and other debts, and monetary claims due or owing to the Chargor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Chargor in relation to any of them

**"Delegate"** any person appointed by the Lender or any Receiver pursuant to clause 15 (*Delegation*) and any person appointed as attorney of the Lender, Receiver or Delegate



**"Designated Account"** means

- (a) the Mandatory Prepayment Account opened in the name of the Chargor in accordance with clause 18 37(e) of the Acquisition Facility Agreement,
- (b) the Operating Account (as defined in the Construction Facility Agreement) opened in the name of the Chargor in accordance with clause 16 34(d) of the Construction Facility Agreement, and
- (c) any other account of the Chargor nominated by the Lender as a designated account from time to time for the purposes of this Deed

**"Equipment"** all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Chargor, including any part of it and all spare parts, replacements, modifications and additions

**"Event of Default"** has the meaning given to that expression in the Acquisition Facility Agreement

**"Financial Collateral"** shall have the meaning given to that expression in the Financial Collateral Regulations

**"Financial Collateral Regulations"** the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226)

**"Insurance Policy"** each contract and policy of insurance effected or maintained by or on behalf of the Chargor from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Properties or the Equipment)

**"Intellectual Property"** the Chargor's present and future patents, trademarks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including the benefit of all applications and rights to apply for registration and all fees, royalties and Related Rights

**"Investments"** all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Chargor, including any

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments, and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise,

whether held directly by or to the order of the Chargor or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system)

**"LPA 1925"** the Law of Property Act 1925

**"Notice of Assignment"**

- (a) in respect of a Relevant Agreement, a notice of assignment in substantially the form set out in Schedule 1 (*Notice and Acknowledgement – Relevant Agreement*) to this Deed or in such form as may be specified by the Lender, and
- (b) in respect of an Insurance Policy, a notice of assignment in substantially the form set out in Schedule 2 (*Notice and Acknowledgement – Insurance Policy*) to this Deed or in such form as may be specified by the Lender

**"Notice of Charge"** a notice of charge in substantially the form set out in Schedule 3 (*Notice and Acknowledgement – Bank Account*) to this Deed or in such form as may be specified by the Lender

**"Permitted Security"** has the meaning given to that expression in the Acquisition Facility Agreement

**"Properties"** all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Chargor, or in which the Chargor holds an interest, and Property means any of them, and including all Related Rights

**"Receiver"** a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under clause 13

**"Related Rights"** means in relation to any asset

- (a) the proceeds of sale of any part of that asset,
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any monies and proceeds paid or payable in respect of that asset

**"Relevant Agreement"** each relevant Intercompany Loan Agreement, Lease, Option to Lease, EPC Contract, Contestable Works Contract, Performance Bond, Connection Document, Planning Document and any other Project Document to which the Chargor is a party

**"Secured Assets"** all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this Deed and each Supplemental Legal Mortgage (and references to the Secured Assets shall include references to any part of them)

**"Secured Liabilities"** all present and future monies, obligations and liabilities of the Chargor to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Acquisition Facility Agreement, this Deed or any Supplemental Legal Mortgage (including, without limitation, those arising under clause 28 3(b) of this Deed), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities

**"Security"** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect

**"Security Financial Collateral Arrangement"** shall have the meaning given to that expression in the Financial Collateral Regulations

**"Security Period"** the period starting on the date of this Deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full, no further Secured Liabilities are capable of being outstanding and the Lender is not 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

**"Supplemental Legal Mortgage"** a supplemental legal mortgage in substantially the form set out in Schedule 4 (*Supplemental Legal Mortgage*) to this Deed or in such form as may be agreed between the Chargor and the Lender

## 1 2 Interpretation

In this Deed

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this Deed,
- (b) a reference to a person shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees,
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular,

- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees,
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time,
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision,
- (h) a reference to writing or written includes fax but not e-mail,
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done,
- (j) a reference to this Deed (or any provision of it) or to any other agreement or document referred to in this Deed is a reference to this Deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Deed) from time to time,
- (k) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this Deed (as applicable) and a reference to a paragraph is to a paragraph of the relevant Schedule,
- (l) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms,
- (m) a reference to an amendment includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly),
- (n) a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description,
- (o) a reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution,
- (p) a reference to continuing in relation to an Event of Default means an Event of Default that has not been remedied or waived,
- (q) a reference to determines or determined means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it, and
- (r) a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation

1 3 Clawback

If the Lender considers that an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside pursuant to a petition or application being presented for an order of winding-up of, or the making of an administration order in respect of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed, and the Lender may continue to retain such Security, this Deed and such documents relating to or evidencing ownership of all or any part of the Secured Assets for such further period as the Lender may determine and the Security and such documents shall be deemed to have continued to be held as Security for the Secured Liabilities

1 4 Nature of security over real property

A reference in this Deed to a charge or mortgage of or over any Property includes

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time,
- (b) the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property,
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of that Property, and any monies paid or payable in respect of those covenants, and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of that Property,

and any Related Rights

1 5 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the Acquisition Facility Agreement, any other Finance Document and of any side letters between any parties in relation to the Acquisition Facility Agreement are incorporated into this Deed to the extent required for any purported disposition of the Property contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

1 6 Perpetuity period

If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009)

1 7 Schedules

The Schedules form part of this Deed and shall have effect as if set out in full in the body of this Deed Any reference to this Deed includes the Schedules

## **2 COVENANT TO PAY**

The Chargor shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due

## **3 GRANT OF SECURITY**

### **3 1 *Legal mortgage***

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender, by way of first legal mortgage, each Property

### **3 2 *Fixed charges***

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender by way of first fixed charge all of its right, title and interest from time to time in and to (subject to obtaining any necessary consent to such fixed charge from any third party)

- (a) all Properties acquired by the Chargor in the future,
- (b) all present and future interests of the Chargor not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property,
- (c) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property,
- (d) all Consents and all Related Rights,
- (e) all its present and future goodwill,
- (f) all its uncalled capital,
- (g) all the Equipment,
- (h) all the Intellectual Property,
- (i) all the Book Debts and all Related Rights,
- (j) all the Investments,
- (k) all the Accounts,
- (l) all its rights in respect of each Designated Account, to the extent not effectively assigned under clause 3 3

- (m) all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3, and
- (n) all its rights in respect of each Relevant Agreement and all other agreements, instruments and rights relating to the Secured Assets, to the extent not effectively assigned under clause 3.3

### 3.3 Assignment

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities, all of its right, title and interest from time to time in and to each of the following assets (subject to obtaining any necessary consent to that assignment from any third party)

- (a) the proceeds of any Insurance Policy and all Related Rights,
- (b) all rights and claims in relation to any Designated Account, and
- (c) the Relevant Agreements and the benefit of all other agreements, instruments and rights relating to the Secured Assets, all proceeds paid or payable thereunder and all Related Rights

### 3.4 Floating charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender, by way of first floating charge, all the undertaking, property, assets and rights of the Chargor at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.3 inclusive

### 3.5 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.4

### 3.6 Automatic crystallisation of floating charge

The floating charge created by clause 3.4 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if

- (a) the Chargor
  - (i) creates, or attempts to create, without the prior written consent of the Lender, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this Deed or the Acquisition Facility Agreement), or

- (ii) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised),
- (b) any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets, or
- (c) a resolution is passed or an order is made for the winding up, dissolution, administration or re-organisation of the Chargor

### 3.7 Crystallisation of floating charge by notice

The Lender may, in its sole discretion, by written notice to the Chargor, convert the floating charge created under this Deed into a fixed charge as regards any part of the Secured Assets specified by the Lender in that notice if

- (a) an Event of Default occurs and is continuing, or
- (b) the Lender considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy

### 3.8 Assets acquired after any floating charge has crystallised

Any asset acquired by the Chargor after any crystallisation of the floating charge created under this Deed that, but for that crystallisation, would be subject to a floating charge under this Deed, shall (unless the Lender confirms otherwise to the Chargor in writing) be charged to the Lender by way of first fixed charge

## 4 PERFECTION OF SECURITY

### 4.1 Notices of Assignment

The Chargor shall deliver to the Lender (or procure delivery of) Notices of Assignment duly executed by, or on behalf of, the Chargor

- (a) in respect of each Relevant Agreement, Designated Account or Insurance Policy entered into on or prior to the date of this Debenture, promptly after the date of this Deed,
- (b) in respect of any Relevant Agreement or Insurance Policy entered into after the date of this Debenture, within five (5) Business Days of the date of such Relevant Agreement or Insurance Policy,
- (c) in respect of any Designated Account opened after the date of this Debenture, within five (5) Business Days of the date of such Designated Account being opened or promptly upon designation at any time by the Lender of that Account as a Designated Account, and



- (d) in respect of any other asset which is the subject of an assignment pursuant to clause 3.3 (Assignment) of this Deed promptly upon the request of the Lender from time to time,

and in each case the Chargor shall use all reasonable endeavours to procure that each notice is acknowledged by the obligor or debtor specified by the Lender and shall retain and, if requested to do so, promptly deliver to the Lender written evidence of the delivery of such Notices of Assignment to the relevant counterparties specified in such Notices of Assignment, provided that the obligation under this clause 4.1 shall not apply if such notices and acknowledgements have been incorporated into, in the case of any Insurance Policy, the endorsements contained in such policy

#### 4.2 Notices of Charge

The Chargor shall from time to time promptly deliver to the Lender (or procure delivery of) Notices of Charge in form and substance satisfactory to the Lender, duly executed by, or on behalf of, the Chargor in respect of each Account, and the Chargor shall use all reasonable endeavours to procure that each notice is acknowledged by each of the banks or financial institutions with which any of the Accounts (other than the Designated Account) are opened or maintained

#### 4.3 Property Delivery of Documents of Title

The Chargor shall

- (a) immediately upon the execution of this Deed or any Supplemental Legal Mortgage (and upon the acquisition by it of any interest in any Property at any time) deposit (or procure the deposit) with the Lender all deeds, certificates and other documents constituting or evidencing title to the Property (other than the Investments in relation to which Clause 12.2 (Investments Delivery of Documents of Title) shall apply) or shall procure that the Chargor's solicitor delivers appropriate undertakings satisfactory to the Lender to hold the deeds, certificates and other documents of title to the order of the Lender; and
- (b) deposit with the Lender at any time thereafter any further such deeds, certificates and other documents, promptly upon coming into possession of any of those items or shall procure that the Chargor's solicitor delivers appropriate undertakings satisfactory to the Lender to hold the deeds, certificates and other documents of title to the order of the Lender

#### 4.4 Registration of Intellectual Property

The Chargor shall, if requested by the Lender, execute all such documents and do all acts that the Lender may reasonably require to record the interest of the Lender in any registers relating to any registered Intellectual Property

## **5 LIABILITY OF THE CHARGOR**

### **5 1 Liability not discharged**

The Chargor's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground,
- (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person, or
- (c) any other act or omission that, but for this clause 5 1, might have discharged, or otherwise prejudiced or affected, the liability of the Chargor

### **5 2 Immediate recourse**

The Chargor waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Chargor

## **6 POWERS OF THE LENDER**

### **6 1 Power to remedy**

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this Deed
- (b) The Chargor irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose
- (c) Any monies expended by the Lender in remedying a breach by the Chargor of its obligations contained in this Deed shall be reimbursed by the Chargor to the Lender on a full indemnity basis and shall carry interest in accordance with clause 17 1

### **6 2 Exercise of rights**

- (a) The rights of the Lender under clause 6 1 are without prejudice to any other rights of the Lender under this Deed
- (b) The exercise of any rights of the Lender under this Deed shall not make the Lender liable to account as a mortgagee in possession

6 3 Power to dispose of chattels

- (a) At any time after the Security constituted by this Deed has become enforceable, the Lender or any Receiver may, as agent for the Chargor, dispose of any chattels or produce found on any Property
- (b) Without prejudice to any obligation to account for the proceeds of any disposal made under clause 6 3(a), the Chargor shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 6 3(a)

6 4 Lender has Receiver's powers

To the extent permitted by law, any right, power or discretion conferred by this Deed on a Receiver may, after the Security constituted by this Deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver

6 5 Conversion of currency

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this clause 6 5) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit
- (b) Any such conversion shall be effected at a prevailing spot selling rate of exchange for such other currency against the existing currency of a bank as specified by the Lender from time to time
- (c) Each reference in this clause 6 5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency

6 6 New accounts

- (a) If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the Chargor in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Chargor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities
- (b) If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 6 6(a), then, unless the Lender gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Lender shall be treated as having been credited to a new account of the

Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender

6 7 Indulgence

The Lender may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this Deed (whether or not any such person is jointly liable with the Chargor) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this Deed or to the liability of the Chargor for the Secured Liabilities

6 8 Appointment of an Administrator

- (a) The Lender may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the Security constituted by this Deed becomes enforceable
- (b) Any appointment under this clause 6 8 shall
  - (i) be in writing signed by a duly authorised signatory of the Lender, and
  - (ii) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986
- (c) The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 6 8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified

6 9 Further advances

The Lender covenants with the Chargor that it shall perform its obligations to make advances under the Acquisition Facility Agreement (including any obligation to make available further advances)

**7 WHEN SECURITY BECOMES ENFORCEABLE**

7 1 Security becomes enforceable on Event of Default

*The security constituted by this Deed and each Supplemental Legal Mortgage shall become immediately enforceable if an Event of Default occurs and is continuing*

7 2 Discretion

After the Security constituted by this Deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets

## **8. INVESTMENTS**

### **8.1 Investments Payment of Calls**

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Investments, and in any case of default by the Chargor in such payment, the Lender may, if it thinks fit, make such payment on behalf of the Chargor in which case any sums paid by the Lender shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate and in accordance with clause 11.2 (Default interest) of the Acquisition Facility Agreement

### **8.2 Investments Delivery of Documents of Title**

The Chargor shall promptly

- (a) on the execution of this Deed, deliver (or procure delivery) to the Lender, and the Lender shall be entitled to retain, all of the Investments and any certificates and other documents of title representing the Investments to which the Chargor (or its nominee(s)) is entitled, and
- (b) deliver (or procure delivery) to the Lender, and the Lender shall be entitled to retain, all of the Investments and any certificates and other documents of title representing the Investments to which the Chargor (or its nominee(s)) becomes entitled after the date of this Deed,

together, in each case, with any other document which the Lender may reasonably request (in such form and executed as the Lender may reasonably require) with a view to perfecting its Security over the Investments or to registering any Investment in its name or the name of any nominee(s)

### **8.3 Investments Exercise of Rights**

The Chargor shall not

- (a) exercise (and shall procure that any nominee acting on its behalf does not exercise) its voting rights and powers in relation to the Investments, or
- (b) otherwise permit or agree to, or concur or participate in any
  - (i) variation of the rights attaching to or conferred by all or any part of the Investments,
  - (ii) increase in the issued share capital of any company whose shares are charged pursuant to this Deed,
  - (iii) exercise, renunciation or assignment of any right to subscribe for any shares or securities, or

- (iv) reconstruction, amalgamation, sale or other disposal of any company or any of the assets of any company (including the exchange, conversion or reissue of any shares or securities as a consequence thereof) whose shares are charged under this Deed,

in each case in a manner which in the opinion of the Lender (acting reasonably) would prejudice the value of, or the ability of the Lender to realise, the Security created by this Deed provided that the proceeds of any such action shall form part of the Secured Assets

#### 8.4 Voting rights and dividends prior to an Event of Default

Prior to the occurrence of an Event of Default (which is continuing), the Chargor shall

- (a) apply all dividends, interest and other monies arising from the Investments in accordance with the terms of the Acquisition Facility Agreement,
- (b) subject to clause 8.3 (Investments Exercise of Rights) of this Deed, be entitled to exercise all voting rights in relation to the Investments

#### 8.5 Voting rights and dividends after an Event of Default

Upon the occurrence of an Event of Default (which is continuing), the Lender may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor)

- (a) exercise (or refrain from exercising) any voting rights in respect of the Investments,
- (b) apply all dividends, interest and other monies arising from the Investments as though they were the proceeds of sale under this Deed,
- (c) transfer the Investments into the name of the Lender or such nominee(s) of the Lender as it shall require, and
- (d) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Investments including the right, in relation to any company whose shares or other securities are included in the Investments, to concur or participate in
  - (i) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof),
  - (ii) the release, modification or variation of any rights or liabilities attaching to such shares or securities, and
  - (iii) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Lender thinks fit, and the proceeds of any such action shall form part of the Secured Assets

## **9. ACCOUNTS**

### **9 1 Accounts Notification and Variation**

The Chargor, during the Security Period

- (a) shall promptly notify to the Lender and, if any change occurs promptly following the date of such change, details of each Designated Account maintained by it with any bank or financial institution, and
- (b) shall not, without the Lender's prior written consent (not to be unreasonably withheld), permit or agree to any variation of the rights attaching to any Designated Account or close any Designated Account

### **9 2 Accounts Operation Before Event of Default**

The Chargor shall prior to the occurrence of an Event of Default (which is continuing) be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account (other than a Designated Account) subject to the terms of the Acquisition Facility Agreement

### **9 3 Accounts Operation After Event of Default**

After the occurrence of an Event of Default (which is continuing) the Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Lender

### **9 4 Designated Accounts**

- (a) The Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Designated Account except as permitted pursuant to the terms of the Acquisition Facility Agreement
- (b) The Lender shall, upon the occurrence of an Event of Default (which is continuing), be entitled without prior notice to exercise from time to time all rights, powers and remedies held by it as chargee of the Designated Accounts and to
  - (i) demand and receive all and any monies due under or arising out of each Designated Account, and
  - (ii) exercise all such rights as the Chargor was then entitled to exercise in relation to such Designated Account or might, but for the terms of this Deed, exercise

### **9 5 Accounts Application of Monies**

The Lender shall, upon the occurrence of an Event of Default (which is continuing), be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any Account in or towards the payment or other satisfaction of all or part of the Secured Liabilities in accordance with clause 14 (Application of Proceeds) of this Deed

## **10 PROPERTY**

### **10 1 Notification**

The Chargor shall immediately notify the Lender of any contract, conveyance, transfer or other disposition for the acquisition by the Chargor (or its nominee(s)) of any Property

### **10 2 Lease Covenants**

The Chargor shall, *in relation to any lease, agreement for lease or other right to occupy to which all or any part of the Mortgaged Property is at any time subject*

- (a) pay the rents (if the lessee) and observe and perform in all material respects the covenants, conditions and obligations imposed (if the lessor) on the lessor or, (if the lessee) on the lessee, and
- (b) not do any act or thing whereby any lease or other document which gives any right to occupy any part of the Mortgaged Property becomes or may become subject to determination or any right of re-entry or forfeiture prior to the expiration of its term

### **10 3 General Property Covenants**

The Chargor shall

- (a) repair and keep in good and substantial repair and condition to the reasonable satisfaction of the Lender all the Property, plant, machinery, fixtures (including trade fixtures), fittings, vehicles, computers and other equipment at any time forming part of the Mortgaged Property,
- (b) not at any time without the prior written consent of the Lender sever or remove any of the fixtures forming part of the Property or any of the plant or machinery (other than stock in trade or work in progress) on or in the Mortgaged Property (except for the purpose of any necessary repairs, general maintenance, renewal, upgrade or replacement of it),
- (c) comply with and observe and perform (a) all applicable requirements of all planning and environmental legislation, regulations and bye-laws relating to the Property, (b) any conditions attaching to any planning permissions relating to or affecting the Property and (c) any notices or other orders made by any planning, environmental or other public body in respect of all or any part of the Real Property,



- (d) not grant any lease, tenancy, contractual licence or right to occupy in respect of the whole or any part of the Property or otherwise part with possession of the whole or any part of the Property except as permitted by the Transaction Documents or with the prior written consent of the Lender,
- (e) permit the Lender and any person nominated by the Lender to enter into and upon any Property at all reasonable times during business hours and on not less than 24 hours' notice to view the state and condition of the Property and will remedy any material defect or want of repair forthwith after service by the Lender of notice of the defect or want of repair, and
- (f) give immediate notice to the Lender if it receives any notice under section 146 of the Law of Property Act 1925 or any proceedings are commenced against it for the forfeiture of any lease comprised in any Property

#### 10.4 Entitlement to Remedy

If the Chargor fails to comply with any of the undertakings contained in this Clause 10 (Property), the Lender shall be entitled (with such agents, contractors and others as it sees fit), to do such things as may in the reasonable opinion of the Lender be required to remedy such failure and all monies spent by the Lender in doing so shall be reimbursed by the Chargor in accordance with Clause 17.1 (Costs)

### 11 COVENANTS

The Chargor shall not at any time, except with the prior written consent of the Lender create, purport to create or permit to subsist any Security on, or in relation to, any Secured Assets other than any Security created by this Deed, the Supplemental Legal Mortgage, any Security permitted in the Acquisition Facility Agreement or any Security permitted in the Construction Facility Agreement

### 12 ENFORCEMENT OF SECURITY

#### 12.1 Enforcement powers

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed
- (b) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this Deed or any Supplemental Legal Mortgage) shall be immediately exercisable at any time after the Security constituted by this Deed and each Supplemental Legal Mortgage has become enforceable under clause 7.1
- (c) Section 103 of the LPA 1925 does not apply to the Security constituted by this Deed and each Supplemental Legal Mortgage

## 12.2 Extension of statutory powers of leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Lender and any Receiver, at any time after the Security constituted by this Deed and each Supplemental Legal Mortgage has become enforceable, whether in its own name or in that of the Chargor, to

- (a) grant a lease or agreement to lease,
- (b) accept surrenders of leases, or
- (c) grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Chargor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Lender or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925

## 12.3 Access on enforcement

- (a) At any time after the Lender has demanded payment of the Secured Liabilities or if the Chargor defaults in the performance of its obligations under this Deed any Supplemental Legal Mortgage or the Acquisition Facility Agreement, the Chargor will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry
- (b) At all times, the Chargor must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 12.3(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same

## 12.4 Prior Security

At any time after the Security constituted by this Deed and each Supplemental Legal Mortgage has become enforceable, or after any powers conferred by any Security having priority to this Deed shall have become exercisable, the Lender may

- (a) redeem that or any other prior Security,
- (b) procure the transfer of that Security to it, and
- (c) settle and pass any account of the holder of any prior Security

The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Chargor. All monies paid by the Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Chargor to the Lender on current account and shall bear interest at the default rate of interest specified in the Acquisition Facility Agreement and be secured as part of the Secured Liabilities.

12.5 Protection of third parties

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged,
- (b) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable, or
- (c) how any money paid to the Lender, any Receiver or any Delegate is to be applied

12.6 Privileges

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers

12.7 No liability as mortgagee in possession

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Security Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such

12.8 Conclusive discharge to purchasers

The receipt of the Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit

12.9 Right of appropriation

- (a) To the extent that
  - (i) the Secured Assets constitute Financial Collateral, and

- (ii) this Deed and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the Security constituted by this Deed and each Supplemental Legal Mortgage has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine

- (b) The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Lender may select (including independent valuation)
- (c) The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations

### **13 RECEIVER**

#### **13.1 Appointment**

At any time after the Security constituted by this Deed and each Supplemental Legal Mortgage has become enforceable, or at the request of the Chargor, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets

#### **13.2 Removal**

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated

#### **13.3 Remuneration**

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this Deed, to the extent not otherwise discharged

#### **13.4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this Deed and each Supplemental Legal Mortgage shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise

#### **13.5 Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this Deed a Supplemental Legal Mortgage or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets

**13 6 Agent of the Chargor**

Any Receiver appointed by the Lender under this Deed and each Supplemental Legal Mortgage shall be the agent of the Chargor and the Chargor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender

**14 POWERS OF RECEIVER**

**14 1 General**

- (a) Any Receiver appointed by the Lender under this Deed and each Supplemental Legal Mortgage shall, in addition to the powers conferred on him by statute, have the powers set out in clause 14 2 to clause 14 23
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed and each Supplemental Legal Mortgage individually and to the exclusion of any other Receiver
- (c) Any exercise by a Receiver of any of the powers given by clause 14 may be on behalf of the Chargor, the directors of the Chargor (in the case of the power contained in clause 14 16) or himself

**14 2 Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same

**14 3 Surrender leases**

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit

**14 4 Employ personnel and advisers**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Chargor

14 5 Make VAT elections

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit

14 6 Remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Lender may prescribe or agree with him

14 7 Realise Secured Assets

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights

14 8 Manage or reconstruct the Chargor's business

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Chargor

14 9 Dispose of Secured Assets

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold

14 10 Sever fixtures and fittings

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Chargor

14 11 Sell Book Debts

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit

14 12 Valid receipts

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets

14 13 Make settlements

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that he may think expedient

14 14 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit

14 15 Improve the Equipment

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient

14 16 Make calls on Chargor members

A Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Chargor on its directors in respect of calls authorised to be made by them

14 17 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 17, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this Deed

14 18 Powers under the LPA 1925

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986

14 19 Borrow

A Receiver may, for any of the purposes authorised by this clause 14, raise money by borrowing from the Lender (or from any other person) either unsecured or on the Security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this Deed)

14 20 Redeem prior Security

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver

14 21 Delegation

A Receiver may delegate his powers in accordance with this Deed

14 22 Absolute beneficial owner

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets

14 23 Incidental powers

A Receiver may do any other acts and things that he

- (a) may consider desirable or necessary for realising any of the Secured Assets,
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law, or
- (c) lawfully may or can do as agent for the Chargor

**15 DELEGATION**

15 1 Delegation

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under clause 20 1)

15 2 Terms

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit

15 3 Liability

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate

**16 APPLICATION OF PROCEEDS**

16 1 Order of application of proceeds

All monies received by the Lender, a Receiver or a Delegate pursuant to this Deed and, each Supplemental Legal Mortgage, after the Security constituted by this Deed and each Supplemental Legal Mortgage has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority



- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Deed and each Supplemental Legal Mortgage, and of all remuneration due to any Receiver under or in connection with this Deed and each Supplemental Legal Mortgage,
- (b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines, and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it

#### 16 2 Appropriation

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities

#### 16 3 Suspense account

All monies received by the Lender, a Receiver or a Delegate under this Deed and each Supplemental Legal Mortgage

- (a) may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account,
- (b) shall bear interest, if any, at the rate agreed in writing between the Lender and the Chargor; and
- (c) may be held in that account for so long as the Lender, Receiver or Delegate thinks fit

### 17 COSTS AND INDEMNITY

#### 17 1 Costs

The Chargor shall

- (a) promptly on demand, pay to, or reimburse, the Lender and any Receiver all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with
  - (i) negotiating, preparing, printing, executing and perfecting this Deed any Supplemental Legal Mortgage or the Secured Assets, or
  - (ii) taking, holding, protecting or perfecting any of the Lender's, a Receiver's or a Delegate's rights under this Deed or any Supplemental Legal Mortgage, or

- (b) within 3 Business Days of demand, pay to, or reimburse, the Lender and any Receiver, the amount of all costs and expenses (including legal fees) incurred by the Lender in connection with the enforcement or preservation of (or the attempted enforcement or preservation of) any of its rights under this Deed and any proceedings instituted by or against the Lender as a consequence of taking or holding the Secured Assets or enforcing these rights,

together with any Default Interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Chargor) at the rate and in the manner specified in the Acquisition Facility Agreement

#### 17.2 Indemnity

The Chargor shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Deed, each Supplemental Legal Mortgage or by law in respect of the Secured Assets,
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the Security constituted by this Deed and each Supplemental Legal Mortgage, or
- (c) any default or delay by the Chargor in performing any of its obligations under this Deed or any Supplemental Legal Mortgage

Any past or present employee or agent may enforce the terms of this clause 17.2

#### 18 SUPPLEMENTAL LEGAL MORTGAGE

- 18.1 If the Chargor acquires any Property including (but not limited to) entry into a Lease after the date of this Deed, the Parties shall enter into a Supplemental Legal Mortgage
- 18.2 The definition of "Secured Assets" shall, for the avoidance of doubt, include all, or the relevant part, of the rights, property, assets and undertaking mortgaged, charged or assigned, as the case may be, under a Supplemental Legal Mortgage
- 18.3 Following the execution of a Supplemental Legal Mortgage, this Deed shall remain in full force and effect except as supplemented by that Supplemental Legal Mortgage

## **19 FURTHER ASSURANCE**

### **19 1 Further assurance**

*The Chargor shall, at its own expense, take whatever action the Lender or any Receiver may reasonably require for*

- (a) creating, perfecting or protecting the Security intended to be created by this Deed,
- (b) facilitating the realisation of any Secured Asset, or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

*including, without limitation (if the Lender or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration*

## **20. POWER OF ATTORNEY**

### **20 1 Appointment of attorneys**

*By way of security, the Chargor irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that*

- (a) the Chargor is required to execute and do under this Deed, or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on the Lender, any Receiver or any Delegate

### **20 2 Ratification of acts of attorneys**

*The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 20 1*

## **21 RELEASE**

*Subject to clause 28 3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to*

- (a) release the Secured Assets from the Security constituted by this Deed, and

- (b) reassign the Secured Assets to the Chargor

## **22 ASSIGNMENT AND TRANSFER**

### **22 1 Assignment by Lender**

- (a) At any time, without the consent of the Chargor, the Lender may assign or transfer any or all of its rights and obligations under this Deed or any Supplemental Legal Mortgage
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Chargor, the Secured Assets and this Deed or any Supplemental Legal Mortgage that the Lender considers appropriate

### **22 2 Assignment by Chargor**

The Chargor may not assign any of its rights, or transfer any of its rights or obligations, under this Deed

## **23 SET-OFF**

### **23 1 Lender's right of set-off**

The Lender may at any time set off any liability of the Chargor to the Lender against any liability of the Lender to the Chargor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 23 shall not limit or affect any other rights or remedies available to it under this Deed or otherwise.

### **23 2 Exclusion of Chargor's right of set-off**

All payments made by the Chargor to the Lender under this Deed shall be made without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **24 AMENDMENTS, WAIVERS AND CONSENTS**

### **24 1 Amendments**

No amendment of this Deed or any Supplemental Legal Mortgage shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

### **24 2 Waivers and consents**

- (a) A waiver of any right or remedy under this Deed or any Supplemental Legal Mortgage or by law, or any consent given under this Deed or any Supplemental Legal Mortgage, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure to exercise, or a delay in exercising, any right or remedy provided under this Deed or any Supplemental Legal Mortgage or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Deed or any Supplemental Legal Mortgage. No single or partial exercise of any right or remedy provided under this Deed or any Supplemental Legal Mortgage or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Deed by the Lender shall be effective unless it is in writing.

#### 24.3 Rights and remedies

The rights and remedies provided under this Deed and each Supplemental Legal Mortgage are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

### 25 SEVERANCE

#### 25.1 Severance

If any provision (or part of a provision) of this Deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Deed.

### 26 COUNTERPARTS

#### 26.1 Counterparts

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

### 27 THIRD PARTY RIGHTS

#### 27.1 Third party rights

Except as expressly permitted in clause 17.2, a person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to

enforce, or enjoy the benefit of, any term of this Deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

## **28 FURTHER PROVISIONS**

### **28.1 Independent security**

The security constituted by this Deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the Security created by this Deed.

### **28.2 Continuing security**

The security constituted by this Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this Deed in writing.

### **28.3 Discharge conditional**

Any release, discharge or settlement between the Chargor and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Lender or its nominee may retain this Deed and the Security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund, and
- (b) the Lender may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

### **28.4 Certificates**

A certificate or determination by the Lender as to any amount for the time being due to it from the Chargor under this Deed shall be, in the absence of any manifest error, conclusive evidence of the amount due.

### **28.5 Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this Deed.

## **29 NOTICES**

### **29 1 Communications in writing**

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

### **29 2 Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is in the case of the Lender or the Chargor, that identified with its name below

### **29 3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective
  - (i) if by way of fax, when received in legible form, or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address, and, if a particular department or officer is specified as part of its address details provided under clause 24 2 of the Acquisition Facility Agreement, if addressed to that department or officer
- (b) Any communication or document which becomes effective, in accordance with paragraph (a) above, after 5 00 p m (London time) in the place of receipt shall be deemed only to become effective on the following day

### **29 4 Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that the Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if the Parties
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means, and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice
- (b) Any electronic communication made between the Parties will be effective only when actually received in readable form

- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5 00 p m (London time) in the place of receipt shall be deemed only to become effective on the following day

29 5 English language

- (a) Any notice given under or in connection with this Deed must be in English
- (b) All other documents provided under or in connection with this Deed must be in English

**30 GOVERNING LAW AND JURISDICTION**

30 1 Governing law

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual obligations) shall be governed by and construed in accordance with English law

30 2 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual obligations) Nothing in this clause shall limit the right of the Lender to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it



## SCHEDULE 1

### NOTICE AND ACKNOWLEDGEMENT – RELEVANT AGREEMENT

#### Part 1

##### Form of notice

*[On the letterhead of the Chargor]*

[NAME OF COUNTERPARTY]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Debenture dated [DATE] between [CHARGOR] and [LENDER] ("Debenture")**

We refer to the [DESCRIBE RELEVANT AGREEMENT] ("**Contract**")

This letter constitutes notice to you that under the Debenture we have assigned, by way of security, to [LENDER] (Lender) all our right, title and interest in and to the Contract, including all monies which may be payable in respect of the Contract

We confirm that

- All remedies provided for in the Contract (including in respect of relevant warranties and indemnities) or available at law or in equity are exercisable by the Lender although we may continue to exercise all rights and remedies granted to it under the Contract, subject to a further notice from the Lender indicating otherwise
- We will remain liable under the Contract to perform all the obligations assumed by us under the Contract
- Until such time as the Lender reassigns all rights, title and interest in and to the Contract in accordance with the terms of the Debenture, all of our rights, title and interest from time to time in and to the Contract, all proceeds paid or payable under the Contract and all related rights shall be assigned to the Lender and no changes may be made to the terms of the Contract nor may the Contract be terminated without the Lender's consent (save to the extent required in order to ensure compliance with applicable law)

- all payments by you to us under or arising from the Contract should be made to the [specify account details], and following notice from the Lender, to the Lender or to its order as it may specify in writing from time to time, and
- None of the Lender, any delegate appointed by the Lender or any receiver will at any time be under any obligation or liability to you under or in respect of the Contract
- You are authorised and instructed, without requiring further approval from us, to provide the Lender with such information relating to the Contract as it may from time to time request and to send it copies of all notices issued by you under the Contract to the Lender as well as to us

Neither the Debenture nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Contract

Subject to the above, we will remain entitled to exercise all our rights, powers and discretions under the Contract and you may continue to deal with us in relation to the Contract and give notices under the Contract to us unless and until you receive written notice to the contrary from the Lender. Thereafter, all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Lender or as it directs and we will cease to have any right to deal with you in relation to the Contract and you must deal only with the Lender

Please note that we have agreed that we will not amend or waive any provision of or terminate the Contract without the prior written consent of the Lender

The instructions in this notice may only be revoked or amended with the prior written consent of the Lender

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by signing the enclosed acknowledgement and returning it to the Lender at [ADDRESS OF LENDER], with a copy to us

This notice, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England and Wales

Yours faithfully,

[NAME OF CHARGOR]

## Part 2

### Form of acknowledgement

*[On the letterhead of the counterparty]*

[NAME OF LENDER]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Debenture dated [DATE] between [CHARGOR] and [LENDER] (Debenture)**

We confirm receipt from the Chargor of a notice (Notice) dated [DATE] of an assignment, by way of security, of all the Chargor's rights under the Contract

Terms defined in the Notice shall have the same meaning when used in this acknowledgement

We confirm that

- We accept the confirmations and instructions contained in the Notice and agree to comply with the Notice
- There has been no amendment, waiver or release of any rights or interests in the Contract since the date of the Contract
- We will not cancel, avoid, release or otherwise allow the Contract to lapse without giving the Lender at least 30 days' prior written notice
- We have not, as at the date of this acknowledgement, received notice that the Chargor has assigned its rights under the Contract to a third party, or created any other interest (whether by way of security or otherwise) in the Contract in favour of a third party
- The Lender will not in any circumstances have any liability in relation to the Contract
- The Contract shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Lender

This letter, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England and Wales

Yours faithfully,

[COUNTERPARTY]

## **SCHEDULE 2**

### **NOTICE AND ACKNOWLEDGEMENT – INSURANCE POLICY**

#### **Part 1**

##### **Form of notice**

*[On the letterhead of the Chargor]*

[NAME OF INSURANCE COMPANY]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Debenture dated [DATE] between [CHARGOR] and [LENDER] ("Debenture")**

We refer to the [DESCRIBE INSURANCE POLICY AND SPECIFY ITS POLICY NUMBER] ("Policy")

This letter constitutes notice to you that under the Debenture we have assigned, by way of security, to [LENDER] (Lender) all our rights, title and interest in and to the proceeds of the Policy (including all claims and all returns of premium in connection with the Policy)

With effect from your receipt of this notice, we irrevocably instruct and authorise you to

- [Note the Lender's interest on the Policy as [DESCRIBE NOTATION REQUIRED BY LENDER TO BE ENDORSED ON POLICY, FOR EXAMPLE, "FIRST MORTGAGEE"] and first loss payee OR Name the Lender on the Policy as co-insured]
- Comply with the terms of any written instructions received by you from the Lender relating to the Policy, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions
- Hold all sums from time to time due and payable by you to us under the Policy to the order of the Lender
- Pay, or release, all monies to which we are entitled under the Policy to the Lender, or to such persons as the Lender may direct

- Disclose to the Lender, without further approval from us, such information in relation to the Policy as the Lender may from time to time request and to send it copies of all notices issued by you under the Policy

With effect from your receipt of this notice all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Policy (including all rights to compel performance) belong to and are exercisable by the Lender

Neither the Debenture nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Policy, and we shall continue to be solely responsible for the performance of our obligations under or in connection with the Policy

Subject to the foregoing, you may continue to deal with us in relation to the Policy until you receive written notice to the contrary from the Lender. Thereafter, we will cease to have any right to deal with you in relation to the Policy and you must deal only with the Lender

The instructions in this notice may only be revoked or amended with the prior written consent of the Lender

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by signing the enclosed acknowledgement and returning it to the Lender at [ADDRESS OF LENDER], with a copy to us

This notice, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England and Wales

Yours faithfully,

[NAME OF CHARGOR]

## Part 2

### Form of acknowledgement

*[On the letterhead of the insurance company]*

[NAME OF LENDER]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Debenture dated [DATE] between [CHARGOR] and [LENDER] (Debenture)**

We confirm receipt from the Chargor of a notice ("Notice") dated [DATE] of an assignment, by way of security, of all the Chargor's rights under the Policy

Terms defined in the Notice shall have the same meaning when used in this acknowledgement

We confirm that

- We accept the instructions and authorisations contained in the Notice and agree to comply with the Notice
- We have noted the Lender's interest on the Policy as [DESCRIBE NOTATION REQUIRED BY LENDER TO BE ENDORSED ON POLICY, FOR EXAMPLE, "FIRST MORTGAGEE AND FIRST LOSS PAYEE" OR AS "CO-INSURED"]
- There has been no amendment, waiver or release of any rights or interests and benefits in the Policy since the date the Policy was issued and no amendment, waiver or release of any rights or interests and benefits in the Policy shall be effective without the Lender's prior written consent
- The Policy is in full force and effect and we are not aware of any breach of the Policy by the Chargor or any other insured party <sup>1</sup>
- We will make any payments due under the Policy as provided in the Policy
- We have not, as at the date of this acknowledgement, received notice that the Chargor has assigned its rights under the Policy to a third party, or created any

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<sup>1</sup> WFW Note Please note deletion of the cancellation provision Under the AFA, the Obligors should ensure that the Insurances are maintained and do not lapse etc We note the insurance proposal is still outstanding

other interest (whether by way of security or otherwise) in the Policy in favour of a third party

- The Lender will not in any circumstances be liable for the premiums in relation to the Policy
- The Policy shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Lender

This letter, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England and Wales

Yours faithfully,

[INSURER]



### SCHEDULE 3

#### NOTICE AND ACKNOWLEDGEMENT – BANK ACCOUNT

##### Part 1

##### Form of notice

*[On the letterhead of the Chargor]*

[BANK, FINANCIAL INSTITUTION OR OTHER PERSON]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Debenture dated [DATE] between [CHARGOR] and [LENDER] (Debenture)**

This letter constitutes notice to you that we have assigned and charged, by way of first fixed charge, in favour of [LENDER] (the Lender) all monies from time to time standing to the credit of the account held with you and detailed below (the "**Account**"), together with all our rights and benefits accruing to or arising in connection with the Account (including, but not limited to, entitlements to interest)

Name of Account [NAME OF ACCOUNT]

Sort code [SORT CODE]

Account number [ACCOUNT NUMBER]

We irrevocably instruct and authorise you to

- Disclose to the Lender any information relating to the Account requested from you by the Lender
- Comply with the terms of any written notice or instructions relating to the Account received by you from the Lender
- Hold all sums from time to time standing to the credit of the Account to the order of the Lender
- Pay or release all or any part of the monies standing to the credit of the Account in accordance with the written instructions of the Lender

We acknowledge that you may comply with the instructions in this notice without any further permission from us

We are not permitted to withdraw any amount from the Account without the prior written consent of the Lender

The instructions in this notice may only be revoked or amended with the prior written consent of the Lender

This notice, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England and Wales

Please accept this notice by signing the enclosed acknowledgement and returning it to the Lender at [ADDRESS OF LENDER], with a copy to us

Yours faithfully,

Signed

[NAME OF CHARGOR]

## Part 2

### Form of acknowledgement

*[On the letterhead of the bank, financial institution or other person]*

[LENDER]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Debenture dated [DATE] between [CHARGOR] and [LENDER] ("Debenture")**

We confirm receipt from the Chargor of a notice (the "Notice") dated [DATE] of assignment and charge (on the terms attached) in respect of the Account (as described in those terms)

We confirm that we

- Accept the instructions contained in the Notice and agree to comply with the Notice
- Will not permit any amount to be withdrawn from the Account without your prior written consent
- Have not received notice of the interest of any third party in the Account
- Have neither claimed nor exercised, nor will claim or exercise any security interest, set-off, counter-claim or other right in respect of the Account

This letter, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with the law of England and Wales

Yours faithfully,

Signed

[NAME OF BANK, FINANCIAL INSTITUTION OR OTHER PERSON]

**SCHEDULE 4**

**SUPPLEMENTAL LEGAL MORTGAGE**

(3) GREENFIELDS (A) LIMITED

(4) ROUNDSHIELD LUXEMBOURG I, S À R L

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**SUPPLEMENTAL LEGAL MORTGAGE**

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THIS DEED is dated [•] December 2014

#### **PARTIES**

- (1) **GREENFIELDS (A) LIMITED** incorporated and registered in England and Wales with company number 08582892 whose registered office is at Manor Offices, Chelvey Road, Backwell, North Somerset, BS48 3BD (the "**Chargor**")
- (2) **ROUNDSHIELD LUXEMBOURG I, S.À R.L.** incorporated and registered in Luxembourg whose registered office is at 7 rue Lou Hemmer, L-1748 Luxembourg-Findel Grand-Duché de Luxembourg (the "**Lender**")

#### **BACKGROUND**

- (A) This deed is supplemental to the Debenture
- (B) The Chargor owns the Mortgaged Property
- (C) Under this deed, the Chargor provides security to the Lender for the loan facilities made available under the Acquisition Facility Agreement

#### **AGREED TERMS**

### **31 DEFINITIONS AND INTERPRETATION**

#### **31.1 Definitions**

Unless the context otherwise requires, terms defined in the Debenture shall have the same meaning when used in this deed including, for the avoidance of doubt, when used in provisions of the Debenture incorporated by reference into this deed. The following definitions also apply in this deed.

**Debenture** means the debenture dated [DATE] between the Chargor and the Lender,

**Acquisition Facility Agreement** means the acquisition facility agreement dated [DATE] between, inter alia, the Borrower and the Lender, to which the Chargor has become party as Additional Guarantor pursuant to an Accession Deed dated on or about the date of the Debenture,

**Mortgaged Property** means the freehold or leasehold property (whether registered or unregistered) owned by the Chargor described in Schedule 5 and includes all Related Rights,

**Related Rights** means, in relation to any asset

- (a) the proceeds of sale of any part of that asset,
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,

- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any monies and proceeds paid or payable in respect of that asset

**Secured Liabilities** means all present and future monies, obligations and liabilities owed by the Chargor to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Acquisition Facility Agreement, the Debenture or this deed (including, without limitation, those arising under clause 26.3 (Discharge conditional) of the Debenture as incorporated into this deed), together with all interest (including, without limitation, default interest) accruing in respect of those monies or liabilities, and

**Supplemental Secured Assets** means all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed

#### 31.2 Incorporation of interpretation and other provisions

The provisions of clauses 1.2 to 1.7 (other than clause 1.4) of the Debenture shall (as far as the context permits) apply to this deed as if set out in this deed in full except that references in the Debenture to "this deed" shall be construed as references to this deed

#### 31.3 Nature of security over real property

A reference in this deed to a charge or mortgage of or over the Mortgaged Property includes

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Mortgaged Property at any time,
- (b) the proceeds of the sale of any part of that Mortgaged Property and any other monies paid or payable in respect of or in connection with that Mortgaged Property,
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of that Mortgaged Property, and any monies paid or payable in respect of those covenants, and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of that Mortgaged Property,

and all Related Rights

## **32 COVENANT TO PAY**

The Chargor shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due

## **33 GRANT OF SECURITY**

### **33 1 Legal Mortgage**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender, by way of first legal mortgage, the Mortgaged Property

### **33 2 Fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender by way of fixed charge

- (a) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to the Mortgaged Property, and
- (b) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Chargor's business carried on at the Mortgaged Property or the use of any Supplemental Secured Asset, and all rights in connection with them

## **34 PERFECTING THE SECURITY**

### **34 1 Registration at the Land Registry**

The Chargor consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to the Mortgaged Property

"No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of [NAME OF PARTY] referred to in the charges register [or their conveyancer] "

### **34 2 Further advances**

The Lender covenants with the Chargor that it shall perform its obligations to make advances under the Acquisition Facility Agreement (including any obligation to make available further advances)



### **35 INCORPORATION OF TERMS FROM DEBENTURE**

The provisions of clause 5 (*Liability of the Chargor*) to clause 27 (*Notices*) (inclusive) (other than clause 8 (*Investments*) clause 9 (*Accounts*), clause 16 (*Supplemental Legal Mortgage*) and clause 24 (*Counterparts*)) of the Debenture shall apply to this deed and the Security constituted by it as if set out in this deed in full (with the necessary modifications) and this deed shall be construed with the intent and effect that all the rights, obligations, covenants, assurances and provisions, express or implied, contained in or subsisting in relation to the Debenture in those provisions shall apply to this deed and to the Security constituted by it as if expressly set out in this deed and as the context may require, as if references in the Debenture to

- (a) "this deed" were to this deed,
- (b) a "Property" were to the Mortgaged Property, and
- (c) "Secured Assets" were to the Supplemental Secured Assets

### **36 CONTINUATION OF EXISTING SECURITY**

#### **36 1 Debenture remains in full force and effect**

Except as supplemented by this deed, the Debenture remains in full force and effect. The definition of "Secured Assets" contained in the Debenture shall, for the avoidance of doubt, include all, or the relevant part, of the rights, property, assets and undertaking mortgaged, charged or assigned, as the case may be, under clause 33 (*Grant Of Security*)

#### **36 2 References to this deed in Debenture**

References in the Debenture to "this deed" and similar expressions are deemed to be references to the Debenture as supplemented by this deed

#### **36 3 Designation as a Finance Document**

This deed is designated a Finance Document

### **37 COUNTERPARTS**

Counterparts

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed

### **38 GOVERNING LAW AND JURISDICTION**

#### **38 1 Governing law**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

38.2 Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Lender to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of that other jurisdiction.

38.3 Other service

The Chargor irrevocably consents to any process in any legal action or proceedings under clause 38.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

## **SCHEDULE 5**

### **Part 1 Mortgaged Property**

[DESCRIPTION OF MORTGAGED PROPERTY, INCLUDING TITLE NUMBER IF  
MORTGAGED PROPERTY IS REGISTERED]

**SIGNATURE PAGE TO SUPPLEMENTAL LEGAL MORTGAGE**

**CHARGOR**

EXECUTED AS A DEED by  
GREENFIELDS (A) LIMITED )  
acting by a director )  
in the presence of

Witness signature

Name (print)

Address

**LENDER**

EXECUTED AS A DEED by  
ROUNDSHIELD LUXEMBOURG I,  
S À R L )  
acting by a director )  
in the presence of

Witness signature

Name (print)

Address

**SIGNATURE PAGE TO DEBENTURE**

**CHARGOR**

**EXECUTED AS A DEED** by  
**GREENFIELDS (A) LIMITED**

acting by a director  
in the presence of

Witness signature

Name (print)

Address

**Notice Details**

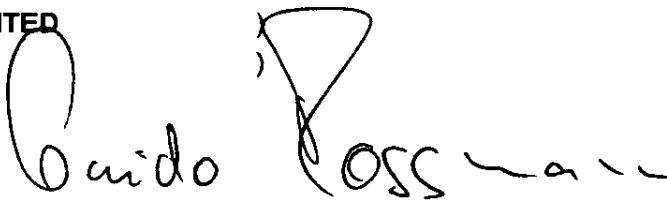
Address

Manor Offices, Chelvey  
Road, Backwell, North  
Somerset, BS48 3BD

Fax

Attention

The Directors

 Guido Rossman

Ursula Böttcher

Dielsweg 3, 38116 Braunschweig

Witness signature:

 U. Böttcher

**SIGNATURE PAGE TO DEBENTURE**

**LENDER**

**EXECUTED AS A DEED** by

**ROUNDSHIELD LUXEMBOURG I, S.À.R.L.** )

acting by a director )

in the presence of

Witness signature

Name (print)

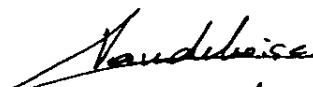
Address

**Notice Details**

Address 7 rue Lou Hemmer, L-1748  
Luxemboug-Findel Grand-  
Duché de Luxembourg  
Fax +352 24 616 016  
Attention Max Leeb and Herbert  
Beckmann

cc RoundShield Partners LLP,  
14 St George Street,  
London, W1S 1FE  
Attention Max Leeb and Herbert  
Beckmann

  
**James Lees**  
Manager

  
**VINCENT VANDELAÏSE**  
*7 rue Lou Hemmer*  
*L-1748 Luxembourg - Findel*