

200753-13

In accordance with  
Sections 859A and  
859J of the Companies  
Act 2006

**MR01****Particulars of a charge****Companies House**

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

**You can use the WebFiling service to file this form online.**  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

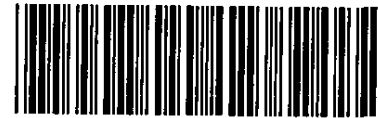
☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge which is not  
an instrument. Use form MR02

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form must be delivered to the Registrar for registration  
21 days beginning with the day after the date of creation of the charge.  
If the form is delivered outside of the 21 days it will be rejected unless it is  
accompanied by a court order extending the time for delivery.

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



\*A4KIQC7D\*

A07

19/11/2015

#282

COMPANIES HOUSE

THURSDAY

**1 Company details**

Company number 0 8 8 3 5 9 1 5

Company name in full DJ CAPITAL LIMITED ("Chargor")

For official use

→ **Filling 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 1 6 1 1 2 0 1 5

**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 INCEPTION VENTURES GROUP LIMITED ("Lender")

Name

Name

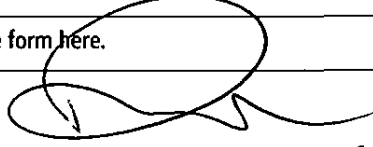
Name

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

## Particulars of a charge

<b>4</b>	<b>Brief description</b>	
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	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
<b>5</b>	<b>Other charge or fixed security</b>	
	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  <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>6</b>	<b>Floating charge</b>	
	Is the instrument expressed to contain a floating charge? Please tick the appropriate box  <input checked="" type="checkbox"/> <b>Yes</b> Continue <input type="checkbox"/> <b>No</b> Go to <b>Section 7</b>  Is the floating charge expressed to cover all the property and undertaking of the company? <input checked="" type="checkbox"/> <b>Yes</b>	
<b>7</b>	<b>Negative Pledge</b>	
	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  <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>8</b>	<b>Trustee statement <sup>①</sup></b>	
	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 <input type="checkbox"/>	<sup>①</sup> This statement may be filed after the registration of the charge (use form MR06)
<b>9</b>	<b>Signature</b>	
Signature	Please sign the form here.  <div style="text-align: center;">   <b>X</b>          FOR &amp; ON BEHALF OF CURISM LAW AS SOLICITORS          FOR THE LENDER  <b>X</b> </div> 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 Harriet Collins

Company name Cubism Law

Address 116-118

Chancery Lane

Post town London

County/Region

Postcode W C 2 A 1 P P

Country England

DX 477 London Chancery Lane

Telephone 02078310101

**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: 8835915

Charge code: 0883 5915 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th November 2015 and created by DJ CAPITAL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th November 2015.

Given at Companies House, Cardiff on 25th November 2015

DATED

16 November 2015

DEBENTURE

between

DJ CAPITAL LIMITED

and

INCEPTION VENTURES GROUP LIMITED




CUBISM LAW

116-118 CHANCERY LANE

LONDON WC2A 1PP

I hereby certify this to be  
a true copy of the original

18.11.2015  
 CUBISM LAW

116-118 Chancery Lane • London WC2A 1PP  
T +44 (0)20 7831 0101 • F +44 (0)20 7831 0001  
[www.cubismlaw.com](http://www.cubismlaw.com)  
Regulated by the SRA

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THIS DEED is dated 16 November 2015

## **PARTIES**

- (1) **DJ CAPITAL LIMITED** incorporated and registered in England and Wales with company number 08835915 whose registered office is at Millbank Tower, 21-24 Millbank, London, SW1P 4QP (**Chargor**)
- (2) **INCEPTION VENTURES GROUP LIMITED** incorporated and registered in England and Wales with company number 07950473 whose registered office is at 26 Red Lion Square London WC1R 4AG (**Lender**)

## **BACKGROUND**

- (A) The Lender has agreed, pursuant to the Loan Agreement, to provide the Borrower with loan facilities on a secured basis
- (B) Under this deed, the charger provides security to the Lender for the loan facilities made available to the Borrower under the Loan Agreement

## **AGREED TERMS**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

Terms defined in the Loan Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed

**Administrator:** an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 8.6

**Borrower:** Harrington Court Deli Limited a company incorporated and registered in England and Wales with company number 09872338 whose registered officer is at 26 Red Lion Square London WC1R 4AG

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business

**Collateral Instruments:** notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing a Security

**Debts:** the assets of the Chargor described in clause 3.2.3(h)

**Delegate.** any person appointed by the Lender or any Receiver pursuant to clause 13 and any person appointed as attorney of the Lender, Receiver or Delegate

**Environment:** the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media

**Environmental Law:** all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment

**Event of Default:** has the meaning given to that expression in the Loan 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 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 Property or any equipment, plant or machinery)

**Loan Agreement:** the loan agreement dated on or about the date of this deed between the Borrower and the Lender for the provision of the loan facilities secured by this deed

**LPA 1925:** Law of Property Act 1925

**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

**Receiver:** a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under clause 11

**Secured Assets:** all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed (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 Borrower 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 Loan Agreement or this deed (including, without limitation, those arising under clause 25 3(b)), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities



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

**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 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 and no further Secured Liabilities are capable of being outstanding

## 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),
- (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 and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, 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 email,
- (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 is to a clause of this deed,
- (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

### 13 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 on the liquidation or administration of the Borrower or the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed

### 14 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

#### **1 5 Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Loan Agreement and of any side letters between any parties in relation to the Loan Agreement are incorporated into this deed

#### **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)

### **2. COVENANT TO PAY**

- 2 1 The Chargor covenants with the Lender that it shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due
- 2 2 Notwithstanding any other provision of the Finance Documents, it is expressly agreed and understood that
  - (a) the sole recourse of the Lender to the Chargor under this deed is to the Chargor's interest in the Secured Assets, and
  - (b) the liability of the Chargor to the Lender pursuant to or otherwise in connection with the Finance Documents shall be
    - (i) limited in aggregate to an amount equal to that recovered as a result of enforcement of this deed with respect to the Secured Assets, and

- (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Secured Assets pursuant to this deed

### 3. GRANT OF SECURITY

#### 3 1 Fixed charges

3 2 1 As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender

3 2 2 by way of first legal mortgage, any freehold or leasehold or other immovable property now vested in the Chargor together with all buildings, trade and other fixtures, fixed plant and machinery of the Chargor from time to time thereon and the proceeds of sale thereof

3 2 3 by way of first fixed charge

- (a) all Properties acquired by the Chargor after the date of this deed together with all buildings, trade and other fixtures, fixed plant and machinery of the Chargor from time to time thereon and the proceeds of sale thereof ,
- (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 licences, consents and authorisations (statutory or otherwise) held or required in connection with the Chargor's business or the use of any Secured Asset, and all rights in connection with them,
- (e) all computers, office and other tangible moveable property now or from time to time hereafter owned by the Chargor or in which the Chargor has an interest and the benefit of all contracts and warranties relating to the same,
- (f) all book and other debts, revenues and claims, whether actual or contingent, whether arising under contracts or in any other manner whatsoever now or from time to time hereafter owned by the Chargor or in which the Chargor has an interest (whether originally owing to the Chargor or purchased or otherwise acquired by it) and all things or choses in action which may give rise to any debt, revenue or claim, together with the full benefit of any Security, Collateral Instruments and any other rights relating thereto (whether as creditor or beneficiary) including, without limitation, reservations of proprietary rights, rights of tracing and unpaid vendor's liens and

associated rights, but excluding any assets the subject of Clauses (h), (i) and (j) below,

- (g) the proceeds of collection of all Debts,
- (h) all monies from time to time standing to the credit of all present accounts of the Chargor with any bank (including the Bank), financial institution or other person,
- (i) any rights in each Insurance Policy and all moneys from time to time payable to the Chargor under or pursuant to the Insurances including without limitation the right to the refund of any premiums, and
- (j) the goodwill of the Chargor and its uncalled capital for the time being

### **3 2 Assignment**

3 2 1 As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee assigns to the Lender by way of security, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities

- (a) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, and
- (b) the benefit of all agreements, instruments and rights relating to the Secured Assets

3 2 2 To the extent that any such right or benefit referred to in Clause 3 2 1 above is not assignable or capable of assignment, the assignment of it purported to be effected by such clause shall operate as an assignment of any and all compensation, damages, income, profit or rent which the Chargor may derive from it or be awarded or entitled to in respect of it, in each case a continuing security for payment or discharge in full of the Secured Liabilities

### **3 3 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 2 inclusive

### **3 4 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3

### **3.5 Automatic crystallisation of floating charge**

Any floating charge created by clause 3.3 shall automatically and immediately (without notice) convert into a fixed 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 Loan 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

### **3.6 Crystallisation of floating charge by notice**

The Lender may, in its sole discretion, at any time and 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

### **3.7 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. LIABILITY OF THE CHARGOR AND LENDER'S PROTECTIONS**

##### **4 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 intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities,
- (b) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Lender may now or after the date of this deed have from or against the Borrower, the Chargor or any other person in connection with the Secured Liabilities,
- (c) any act or omission by the Lender or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Borrower, the Chargor or any other person,
- (d) any termination, amendment, variation, novation or supplement of any of the Secured Liabilities,
- (e) any grant of time, indulgence, waiver or concession to the Borrower, the Chargor or any other person,
- (f) any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Borrower, the Chargor or any other person,
- (g) any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Borrower, the Chargor or any other person in connection with the Secured Liabilities,
- (h) any claim or enforcement of payment from the Borrower, the Chargor or any other person, or
- (i) any other act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor or by anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Chargor or otherwise reduce or extinguish its liability under this deed

##### **4 2 Immediate Recourse**

The Chargor waives any right it may have to require the Lender

- (a) to take any action or obtain judgment in any court against the Borrower or any other person,
- (b) to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Borrower or any other person, or

- (c) to make demand, enforce or seek to enforce any claim, right or remedy against the Borrower or any other person,

before taking steps to enforce any of its rights or remedies under this deed

## **5 REPRESENTATIONS AND WARRANTIES**

### **5 1 Representations and warranties**

The Chargor makes the representations and warranties set out in this clause 5 to the Lender

### **5 2 Due incorporation**

The Chargor

- (a) is a duly incorporated limited liability company validly existing under the law of England and Wales, and
- (b) has the power to own its assets and carry on its business as it is being conducted

### **5 3 Powers**

The Chargor has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this deed and the transactions contemplated by it. No limit on its powers will be exceeded as a result of its entry into this deed

### **5 4 Non-contravention**

The entry into and performance by it of, and the transactions contemplated by, this deed do not and will not contravene or conflict with

- (a) the Chargor's constitutional documents,
- (b) any agreement or instrument binding on the Chargor or its assets, or
- (c) any law or regulation or judicial or official order applicable to it

### **5 5 Authorisations**

The Chargor has obtained all required authorisations to enable it to enter into, exercise its rights and comply with its obligations under this deed. Any such authorisations are in full force and effect



## **5 6 Binding obligations**

This deed constitutes the valid, legal, binding and enforceable obligations of the Chargor

## **5 7 Litigation**

No litigation, arbitration or administrative proceedings are taking place, pending or, to the Chargor's knowledge, threatened against it or any of its assets

## **5 8 Registration**

Subject to registration pursuant to Part 25 of the Companies Act 2006 and, in the case of real property, registration at the Land Registry and payment of registration fees to Companies House and the Land Registry, it is not necessary to file, record or enroll this deed with any court or other authority or pay any stamp, registration or similar tax in relation to this deed

## **5 9 Ownership of Secured Assets**

The Chargor is the sole legal and beneficial owner of the Secured Assets

## **5 10 No Security**

The Secured Assets are free from any Security other than the Security created by this deed

## **5 11 No adverse claims**

The Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them

## **5 12 No adverse covenants**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets

## **5 13 No breach of laws**

There is no breach of any law or regulation that materially and adversely affects the Secured Assets

#### **5 14 Avoidance of security**

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise

#### **5 15 Enforceable security**

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargor, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms

#### **5 16 Times for making representations and warranties**

The representations and warranties set out in clause 5 2 to clause 5 15 are made by the Chargor on the date of this deed and the representations and warranties contained in 5 2 to 5 15 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition

### **6. GENERAL COVENANTS**

#### **6 1 Negative pledge and disposal restrictions**

The Chargor shall not at any time, except with the prior written consent of the Lender

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed,
- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge), or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party

#### **6 2 Preservation of Secured Assets**

The Chargor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed

#### **6 3      Chargor's waiver of set-off**

The Chargor waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Chargor under this deed)

#### **6 4      Compliance with laws and regulations**

- (a) The Chargor shall not, without the Lender's prior written consent, use or permit the Secured Assets to be used in any way contrary to law
- (b) The Chargor shall comply with the provisions of all present or future statutes and directives and every notice, order or direction made under any of the foregoing and obtain, promptly renew from time to time and comply with all authorisations that are required in connection with the Secured Assets

#### **6 5      Enforcement of rights**

The Chargor shall use its best endeavours to

- (a) procure the prompt observance and performance of the covenants and other obligations imposed on the Chargor's counterparties (including each insurer in respect of an Insurance Policy), and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Lender may require from time to time

#### **6 6      Notice of misrepresentation and breaches**

The Chargor shall, promptly on becoming aware of any of the same, notify the Lender in writing of

- (a) any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated, and
- (b) any breach of any covenant set out in this deed

#### **6 7      Insurance**

- (a) The Chargor shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Secured Assets against

- (i) loss or damage by fire or terrorist acts,
- (ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower, and
- (iii) any other risk, perils and contingencies as the Lender may reasonably require

Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender, and must be for not less than the replacement value of the relevant Secured Assets

- (b) The Chargor shall, if requested by the Lender, produce to the Lender each policy, certificate or cover note relating to the insurance required by clause 6 7(a) (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Chargor is entitled to obtain from the landlord under the terms of the relevant lease)

#### **6 8 Insurance premiums**

The Chargor shall

- (a) promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6 7(a) and do all other things necessary to keep that policy in full force and effect, and
- (b) (if the Lender so requires) produce to, or deposit with, the Lender the receipts for all premiums and other payments necessary for effecting and keeping up each insurance policy maintained by it in accordance with clause 6 7(a)

#### **6 9 No invalidation of insurance**

The Chargor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6 7(a)

#### **6 10 Proceeds of insurance policies**

All monies received or receivable by the Chargor under any insurance policy maintained by it in accordance with clause 6.7(a) (including all monies received or receivable by it under any Insurance Policy) at any time (whether or not the security constituted by this deed has become enforceable) shall

- (a) immediately be paid to the Lender,
- (b) if they are not paid directly to the Lender by the insurers, be held by the Chargor as trustee of the same for the benefit of the Lender (and the Chargor shall account for them to the Lender)

#### **6.11 Information**

The Chargor shall

- (a) give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require,
- (b) permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice, and
- (c) promptly notify the Lender in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense

#### **6.12 Payment of outgoings**

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets

### **7. PROPERTY COVENANTS**

#### **7.1 Maintenance**

The Chargor shall keep all buildings, machinery, plant, fixtures, vehicles, computers, office and other equipment and all fixtures on the Property in good and substantial repair and condition

#### **7.2 Preservation of Property, fixtures and equipment**

The Chargor shall not, without the prior written consent of the Lender

- (a) pull down or remove the whole, or any part of, any building forming part of the Property or permit the same to occur,
- (b) make or permit any material alterations to the Property, or sever or remove, or permit to be severed or removed, any of its fixtures, or
- (c) remove or make any material alterations to any of the equipment, plant or machinery belonging to, or in use by, the Chargor on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes)

### **7 3 Conduct of business on Properties**

The Chargor shall carry on its trade and business at each Property in accordance with the standards of good management from time to time current in that trade or business

### **7 4 Planning information**

The Chargor shall

- (a) give full particulars to the Lender of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (**Planning Notice**) that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice, and
- (b) at its own expense, immediately on request by the Lender, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Lender in making, any objections or representations in respect of that Planning Notice that the Lender may desire

### **7 5 Compliance with covenants and payment of rent**

The Chargor shall

- (a) observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected, and (if the Lender so requires) produce evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed,
- (b) diligently enforce all covenants, stipulations and conditions benefiting each Property and shall not (and shall not agree to) waive, release or vary any of the same, and

- (c) (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions

#### **7 6 Payment of rent and outgoings**

The Chargor shall

- (a) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and
- (b) pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier

#### **7 7 Maintenance of interests in Property**

The Chargor shall not, without the prior written consent of the Lender

- (a) grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Property, or exercise, or agree to exercise, the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the Law of Property Act 1925, or
- (b) in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Property

#### **7 8 Registration restrictions**

If the title to any Property is not registered at the Land Registry, the Chargor shall procure that no person (other than itself) shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of all or any part of any Property without the prior written consent of the Lender. The Chargor shall be liable for the costs and expenses of the Lender in lodging cautions against the registration of the title to the whole or any part of any Property from time to time

#### **7 9 Development restrictions**

The Borrower shall not, without the prior written consent of the Lender

- (a) make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property, or

- (b) carry out, or permit, or suffer to be carried out on any Property any development as defined in the Town and Country Planning Act 1990 and the Planning Act 2008, or change or permit or suffer to be changed the use of any Property

#### **7 10 Environment**

The Chargor shall

- (a) comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of each Property, and
- (b) obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law

#### **7 11 No restrictive obligations**

The Chargor shall not, without the prior written consent of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property

#### **7 12 Proprietary rights**

The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property without the prior written consent of the Lender

#### **7 13 Inspection**

The Chargor shall permit the Lender, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice

#### **7 14 Property information**

The Chargor shall inform the Lender promptly of any acquisition by the Borrower of, or contract made by the Chargor to acquire, any freehold, leasehold or other interest in any property

#### **7 15 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 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 or specify appropriate details] "

## **8 POWERS OF THE LENDER**

### **8 1 Power to remedy**

- (a) The Lender, without prejudice to any other rights arising under this deed 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 (including, without limitation, entering the Chargor's property) 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 15 1

### **8 2 Exercise of rights**

- (a) The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession

### **8 3 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

### **8 4 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 Borrower 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 8.4(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.

#### **8.5 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.

#### **8.6 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 8.6 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 8.6 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

#### **8.7 Further advances**

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

## **9. ENFORCEMENT**

### **9 1 Security becomes enforceable on Event of Default**

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs

### **9 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

## **10. ENFORCEMENT OF SECURITY**

### **10 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) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 9 1
- (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed

### **10 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 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

#### **10 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 or the Loan 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 10 3(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same

#### **10 4 Prior Security**

At any time after the security constituted by this deed 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 Loan Agreement and be secured as part of the Secured Liabilities

#### **10 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

#### **10 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

#### **10 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

#### **10 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

#### **10 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 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

The value of any Secured Assets appropriated in accordance with this clause shall be, in the case of cash, the amount standing to the credit of each of the Chargor's accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised

- (b) The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations

## **11. RECEIVER**

### **11.1 Appointment**

At any time on or after the security constituted by this deed 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 (each a "Receiver") in respect of all or any part of the property charged by this Debenture and either at the time of appointment or any time thereafter may fix his or their remuneration and except as otherwise required by statute may remove any such Receiver and appoint another or others in his or their place

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

The power to appoint a Receiver conferred by this deed 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

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

The power to appoint a Receiver (whether conferred by this deed 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

### **11.4 Agent of the Chargor**

Any Receiver appointed by the Lender under this deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts and defaults and the payment of his remuneration. 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

## **12 POWERS OF RECEIVER**

### **12 1 General**

- (a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 12 2 to clause 12 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 individually and to the exclusion of any other Receiver
- (c) Any exercise by a Receiver of any of the powers given by clause 12 may be on behalf of the Chargor, the directors of the Chargor (in the case of the power contained in clause 12 16) or himself

### **12 2 Repair and develop Properties**

A Receiver may undertake or complete any works of repair, building or development on the Property 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

### **12 3 Surrender leases**

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

### **12 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

### **12 5 Make VAT elections**

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

#### **12 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

#### **12 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

#### **12 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 Borrower

#### **12 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

#### **12 10 Sever fixtures and fittings**

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

#### **12 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

#### **12 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

#### **12 13 Make settlements**

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

#### **12 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

#### **12 15 Improve the Equipment**

A Receiver may make substitutions of, or improvements to, materials, tools, equipment, goods or supplies as he may think expedient

#### **12 16 Make calls on Chargor's 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 Borrower on its directors in respect of calls authorised to be made by them

#### **12 17 Insure**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 15, 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 Borrower under this deed

#### **12 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

#### **12 19 Borrow**

A Receiver may, for any of the purposes authorised by this clause 12, 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)

#### **12 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 Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

#### **12 21 Delegation**

A Receiver may delegate his powers in accordance with this deed.

#### **12 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.

#### **12 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.

### **13. DELEGATION**

#### **13 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 17 1)

### **13 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

### **13 3 Liability**

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

## **14. APPLICATION OF PROCEEDS**

### **14 1 Order of application of proceeds**

Any monies received by the Lender, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed 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) **First**, in the payment of 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,
- (b) **Second**, in payment of all remuneration due to any Receiver under or in connection with this deed,
- (c) **Third**, in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines, and
- (d) **Fourth**, in payment of the surplus (if any) to the person or other persons entitled to it

### **14 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

### **14 3 Suspense account**

Any monies received by the Lender, a Receiver or a Delegate under this deed

- (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

## **15. COSTS AND INDEMNITY**

### **15.1 Costs**

The Chargor shall, promptly on demand, pay to, or reimburse, the Lender and any Receiver, on a full indemnity basis, 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

- (a) this deed or the Secured Assets,
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed, or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with 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 Borrower) at the rate and in the manner specified in the Facility Agreement

### **15.2 Indemnity**

The Chargor hereby undertakes to indemnify and keep indemnified the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, actions, claims, demands, 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 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, or
- (c) any default or delay by the Chargor in performing any of its obligations under this deed

Any past or present employee or agent may enforce the terms of this clause 15.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

## **16. FURTHER ASSURANCE**

### **16.1 Further assurance**

The Chargor shall, at its own expense, take whatever action and sign all such Security, deeds, documents and assurances the Lender or any Receiver may reasonably require for

- (a) the purpose of perfecting or more effectively providing security to the Lender for the payment and discharge of the Secured Liabilities,
- (b) facilitating the realisation of the Secured Assets, or
- (c) exercising any rights vested in the Lender or any Receiver,

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

## **17. POWER OF ATTORNEY**

### **17.1 Appointment of attorneys**

The Chargor by way of security, 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

## **17 2 Ratification of acts of attorneys**

The Chargor hereby 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 17 1

## **18. RELEASE**

Subject to clause 25 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

## **19 ASSIGNMENT AND TRANSFER**

### **19 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
- (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 that the Lender considers appropriate

### **19 2 Assignment by Chargor**

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

## **20. SET-OFF**

### **20 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 20 shall not limit or affect any other rights or remedies available to it under this deed or otherwise

**20 2 No obligation to set off**

The Lender is not obliged to exercise its rights under clause 20 1. If, however, it does exercise those rights it must promptly notify the Chargor of the set-off that has been made

**20 3 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)

**21. AMENDMENTS, WAIVERS AND CONSENTS**

**21 1 Amendments**

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative)

**21 2 Waivers and consents**

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, 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 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. No single or partial exercise of any right or remedy provided under this deed 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

**21 3 Rights and remedies**

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law

## **22. SEVERANCE**

### **22 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.

## **23. COUNTERPARTS**

### **23 1 Counterparts**

- (a) 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.
- (b) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

## **24. THIRD PARTY RIGHTS**

### **24 1 Third party rights**

- (a) Except as expressly provided in clause 15 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.
- (b) The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

## **25. FURTHER PROVISIONS**

### **25 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.



## **25 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

## **25 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

## **25 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 and the Loan Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due

## **25 5 Consolidation**

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

## **25 6 Small company moratorium**

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by the Borrower under schedule A1 to the Insolvency Act 1986 nor the doing of anything by the Borrower with a view to obtaining such a

moratorium (including any preliminary decision or investigation) shall be, or be construed as

- (a) an event under this deed which causes any floating charge created by this deed to crystallise,
- (b) an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Borrower, or
- (c) a ground under this deed for the appointment of a Receiver

## **26. NOTICES**

### **26.1 Delivery**

Each notice or other communication required to be given to a party under or in connection with this deed shall be

- (a) in writing,
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service, and
- (c) sent to

- (i) the Chargor at

66 -71 Wilton Road London SW1V

Email [duncan@inception-group.com](mailto:duncan@inception-group.com) AND [charlie@inception-group.com](mailto:charlie@inception-group.com)

Attention The Directors the Lender at

66 -71 Wilton Road, London, SW1V

Email [duncan@inception-group.com](mailto:duncan@inception-group.com) AND [charlie@inception-group.com](mailto:charlie@inception-group.com)

Attention The Directors

or to any other address or fax number as is notified in writing by one party to the other from time to time

### **26.2 Receipt by Chargor**

Any notice or other communication that the Lender gives to the Chargor shall be deemed to have been received

- (a) if delivered by hand, at the time it is left at the relevant address,
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting

A notice or other communication given as described in clause 26 2(a) or clause **Error! Reference source not found.** on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day

#### **26 3 Receipt by Lender**

Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt

#### **26 4 Service of proceedings**

This clause 26 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution

### **27 GOVERNING LAW AND JURISDICTION**

#### **27 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

#### **27 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 such other jurisdiction

#### **27 3 Other service**

The Chargor irrevocably consents to any process in any legal action or proceedings under clause 27 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.

Executed as a deed by **DJ  
CAPITAL LIMITED** acting by

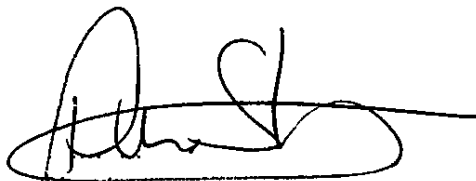
\_\_\_\_\_, Director  
a director, in the presence of

NAME  
ADDRESS

OCCUPATION

Executed as a deed by  
**INCEPTION VENTURES GROUP  
LIMITED** acting by

DUNCAN STIRLING  
a director, in the presence of

  
Director

NAME **DAVID SALAMONS**  
ADDRESS

OCCUPATION

**SOLICITOR**



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