



**Registration of a Charge**

Company name: **HARLEYFORD INVESTMENTS LIMITED**

Company number: **09007822**



X4BBM17L

Received for Electronic Filing: **10/07/2015**

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**Details of Charge**

Date of creation: **24/06/2015**

Charge code: **0900 7822 0001**

Persons entitled: **INVESTEC BANK (CHANNEL ISLANDS) LIMITED**

Brief description: **FREEHOLD LAND BEING 20 THE CRESCENT, LONDON, SW13 0NN AND  
REGISTERED AT LAND REGISTRY UNDER TITLE NUMBER SGL214697**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **BLAKE MORGAN**



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

Company number: 9007822

Charge code: 0900 7822 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th June 2015 and created by HARLEYFORD INVESTMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th July 2015 .

Given at Companies House, Cardiff on 13th July 2015

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

SHUCA By  
Barrister.

Dated: 24<sup>th</sup> June 2015

(1) HARLEYFORD INVESTMENTS LIMITED

(2) INVESTEC BANK (CHANNEL ISLANDS) LIMITED



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LEGAL CHARGE

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**IMPORTANT NOTICE – WE RECOMMEND THAT YOU CONSULT YOUR SOLICITOR OR OTHER INDEPENDENT LEGAL ADVISER BEFORE EXECUTING THIS DOCUMENT**

THIS LEGAL CHARGE is made as a Deed on 24<sup>th</sup> June 2015

**BETWEEN:**

- (1) **HARLEYFORD INVESTMENTS LIMITED** a company incorporated in England and Wales (Company Number: 900782) whose registered office is at 3/4 The Grove, Harleyford, Henley Road, Marlow, Bucks SL7 2SN (the "**Chargor**"); and
- (2) **INVESTEC BANK (CHANNEL ISLANDS) LIMITED** of P.O. Box 1188, Glatigny Court, Glatigny Esplanade, St. Peter Port, Guernsey GY1 3LP whose address for service is 2 Gresham Street, London EC2V 7QP, United Kingdom (the "**Bank**").

**WITNESSES** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Charge, unless the context otherwise requires:

**"Charged Property"** means all assets, property and rights of the Chargor described in Clause 3 (*Security*).

**"Collateral Instruments"** means 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 an Encumbrance.

**"Default Rate"** means:

- (a) the Default Rate specified in the Facility Letter; or
- (b) if no such rate is specified in the Facility Letter or other Facility Document, Three per centum (3%) per annum over the base rate of the Bank from time to time.

**"disposal"** includes any sale, lease, sub-lease, assignment or transfer, the grant of an option or similar right, the grant of any easement, right or privilege, the grant of a licence or permission to assign or sublet, the creation of a trust or other equitable interest or any other proprietary right in favour of a third party, a sharing or parting with possession or occupation whether by way of licence or otherwise and the granting of access to any other person over any intellectual property, and **"dispose"** and **"disposition"** shall be construed accordingly.

**"Encumbrance"** means any mortgage, charge, standard security, right in security, security, pledge, lien, assignment, assignation, guarantee, indemnity, right of set-off, right to retention of title or other encumbrance, whether fixed or floating, over any present or future property assets or undertaking.

**"Enforcement Event"** means:

- (a) the Bank making demand for payment or discharge of all or any of the Secured Obligations at any time; and/or
- (b) the occurrence of an Event of Default.

**"Environment"** means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including, without limitation, land under water).

**"Environmental Claim"** means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law.

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

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.

**"Event of Default"** means the occurrence of an event of default (howsoever described) under any Facility Document.

**"Facility Documents"** means

- (a) the Facility Letter; and/or
- (b) any other letter, document, agreement or security (including this Charge) comprising or constituting the Secured Obligations from time to time.

**"Facility Letter"** means a letter dated 17<sup>th</sup> March 2015 and all terms and conditions expressly incorporated therein.

**"Financial Collateral"** has the meaning given to that expression in the Financial Collateral Regulations.

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003 No. 3226).

**"Fixtures"** means, in relation to a property, all fixtures and fittings (including trade fixtures and fittings), fixed plant and machinery and other items attached to that property, whether or not constituting a fixture at law.

**"Incapacity"** means, in relation to a person, the insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation, reconstruction or other incapacity of that person whatsoever (and, in the case of a partnership, includes the termination or change in the composition of the partnership).

**"Insolvency Act"** means the Insolvency Act 1986.

**"Insurances"** means all present and future contracts or policies of insurance taken out by the Chargor in respect of the Property or any part thereof.

**"Insurance Proceeds"** means the proceeds of all claims and all sums paid out on the Insurances (or any of them).

**"ITA"** means the Income Tax Act 2007.

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

**"Property"** means the property or properties specified in Schedule 1 (*The Property*) and including any plant, machinery, Fixtures, fittings, equipment and buildings now or at any time at the Property.

**"Receiver"** has the meaning given to that term in Clause 9 (*Receivers*).

**"Repeating Representation"** shall have the meaning given to that term in the Facility Documents.

**"Secured Obligations"** means all or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Bank by the Chargor, whether actually or contingently, solely or jointly and whether as principal or surety (or guarantor or cautioner), including any money and liabilities of the Chargor to a third party which have been assigned or novated to or otherwise vested in the Bank and including interest, discounts, commission and other lawful charges or expenses which the Bank may in the course of its business charge or incur in respect of any of those matters or for keeping the Chargor's account, and so that interest shall be computed and compounded according to the Bank's usual rates and practice (or otherwise agreed in writing) after as well as before any demand made or judgment or decree obtained under or in relation to this Charge.

**"Security Financial Collateral Arrangement"** has the meaning given to that term in the Financial Collateral Regulations.

**"Subsidiary"** and **"Subsidiary Undertaking"** mean in relation to any person, any entity which is controlled directly or indirectly by that person and any entity (whether or not so controlled) treated as a subsidiary or a subsidiary undertaking in the latest financial statements of that person from time to time; and **"control"** for this purpose means:

- (a) the direct or indirect holding or ownership of the majority of the voting share capital or voting rights of such entity or the direct or indirect control of the majority of the voting share capital or voting rights of such entity;
- (b) the right or ability to direct the management of such entity or to determine the composition of a majority of the board of directors (or like board) of such entity; or

- (c) the right to exercise a dominant influence over such entity in each case whether by virtue of ownership of share capital, ownership of rights to share in the capital of such entity, ownership of interests conferring any right to share in the profits or liability to contribute to the losses of such entity or giving rise to an obligation to contribute to the debts of or expenses of such entity in a winding up, or by virtue of contract, the constitutional documents of such entity or otherwise.

## 1.2 Interpretation

In this Charge (unless the context otherwise requires):

- 1.2.1 any reference to statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation;
- 1.2.2 any reference to a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- 1.2.3 any reference to "**control**" of any company shall be interpreted in accordance with Section 995 of the ITA;
- 1.2.4 any reference to any Clause, paragraph or Schedule shall be construed as a reference to the clauses in this Charge, the schedules to this Charge and the paragraphs in such schedules;
- 1.2.5 any reference to any term or phrase defined in the Companies Act 2006 (as amended from time to time) shall (whether or not it is capitalised) bear the same meaning in this Charge;
- 1.2.6 any reference to words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 1.2.7 any reference to this Charge and to any provisions of it or to any other document referred to in this Charge shall be construed as references to it in force for the time being and as amended, varied, supplemented, restated, substituted or novated from time to time including, for the avoidance of doubt and without prejudice to the generality of the foregoing, any amendment, variation, supplement, restatement or substitution that increases the amount of any loan or credit facility made available under any Facility Document or increases the amount of any interest, fees, costs or expenses or any other sums due or to become due under the Facility Documents or pushes back the date for full and final repayment of the facility made available under the Facility Documents;
- 1.2.8 any reference to a "**person**" is to be construed to include references to a natural person, corporation, firm, company, partnership, limited partnership, limited liability partnership, joint venture, unincorporated body of persons, individual or any state or any agency of a state, whether or not a separate legal entity;
- 1.2.9 any reference to any person is to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;



- 1.2.10 any reference to any word or phrase includes all derivations thereof;
- 1.2.11 any reference to "**assets**" includes present and future properties, revenues and rights of every description;
- 1.2.12 any reference to "**guarantee**" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- 1.2.13 any reference to "**indebtedness**" or "**borrowings**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.14 any reference to any "**associated person**" means, in relation to a person, a person who is either acting in concert (as defined in the City Code on Takeovers and Mergers) with that person or is a connected person (as defined in section 993 (as supplemented by section 994) of the ITA) of that person;
- 1.2.15 any reference to a time of day is a reference to London time; and
- 1.2.16 clause headings are for ease of reference only and shall not affect the interpretation of this Charge.

### 1.3 **Effect as a deed**

It is intended that this Charge takes effect as a deed notwithstanding that the Bank may only execute it under hand.

### 1.4 **Appointment of Receiver**

Any appointment of a Receiver under Clause 9 (*Receivers*) hereof may be made by any successor or assignee or transferee of the Bank, and the Chargor hereby irrevocably appoints each such successor or assignee or transferee to be its attorney in the terms and for the purposes stated in Clause 13 (*Power of Attorney*) hereof.

### 1.5 **Facility Documents definitions**

Unless the context otherwise requires or unless otherwise defined in this Charge, words and expressions defined in the Facility Documents shall have the same meaning when used in this Charge.

### 1.6 **Land Registration Rules**

For the purposes of Rule 139 of the Land Registration Rules 1925 only, the parties to this Charge agree that the Facility Documents and any other document relating to the Secured Obligations and/or referred to in this Charge (but excluding, for the avoidance of doubt, this Charge) do not form part of the terms and conditions of the security created by this Charge.

## **2. COVENANT TO PAY**

### **2.1 Covenant to pay**

The Chargor covenants with the Bank that it will on demand pay and discharge the Secured Obligations to the Bank.

### **2.2 Interest**

2.2.1 The Chargor shall pay interest (as well after as before any judgment) at the rate or rates applicable under the agreements or arrangements giving rise to the relevant liabilities or, if no such rate or rates are specified, at the Default Rate.

2.2.2 Interest shall be compounded in the event of it not being punctually paid in accordance with the usual practice of the Bank but without prejudice to the rights of the Bank to require payment of such interest.

### **2.3 Appropriation of money/assets**

At any time after the occurrence of an Enforcement Event, the Bank shall be entitled to appropriate moneys and/or assets to satisfy the Secured Obligations in such manner or order as it sees fit and any such appropriation shall override any appropriation by any other person.

### **2.4 Statements of account conclusive**

Any statement of account of the Chargor signed as correct by an officer of the Bank, showing the amount of the Secured Obligations, shall, in the absence of manifest error, be binding and conclusive on and against the Chargor.

## **3. SECURITY**

### **3.1 Mortgages/Charges**

The Chargor, with full title guarantee and as a continuing security for the payment and discharge of the Secured Obligations, hereby charges to the Bank:

3.1.1 by way of first legal mortgage, the Property 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; and

3.1.2 by way of first fixed charge:

3.1.2.1 the Insurances and the Insurance Proceeds;

3.1.2.2 all plant and machinery, computers, office and other equipment (if any) specified in Schedule 2 (*Plant, Machinery and Equipment*) and the benefit of all contracts and warranties relating to the same;

3.1.2.3 the goodwill of any business carried on by the Chargor at the Property; and

- 3.1.2.4 all authorisations (statutory or otherwise) held or required in connection with the Chargor's business carried on at the Property or the Chargor's use of the Property, and all rights in connection with them.

## **3.2 Extent of Security**

- 3.2.1 The security created by this Charge shall be in addition to and shall not prejudice, determine or effect any other security which the Bank may from time to time hold for or in respect of all or any part of the monies, obligations and liabilities hereby secured.
- 3.2.2 No prior security held by the Bank over the property charged by this Charge or any part of it shall merge in the security created by this Charge which will remain in force and effect as a continuing security until discharged by the Bank.

## **4. PERFECTION OF SECURITY**

### **4.1 Land Registry**

The Chargor consents to the Bank's application to the Land Registry for the registration against each of the registered titles specified in Schedule 1 (*The Property*) (and against any title to any unregistered property specified in Schedule 1 (*The Property*) which is or ought to be the subject of a first registration of title at the Land Registry at the date of this Charge) of:

- 4.1.1 the following restriction:

"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 [ ] in favour of Investec Bank (Channel Islands) Limited referred to in the charges register."; and

- 4.1.2 a note to the effect that the Bank is under an obligation to make further advances.

### **4.2 Further advances**

The Bank covenants with the Chargor that it shall perform its obligations to make advances under the Facility Documents (including any obligation to make available further advances).

### **4.3 First registration**

If the title to the Property is not registered at the Land Registry, the Chargor shall ensure that no person (other than itself) shall be registered under the Land Registration Act 2002 as the proprietor of all or any part of the Property, without the prior written consent of the Bank.

### **4.4 Cautions against first registration and notices**

Whether or not title to the Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Chargor's title to the Property, the Chargor shall immediately provide the Bank with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this legal mortgage, the Chargor shall immediately and at its own expense take such steps as the Bank may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

#### 4.5 The Facility Documents

The obligations on the part of the Bank to make further advances to the Chargor under the Facility Documents shall be deemed to be incorporated in this Charge for the purposes of section 94(1)(c) Law of Property Act 1925 and the Chargor hereby consents to the Bank's application to the Land Registry for the registration of a notice of such obligation on the register of each of the titles referred to in Clause 4.1 (*Land Registry*).

#### 5. RESTRICTIONS ON DEALING

The Chargor shall not without the prior written consent of the Bank:

##### 5.1.1 *No Encumbrances*

create or attempt to create or permit to subsist in favour of any person other than the Bank any Encumbrance on or affecting the Charged Property or any part thereof;

##### 5.1.2 *No disposals*

sell, transfer or otherwise dispose of or deal with any of the Charged Property or enter into any agreement or grant any option for any such sale, transfer or other disposal or dealing;

##### 5.1.3 *Maintain possession*

part with possession of any freehold or leasehold interest in the Charged Property, grant or agree to grant any option or any licence, tenancy or other right of occupation to any person or exercise the powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by Sections 99 and 100 of the Law of Property Act 1925 in connection with the Charged Property provided that such restrictions shall not be construed as a limitation on the powers of any receiver appointed under this Charge and being an agent of the Chargor and the Bank may grant or accept surrenders of leases without restriction; and/or

##### 5.1.4 *Maintain Property*

pull down or remove or redevelop or make any material alteration to the whole or any part of any buildings or sever, unfix or remove any fixtures or remove any plant or machinery belonging to or in use by the Chargor except for the purpose of effecting repairs or replacing the same.

#### 6. REPRESENTATIONS AND WARRANTIES

##### 6.1 Representations and Warranties

The Chargor represents and warrants to the Bank on the date of this Charge that:

##### 6.1.1 *Title to Property*

the Chargor is the legal and beneficial owner of and has full right and title to the Charged Property and that the Charged Property is free from any Encumbrance of any kind (other than the Encumbrances created by this Charge);

6.1.2 ***Due incorporation***

where the Chargor is not a natural person, the Chargor is duly incorporated or established and validly existing under the laws of the country of its incorporation or establishment and has power to carry on its business as it is now being conducted and to own all of its property and other assets;

6.1.3 ***Corporate power***

where the Chargor is not a natural person, the Chargor has power to execute, deliver and perform its obligations under this Charge and all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and performance of the same;

6.1.4 ***Binding obligations***

this Charge constitutes the valid, legal, binding and enforceable obligations of the Chargor;

6.1.5 ***No conflict with other obligations***

the execution and delivery of, the performance of its obligations under, and the compliance by the Chargor with the provisions of this Charge will not:

6.1.5.1 contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which the Chargor is subject; or

6.1.5.2 conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which the Chargor is a party or is subject or by which it or any of its property is bound; or

6.1.5.3 where the Chargor is not a natural person, contravene or conflict with any provision of the Chargor's constitutional documents;

6.1.6 ***Consents obtained***

every authorisation, or registration with, or declaration to, governmental or public bodies or authorities or courts required by the Chargor to authorise, or required by the Chargor in connection with, the execution, delivery, validity, enforceability or admissibility in evidence of this Charge or the performance by the Chargor of its obligations hereunder or thereunder has been obtained or made and is in full force and effect and there has been no default in the observance of any of the conditions or restrictions imposed in or in connection with any of the same;

6.1.7 ***No litigation***

no litigation, arbitration or administrative proceeding is taking place, pending or, to the knowledge of the officers of the Chargor (but without personal liability), threatened against the Chargor which could have a material adverse effect on the business, assets or financial condition of the Chargor;

6.1.8 ***No filings required***

it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of this Charge that it or any other instrument be notarised, filed, recorded, registered or enrolled in any court, public office or elsewhere in any relevant jurisdiction or that any stamp, registration or similar tax or charge be paid in any relevant jurisdiction on or in relation to this Charge and this Charge is in proper form for its enforcement in the courts of any relevant jurisdiction; and

**6.1.9      *No immunity***

neither the Chargor nor any of its assets are entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (which shall include, without limitation, suit, attachment prior to judgment, execution or other enforcement).

**6.2      *Repetition***

The representations and warranties in Clause 0 (*Representations and Warranties*) shall be deemed to be repeated by the Chargor on each date on which a Repeating Representation is made under the Facility Documents, in each case as if made with reference to the facts and circumstances existing on each such day.

**7.      *COVENANTS BY THE CHARGOR***

**7.1      *Covenants***

The Chargor hereby covenants and undertakes with the Bank that during the continuance of this Charge, the Chargor shall:

**7.1.1      *Consents and Licences***

obtain or cause to be obtained, maintain in full force and effect and comply in all material respects with the conditions and restrictions (if any) imposed in, or in connection with, every consent, authorisation, licence or approval of governmental or public bodies or authorities or courts and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under applicable law for the continued due performance of all its obligations under this Charge;

**7.1.2      *Financial Information***

provide the Bank with all financial and other information with respect to the assets, liabilities, financial condition and affairs of the Chargor (and its Subsidiaries and associated companies (if any) where the Chargor is not a natural person) that the Bank may from time to time require;

**7.1.3      *Deposit of Deeds***

deposit with the Bank (to be held at the risk of the Chargor):

- (a) all deeds and documents of title relating to the Charged Property and to any subordinate interest in any of them and the insurance policies relating thereto;
- (b) all such other documents relating to its assets as the Bank may from time to time require;

**7.1.4      *Conduct of business***

where the Chargor is not a natural person, conduct and carry on its business, and procure that each of its Subsidiaries conducts and carries on its business, in a proper and efficient manner and keep or cause or procure to be kept proper books of account relating to such business and not make any material alteration in the nature or mode of conduct of any such business;

**7.1.5      *Compliance with covenants etc***

observe and perform all covenants, requirements and obligations from time to time imposed on, applicable to or otherwise affecting the Charged Property and/or the use, ownership, occupation, possession, operation, repair, maintenance or other enjoyment or exploitation of the Charged Property whether imposed by statute, law or regulation, contract, lease, licence, grant or otherwise, carry out all registrations or renewals and generally do all other acts and things (including the taking of legal proceedings) necessary or desirable to maintain, defend or preserve its right, title and interest to and in the Charged Property without infringement by any third party and not without the prior written consent of the Bank enter into any onerous or restrictive obligations affecting any of the same or agree any rent review relating to any interest in the Charged Property;

**7.1.6      *Alteration or development of properties***

not make any structural or material alteration to, or to the user of the Charged Property or do or permit to be done anything which is a development within the meaning of the Town and Country Planning Act 1990 (as amended) or any re-enactment or modification thereof for the time being in force or any orders or regulations under such Acts or do or permit or omit to be done any act, matter or thing as a consequence of which any provision of any statute, bye-law, order or regulation or any condition of any consent, licence, permission or approval (whether of a public or private nature) from time to time in force imposed on, applicable to or otherwise affecting any of its properties is or may be infringed;

**7.1.7      *Maintenance of buildings, machinery and plant***

keep, and procure that each of its Subsidiaries keep, all its buildings, machinery, plant, fixtures, vehicles, computers and office and other equipment in good and substantial repair and in good working order and condition and permit the Bank and its agents or representatives to enter and view their state and condition;

**7.1.8      *Insurance***

- (a) insure and keep insured, and procure that each of its Subsidiaries will insure and keep insured, at its own expense to the full replacement or reinstatement value thereof from time to time (including, where applicable, the cost of demolition and site clearance, architects', surveyors' and other professional fees and incidental expenses in connection with replacement or reinstatement) all the Charged Property with insurers previously approved by the Bank in writing against loss or damage (including loss of rent and profits) by fire, storm, lightning, explosion, riot, civil commotion, malicious damage, impact, flood, burst pipes, aircraft and other aerial devices or articles dropped therefrom (other than war risk), third party and public liability and liability under the Defective Premises Act 1972 and such other risks and contingencies as the Bank shall from time to time request, such insurances to be effected with the interest

of the Bank noted on the policy and with the policy containing such provisions for the protection of the Bank as the Bank may require including, for the avoidance of doubt and without limitation, "loss payee" and "non-vitiation" provisions;

- (b) maintain such other insurance policies (with the interest of the Bank noted thereon) containing like provisions for the protection of the Bank as are normally maintained by prudent companies carrying on businesses similar to those of the Chargor or, as the case may be, its Subsidiaries including, for the avoidance of doubt and without limitation, "loss payee" and "non-vitiation" provisions;
- (c) duly and promptly pay all premiums and other monies necessary for effecting and keeping up such insurances and on demand produce to the Bank the policies of such insurance and evidence of such payments and comply in all other respects with the terms and conditions of the relevant policies including without limitation any stipulations or restrictions as to the use and/or operation of any asset;
- (d) procure (where it is empowered to do so) or otherwise use all reasonable efforts to procure the maintenance by the landlord (or other third party) of such insurance obligations in accordance with the provisions of the relevant lease;

**7.1.9      *Property outgoings***

punctually pay, or cause to be paid, and indemnify the Bank against, all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether imposed by agreement, statute or otherwise) now or at any time during the continuance of this security payable in respect of the Charged Property or any part thereof or by the owner or occupier thereof;

**7.1.10     *Possession of properties***

not without the prior written consent of the Bank dispose of or grant any lease, part with possession or share occupation of the whole or any part of the Charged Property or confer any licence, right or interest to occupy or grant any licence or permission to assign, underlet or part with possession of the same or any part thereof or permit any person:

- (a) to be registered (jointly with the Chargor or otherwise) as proprietor under the Land Registration Act 2002 of the Charged Property nor create or permit to arise any interest listed in Schedule 1 or Schedule 3 of the Land Registration Act 2002 affecting the same or any overriding interest within the meaning of the Land Registration (Scotland) Act 1979; or
- (b) to become entitled to any right, easement, covenant, interest or other title encumbrance which might adversely affect the use, value or marketability of the Charged Property;

**7.1.11     *Variation of leasehold interests***

not without the prior written consent of the Bank vary, surrender, cancel or dispose of, or permit to be forfeit, any leasehold interest in the Charged Property;



7.1.12 ***Acquisition of property***

immediately inform the Bank before contracting to purchase any estate or interest in freehold, leasehold or heritable property and supply the Bank with such details of the purchase as the Bank may from time to time request;

7.1.13 ***Registration of Title***

- (a) not without the prior written consent of the Bank allow any person other than itself to be registered under the Land Registration Act 2002 as proprietor of, or any part of, the Charged Property or permit to arise any interest which falls within either or both of Schedule 1 and Schedule 3 of the Land Registration Act 2002 affecting the Charged Property and the reasonable costs incurred by the Bank of lodging a caution against first registration of the title to the Charged Property or a land charge (if unregistered) or any part of it, shall be an expense properly incurred in relation to this Charge;
- (b) not without the prior consent of the Bank make an application, consent to or concede to the application by any third party, to the Land Registry to make any entry on the register of title of the Charged Property or any part thereof, as the case may be;

7.1.14 ***Rents, taxes, etc.***

punctually pay all rents, taxes, duties, assessments and other outgoings and observe and perform all restrictive and other covenants under which the Charged Property is held;

7.1.15 ***Statutes***

comply with the provisions of all present or future statutes and directives and every notice, order or direction made under any of the foregoing;

7.1.16 ***Jeopardy***

not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of its assets; and

7.1.17 ***Insolvency***

notify the Bank immediately:

- (a) in the event of any creditor executing diligence against the Chargor or any distress or execution is levied or enforced against the Chargor or any garnishee order is made and served in respect of any of its assets; and/or
- (b) if any steps (including, without limitation, the making of an application or the giving of any notice) are taken by any person (including, without limitation, the Chargor) in relation to the administration, receivership, winding-up, bankruptcy, sequestration or dissolution of the Chargor.

## **7.2 Power to Remedy**

If the Chargor defaults at any time in complying with any of its obligations contained in this Charge, the Bank shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Chargor hereby irrevocably authorises the Bank and its employees and agents by way of security to do all such things (including, without limitation, entering the Chargor's property) necessary or desirable in connection therewith. Any monies so expended by the Bank shall be repayable by the Chargor to the Bank on demand together with interest at the Default Rate from the date of payment by the Bank until such repayment, both before and after judgment. No exercise by the Bank of its powers under this Clause 7.2 (*Power to Remedy*) shall make the Bank liable to account as a mortgagee in possession.

## **8. ENFORCEMENT**

### **8.1 Powers on enforcement**

At any time on or after the occurrence of an Enforcement Event or if requested by the Chargor, the Bank may, without further notice, exercise all the powers conferred upon mortgagees by the Law of Property Act 1925, without the restrictions contained in section 103 of the Law of Property Act 1925 and do all or any of the following and/or delegate such powers or any of them to any person on such terms as it may think fit:

- 8.1.1 sell or otherwise dispose of all or any of the Charged Property or otherwise exercise and do (or permit the Chargor or any nominee of it to exercise and do) all such powers and things as the Bank would be capable of exercising or doing if the Bank were the absolute beneficial owner of the Charged Property;
- 8.1.2 settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating in any way to the Charged Property;
- 8.1.3 bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Property;
- 8.1.4 redeem any Encumbrance (whether or not having priority to this Charge) over the Charged Property and settle the accounts of encumbrancers;
- 8.1.5 do, and concur in the doing of, all such other acts and things, either alone or jointly with any other person, which the Bank may consider necessary or expedient for the realisation of the Charged Property or incidental to the exercise of any of the rights and powers conferred on the Bank under or by virtue of this Charge, the Law of Property Act 1925 or the Insolvency Act 1986.

### **8.2 Additional powers**

The Bank shall be entitled to permit the sale of the Charged Property or any part thereof at such time and on such terms as the Bank may consider expedient and without being under any obligation to have regard in that respect of the effect (if any) which a disposal at such time or on such terms may have on the price likely to be realised. The Bank shall not in any circumstances, either by reason of any dealing with the Charged Property or any part thereof or for any other reason whatsoever be liable to account to the Chargor for anything except in respect of the Bank's own actual receipts or be liable to the Chargor for any loss or damage arising from any realisation by the Bank of the Charged Property or any part thereof or from any act, default or omission of the Bank in relation to the Charged Property or any part thereof or from any exercise or non-exercise by the Bank of any

power, authority or discretion conferred upon it in relation to the Charged Property or any part thereof by or pursuant to this Charge or otherwise by any applicable law.

### **8.3 Law of Property Act 1925**

The powers of sale or other disposal in Clauses 8.1 (*Powers on enforcement*) and 8.2 (*Additional powers*) shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Charge. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Charge or to any exercise by the Bank of its right to consolidate mortgages or its power of sale on or at any time after an Enforcement Event.

### **8.4 Certificate in writing**

A certificate in writing by an officer or agent of the Bank that the power of sale or disposal has arisen and is exercisable shall be conclusive evidence of that fact in favour of a purchaser of all or any part of the Charged Property.

### **8.5 Subsequent Encumbrances**

If the Bank receives notice of any subsequent Encumbrance affecting the Charged Property or any part thereof, the Bank may open a new account for the Chargor. If it does not do so then, unless the Bank gives express written notice to the contrary to the Chargor, it shall nevertheless be treated as if it had opened a new account at the time when it received such notice and as from that time all payments made by or on behalf of the Chargor to the Bank shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from the Chargor to the Bank at the time when it received such notice.

### **8.6 Extension of statutory powers of leasing**

The Bank shall have the power to lease and make agreements for leases at a premium or otherwise, to accept surrenders of leases and to grant options on such terms as the Bank shall consider expedient and without the need to observe any of the provisions of sections 99 and 100 Law of Property Act 1925.

### **8.7 Fixtures**

At any time on or after the occurrence of an Enforcement Event or if requested by the Chargor, the Bank may sever any Fixtures from the property to which they are attached and sell them separately from that property.

### **8.8 Financial Collateral**

To the extent that the Charged Property constitutes Financial Collateral and is subject to a Security Financial Collateral Arrangement created by or pursuant to this Charge, the Bank shall have the right, at any time after this Charge becomes enforceable, to appropriate all of any part of the Charged Property in or towards the payment or discharge of the Secured Obligations. The value of any Charged Property appropriated in accordance with this Clause 8.8 (*Financial Collateral*) shall be the price of such Charged Property at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Bank may select (including independent valuation). The Chargor agrees that the methods of valuation provided for in this Clause 8.8 (*Financial Collateral*) are commercially reasonable for the purpose of Regulation 18 of the Financial Collateral Regulations. To the extent that Charged Property constitutes Financial Collateral,

the Chargor agrees that such Charged Property shall be held or redesignated so as to be under the control of the Bank for all purposes of the Financial Collateral Regulations.

## **9. RECEIVERS**

### **9.1 Appointment of receiver(s)**

At any time on or after the occurrence of an Enforcement Event or if the Chargor so requests in writing, the Bank may without further notice to the Chargor appoint by writing under hand or under seal any one or more persons either singly jointly severally or jointly and severally to be a receiver (each a "**Receiver**") in respect of all or any part of the property charged by this Charge 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.

### **9.2 Agent of Chargor**

Any Receiver shall be the agent of the Chargor which shall be solely responsible for his acts and defaults and the payment of his remuneration.

### **9.3 Powers of Receiver**

9.3.1 Any Receiver shall, subject to any restrictions specified in the deed or instrument appointing him, have all the powers conferred by statute on mortgagees in possession (but without any liability as such) and receivers which in the case of joint receivers may be exercised either jointly or severally (including, without limitation, all the rights, powers and discretions conferred on a receiver under the LPA and a receiver or administrative receiver under the Insolvency Act). In addition, but without prejudice to the generality of the foregoing, the Receiver shall have power (in the name of the Chargor or otherwise and in such manner and on such terms and conditions as he shall think fit) to:

- 9.3.1.1 take possession of, collect and get in all or any part of the Charged Property in respect of which he is appointed and for that purpose to take any proceedings;
- 9.3.1.2 carry on or concur in carrying on the business of the Chargor and to raise money from the Bank or others on the security of the Charged Property charged by this Charge;
- 9.3.1.3 purchase or acquire any land and purchase, acquire and grant any interest in or right over land;
- 9.3.1.4 sell or concur in selling, let or concur in letting and terminate or accept surrenders of leases or tenancies of any of the Property charged by this Charge and to carry any such transactions into effect;
- 9.3.1.5 sell, assign, let or otherwise dispose of or concur in selling, assigning, letting or otherwise disposing of all or any of the debts and any other property in respect of which he is appointed;
- 9.3.1.6 make any arrangement or compromise between the Chargor and any other person which he may think expedient;

- 9.3.1.7 make and effect all repairs, improvements and insurances;
- 9.3.1.8 purchase materials, tools, equipment, goods or supplies;
- 9.3.1.9 call up any uncalled capital of the Chargor with all the powers conferred by the articles of association of the Chargor in relation to calls;
- 9.3.1.10 employ, engage and appoint managers and other employees and professional advisers; and
- 9.3.1.11 do all such other acts and things as may be considered to be incidental or conducive to any other matters or powers aforesaid or to the realisation of the security constituted by this Charge and which he lawfully may or can do.

9.3.2 The powers of a Receiver may be limited by the terms of his appointment.

#### **9.4 Remuneration**

The Bank may from time to time determine the remuneration of any Receiver and section 109(6) Law of Property Act 1925 shall be varied accordingly. A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

#### **9.5 Insurance moneys**

Any insurance moneys received by a Receiver shall be applied in accordance with Clause 10 (*Application of Proceeds*) and accordingly section 109(8) of the Law of Property Act 1925 shall not apply.

### **10. APPLICATION OF PROCEEDS**

#### **10.1 Order of application**

Any monies received by the Bank or any Receiver under this Charge shall, subject to the payment of any claims having priority to the charges created by this Charge, be applied in the following order but without prejudice to the right of the Bank to recover any shortfall from the Chargor:

- 10.1.1 in the payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers and of all outgoings paid by him;
- 10.1.2 in the payment of the Receiver's remuneration;
- 10.1.3 in or towards the satisfaction of the Secured Obligations in such order as the Bank in its absolute discretion thinks fit; and
- 10.1.4 in payment of the surplus (if any) to the person or persons entitled to it.

## **10.2 Insurance proceeds**

All insurance moneys deriving from any of the Insurances (whether before or after an Enforcement Event) shall be paid to the Bank (or if paid by the insurers directly to the Chargor shall be held by the Chargor on trust for the Bank) and shall be applied:

10.2.1 unless an Enforcement Event has occurred, in replacing, restoring or reinstating any Property or assets destroyed, damaged or lost (any deficiency being made good by the Chargor); or

10.2.2 if an Enforcement Event has occurred, in reduction of the Secured Obligations in such manner and order as the Bank may determine.

## **10.3 Suspense accounts**

All monies received, recovered or realised by the Bank under this Charge may be credited at the discretion of the Bank to any suspense or impersonal account and may be held in such account for so long as the Bank shall think fit pending its application from time to time in or towards the discharge of any of the monies and liabilities secured by this Charge.

## **11. PROTECTION OF THIRD PARTIES**

### **11.1 No enquiry**

No person dealing with a Receiver or the Bank shall be concerned to enquire whether the liabilities secured by this Charge have become payable, or whether any power which he or it is purporting to exercise has become exercisable, or whether any money is due under this Charge, or as to the application of any money paid, raised or borrowed, or as to the propriety or regularity of any sale by or other dealing with such Receiver or the Bank.

### **11.2 Law of Property Act**

All the protections to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with a Receiver or the Bank as if the liabilities secured by this Charge had become due and the statutory powers of sale in relation the Charged Property had arisen on the date of this Charge.

## **12. ENTRY INTO POSSESSION**

### **12.1 Possession**

If the Bank or any Receiver shall enter into possession of the Charged Property or any part thereof, it or he may from time to time and at any time go out of or part with such possession.

## **12.2 No Liability**

Neither the Bank nor any Receiver shall in any circumstances (either by reason of any entry into or taking of possession of any such property or for any reason and whether as mortgagee in possession or on any other basis) be liable to account to the Chargor for anything except its or his actual receipts or be liable to the Chargor for any loss or damage arising from any realisation of the Charged Property charged by this Charge or from any act, default or omission in relation thereto.

## **13. PAYMENTS**

### **13.1 No set-off or withholding**

All sums payable by the Chargor under this Charge shall be paid to the Bank in full without any set-off, condition or counterclaim whatsoever and free and clear of any deduction or withholding whatsoever save only as may be required by law which is binding on it.

### **13.2 Gross-up**

If any deduction or withholding is required by law in respect of any payment due from the Chargor under this Charge, the relevant sum payable by the Chargor shall be increased so that, after making the minimum deduction or withholding so required, the Chargor shall pay to the Bank and the Bank shall receive and be entitled to retain on the due date for payment a net sum at least equal to the sum which it would have received had no such deduction or withholding been required to be made.

## **14. POWER OF ATTORNEY**

### **14.1 Power of Attorney**

The Chargor by way of security hereby irrevocably appoints each of the Bank, any person selected by the Bank and any Receiver jointly and also severally, to be its attorney in its name and on its behalf:

- 14.1.1 to execute and complete any documents or instruments and to do all acts and things which the Bank or any Receiver may require for perfecting the title of the Bank to the Property or for vesting the same in the Bank, its nominees or any purchaser;
- 14.1.2 to sign, execute, seal and deliver and otherwise perfect any further security document referred to in Clause 19 (*Further Assurance*); and
- 14.1.3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Bank or a Receiver under this Charge or which may be deemed expedient by the Bank or a Receiver in connection with any disposition, realisation or getting in by the Bank or such Receiver of the Property or any part thereof or in connection with any other exercise of any power under this Charge.

### **14.2 Ratification**

The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall reasonably do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 13 (*Power of Attorney*).

## 15. GENERAL INDEMNITY

The Chargor hereby undertakes to indemnify and keep indemnified the Bank, any Receiver and any attorney, agent or other person appointed by the Bank under this Charge and the Bank's and any Receiver's officers and employees (each an "**Indemnified Party**") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

15.1.1 anything done or omitted in the exercise or purported exercise of the powers contained in this Charge; or

15.1.2 any breach by the Chargor of any of its obligations under this Charge; or

15.1.3 an Environmental Claim made or asserted against an Indemnified Party which would not have arisen if this Charge had not been executed and which was not caused by the gross negligence or wilful default of the relevant Indemnified Party.

## 16. CURRENCY CONVERSION AND INDEMNITY

### 16.1 Conversion of currency

For the purpose of or pending the discharge of any of the monies and liabilities secured by this Charge, the Bank may convert any monies received, recovered or realised by the Bank under this Charge (including the proceeds of any previous conversion) from their existing currency into such other currency as the Bank may think fit and any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange for such other currency against the existing currency.

### 16.2 Currency indemnity

As a separate and independent obligation, the Chargor agrees to indemnify and hold harmless the Bank against any shortfall between any amount received or recovered by it in respect of any payment due under this Charge and converted in accordance with Clause 16.1 (*Conversion of currency*) into the currency in which such amount was payable and the amount in such currency which was due and payable to the Bank under this Charge.

## 17. NEW ACCOUNTS

If the Bank shall at any time receive actual or constructive notice of any charge or other interest affecting any part of the property charged under this Charge then the Bank may open a new account or accounts for the Chargor and if the Bank does not do so then the Bank shall be treated as if it had in fact done so at the time when it received or was deemed to receive notice and as from that time all payments made by the Chargor to the Bank shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Charge at the time when the Bank received or was deemed to have received such notice.



**18. PRIOR CHARGES**

**18.1 Redemption of prior security**

If there is any Encumbrance over any of the property charged by this Charge which ranks in priority to this Charge and any proceedings or steps are taken to exercise or enforce any powers or remedies conferred by such prior Encumbrance the Bank or any Receiver appointed under this Charge in respect of such property may redeem such prior Encumbrance or procure its transfer to itself and may settle and pass the accounts of any prior mortgagee, chargee or encumbrancer.

**18.2 Extension of powers and rights**

Any account so settled and passed shall be conclusive and binding on the Chargor and all the principal, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be secured on the property charged by this Charge and all the powers conferred by any prior Encumbrance upon the encumbrancer or any receiver thereunder shall be exercisable by the Bank or a receiver in like manner as if the same were expressly included in this Charge.

**19. FURTHER ASSURANCE**

**19.1 Further Assurance**

The Chargor shall at its own cost whenever requested by the Bank immediately execute and sign all such Encumbrances, deeds, documents and assurances and do all such things as the Bank may require for the purpose of perfecting or more effectively providing security to the Bank for the payment and discharge of the Secured Obligations or to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Bank or any Receiver.

**19.2 Certain Documentary Requirements**

Such further Encumbrances, deeds, documents and assurances shall be prepared by or on behalf of the Bank at the expense of the Chargor and shall contain (a) an immediate power of sale without notice, (b) a clause excluding section 93 of the LPA and the restrictions contained in section 103 of the LPA and (c) such other clauses for the benefit of the Bank as the Bank may require.

**20. SET-OFF**

**20.1 Set-off**

The Chargor hereby agrees that the Bank may at any time without notice, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of its then existing accounts wheresoever situate (including accounts in the name of the Bank or of the Chargor jointly with others), whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and whether they are denominated in sterling or in any other currency, and set-off or transfer any sum standing to the credit of any one or more such accounts in or towards satisfaction of the Secured Obligations which, to the extent not then payable, shall automatically become payable to the extent necessary to effect such set-off.

**20.2 Purchase of Currencies**

For the purpose of Clause 20 (*Set-off*), the Chargor authorises the Bank to purchase with the moneys standing to the credit of such accounts, such other currencies as may be necessary to effect such applications.

## **21. COSTS AND EXPENSES**

### **21.1 Costs and Expenses**

21.1.1 All costs, charges and expenses (together with any value added tax thereon) incurred by the Bank in relation to this Charge or the monies and liabilities secured by this Charge including for the avoidance of doubt all amounts the Bank may from time to time require to compensate it for its internal management and administrative costs and expenses and also all costs, charges and expenses incurred by the Bank in connection with the preservation or enforcement or attempted enforcement of the Bank's rights under this Charge shall be reimbursed by the Chargor to the Bank on demand on a full indemnity basis and, until so reimbursed, shall carry interest in accordance with the provisions set out in Clause 2.2 (*Interest*) from the date of payment to the date of reimbursement and be secured on the property charged by this Charge.

21.1.2 A certificate signed by the Bank as to the amount of such costs, charges and expenses shall be conclusive and binding upon the Chargor.

### **21.2 Enforcement etc.**

The Bank and every Receiver attorney or other person appointed by the Bank under this Charge and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the Charged Property in respect of all liabilities and expenses incurred by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this Charge and against all actions, proceedings, losses, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the property charged by this Charge and the Bank and any such Receiver may retain and pay all sums in respect of the same out of the monies received under the powers conferred by this Charge.

## **22. MISCELLANEOUS**

### **22.1 Time, indulgence and other matters**

The Bank may without discharging or in any way affecting the security created by this Charge or any remedy of the Bank grant time or other indulgence or abstain from exercising or enforcing any remedies, securities, guarantees or other rights which it may now or in the future have from or against the Chargor and may make any arrangement, variation or release with any person or persons without prejudice either to this Charge or the liability of the Chargor for the monies and liabilities secured by this Charge.

### **22.2 Severability**

Each of the provisions in this Charge shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

### **22.3 Remedies cumulative**

No failure or delay on the part of the Bank to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy.

**22.4 No waiver**

No delay or omission on the part of the Bank in exercising any right or remedy under this Charge shall impair that right or remedy or operate as or be taken to be a waiver of it nor shall any single, partial or defective exercise of any such right or remedy preclude any other or further exercise under this Charge of that or any other right or remedy.

**22.5 Statutory references**

Any reference in this Charge to any statute or any section of any statute shall be deemed to include reference to any statutory modification or re enactment thereof for the time being in force.

**22.6 No liability as mortgagee in possession**

Neither the Bank nor any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever for which a mortgagee may be liable as such.

**22.7 Stamp taxes**

The Chargor shall pay all stamp, documentary, registration or other duties (including any duties payable by or assessed on the Bank) imposed on or in connection with this Charge.

**22.8 Value Added Tax**

22.8.1 All fees, costs and expenses payable under or pursuant to this Charge shall be paid together with an amount equal to any value added tax payable by the Bank in respect of the same to the extent that the Bank shall have certified (such certificate to be binding and conclusive on the Chargor) to the Chargor that it is not entitled to credit for such value added tax as input tax.

22.8.2 Any value added tax chargeable in respect of any services supplied by the Bank under this Charge shall, on delivery of a value added tax invoice, be paid in addition to any sum agreed to be paid under this Charge.

**22.9 Continuing security, etc.**

This Charge and the obligations of the Chargor under this Charge shall:

22.9.1 secure the ultimate balance from time to time owing to the Bank in respect of the Secured Obligations and shall be a continuing security notwithstanding any intermediate payment, partial settlement or other matter whatsoever;

22.9.2 be in addition to, and not prejudice or affect, any present or future Encumbrance, right or remedy held by or available to the Bank;

22.9.3 not merge with or be in any way prejudiced or affected by the existence of any such Encumbrances, rights or remedies or by the same being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Bank dealing with, exchanging, releasing, varying or failing to perfect or enforce any of the same, or giving time for payment or indulgence or compounding with any other person liable; and

- 22.9.4 not in any way be prejudiced or affected by any amendment or supplement to, or novation of, any of the Facility Documents.

## 22.10 **Liability unconditional**

The obligations of the Chargor under this Charge and the security created or granted under this Charge will not be affected by an act, omission, matter or thing which, but for this Clause 22.10 (*Liability unconditional*), would reduce, release or prejudice any of its obligations under this Charge and/or any of the security created or granted under this Charge (without limitation and whether or not known to it or the Bank) including:

- 22.10.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 22.10.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor or such other person;
- 22.10.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 22.10.4 any Incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 22.10.5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement of a Facility Document or any other document or security;
- 22.10.6 any unenforceability, illegality or invalidity of any obligation of any person under any Facility Document or any other document or security;
- 22.10.7 where the security created or purported to be created by this Charge secures the Chargor's obligations and liabilities as a guarantor and/or an indemnitor, any act or omission which would not have discharged or affected the liability of the Chargor had the Chargor been a principal debtor in respect of those obligations and liabilities instead of guarantor or indemnitor 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 the Chargor's liability under this Charge; or
- 22.10.8 any insolvency or similar proceedings.

## 22.11 **Collateral Instruments**

The Bank shall not be obliged to make any claim or demand on the Chargor or any other person liable or to resort to any Collateral Instrument or other means of payment before enforcing this Charge and no action taken or omitted in connection with any such Collateral Instrument or other means of payment shall discharge, reduce, prejudice or affect the liability of the Chargor. The Bank shall not be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such Collateral Instrument or other means of payment.

#### **22.12 Suspense accounts**

Any money received pursuant to the realisation of any security created pursuant to this Charge (whether before or after any Incapacity of the Chargor or any other person liable) may be placed to the credit of an interest-bearing suspense account with a view to preserving the rights of the Bank to prove for the whole of its respective claims against the Chargor or any other person liable or may be applied in or towards satisfaction of the Secured Obligations.

#### **22.13 Settlements conditional**

Any release, discharge or settlement between the Chargor and the Bank shall be conditional upon no right, security, disposition or payment to the Bank by the Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to breach of duty by any person, bankruptcy, liquidation, administration, the protection of creditors or insolvency or for any other reason whatsoever and if such condition is not fulfilled the Bank shall be entitled to enforce this Charge as if such release, discharge or settlement had not occurred and any such payment had not been made.

#### **22.14 Chargor bound**

The Chargor agrees to be bound by this Charge notwithstanding that any person intended to execute or to be bound by this Charge may not do so or may not be effectually bound and notwithstanding that any guarantees or charges contained in this Charge may be terminated or released or may be or become invalid or unenforceable against the Chargor whether or not the deficiency is known to the Bank.

#### **22.15 Statutory powers of leasing**

During the continuance of this security the statutory and any other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not be exercisable by the Chargor in relation to the Property or any part thereof.

#### **22.16 Law of Property Act 1925**

Section 93 Law of Property Act 1925 shall not apply to the security created by this Charge or to any security given to the Bank pursuant to this Charge.

#### **22.17 Reorganisation**

This Charge shall remain binding on the Chargor notwithstanding any change in the constitution of the Bank or its absorption in, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The security granted by this Charge shall remain valid and effective in all respects in favour of the Bank and any assignee, transferee or other successor in title of the Bank in the same manner as if such assignee, transferee or other successor in title had been named in this Charge as a party instead of, or in addition to the Bank.

#### **22.18 Unfettered discretion**

Any liability or power which may be exercised or any determination which may be made under this Charge by the Bank may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

## **22.19 Law of Property (Miscellaneous Provisions) Act 1989**

Any provisions of any Facility Document or any other document relating to any disposition of an interest in land shall be deemed to be incorporated in this Charge to the extent required for any purported disposition of the property charged by this Charge to constitute a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## **22.20 Delegation of powers**

The Bank shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by this Charge in such manner, upon such terms, and to such person as the Bank in its absolute discretion may think fit and such person shall have the same rights and obligations as it would have had if such person had been a party to the Facility Documents in place of the Bank.

## **23. ASSIGNMENTS AND TRANSFERS**

### **23.1 Bank's right to transfer**

23.1.1 The Bank may at any time (and without notice or consent) assign or transfer the benefit of this Charge (or all or any of its rights under this Charge) to any person and the expression "the Bank" shall include its successors and assigns

23.1.2 The Bank shall be entitled to disclose any information to any actual or prospective assignee, successor or participant.

### **23.2 Chargor may not transfer**

The Chargor may not assign or transfer the benefit or burden of this Charge or all or any of its rights under this Charge without the prior written consent of the Bank

### **23.3 Receivers etc.**

Any appointment or removal of a Receiver under Clause 9 (*Receivers*) and any consents under this Charge may be made or given in writing signed or sealed by any successors or assigns of the Bank and accordingly the Chargor hereby irrevocably appoints each successor and assign of the Bank to be its attorney in the terms and for the purposes set out in Clause 13 (*Power of Attorney*).

## **24. NOTICES**

24.1.1 Any demand or notice under this Charge shall be in writing signed by an officer, manager or agent of the Bank and (without prejudice to any other effective means of serving it) may be served on the Chargor personally or by post and either by delivering it to the Chargor or any officer of the Chargor at any place or by despatching it addressed to the Chargor at the address stated in this document (or such other address as may from time to time be notified by the Chargor to the Bank for this purpose) or the Chargor's current registered office or the place of business or address last known to the Bank. Any such demand or notice delivered personally shall be deemed to have been received immediately upon delivery.

24.1.2 If such demand or notice is sent by post it shall be deemed to have been received on the day following the day on which it was posted and shall be effective notwithstanding that it was not in fact delivered or was returned undelivered. If sent by facsimile it shall be

deemed to have been received (whether or not actually received) at the time of dispatch.

## **25. COUNTERPARTS**

- 25.1.1 This Charge may be executed in any number of counterparts (manually or by facsimile) and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all which when taken together shall constitute one and the same instrument.
- 25.1.2 In the case of a virtual closing/signing, each party shall circulate to its lawyers or the lawyers co-ordinating the closing (as agreed) an electronic copy of the final execution version of this Charge together with an electronic copy of the execution page signed by that party with the originals to follow as agreed.
- 25.1.3 Where this Charge is to be executed as a deed, the parties shall stipulate in any email sent pursuant to Clause 25.1.2 above, when delivery of their respective counterpart is or shall be deemed to take place.
- 25.1.4 One or more additional originals of this Charge may be created by printing off the final version of this Charge and attaching it to the electronic copy of the signed execution page or the "wet ink" execution page as the case may be.

## **26. THIRD PARTIES**

A person who is not a party to this Charge may not enforce any of its terms under The Contracts (Rights of Third Parties) Act 1999.

## **27. [\*SERVICE AGENT [\*For chargors incorporated or residing outside the UK only]**

### **27.1 Appointment**

The Chargor irrevocably appoints [\* ] as its agent for service of process in relation to any proceedings before any court in connection with this Charge or any [Facility Documents] and agrees that failure by an agent for service of process to notify the Chargor of the process will not invalidate the proceedings concerned.

### **27.2 Replacement service agent**

If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Chargor must immediately (and in any event within 10 calendar days of such event taking place) appoint another agent on terms acceptable to the Bank. Failing this, the Bank may appoint another agent for this purpose.]

## **28. GOVERNING LAW AND ENFORCEMENT**

### **28.1 Governing law**

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

**28.2 Jurisdiction of English courts**

- 28.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Charge (including a dispute relating to the existence, validity or termination of this Charge or any non-contractual obligation arising out of or in connection with this Charge) (a "**Dispute**").
- 28.2.2 The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- 28.2.3 This Clause 28.2 (*Jurisdiction of English courts*) is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS WHEREOF** this Charge has been executed and delivered as a deed by the parties hereto on the date stated at the beginning of this Charge.

**SCHEDULE 1  
THE PROPERTY**

Address	Title Number/Root of Title
20 The Crescent, Barnes, London SW13 ONN	SGL214697



**SCHEDULE 2**  
**PLANT, MACHINERY AND EQUIPMENT**


NIL

**IMPORTANT NOTICE – WE RECOMMEND THAT YOU CONSULT YOUR SOLICITOR OR OTHER INDEPENDENT  
LEGAL ADVISER BEFORE EXECUTING THIS DOCUMENT**

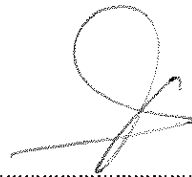
## EXECUTION

### The Chargor

EXECUTED and DELIVERED as a DEED by  
HARLEYFORD INVESTMENTS LIMITED acting by:

  
.....  
Director

Full Name: 

  
.....  
~~Director/Secretary/Witness~~

Full name: Peter Moody

Witness only:

Address: 25 MILTON PARK ABINGDON  
OXFORD OX14 4SH  
Occupation: SOLICITOR

### The Bank

Executed as a Deed on behalf of **INVESTEC BANK  
(CHANNEL ISLANDS) LIMITED** a company  
incorporated in Guernsey by persons who in  
accordance with the laws of that territory are acting  
under the authority of the company.

.....  
Authorised Signatory

.....  
Authorised Signatory