



Registration of a Charge

Company name: **Promontoria (Lansdowne) Holdings Limited**

Company number: **09483851**



X51JMUKY

Received for Electronic Filing: **26/02/2016**

Details of Charge

Date of creation: **25/02/2016**

Charge code: **0948 3851 0002**

Persons entitled: **U.S. BANK TRUSTEES LIMITED (AS SECURITY AGENT) FOR ITSELF AND ON TRUST FOR THE SECURED CREDITORS**

Brief description: **N/A**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

MARIAM NJIE



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9483851

Charge code: 0948 3851 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 25th February 2016 and created by Promontoria (Lansdowne) Holdings Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th February 2016 .

Given at Companies House, Cardiff on 29th February 2016

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Execution Version

DATED 25 FEBRUARY 2016

PROMONTORIA (LANSDOWNE) HOLDINGS LIMITED
AS THE CHARGOR

IN FAVOUR OF

U.S. BANK TRUSTEES LIMITED
AS THE SECURITY AGENT

SECURITY OVER SHARES AGREEMENT

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THIS AGREEMENT is made by way of deed on 25 February 2016

BY

- (1) **PROMONTORIA (LANSDOWNE) HOLDINGS LIMITED** registered in England and Wales with company number 09483851 and having its registered office at 35 Great St. Helen's, London EC3A 6AP (the "**Chargor**"); in favour of:
- (2) **U.S. BANK TRUSTEES LIMITED**, a limited liability company acting through its registered office at 125 Old Broad Street, London EC2N 1AR, acting pursuant to and in accordance with the provisions of the Security Trust Deed and with the benefit of the protections set out therein (in such capacity, the "**Security Agent**").

RECITALS:

- (A) Promontoria (Vantage) Limited (the "**Note Issuer**") is a wholly owned subsidiary of the Chargor.
- (B) Pursuant to the security trust deed dated on or about the date of this Agreement between, among others, the Note Issuer and the Security Agent (the "**Security Trust Deed**"), the Security Agent has agreed to hold the security constituted by this Agreement as security trustee for the Secured Creditors.
- (C) Under this Agreement, the Chargor charges the Shares by way of security to the Security Agent, as security for the Secured Obligations.
- (D) It is intended that this document shall take effect as a deed of those parties that have executed it as such.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"Charged Portfolio" means the Shares and all dividends, interest and other monies at any time payable in respect of the Shares and all other rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, Security, guarantees, indemnities, covenants for title and proceeds in respect of or derived from the Shares (whether by way of redemption, bonus, preference, option, substitution, conversion, compensation or otherwise) held by, to the order of, or on behalf of the Chargor at any time.

"Collateral Rights" means subject always to the provisions of Clause 5 (*Voting Rights and Dividends*) in relation to the exercise of voting rights all rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement or by law.

"LPA" means the Law of Property Act 1925.

"Senior Note Issuance Facility Agreement" means the facility agreement dated on or about the date hereof between, amongst others, the Note Issuer, the Security Agent and Cerberus European Residential Holdings B.V. as the initial note purchaser.

"Secured Obligations" has the meaning given to it in the Security Trust Deed.

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

"Shares" means all of the shares from time to time in the capital of Promontoria (Vantage) Limited (registered in England and Wales with number 09578284) from time to time held by, to the order or on behalf of the Chargor.

1.2 Terms defined in other Transaction Documents

Unless defined in this Agreement or the context otherwise requires, a term defined in the Senior Note Issuance Facility Agreement or in any other Transaction Document has the same meaning in this Agreement or any notice given under or in connection with this Agreement.

1.3 Construction

In this Agreement:

- (a) the rules of interpretation contained in Clauses 1.3 (*Headings*) and 1.4 (*Construction of certain terms*) of the Senior Note Issuance Facility Agreement shall apply to the construction of this Agreement, or in any notice given under or in connection with this Agreement;
- (b) any reference to the **"Security Agent"**, the **"Secured Creditors"**, the **"Finance Parties"**, or the **"Chargor"** shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Security Trust Deed;
- (c) any reference to **"including"** and **"include"** shall mean including and include "without limitation" and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms; and
- (d) references in this Agreement to any Clause or Schedule shall be to a Clause or Schedule contained in this Agreement.

1.4 Present and future assets

- (a) A reference in this Agreement to any Shares or other asset includes, unless the contrary intention appears, present and future Shares and other assets.

- (b) The absence of or incomplete details of any Shares in the Schedule shall not affect the validity or enforceability of any Security under this Agreement.

1.5 Role of the Security Agent

In the event of any conflict or inconsistency between the provisions of this Agreement and those of the Security Trust Deed with regard to the rights, process and obligations of the Security Agent, the provisions of the Security Trust Deed shall prevail.

2. CHARGE

The Chargor charges, with full title guarantee and by way of first fixed charge in favour of the Security Agent for the Security Agent itself and on trust for the Secured Creditors, as continuing security for the payment and discharge of all of the Secured Obligations, all of its rights, title and interest from time to time in and to the Charged Portfolio.

3. PROVISIONS AS TO SECURITY AND PERFECTION

3.1 Negative pledge and restriction on dealings

Except as permitted under the Senior Note Issuance Facility Agreement the Chargor shall not at any time during the Security Period create or permit to subsist any Security over all or any part of the Charged Portfolio or dispose of or otherwise deal with any part of the Charged Portfolio, provided that the Chargor shall, with the prior written consent of the Security Agent (acting in accordance with the Security Trust Deed), be entitled to transfer the Shares to an Affiliate of the Chargor, provided further that such consent shall be conditional upon the transferee of the Shares creating security over the Shares and the Charged Portfolio in favour of the Security Agent on substantially the same terms as contained in this Agreement.

3.2 Implied covenants for title

- (a) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2 (*Charge*).
- (b) It shall be implied in respect of Clause 2 (*Charge*) that the Chargor is disposing of the Charged Portfolio free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

3.3 Deposit of share certificates

The Chargor shall, on the date of this Agreement (and upon its coming into possession thereof at any time) deposit with the Security Agent (or procure the deposit of) all certificates and other documents of title to the Shares, and stock transfer forms (executed in blank by it or on its behalf) in respect of the Shares.

3.4 Deposit of related assets

The Chargor shall, promptly upon the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Charged Portfolio (or

upon acquiring any interest therein) notify the Security Agent of that occurrence and deposit with the Security Agent (or procure the deposit of) (i) all certificates and other documents of title representing such assets and (ii) such stock transfer forms or other instruments of transfer (executed in blank by it or on its behalf) in respect thereof as the Security Agent may require.

3.5 Custodians and nominees

The Security Agent may appoint and pay any person to act as a custodian or nominee on any terms in relation to all or any part of the Charged Portfolio as the Security Agent may determine and the Security Agent shall not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any such person or be bound to supervise the proceedings or acts of any such person.

4. FURTHER ASSURANCE

4.1 Extension of implied covenant

The covenant set out in section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in Clause 4.2 (*Further assurance*) below.

4.2 Further assurance

The Chargor shall promptly, at its own cost, take all such action (including making all filings, registrations and notarisations) and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may specify (and in such form as the Security Agent may require) in favour of the Security Agent or its nominee(s):

- (a) to create, perfect, protect and/or maintain the Security created or intended to be created in respect of the Charged Portfolio (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Charged Portfolio) or for the exercise of the Collateral Rights; and/or
- (b) to facilitate the realisation of the Charged Portfolio.

5. VOTING RIGHTS AND DIVIDENDS

5.1 Voting rights and dividends prior to an Event of Default

Prior to the occurrence of an Event of Default, the Chargor shall:

- (a) be entitled to receive all dividends, interest and other monies or distributions of an income nature arising from the Charged Portfolio; and
- (b) subject to Clause 5.3 (*Voting rights generally*) be entitled to exercise all voting rights in relation to the Charged Portfolio.

5.2 **Voting rights and dividends after an Event of Default**

Upon the occurrence of an Event of Default, the Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) instruct the Chargor to:

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

in each case in the manner and on the terms the Security Agent thinks fit, and the proceeds of any such action shall form part of the Charged Portfolio.

5.3 ***Voting rights generally***

The Chargor shall not exercise (and shall procure that any nominee acting on its behalf does not exercise) its voting rights and powers in relation to the Charged Portfolio in any manner, or otherwise permit or agree to, or concur or participate in any:

- (a) variation of the rights attaching to or conferred by all or any part of the Charged Portfolio;
- (b) increase in the issued share capital of any company whose shares are charged pursuant to this Agreement;
- (c) exercise, renunciation or assignment of any right to subscribe for any shares or securities; or
- (d) reconstruction, amalgamation, sale or other disposal of any company or any of the assets of any company (including the exchange, conversion or reissue of

any shares or securities as a consequence thereof) whose shares are charged pursuant to this Agreement,

which, in the opinion of the Security Agent would prejudice the value of, or the ability of the Security Agent to realise, the Security created by this Agreement **provided that** the proceeds of any such action shall form part of the Charged Portfolio.

6. CHARGOR'S REPRESENTATIONS AND UNDERTAKINGS

6.1 Representations

The Chargor makes the representations and warranties set out in this Clause 6.1 (*Representations*) to the Security Agent on the date of this agreement.

(a) *Status*

- (i) It is a corporation, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (ii) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

(b) *Binding obligations*

Subject to the Legal Reservations, the obligations expressed to be assumed by it in this Agreement are, legal, valid, binding and enforceable obligations.

(c) *Non-conflict with other obligations*

The entry into and performance by it of, and the transactions contemplated by, this Agreement (including any transfer of the Shares on creation or enforcement of the Security created by this Agreement) do not and will not conflict with:

- (i) any law or regulation applicable to it;
- (ii) its or any of its subsidiaries' constitutional documents; or
- (iii) any agreement or instrument binding upon it any of its assets or constitute a default or a termination event (howsoever described) under any such agreement or instrument.

(d) *Power and authority*

- (i) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated by this Agreement.
- (ii) No limit on its powers will be exceeded as a result of grant of security or giving of any indemnities contemplated by this Agreement.

(e) ***Validity and admissibility in evidence***

All Authorisations required or desirable:

- (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Agreement; and
- (ii) to make this Agreement admissible in evidence in its jurisdiction of incorporation and the jurisdiction of incorporation of each company whose shares are charged under this Agreement,

have been obtained or effected and are in full force and effect.

(f) ***Governing law and enforcement***

- (i) Subject to the Legal Reservations, the choice of governing law of this Agreement will be recognised and enforced in England and Wales; and
- (ii) Subject to the Legal Reservations, any judgment obtained in the jurisdiction of the governing law of this Agreement will (subject to the Perfection Requirements) be recognised and enforced in England and Wales.

(g) ***Deduction of Tax***

It is not required to make any deduction for or on account of Tax from any payment it may make under this Agreement.

(h) ***No Filing or Stamp Taxes***

Under the law of the United Kingdom it is not necessary that this Agreement be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Tax be paid on or in relation to this Agreement or the transactions contemplated herein.

(i) ***Security***

No Security exists over any present or future Shares other than the Security created pursuant to this Agreement.

(j) ***Ranking***

The Security created by this Agreement has or will have first ranking priority and it is not subject to any prior ranking or *pari passu* Security.

(k) ***Transaction Security***

This Agreement validly creates the Security which is expressed to be created pursuant to Clause 2 (*Charge*) and evidences the Security it is expressed to evidence.

(l) ***Legal and beneficial owner***

It is the absolute legal and beneficial owner of the Charged Portfolio.

(m) ***The Shares***

The Shares are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of the company which has issued the Shares or any other document or arrangement do not and could not restrict or inhibit any transfer of the Shares on creation or on enforcement of the Security created pursuant to this Agreement.

(n) ***Centre of main interests and establishments***

- (i) It has its "centre of main interests" (as that term is used in Article 3(1) of the Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "**Regulation**")) in England or Wales.
- (ii) It has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any jurisdictions other than England and Wales.
- (iii) It is a company which is and has, since incorporation, been resident for tax purposes in the United Kingdom.

(o) ***Management and Administration***

The management, the places of residence of the directors of the Chargor and the place at which meetings of the board of directors of the Chargor are held are all situated in England and Wales.

(p) ***Sanctions***

Neither the Chargor nor any of its directors or officers nor, so far as it is aware, any of its employees:

- (i) is a Restricted Party;
- (ii) is or ever has been subject to any claim, proceeding, formal notice or investigation with respect to Sanctions;
- (iii) is engaging or has engaged in any transaction that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach any Sanctions applicable to it; or
- (iv) is engaging, directly or, so far as it is aware, indirectly, in any trade, business or other activities with or for the benefit of any Restricted Party.

(q) ***Anti-bribery and corruption***

The Chargor has conducted its business in compliance with applicable anti-corruption and bribery laws.

(r) ***Repetition***

The representations set out in paragraphs (a) (*Status*) to (q) (*Anti-bribery and corruption*) of this Clause 6.1 (*Representations*) are deemed to be made by the Chargor (by reference to the facts and circumstances then existing) on the Note Issuance Date , on each date on which a Junior Advance is made and each Distribution Date.

6.2 Undertakings

(a) ***Authorisations***

The Chargor shall promptly:

- (i) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (ii) supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of any relevant jurisdiction to enable it to perform its obligations under this Agreement and to ensure the legality, validity, enforceability or admissibility in evidence in any relevant jurisdiction of this Agreement.

(b) ***Compliance with laws***

The Chargor shall comply in all respects with all laws to which it may be subject.

(c) ***Payment of calls***

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any part of the Charged Portfolio, and in any case of default by it in such payment, the Security Agent may, if it thinks fit (but without any obligation to do so), make such payment on behalf of the Chargor. Any sums so paid by the Security Agent shall be reimbursed by the Chargor to the Security Agent on demand and shall carry interest from the date of payment by the Security Agent until reimbursed, such interest to be calculated in accordance with clause 25.4 (*Interest on Demands*) of the Security Trust Deed.

(d) ***Merger***

The Chargor shall not enter into any amalgamation, demerger, merger or corporate reconstruction.

(e) ***Preservation of assets***

The Chargor shall not do or permit to be done any act or thing which might jeopardise the rights of the Security Agent in the Charged Portfolio or which might adversely affect or diminish the value of the Charged Portfolio.

(f) ***Information and access***

The Chargor shall, and shall ensure that the Note Issuer whose shares constitute all or any part of the Charged Portfolio shall, on request of the Security Agent, provide the Security Agent with any information as the Security Agent may reasonably require about the Charged Portfolio and the Chargor's compliance with the terms of this Agreement. The Chargor shall permit the Security Agent, its representatives, delegates, professional advisers and contractors, free access at all reasonable times and on reasonable notice at the Chargor's cost to inspect and take copies and extracts from the books, accounts and records of that company and to view the Charged Portfolio (without becoming liable as mortgagee in possession).

(g) ***Sanctions***

(i) The Chargor shall not:

- (A) engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach, directly or indirectly, any Sanctions applicable to it; or
- (B) fund all or part of any payment in connection with a Note Document out of proceeds derived from business or transactions with a Restricted Party, or from any action which is in breach of any Sanctions.

(ii) The Chargor shall ensure that appropriate controls and safeguards are in place designed to prevent any action being taken that would be contrary to paragraph (i) above.

(h) ***Anti-bribery and corruption***

The Chargor:

- (i) shall conduct its businesses in compliance with applicable anti-corruption laws; and
- (ii) shall institute and maintain policies and procedures designed to promote and achieve compliance with applicable anti-corruption and bribery laws; and
- (iii) will maintain such policies and procedures designed to promote and achieve compliance with such laws.

7. ENFORCEMENT OF SECURITY

7.1 Timing of enforcement

Any time after the delivery of an Enforcement Notice, the Security created by or pursuant to this Agreement is immediately enforceable and the Security Agent may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

- (i) secure and perfect its title to all or any part of the Charged Portfolio (including transferring the Charged Portfolio into the name of the Security Agent or its nominees);
- (ii) enforce all or any part of the 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 Charged Portfolio (and any assets of the Chargor which, when got in, would be part of the Charged Portfolio) at the times, in the manner and on the terms it thinks fit; and
- (iii) whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorities and discretions conferred by the LPA (as varied or extended by this Agreement) on mortgagees and by this Agreement on any Receiver or otherwise conferred by law on mortgagees or Receivers.

7.2 Release of claims

After the delivery of an Enforcement Notice, the Security Agent is irrevocably authorised (on behalf of and at the cost of the Chargor and without any further consent, sanction, authority or confirmation from it) to release any claim which the Chargor may have against any company whose shares are comprised in the Charged Portfolio and to execute and deliver any such release(s) on behalf of the Chargor which may, in the discretion of the Security Agent, be considered necessary or desirable.

8. EXTENSION OF POWERS AND RIGHT OF APPROPRIATION

8.1 Extension of power of sale

The power of sale or other disposal conferred on the Security Agent and on any Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under section 101 of the LPA and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on the date of this Agreement.

8.2 Restrictions

The restrictions contained in sections 93 and 103 of the LPA shall not apply to this Agreement or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other security in existence at any time or to its power of sale, which powers may be exercised by the

Security Agent without notice to the Chargor on or at any time after the delivery of an Enforcement Notice.

8.3 Right of Appropriation

To the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended, (the "**Regulations**") apply to the Charged Portfolio, the Security Agent shall have the right to appropriate all or any part of that Charged Portfolio in or towards the payment or discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of the Charged Portfolio shall be the market value of the Charged Portfolio determined by the Security Agent by reference to a public index or independent valuation, or by such other process as the Security Agent may select, including independent valuation. The parties further agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

8.4 Borrowing Powers

Following service of an Enforcement Notice, the Security Agent may raise and borrow money on the security of the Charged Portfolio or any part of the Charged Portfolio for the purpose of defraying any monies, costs, charges, losses and expenses paid or incurred by it in relation to this Agreement (including the costs of realisation of any or all of the Charged Portfolio and the remuneration of the Security Agent). The Security Agent may raise and borrow such money at such rate of interest and generally on such terms and conditions as it shall think fit and may secure the repayment of the money so raised or borrowed with interest on the same by mortgaging or otherwise charging the Charged Portfolio or any of it and either in priority to the Note Security or otherwise and generally in such manner as the Security Agent shall think fit and for such purposes may execute and do all such assurances and things as it shall think fit.

8.5 Statutory powers

The powers conferred by this Agreement on the Security Agent are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the LPA, the Insolvency Act. In the case there is any ambiguity or in case of any conflict between the statutory powers contained in any such Acts and those conferred by this Agreement, the terms of this Agreement shall prevail.

9. APPOINTMENT OF RECEIVER

9.1 Appointment and removal

At any time after the delivery of an Enforcement Notice, the Security Agent may appoint such person or persons (including an officer or officers of the Security Agent) as it thinks fit to be a Receiver or Receivers of the Charged Portfolio or any part thereof to act jointly or jointly and severally as receiver, manager, receiver or manager, administrative receiver, compulsory or interim manager or other similar officer as the Security Agent shall determine, in accordance with the terms of the Security Trust Deed.

10. APPLICATION OF PROCEEDS

All monies received or recovered made or received by the Security Agent or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied by the Security Agent (notwithstanding any purported appropriation by the Chargor) in accordance with the terms of the Security Trust Deed.

11. PROTECTION OF PURCHASERS

11.1 Protection of third parties

No purchaser from, or other person dealing with, the Security Agent and/or any Receiver shall be concerned to enquire:

- (a) whether any of the powers which they have exercised or purported to exercise has arisen or become exercisable; or
- (b) whether the Secured Obligations remain outstanding; or
- (c) whether any event has occurred to authorise the Security Agent and/or any Receiver to act; or
- (d) as to the propriety or validity of the exercise or purported exercise of any such powers,

and the title of such a purchaser and the position of such other person shall not be impeachable by reference to any of those matters.

11.2 Receipt absolute discharge

The receipt of the Security Agent or the Receiver shall be an absolute and conclusive discharge to a purchaser or other such person as is referred to in this Clause 11 (*Protection of Purchasers*) and shall relieve such purchaser or other person of any obligation to see to the application of any monies paid to or by the direction of the Security Agent or the Receiver.

11.3 Purchaser Defined

In Clause 11.1 (*Protection of third parties*) and Clause 11.2 (*Receipt absolute discharge*) "purchaser" includes any person acquiring in good faith, for money or money's worth, the benefit of any Security over, or any other interest or right whatsoever in relation to, the Charged Portfolio.

12. POWER OF ATTORNEY

12.1 Appointment and powers

The Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally to be its attorney (with full power of substitution and following delivery of an Enforcement Notice) and in its name, on its behalf and as its act and

deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (a) carrying out any obligation imposed on the Chargor by this Agreement or any other agreement binding on the Chargor to which the Security Agent is a party (including the execution and delivery of any deeds, charges, assignments or other Security and any transfers of the Charged Portfolio and perfecting and/or releasing the Security created or intended to be created in respect of the Charged Portfolio); and
- (b) enabling the Security Agent and any Receiver to exercise , or delegate the exercise of, any of the Collateral Rights (including, after the occurrence of an Event of Default, the exercise of any right of a legal or beneficial owner of the Charged Portfolio).

12.2 Ratification

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

13. EFFECTIVENESS OF SECURITY

13.1 Continuing security

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

13.2 Cumulative rights

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

13.3 No prejudice

The Security created by or pursuant to this Agreement, and the Collateral Rights, shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person by the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Creditors or by any variation of the terms of the trust upon which the

Security Agent holds the Security or by any other thing which might otherwise prejudice that Security or any Collateral Right.

13.4 Remedies and waivers

No failure on the part of the Security Agent to exercise, nor any delay on its part in exercising, any Collateral Right, shall operate as a waiver of that Collateral Right or constitute an election to affirm this Agreement. No election to affirm this Agreement on the part of the Security Agent shall be effective unless it is in writing. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

13.5 No liability

None of the Security Agent, its nominee(s) or any Receiver shall be liable:

- (a) to account as a mortgagee or mortgagee in possession; or
- (b) for any loss arising by reason of taking any action permitted by this Agreement or any neglect or default in connection with the Charged Portfolio or taking possession of or realising all or any part of the Charged Portfolio,

except in the case of gross negligence, wilful default or fraud upon its part.

13.6 Partial invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Security intended to be created by or pursuant to this Agreement is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Security.

13.7 Waiver of defences

The obligations assumed, and the Security created, by the Chargor under this Agreement, and the Collateral Rights, will not be affected by any act, omission, matter or thing which, but for this Clause 13.7 (*Waiver of defences*), would reduce, release or prejudice any of its obligations under, or the Security created by, this Agreement (whether or not known to the Chargor or the Security Agent or any Secured Creditor) including:

- (a) any time, waiver or consent granted to, or composition with, the Chargor or other person;
- (b) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Note Issuer or other person;
- (c) 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;

- (d) 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;
- (e) any amendment, novation, supplement, extension, restatement (in each case, however fundamental and whether or not more onerous) or replacement of a Transaction Document or any other document or Security or of the Secured Obligations including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Transaction Document or other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Documents or other document or Security or of the Secured Obligations; and
- (g) any insolvency or similar proceedings.

13.8 Chargor intent

Without prejudice to the generality of Clause 13.7 (*Waiver of defences*), the Chargor expressly confirms that it intends that the Security created under this Agreement, and the Collateral Rights, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to any of the Transaction Documents and/or any facility or amount made available under any of the Transaction Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

13.9 Immediate recourse

The Chargor waives any right it may have of first requiring the any Secured Creditor (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any other person before claiming from the Chargor under this Agreement or enforcing the Security created by this Agreement. This waiver applies irrespective of any law or any provision of this Agreement to the contrary.

13.10 Deferral of rights

Until the end of the Security Period, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Agreement:

- (a) to be indemnified by the Note Issuer or any other person;

- (b) to claim any contribution from any guarantor or other person in respect of the Note Issuer's obligations under the Transaction Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Creditor under the Transaction Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Transaction Documents by any Secured Creditor;
- (d) to bring legal or other proceedings for an order requiring the Note Issuer or other person to make any payment, or perform any obligation, in respect of which the Note Issuer or other person has given a guarantee, undertaking or indemnity under any Transaction Document;
- (e) to exercise any right of set-off against the Note Issuer or other person; and/or
- (f) to claim or prove as a creditor of the Note Issuer or other person in competition with any Secured Creditor.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution on trust for the Secured Creditors to the extent necessary to enable all amounts which may be or become payable to any Secured Creditor by the Note Issuer under or in connection with the Transaction Documents to be repaid in full on trust for the Secured Creditors and shall promptly pay or transfer the same to, or to the order of, the Security Agent or as the Security Agent may direct for application in accordance with Clause 10 (*Application of Proceeds*).

13.11 Additional Security

The Security created by the Chargor under this Agreement and the Collateral Rights are in addition to and are not in any way prejudiced by any other guarantee or Security now or subsequently held by any Secured Creditor.

14. PRIOR SECURITY INTERESTS

14.1 Redemption or transfer

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security against any part of the Charged Portfolio or in case of exercise by the Security Agent or any Receiver of any power of sale or right of appropriation or application under this Agreement, the Security Agent may redeem such prior security or procure the transfer thereof to itself.

14.2 Accounts

The Security Agent may settle and agree the accounts of the prior Security and any accounts so settled and agreed will be conclusive and binding on the Chargor.

15. SUBSEQUENT SECURITY INTERESTS

If the Security Agent (acting in its capacity as trustee or otherwise) or any of the other Secured Creditors at any time receives or is deemed to have received notice of any

subsequent Security, assignment or transfer affecting all or any part of the Charged Portfolio which is prohibited by the terms of this Agreement, all payments thereafter made by or on behalf of the Chargor to the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Secured Creditors will (in the absence of any express contrary appropriation by the Chargor) be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations at the time that notice was received.

16. SUSPENSE ACCOUNTS

All monies received, recovered or realised by the Security Agent under this Agreement (including the proceeds of any conversion of currency) may in the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account(s) maintained with any bank, building society, financial institution or other person which the Security Agent considers appropriate (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Security Agent's discretion, in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

17. RELEASE OF SECURITY

17.1 Release

Upon the expiry of the Security Period, the Security Agent shall, at the request and cost of the Chargor, release and cancel the Security created by this Agreement subject to Clause 17.2 (*Clawback*) below and without recourse to, or any representation or warranty by, the Security Agent or any of its nominees.

17.2 Clawback

If the Security Agent considers that any amount paid or credited to any Secured Creditor is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under this Agreement and the Security created by this Agreement shall continue and that amount will not be considered to have been irrevocably paid or credited.

18. ASSIGNMENT

18.1 No assignments or transfers by Chargor

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

18.2 Assignments by the Security Agent

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

18.3 Successors

This Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Security Agent. References to the Security Agent shall include (i) any assignee or successor in title of the Security Agent, (ii) any entity into which the Security Agent is merged or converted or with which it may be consolidated, (iii) any legal entity resulting from any merger, conversion or consolidation to which such Security Agent is a party and (iv) any other person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Security Agent under this Agreement or to which, under such laws, those rights and obligations have been transferred (such person described in (i) to (iv) being a successor to the Security Agent for all purposes under the Transaction Documents).

19. NOTICES

19.1 Communications in Writing

Each communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, shall be made letter except in relation to an Enforcement Notice and subject as provided in Clause 19.4 (*Electronic communication*) below, e-mail.

19.2 Addresses

The address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Agreement is:

- (a) in the case of the Chargor, 35 Great St. Helen's, London EC3A 6AP, Attention: The Directors;
- (b) in the case of the Security Agent, 125 Old Broad Street, London EC2N 1AR, Attention: Structured Finance Relationship Management, Email: mbs.relationship.management@usbank.com

or any substitute address, or department or officer as the party may notify to the Security Agent (or the Security Agent may notify to the Chargor, if a change is made by the Security Agent) by five business days' notice.

19.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective when sent and confirmation of receipt has been sent by the mail server of the recipient or where no read receipt is requested by the sender at the time of sending, provided no delivery failure is received by the sender within 24 hours (in the case of email) or (in the case of any communication made by letter) when left at that address or (as the case may be) ten days after being deposited in the post postage prepaid in an envelope addressed to it at that address, and, if a particular department or officer is specified as part of its address details

provided under Clause 19.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

19.4 Electronic communication

- (a) Any communication to be made between the Chargor and the Security Agent under or in connection with this Agreement may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two parties:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
 - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
 - (iii) notify each other of any change to their address or any other such information supplied by them.
- (b) Any such electronic communication as specified in paragraph (a) above will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by the Chargor to the Security Agent only if it is addressed in such manner as the Security Agent shall specify for this purpose.

19.5 English language

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

20. CURRENCY CONVERSION

- (a) For the purpose of or pending the discharge of any of the Secured Obligations the Security Agent may convert any monies received, recovered or realised by the Security Agent from one currency to another, at the spot rate at which the

Security Agent is able to purchase the currency in which the Secured Obligations are due with the amount received, recovered or realised.

- (b) The obligations of the Chargor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

21. CURRENCY INDEMNITY

- (a) If any sum due from the Chargor under this Agreement (a "**Sum**"), or any order, judgment or award given or made in relation a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (i) making or filing a claim or proof against the Chargor; or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings;

the Chargor shall indemnify the Security Agent against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to the Security Agent at the time of its receipt of that Sum.

- (b) The Chargor waives any right it may have in any jurisdiction to pay any amount under this Agreement in a currency or currency unit other than that in which it is expressed to be payable.

22. DISCRETION AND DELEGATION

22.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Security Agent or any Receiver may, subject to the terms and conditions of the Security Trust Deed be exercised or made in its absolute and unfettered discretion without any obligation to give reasons and without liability therefor.

22.2 Delegation

Each of the Security Agent and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement (including the power of attorney) on such terms and conditions as it shall see fit and without liability therefor which delegation shall not preclude the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by the Security Agent or the Receiver itself.

23. CALCULATIONS AND CERTIFICATES

23.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by the Security Agent are *prima facie* evidence of the matters to which they relate.

23.2 Certificates and determinations

Any certification or determination by the Security Agent of a rate or amount under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

24. AMENDMENTS AND RELEASES

24.1 Amendments

The Security Agent shall, only if instructed in writing in accordance with the Security Trust Deed, amend the terms of, waive any of the requirements of, or grant consents under, this Agreement, any amendment, waiver or consent being binding on all the parties to this Agreement and the Security Agent shall be under no liability whatsoever.

24.2 Releases

Upon a disposal of any of the Charged Portfolio pursuant to the enforcement of the Note Security by a Receiver or the Security Agent, the Security Agent shall (at the request and cost of the Chargor and without recourse, representation or warranty,) release that property from the Note Security and is authorised to execute, without the need for any further authority from the Secured Creditors, any release of the Note Security or other claim over that asset and to issue any certificates of non-crystallisation of floating charges that may be required or desirable.

25. THIRD PARTY RIGHTS

(a) Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

(b) Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

26. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

27. **GOVERNING LAW**

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

28. **ENFORCEMENT**

28.1 **Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising from or in connection with, this Agreement (including a dispute relating to non-contractual obligations arising from or in connection with this Agreement, or a dispute regarding the existence, validity or termination of this Agreement or the consequences of its nullity) (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, no Party will argue to the contrary.

THIS AGREEMENT has been signed by the Security Agent and executed as a deed by the Chargor and is delivered by it as a deed on the date stated at the beginning of this Agreement.

EXECUTION PAGE

Chargor

**EXECUTED AS A DEED by
PROMONTORIA (LANSDOWNE)
HOLDINGS LIMITED**



Attorney
Name: **Jennifer Jones**

in the presence of

.....
.....
.....
.....
.....
.....

Signature of witness

Name of witness

Address of witness

As Security Agent

EXECUTED as a DEED by

_____ Signature of Attorney

_____ Signature of Attorney

As duly authorised attorneys for **U.S. BANK TRUSTEES LIMITED**

EXECUTION PAGE

Chargor

EXECUTED AS A DEED by)
PROMONTORIA (LANSDOWNE))
HOLDINGS LIMITED)

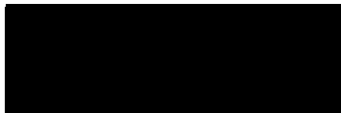
Attorney
Name:

in the presence of

..... Signature of witness
..... Name of witness
..... Address of witness
.....

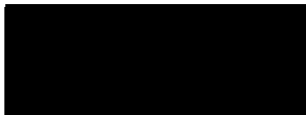
As Security Agent

EXECUTED as a **DEED** by



Signature of Attorney

David Harnett
Authorised Signatory



Signature of Attorney

Chris Yates
Authorised Signatory

As duly authorised attorneys for **U.S. BANK TRUSTEES LIMITED**