



Registration of a Charge

Company Name: **MSP CAPITAL FOUR LIMITED**

Company Number: **09910007**



Received for filing in Electronic Format on the: **30/07/2021**

XA9TPLAR

Details of Charge

Date of creation: **29/07/2021**

Charge code: **0991 0007 0002**

Persons entitled: **SHAWBROOK BANK LIMITED AS SECURITY TRUSTEE**

Brief description: **NONE.**

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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: **ASHURST LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9910007

Charge code: 0991 0007 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th July 2021 and created by MSP CAPITAL FOUR LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th July 2021 .

Given at Companies House, Cardiff on 2nd August 2021

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

Debenture

MSP Capital Four Limited
as Chargor

and

Shawbrook Bank Limited
as Security Agent

this deed is subject to the terms of the Subordination Agreement (as defined below)

29 July 2021

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THIS DEED is made on 29 July 2021

BETWEEN:

- (1) **MSP CAPITAL FOUR LIMITED**, a company incorporated in England and Wales under company number 09910007 and with its office at Strata House, 12-14 Castle Street, Poole, Dorset BH15 1BQ (the "**Chargor**")); and
- (2) **SHAWBROOK BANK LIMITED** security trustee for itself and the other Secured Parties (the "**Security Agent**", which expression shall include any person from time to time appointed as a successor, replacement or additional trustee in relation to the interests created by this deed).

RECITALS

- (A) The Chargor is entering into this deed in connection with the Finance Documents.
- (B) The Security Agent and the Chargor intend this document to take effect as a deed notwithstanding the fact that a party may only execute this document under hand.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless otherwise provided in this deed, terms defined in the Facilities Agreement shall have the same meaning where used in this deed.

In addition, in this deed, unless the context otherwise requires, the following words shall have the following meanings:

"Accounts" all accounts (including any Designated Accounts), and all moneys from time to time standing to the credit (including any interest thereon) of such accounts and all rights in relation thereto, with any bank, financial institution or other person in any jurisdiction now or at any time hereafter (and from time to time) owned, operated or held by the Chargor or in which the Chargor has an interest;

"Administrator" a person appointed in accordance with Schedule B1 Insolvency Act 1986 to manage the Chargor's affairs, business and property;

"Assigned Agreements" the Servicing Agreement, the Borrower Asset Sale Agreement, the MSP4 Declaration of Trust, each Credit Agreement and any other agreement designated in writing as an Assigned Agreement by the Chargor and the Security Agent;

"Charged Assets" all the assets for the time being subject to the Security created by this deed (and references to the Charged Assets include references to any part of them);

"Credit Agreement" each written agreement between the Chargor and a Loan Obligor, including amendments thereto, which sets forth the terms and conditions pursuant to which a Bridging Loan was initially advanced;

"Debts" all book and other debts, of any kind whatsoever (including, without limitation, all Principal Receipts and all Revenue Receipts) now or at any time hereafter (and from time to time) due, owing or payable to the Chargor or in which the Chargor has an interest and the proceeds of the same, including the benefit of any judgment or order to pay a sum of money, and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to the same;

"Designated Accounts"

- (a) the Collections Account;
- (b) any other account so detailed in part 1 (Designated Accounts) of schedule 2 (Accounts); and
- (c) any other account which the Security Agent and the Chargor have so designated in writing;

"Equipment" all equipment, plant, machinery, tools, vehicles, furniture and other tangible moveable property now or at any time hereafter (and from time to time) owned by the Chargor, and any part thereof, together with the benefit of all contracts and warranties relating to the same;

"Enforcement Event" means the occurrence of an Event of Default which has resulted in the Agent exercising any of its rights under clause 25.22 (Acceleration) of the Facilities Agreement;

"Facilities Agreement" the £25,000,000 term and revolving credit facilities agreement dated on or about the date of this deed and made between, among others, the Chargor as borrower, MSP Capital LTD as parent and Shawbrook Bank Limited as security agent;

"File" in respect of a Bridging Loan, all information, comments, documents and any correspondence from or to a Loan Obligor, including the Credit Agreement, together with any associated rights and security;

"Floating Charge Assets" all the assets for the time being subject to the floating charge created by this deed (and references to the Floating Charge Assets include references to any part of it);

"Goodwill" all goodwill now or at any time hereafter (and from time to time) of or in the Chargor;

"Insolvency Event" the occurrence of any of the events or circumstances set out in clauses 25.7 (Insolvency) – 25.9 (Creditors' Process) (inclusive) of the Facilities Agreement;

"Insurance Policies" all contracts and policies of insurance or assurance and all moneys payable under or pursuant to such policies, now or at any time hereafter (and from time to time) taken out by or on behalf of the Chargor or (to the extent of its interest) in which the Chargor has an interest excluding, in each case, contracts and policies of insurance or assurance which relate to liabilities to third parties;

"Intellectual Property" all interests in respect of any patent (including supplementary protection certificates), trade mark, service mark, trade name, registered design, design right, copyright, know-how, utility model, topographical or similar right, moral right, invention, confidential information, trade secret, database right, right in passing off and any other right in intellectual property subsisting anywhere in the world in any of the foregoing whether registered or unregistered and in each case, any registrations, extensions, renewals or applications of or for the same, now or at any time hereafter (and from time to time) owned or held by the Chargor or (to the extent of its interest) in which the Chargor has an interest;

"LPA" the Law of Property Act 1925;

"MSP4 Declaration of Trust" means the declaration of trust dated on or about the date of the Borrower Asset Sale agreement entered into between the Chargor (as beneficiary) and MSP Capital Ltd (as trustee);

"Pension Fund Interests" all interests and rights now or at any time hereafter (and from time to time) owned or held by the Chargor in relation to any pension fund;

"Properties" all estates or interests in any freehold and leasehold properties (whether registered or unregistered but excluding any Rack Rent Lease) and all commonhold or other immoveable properties now or at any time hereafter (and from time to time) owned by the Chargor (including the properties which are briefly described in schedule 2 (Properties currently owned));

"Property Interests" all interests in or over the Properties and all rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to the Properties, in each case, now or at any time hereafter (and from time to time) owned or held by the Chargor;

"Rack Rent Lease" means any leasehold property that has a rack rent payable in respect of it and a term of less than 20 years to run;

"Receiver" a person appointed by the Security Agent to be a receiver or receiver and manager or (if permitted by law) an administrative receiver of all or any part of the Charged Assets of the Chargor;

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale of that asset or any part of that asset;
- (b) in respect of the Securities, all dividends, distributions, interest and/or other income paid or payable, together with all shares or other property derived from that Investment and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Investment (whether by way of conversion, redemption, bonus, preference, option or otherwise);
- (c) any monies and proceeds paid or payable in relation to that asset;
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of that asset; and
- (e) the benefit of all other rights, powers, claims, consents, contracts, warranties, security, guarantees, indemnities or covenants for title in respect of that asset;
- (f) in respect of the Bridging Loans:
 - (i) the Chargor's right to demand, sue for, recover, receive and give receipts for all principal payable or to become payable in respect of the Bridging Loans and their related Collateral Security or the unpaid part thereof and the interest thereon and any rights or remedies of the Chargor against the Loan Obligor in respect thereof; and
 - (ii) the benefit of the Files, the right to sue on all covenants given by the Loan Obligor in each Credit Agreement, the right to exercise all the Chargor's powers in relation to each Credit Agreement or otherwise in connection with the Bridging Loans and their related Collateral Security and any rights or remedies of the Chargor against the Loan Obligor in respect thereof;

"Restrictions Notice" a "restrictions notice" under and as defined in paragraph 1(2) of schedule 1B of the Companies Act 2006;

"Secured Liabilities" all present and future liabilities and obligations at any time due, owing or incurred by each Obligor to any Secured Party under or in connection with the

Finance Documents, both actual and contingent and whether incurred solely or jointly, as principal or surety and/or in any other capacity;

"Secured Parties" has the meaning given to that term in the Subordination Agreement;

"Securities" all stocks, shares, loan capital, securities, bonds and investments of any kind whatsoever (whether or not marketable) now or at any time hereafter (and from time to time) owned by the Chargor, or in which the Chargor has an interest, together with all allotments offered or arising in respect thereof or incidental thereto and all stocks, shares, loan capital, securities, bonds, investments, rights, income, money or property accruing, deriving, offered or paid from time to time by way of dividend, distribution, interest, exchange, capital reorganisation, conversion, redemption, bonus, rights, preference, option or otherwise in respect thereof;

"Securities Issuer" the issuer of any Securities;

"Security Period" the period starting on the date of this deed and ending on the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full;

"Trading Account" in relation to the Chargor:

- (a) the Operational Account;
- (b) any account detailed in part 2 (Trading Accounts) of schedule 2 (Accounts); and
- (c) any other account which the Security Agent and that Chargor have so designated;

"Uncalled Capital" all the uncalled capital now or at any time hereafter (and from time to time) of the Chargor; and

"Warning Notice" a "warning notice" under and as defined in paragraph 1(2) of Schedule 1B of the Companies Act 2006.

1.2 Construction

- (a) Unless otherwise provided in this deed, the provisions of clause 1.2 (Construction) of the Facilities Agreement apply to this deed as though they were set out in full in this deed, mutatis mutandis.
- (b) In this deed (unless the context requires otherwise) any reference to:
 - (i) the Chargor, each Obligor, each Secured Party, any Securities Issuer, any Administrator or Receiver or any other person shall be construed so as to include their successors in title, permitted assigns, permitted transferees and (in the case of any Administrator or Receiver) lawful substitutes and/or replacements;
 - (ii) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended (however fundamentally, including any amendment providing for any increase in the amount of any facility or other liability) from time to time with the agreement of the relevant parties and (where such consent is, by the terms of any Finance Document or the relevant document, required to be obtained as a condition to such amendment being permitted) the prior consent of the Security Agent;
 - (iii) "assets" includes present and future properties, revenues and rights of every description;

- (iv) the Security constituted by this deed becoming "enforceable" shall mean that the Security created under this deed has become enforceable under clause 14.1 (Enforcement events);
 - (v) "owned" includes having legal or equitable title to or a right to have legal or equitable title transferred;
 - (vi) "law" includes the common law, any statute, bye-law, regulation or instrument and any kind of subordinate legislation, and any order, requirement, code of practice, circular, guidance note, licence, consent or permission made or given pursuant to any of the foregoing;
 - (vii) a provision of law is a reference to that provision as amended or re-enacted from time to time;
 - (viii) a time of day is a reference to London time;
 - (ix) any gender includes a reference to the other genders;
 - (x) the singular includes a reference to the plural and vice versa; and
 - (xi) a clause or schedule is to a clause or schedule (as the case may be) of or to this deed.
- (c) Clause and schedule headings are for ease of reference only.

1.3 Nature of security over real property

A reference in this deed to any freehold, leasehold or commonhold property includes:

- (a) all buildings and fixtures (including trade and tenant's fixtures, for the avoidance of doubt, to the extent owned by the Chargor) which are at any time situated on that property;
- (b) the proceeds of sale of any part of that property; and
- (c) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any monies paid or payable in respect of those covenants.

1.4 Full Title Guarantee

Any charge or assignment which is expressed to be made with "full title guarantee" shall be construed so that the covenant implied by section 4(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to the state of repair of any relevant Property and all covenants implied by the Law of Property (Miscellaneous Provisions) Act 1994 shall be subject to and qualified by reference to any Permitted Security.

1.5 Secured Liabilities

References in this deed to the Secured Liabilities shall be construed in relation to the Finance Documents so as to include (i) any increase or reduction in any amount made available thereunder and/or any alteration and/or addition to the purposes for which any such amount, or increased or reduced amount, may be used, (ii) any ancillary facilities provided in substitution for or in addition to the facilities originally made available thereunder, (iii) any rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing and (iv) any combination of any of the foregoing.

2. **COVENANT TO PAY; FURTHER ADVANCES**

2.1 **Covenant to pay**

The Chargor hereby covenants with the Security Agent (as trustee for the Secured Parties) that it will on demand pay and discharge all Secured Liabilities owing or incurred from or by it to the Secured Parties when the same become due in accordance with the terms of the Finance Documents, whether by acceleration or otherwise, together with interest to the date of payment at such rates and upon such terms as are set out in the Finance Documents.

2.2 **Potential invalidity**

Neither the covenant to pay in clause 2.1 (Covenant to pay) nor the Security constituted by this deed shall extend to or include any liability or sum which would, but for this clause, cause such covenant or Security to be unlawful under any applicable law.

2.3 **Further advances**

This deed secures further advances made under or pursuant to the terms of the Finance Documents and the Lenders are, subject to and upon the terms and conditions of the Finance Documents, under an obligation to make further advances.

3. **GRANT OF SECURITY**

3.1 **Fixed Charges**

The Chargor as a continuing security for the payment and discharge of the Secured Liabilities, charges in favour of the Security Agent (as trustee for the Secured Parties), by way of first fixed charge and with full title guarantee all of its right, title and interest in the following assets, both present and future, from time to time owned by it or in which it has an interest and, in each case, all Related Rights:

- (a) all its:
 - (i) Properties;
 - (ii) Property Interests;
 - (iii) Equipment;
 - (iv) Securities;
 - (v) Intellectual Property;
 - (vi) Debts;
 - (vii) Accounts;
 - (viii) Pension Fund Interests;
 - (ix) Goodwill and Uncalled Capital;
 - (x) interests in the Bridging Loans and their related Collateral Security; and
 - (xi) to the extent not effectively assigned by clause 3.2:
 - (A) the Assigned Agreements;
 - (B) the Insurances.

3.2 **Security Assignment**

As further security for the payment and discharge of the Secured Obligations, the Chargor assigns to the Security Agent (as trustee for the Secured Parties) absolutely with full title guarantee in favour of the Security Agent all its right, title and interest in the following assets, both present and future, and, in each case, all Related Rights:

- (a) all of its right, title and interest in and to the Insurance Policies;
- (b) the benefit of the Assigned Agreements to which it is a party or an addressee and any claims arising under any of the same, and the benefit of any guarantee or security for the performance of the Assigned Agreements;

provided that on payment or discharge in full of the Secured Liabilities the Security Agent will at the request and cost of the Chargor, unless terminated, re-assign the relevant rights, title and interest in the assigned assets to the Chargor (or as it shall direct).

3.3 **Fixed Security**

Clause 3.1 (Fixed Charges) and clause 3.2 (Security Assignment) shall be construed as creating a separate and distinct mortgage, fixed charge or security assignment over each relevant asset within any particular class of assets specified in this deed. Any failure to create effective fixed security (for whatever reason) over an asset shall not affect the fixed nature of the security on any other asset, whether within the same class of assets or not.

3.4 **Floating security**

(a) **Floating charge**

As a continuing security for the payment or discharge of the Secured Liabilities, the Chargor with full title guarantee hereby charges to the Security Agent (as trustee for the Secured Parties), by way of first floating charge, (a) all of its undertaking and assets at any time not effectively mortgaged, charged or assigned pursuant to clauses 3.1 (Fixed Charges) and clause 3.2 (Security Assignment) and (b) all its assets situated in Scotland.

(b) **Qualifying floating charge**

Schedule B1 para 14 Insolvency Act 1986 (as inserted by s.248 of, and Schedule 16 Enterprise Act 2002) applies to the floating charge created by this deed.

(c) **Automatic conversion of floating charge**

Notwithstanding anything express or implied in this deed, and without prejudice to any law which may have similar effect, if:

- (i) an Enforcement Event has occurred; or
- (ii) the Chargor creates or attempts to create any Security or any trust in favour of another person over any Floating Charge Asset other than as permitted under the Facilities Agreement; or
- (iii) the Chargor disposes or attempts to dispose of any Floating Charge Asset other than as permitted under the Facilities Agreement or in the ordinary course of its trading; or
- (iv) an Insolvency Event has occurred,

the floating charge created by this deed will automatically and immediately (without notice) be converted into a fixed charge over all the Floating Charge Assets or, in the case of clauses 3.4(c)(ii) and 3.4(c)(iii) above, over the relevant Floating Charge Asset.

(d) Conversion of floating charge by notice

Notwithstanding anything express or implied in this deed, if:

- (i) an Enforcement Event has occurred; or
- (ii) the Security Agent reasonably considers (in its sole discretion) that any Floating Charge Assets are in jeopardy,

the Security Agent may at any time thereafter, by notice to the Chargor, convert the floating charge created by this deed with immediate effect into a fixed charge over all or any of the Floating Charge Assets of the Chargor specified in such notice (but without prejudice to the Security Agent's rights to serve a notice in respect of any other Floating Charge Assets and any other rights of the Security Agent whatsoever).

(e) Assets acquired after any floating charge conversion

Any asset acquired by the Chargor after any conversion of the floating charge created under this deed, in accordance with clauses 3.4(c) or 3.4(d) above which but for such conversion would be subject to a floating charge shall, (unless the Security Agent confirms in writing to the contrary) be charged to the Security Agent (as trustee for the Secured Parties) by way of first fixed charge.

(f) Reconversion of fixed charge assets into floating charge assets

The Security Agent may at any time after any conversion of the floating charge created under this deed over any Charged Assets into a fixed charge in accordance with clauses 3.4(c) (Automatic Conversion of floating charge) or (d) (Conversion of floating charge by notice) reconvert such fixed charge into a floating charge by notice to the Chargor.

3.5 Title documents

The Chargor shall within one Business Day of the date of execution of this deed (or, if later, the date of acquisition of the relevant Charged Assets) deposit with the Security Agent (and the Security Agent shall during the continuance of this security be entitled to hold):

- (a) all deeds and documents of title relating to the Charged Assets as the Security Agent may from time to time require in writing; and
- (b) all certificates relating to the Securities and such instruments of transfer in blank and other documents as the Security Agent may from time to time require in writing.

3.6 Security notices

- (a) The Chargor shall, save in respect of Credit Agreements, within one Business Day of the date of execution of this deed or, in the case of any Insurance Policy taken out, any Assigned Agreement entered into (or designated as such in accordance with this deed) or any Account opened, in each case by the Chargor after its execution, within one Business Day of the date (as applicable) on which such Insurance Policy is taken out, such Assigned Agreement is entered into (or designated as such) or such Account is opened):
 - (i) give notice substantially in the form set out in part 1 of schedule 3 (Form of notice to insurers) to the relevant insurers of the assignment pursuant to

clause 3.3 (Fixed security) of its rights and interest in and under the Insurance Policies and use its reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to the Security Agent in the form set out in part 2 of schedule 3 (Form of acknowledgement from insurers);

- (ii) give notice substantially in the form set out in part 1 of schedule 4 (Form of notice to counterparties of Assigned Agreements) to the other parties to the Assigned Agreements to which it is a party of the assignment pursuant to clause 3.3 (Fixed security) of its rights and interest in and under the Assigned Agreements and use its reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to the Security Agent in the form set out in part 2 of schedule 4 (Form of acknowledgement from counterparties to Assigned Agreements); and
 - (iii) give notice substantially in the form set out in part 1 of schedule 5 (Form of notice of charge to third party bank) (or, in respect of the accounts detailed in schedule 2 (Accounts), under and on the terms of the Account Bank Agreement) to any bank, financial institution or other person of charging to the Security Agent pursuant to clause 3.1(a)(vii) (Fixed charges) of its rights and interests under such accounts and use its reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to the Security Agent in the form set out in part 2 of schedule 5 (Form of acknowledgement from third party bank) (or, in respect of the accounts detailed in schedule 2 (Accounts), under and on the terms of the Account Bank Agreement).
- (b) Following the occurrence of a Declared Default the Chargor will immediately:
- (i) give notice set out in part 1 of schedule 4 (Form of notice to counterparties of Assigned Agreements) to the other parties to the parties to the Credit Agreements of the security created by this deed over its interest therein and provide evidence satisfactory to the Security Agent (acting reasonably) of the delivery of that notice; and
 - (ii) use reasonable endeavours to procure that each counterparty promptly acknowledges that notice by countersigning a copy of it and delivering that copy to the Security Agent.

3.7 Leasehold security restrictions

- (a) There shall be excluded from the Security created by this deed, and from the operation of clause 4 (Restrictions on dealing), any leasehold property held by the Chargor under a lease which precludes either absolutely or conditionally (including requiring the consent of any third party) that Chargor from creating any charge over its leasehold interest in that property (each an "**Excluded Property**") until the relevant condition or waiver has been satisfied or obtained.
- (b) For each Excluded Property, each relevant Chargor undertakes to:
 - (i) apply for the relevant consent or waiver of prohibition or conditions within five Business Days of the date of this deed (in relation to Excluded Property owned at the date of this deed) or within five Business Days of the Chargor acquiring the Excluded Property (if otherwise) and, to use its reasonable endeavours to obtain that consent or waiver of prohibition as soon as possible;
 - (ii) upon request, keep the Security Agent informed of its progress in obtaining such consent or waiver; and

(iii) forthwith upon receipt of such consent or waiver, provide the Security Agent with a copy.

(c) Immediately upon receipt of the relevant waiver or consent, the relevant formerly Excluded Property shall stand charged to the Security Agent (as trustee for the Secured Parties) under clause 3.1(a)(i) or clause 3.1(a)(ii) (Fixed charges) as the case may be. If required by the Security Agent at any time following receipt of that waiver or consent, the Chargor will execute a further valid fixed charge in such form as the Security Agent shall require.

4. RESTRICTIONS ON DEALING

4.1 Negative pledge and restriction on disposal

The Chargor hereby covenants with the Security Agent that it will not at any time except in accordance with the terms of the Facilities Agreement or with the prior consent of the Security Agent:

- (a) create or purport to create or permit to subsist any Security on or in relation to the Charged Assets; or
- (b) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, surrender or otherwise dispose of or cease to exercise control of all, or part of any interest in any Charged Assets.

4.2 Land Registry restriction

(a) In respect of any Property registered at the Land Registry the Chargor hereby consents to the entry of the following restriction on the register of its title to such Property:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Shawbrook Bank Limited referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its conveyancer".

(b) The Chargor authorises the Security Agent to make any application which it deems appropriate for the designation of this deed or any other Finance Document as an exempt information document under rule 136 Land Registration Rules 2003 and will use its best endeavours to assist with any such application made by or on behalf of the Security Agent. The Chargor will notify the Security Agent in writing as soon as it receives notice of any person's application under rule 137 Land Registration Rules 2003 for the disclosure of this deed or any other Finance Document, following its designation as an exempt information document and will not make any application under rule 138 Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document.

5. DEBTS AND ACCOUNTS

5.1 Preservation of debts

The Chargor shall not, except in accordance with the terms of the Facilities Agreement, sell, factor, discount, release, exchange, compound, set-off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Debts save as hereinafter expressly provided.

5.2 Realising debts

The Chargor shall:

- (a) as agent for the Security Agent, collect in and realise all Debts in the ordinary course of its business, pay the proceeds into the relevant Accounts forthwith upon receipt; and
- (b) if called upon so to do by the Security Agent, following the occurrence of an Enforcement Event, execute a legal assignment of the Debts to the Security Agent (as trustee for the Secured Parties) in such terms as the Security Agent may require and give notice thereof to the debtors from whom the Debts are due, owing or incurred.

5.3 **Accounts**

- (a) All Designated Accounts must be maintained with the Account Bank or as otherwise agreed with the Security Agent. All Trading Accounts and other Accounts must be maintained in accordance with the terms of the Facilities Agreement.
- (b) No Trading Account may be overdrawn at any time and the Chargor shall maintain a minimum credit balance in the Collections Account pursuant to and in accordance with clause 14.4(a) (Withdrawals etc.) of the Facilities Agreement.
- (c) The Chargor shall not open or procure the opening of any Account unless permitted under the Facilities Agreement or with the prior written consent of the Security Agent.
- (d) Any cash pooling, netting or similar arrangements entered into or to be entered into by the Chargor in respect of its Trading Accounts must be on terms which have been approved by the Security Agent or are otherwise permitted under the terms of the Facilities Agreement.

5.4 **Withdrawals**

- (a) Except with the prior consent of the Security Agent or as otherwise permitted under the terms of the Facilities Agreement, no Chargor may withdraw any amounts from time to time standing to the credit of the Designated Accounts; and
- (b) after the occurrence of an Enforcement Event, The Chargor shall comply with any notice served by the Security Agent on that Chargor prohibiting it from withdrawing all or any monies from time to time standing to the credit of any of its Accounts except with the prior consent of the Security Agent.

6. **INSURANCE**

The Chargor hereby covenants with the Security Agent that it will insure its assets and business in accordance with the requirements of the Facilities Agreement.

7. **PROPERTIES**

(a) **Maintenance**

The Chargor covenants with the Security Agent that it will keep all buildings on each Property and all fixtures belonging to it thereon and therein in good and substantial repair and condition (fair wear and tear excepted);

(b) **Compliance with obligations**

The Chargor covenants with the Security Agent that it will:

- (i) observe and perform in all material respects all covenants, stipulations and conditions to which each Property or the user thereof is now or may hereafter be subjected where failure to do so would be reasonably likely to have a Material Adverse Effect;
- (ii) perform and observe all covenants and conditions on its part contained in any lease, agreement for lease, licence or other agreement under which any Property or part of any Property is held where failure to do so would be reasonably likely to have a Material Adverse Effect; and
- (iii) promptly pay all taxes, fees, duties, rates, charges and other outgoings in respect of the Properties where failure to do so would be reasonably likely to have a Material Adverse Effect;

(c) Maintenance of interests in Properties

The Chargor covenants with the Security Agent that it will not without the prior consent of the Security Agent or as permitted in the Facilities Agreement:

- (i) grant or agree to grant any licence or tenancy affecting any Property or part of a Property;
- (ii) exercise the powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by ss.99 or 100 LPA; or
- (iii) in any other way dispose or agree to dispose of or surrender or create any legal or equitable estate or interest in any Property or any part thereof;

(d) Registration restrictions

The Chargor covenants with the Security Agent that it will procure that no person shall be registered under the Land Registration Act 2002 as proprietor of any Property or any part thereof without the prior consent of the Security Agent; and

(e) Property acquisitions

The Chargor covenants with the Security Agent that it will, if it acquires any freehold or leasehold property, whether registered or unregistered (other than any Rack Rent Lease):

- (i) inform the Security Agent promptly of such acquisition;
- (ii) promptly on written request by the Security Agent and at the cost of that Chargor, execute and deliver to the Security Agent a legal mortgage in favour of the Security Agent of that property in such form as the Security Agent may reasonably require (or such other Security in the jurisdiction where such property is located as the Security Agent may reasonably require); and
- (iii) comply with all registration requirements resulting from the acquisition of such property and the creation of Security over such property pursuant to this deed and the legal mortgage (or other Security) referred to above.

8. EQUIPMENT

The Chargor hereby covenants with the Security Agent as follows:

- (a) to maintain the Equipment in good and serviceable condition (fair wear and tear excepted);

- (b) promptly to pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and on demand produce evidence thereof to the Security Agent; and
- (c) to give the Security Agent such information concerning the location, condition, use and operation of the Equipment as the Security Agent may require in writing and to permit any persons designated by the Security Agent at all reasonable times (but not more than once in any Financial Year unless an Event of Default is continuing) to inspect and examine the Equipment and the records maintained in connection therewith.

9. **INTELLECTUAL PROPERTY**

The Chargor hereby covenants with the Security Agent as follows:

- (a) to take all action to safeguard and maintain its present and future rights in or relating to the Intellectual Property necessary for the business of the Chargor and if requested to do so by the Security Agent, sign or procure the signature of, and comply with all reasonable instructions of the Security Agent in respect of, any document required to make entries in any public register of Intellectual Property which either record the existence of this deed or the restrictions on disposal imposed by this deed; and
- (b) use reasonable endeavours to obtain any consent required for the creation of a fixed charge over any of the Intellectual Property.

10. **SECURITIES**

10.1 **Registration of Securities**

The Security Agent may at any time following the occurrence of an Enforcement Event cause any or all of the Securities to be registered in the name of the Security Agent or its nominee. The Chargor agrees promptly to execute and deliver to the Security Agent all such transfers and other documents and do all such things as may be necessary or desirable to achieve such registration following the occurrence of an Enforcement Event.

10.2 **Additional registration obligations**

The Chargor hereby:

- (a) grants and agrees to procure as necessary, all consents, waivers, approvals and permissions which are necessary, under the articles of association of any Securities Issuer or otherwise, for the transfer of the Securities to the Security Agent or its nominee or to a purchaser upon enforcement of this deed in accordance with its terms; and
- (b) agrees to procure the amendment of the share transfer provisions of each Securities Issuer's articles of association in such manner as the Security Agent may require in order to permit such a transfer upon enforcement of this deed.

10.3 **Dividends and voting rights prior to enforcement**

Prior to the occurrence of an Enforcement Event:

- (a) all cash dividends or other cash distributions paid or payable in respect of the Securities may be paid directly to the Chargor which shall be permitted to apply such dividends or distributions as it deems fit to the extent permitted by the Facilities Agreement and the Subordination Agreement;

- (b) any cash dividends or other cash distributions paid in respect of any of the Securities and received by the Security Agent or its nominee shall, on request by the Chargor, be released and paid to such Chargor,
- (c) the Chargor may exercise all voting and other rights and powers attaching to the Securities and exercisable by the Chargor provided that the exercise of such voting and other rights and powers would not materially prejudice the Security Agent's security under this deed or the value of the Securities or contravene any Finance Document; and
- (d) the Security Agent will (to the extent that it has or will acquire any such rights or powers) exercise all voting and other rights and powers attaching to the Securities and exercisable by the Security Agent or its nominee as the Chargor may from time to time direct provided that acting in accordance with such directions would not materially prejudice the Security Agent's security under this deed or the value of the Securities or contravene any Finance Document.

10.4 Dividends and voting rights post enforcement

Following the occurrence of an Enforcement Event:

- (a) all dividends and other distributions paid in respect of the Securities and received by the Chargor shall be held on trust for the Security Agent (as trustee for the Secured Parties) and forthwith paid into a Designated Account or, if received by the Security Agent or its nominee, shall be retained by the Security Agent; and
- (b) the Security Agent may exercise or direct the exercise (or refrain from exercising or directing the exercise) of all voting and other rights and powers attaching to the Securities as the Security Agent may in its absolute discretion think fit and the Chargor shall, and shall procure that its nominees shall, comply with any such directions from the Security Agent concerning the exercise of such rights and powers.

10.5 Additional undertakings

The Chargor further undertakes to the Security Agent that it shall:

- (a) duly and promptly pay all calls, instalments and other moneys which may be payable from time to time in respect of the Securities, it being acknowledged by the Chargor that the Security Agent shall be under no liability whatsoever in respect of any such calls, instalments or other monies;
- (b) not without the Security Agent's prior consent or unless permitted under the Facilities Agreement, amend, or agree to the amendment of, the memorandum or articles of association of any Securities Issuer or the rights or liabilities attaching to any of the Securities;
- (c) ensure (insofar as it is able by the exercise of all voting rights, powers of control and other means available to it to do so) that no Securities Issuer will:
 - (i) consolidate or sub-divide any of its Securities or reduce or re-organise its share capital in any way (other than as permitted under the Facilities Agreement);
 - (ii) issue any new shares or stock (other than as permitted under the Facilities Agreement); or
 - (iii) refuse to register any transfer of any of its Securities which may be lodged for registration by or on behalf of the Security Agent or the Chargor in accordance with this deed;

- (d) promptly give notice of this deed to any custodian of any Securities in any form which the Security Agent may reasonably require and use its reasonable endeavours to ensure that the custodian acknowledges that notice in any form which the Security Agent may reasonably require; and
- (e) comply with any notice issued to it pursuant to Part 21A of the Companies Act 2006 in respect of any Securities.

11. UNCALLED CAPITAL

The Chargor further covenants with the Security Agent that it will not call up, or receive in advance of calls, any Uncalled Capital and it will apply all proceeds of any Uncalled Capital, immediately on receipt, towards the discharge of the Secured Liabilities.

12. REPRESENTATIONS AND WARRANTIES

12.1 Representations and warranties

The Chargor represents and warrants to the Security Agent as follows:

- (a) it is (except as permitted under the terms of the Finance Documents) the legal and beneficial owner of the Charged Assets;
- (b) it has not received or acknowledged notice of any adverse claim by any person in respect of the Charged Assets or any interest in them;
- (c) there are (except as permitted under the terms of the Finance Documents) no covenants, agreements, reservations, conditions, interests, rights or other matters whatever which materially and adversely affect the Charged Assets;
- (d) no facility necessary for the enjoyment and use of the Charged Assets is subject to terms entitling any person to terminate or curtail its use;
- (e) nothing has arisen or has been created or is subsisting which would be an overriding interest in any Property;
- (f) there is no prohibition on assignment in any agreements or authorisations referred to in clause 3.3 (Fixed security), and the Chargor entering into this deed will not constitute a breach of any insurances, agreements or authorisations referred to in clause 3.3 (Fixed security); and
- (g) it has not been issued with a Warning Notice or a Restrictions Notice that remains in effect in respect of any Securities.

12.2 Repetition

The representations and warranties set out in clause 12.1 (Representations and warranties) will be deemed to be repeated by the Chargor on each day the Repeating Representations are deemed to be repeated by reference to the facts and circumstances then existing.

13. POWER TO REMEDY

13.1 If the Chargor is at any time in breach of any of its obligations contained in this deed, the Security Agent shall be entitled (but shall not be bound) to remedy such breach and the Chargor hereby irrevocably authorises the Security Agent and its agents to do all things necessary or desirable in connection therewith.

13.2 The rights of the Security Agent contained in this clause 13 are without prejudice to any other rights of the Security Agent hereunder and the exercise by the Security Agent of its

rights under this clause shall not make the Security Agent liable to account as a mortgagee in possession.

14. ENFORCEMENT

14.1 Enforcement events

The security constituted by this deed shall become immediately enforceable if an Enforcement Event occurs.

14.2 Statutory power of sale

The statutory power of sale shall arise on and be exercisable at any time after the execution of this deed (and the Secured Liabilities shall be deemed to have become due and payable for that purpose), provided that the Security Agent shall not exercise such power of sale until the security constituted by this deed has become enforceable in accordance with clause 14.1 (Enforcement events).

14.3 Extension of statutory powers

- (a) Any restriction imposed by law on the power of sale (including under s.103 LPA) or on the right of a mortgagee to consolidate mortgages (including under s.93 LPA) does not apply to the security constituted by this deed and the Security Agent or any Receiver shall have the right to consolidate all or any of the security constituted by this deed with any other Security in existence at any time and to make any applications to the Land Registry in support of the same.
- (b) Any powers of leasing conferred on the Security Agent or any Receiver by law are extended so as to authorise the Security Agent or any Receiver to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Agent or Receiver may think fit and without the need to comply with any restrictions conferred by law (including under ss.99 or 100 LPA).

14.4 No obligation to enquire

No person dealing with the Security Agent, any Administrator or any Receiver appointed hereunder, or its agents or brokers, shall be concerned to enquire:

- (a) whether the security constituted by this deed has become enforceable;
- (b) whether any power exercised or purported to be exercised has become exercisable;
- (c) whether any money remains due under the Finance Documents;
- (d) as to the necessity or expediency of the stipulations and conditions subject to which any sale of any Charged Assets shall be made, or otherwise as to the propriety or regularity of any sale of any of the Charged Assets; or
- (e) how any money paid to the Security Agent, Administrator or Receiver, or its agents or brokers is to be applied.

14.5 No liability as mortgagee in possession

None of the Security Agent, any Administrator or any Receiver shall be liable:

- (a) to account as mortgagee in possession in respect of all or any of the Charged Assets; or

- (b) for any loss upon realisation of, or for any neglect or default of any nature whatsoever in connection with, all or any of the Charged Assets for which a mortgagee in possession might as such be liable.

14.6 Power to dispose of chattels

After the security constituted by this deed has become enforceable, the Security Agent, any Administrator or any Receiver may dispose of any chattels or produce found on any Property as agent for the Chargor and, without prejudice to any obligation to account for the proceeds of any sale of such chattels or produce the Security Agent, the Administrator or the Receiver shall be indemnified by such Chargor against any liability arising from such disposal.

14.7 Redemption of prior Security

At any time after the security constituted by this deed shall have become enforceable the Security Agent may:

- (a) redeem any prior Security;
- (b) procure the transfer thereof to itself; and/or
- (c) settle and pass the accounts of the prior encumbrancer and any account so settled and passed shall be conclusive and binding on the Chargor and all monies paid by the Security Agent to the prior encumbrancer in accordance with such accounts shall as from such payment be due from such Chargor to the Security Agent on current account and shall bear interest and be secured as part of the Secured Liabilities.

15. ADMINISTRATOR AND RECEIVER

15.1 Appointment of Administrator or Receiver

At any time after:

- (a) the security constituted by this deed becomes enforceable;
- (b) any corporate action or any other steps are taken or legal proceedings started by or in respect of any Obligor with a view to the appointment of an Administrator; or
- (c) at the request of the Chargor,

the Security Agent may without further notice, under seal or by writing under hand of a duly authorised officer of the Security Agent:

- (a) appoint any person or persons to be an Administrator of the Chargor; or
- (b) appoint any person or persons to be a Receiver of all or any part of the Charged Assets of the Chargor; and
- (c) (subject to s.45 Insolvency Act 1986) from time to time remove any person appointed to be Receiver and appoint another in his place.

15.2 More than one appointment

Where more than one person is appointed Administrator or Receiver, they will have power to act separately (unless the appointment by the Security Agent specifies to the contrary).

15.3 Additional powers

- (a) The powers of appointing an Administrator or a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986 and the LPA or otherwise and shall be exercisable without the restrictions contained in s.109 LPA or otherwise.
- (b) The power to appoint an Administrator or a Receiver (whether conferred by this deed or by statute) shall be and remain exercisable by the Security Agent notwithstanding any prior appointment in respect of all or any part of the Charged Assets.

15.4 **Agent of the Chargor**

- (a) Any Administrator or Receiver shall be the agent of the Chargor and the Chargor shall be solely responsible for its acts and remuneration as well as for any defaults committed by him.
- (b) No Secured Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of an Administrator or Receiver.

15.5 **Powers of Administrator and Receiver**

A Receiver shall have (and shall be entitled to exercise), in relation to the Charged Assets over which he is appointed, and an Administrator shall have in addition to the powers he enjoys under Schedule B1 Insolvency Act 1986, the following powers (as the same may be varied or extended by the provisions of this deed):

- (a) (in respect of a Receiver) all of the powers of an administrative receiver set out in Schedule 1 Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (b) all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;
- (c) all of the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which any relevant Chargor itself could do or omit to do; and
- (d) the power to do all things which, in the opinion of the Administrator or Receiver (as appropriate) are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Administrator or Receiver pursuant to this deed or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, any relevant Chargor; the collection and/or realisation of Charged Assets in such manner and on such terms as the Administrator or Receiver sees fit; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of such Chargor)).

16. **AMOUNTS RECEIVED**

16.1 **Application of proceeds**

The Receiver shall apply all monies received by him (other than insurance monies):

- (a) first in paying all rents, taxes, duties, rates and outgoings affecting any Charged Assets;
- (b) secondly in paying all costs, charges and expenses of and incidental to his appointment and the exercise of his powers and all outgoings paid by him;
- (c) thirdly in paying his remuneration (as agreed between him and the Security Agent);

(d) fourthly in or towards discharge of the Secured Liabilities in such order and manner as provided for in the Finance Documents; and

(e) finally in paying any surplus to the Chargor or any other person entitled to it.

16.2 Section 109(8) Law of Property Act 1925

Neither the Security Agent nor any Receiver or Administrator shall be bound (whether by virtue of s.109(8) LPA, which is hereby varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order as between any of the Secured Liabilities.

16.3 Currencies of denomination

For the purpose of or pending the discharge of any of the Secured Liabilities the Security Agent may convert any monies received, recovered or realised by the Security Agent under this deed from their existing denominations and/or currencies of denomination into such other denominations and/or currencies of denomination as the Security Agent may think fit and any such conversion shall be effected at the Security Agent's then prevailing spot selling rate of exchange.

16.4 Suspense account

All monies received recovered or realised by the Security Agent under this deed may at the discretion of the Security Agent be credited to any interest bearing suspense or impersonal account and may be held in such account for so long as the Security Agent thinks fit pending the application from time to time (as the Security Agent shall be entitled to do as it may think fit) of such monies and accrued interest thereon (if any) in or towards the discharge of any of the Secured Liabilities.

16.5 New accounts

If the Security Agent receives notice of any subsequent charge or other interest affecting all or part of the Charged Assets, the Security Agent may open a new account or accounts for the Chargor in its books and (without prejudice to the Security Agent's right to combine accounts) no money paid to the credit of such Chargor in any such new account will be appropriated towards or have the effect of discharging any part of the Secured Liabilities. If the Security Agent does not open a new account or accounts immediately on receipt of such notice then unless the Security Agent gives express notice to the contrary to the Chargor as from the time of receipt of such notice by the Security Agent all payments made by the Chargor to the Security Agent in the absence of any express appropriation by such Chargor to the contrary shall be treated as having been credited to a new account of such Chargor and not as having been applied in reduction of the Secured Liabilities.

16.6 Security Agent set-off rights

If the Security Agent shall have more than one account for the Chargor in its books the Security Agent may at any time after the security constituted by this deed has become enforceable or the Security Agent has received notice of any subsequent charge or other interest affecting all or any part of the Charged Assets and without prior notice forthwith transfer all or any part of the balance standing to the credit of any such account to any other such account which may be in debit but the Security Agent shall notify the Chargor of the transfer having been made.

17. POWER OF ATTORNEY AND DELEGATION

17.1 Power of attorney

The Chargor hereby by way of security irrevocably appoints the Security Agent and (jointly and severally) each and every Administrator or Receiver of this deed to be the attorney of such Chargor and in its name and on its behalf and as its act and deed or otherwise and at any time following the occurrence of an Enforcement Event to sign, execute, seal, deliver, complete any blanks in and otherwise perfect any deed, transfer, assurance, agreement, instrument or act which such Administrator or Receiver or the Security Agent may consider expedient in the exercise of any of his or its powers or in respect of such Chargor's obligations under this deed. The power of attorney hereby granted is to secure the performance of obligations owed to the donees within the meaning of the Powers of Attorney Act 1971.

17.2 Ratification

The Chargor ratifies and confirms and agrees to ratify and confirm:

- (a) all transactions entered into by the Security Agent and/or any Administrator or Receiver in the proper exercise of its or their powers in accordance with this deed; and
- (b) all transactions entered into by the Security Agent and/or any Administrator or Receiver in signing, sealing, delivering and otherwise perfecting any assignment, mortgage, charge, security, document or other act.

- 17.3 The Security Agent and any Administrator or Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this deed (including the power of attorney), on such terms and conditions as it or he shall see fit which shall not preclude exercise of these powers, authorities or discretions by it or him or any revocation of the delegation or subsequent delegation.

18. PROTECTION OF SECURITY AND FURTHER ASSURANCE

18.1 Independent security

This deed shall be in addition to and independent of every other security or guarantee that the Security Agent or any other Secured Party may at any time hold for any of the Secured Liabilities. No prior security held by the Security Agent or any other Secured Party over the whole or any part of the Charged Assets shall merge in the security created by this deed.

18.2 Continuing security

This deed shall remain in full force and effect as a continuing security for the Secured Liabilities, notwithstanding any settlement of account or intermediate payment or discharge in whole or in part.

18.3 No waivers; rights cumulative

No failure to exercise, nor delay in exercising, on the part of the Security Agent or any Secured Party, any right or remedy under this deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise, or the exercise of any other right or remedy. The rights and remedies of the Security Agent and each Secured Party provided in this deed are cumulative and not exclusive of any rights or remedies provided by law.

18.4 No Chargor set off

The Chargor waives any right of set off it may have now or at any time in the future in respect of the Secured Liabilities (including sums payable by such Chargor under this deed).

18.5 Further assurance

- (a) The Chargor shall, promptly upon request by the Security Agent or any Receiver or Administrator, at its own expense, take whatever action the Security Agent or a Receiver or Administrator may reasonably require for:
 - (i) creating, perfecting or protecting any security intended to be created by or pursuant to this deed;
 - (ii) following the occurrence of an Enforcement Event, facilitating the realisation of any Charged Asset;
 - (iii) exercising any right, power or discretion conferred on the Security Agent, or any Receiver or any Administrator or any of their respective delegates or sub-delegates in respect of any Charged Asset; or
 - (iv) creating and perfecting security in favour of the Security Agent (equivalent to the security intended to be created by this deed) over any assets of the Chargor located in any jurisdiction outside England and Wales.
- (b) This includes:
 - (i) the re-execution of this deed;
 - (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; and
 - (iii) the giving of any notice, order or direction and the making of any filing or registration, which, in any such case, the Security Agent (or the Receiver or Administrator, as appropriate) may reasonably think necessary.

19. **COSTS AND INDEMNITY**

- 19.1 The provisions of clause 19 (Costs and expenses) of the Facilities Agreement are incorporated into this deed as if set out in full mutatis mutandis.
- 19.2 The Chargor hereby agrees to indemnify and hold harmless the Security Agent, any Administrator and any Receiver from and against all actions, losses, claims, expenses, demands and liabilities, whether arising out of contract or in tort or in any other way, which may at any time be incurred by him or by any manager, agent, officer, servant or workman for whose debt, default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers pursuant to this deed other than fraud or wilful default.

20. **MISCELLANEOUS**

20.1 **Benefit of Deed**

The benefit of this deed will be held by the Security Agent on and subject to the terms of the Subordination Agreement on trust for the benefit of itself and the other Secured Parties without preference or priority amongst themselves as security for the Secured Liabilities, except as provided under the Subordination Agreement.

20.2 **Certificates conclusive**

A certificate or determination by the Security Agent as to any amount or rate under this deed shall be conclusive evidence of that amount or rate in the absence of any manifest error.

20.3 **Financial collateral**

- (a) To the extent that the Charged Assets constitute "financial collateral" and this deed and the obligations of the Chargor under this deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)), the Security Agent shall have the right after the Security constituted by this deed has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.
- (b) For the purpose of clause 20.3(a), the value of the financial collateral appropriated shall be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

20.4 **Severability**

If any provision of this deed is or becomes invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected or impaired thereby.

20.5 **Section 2(1) Law of Property (Miscellaneous Provisions) Act 1989**

The terms of the Finance Documents and of any side letters between any parties in relation to the Finance Documents are incorporated in this deed to the extent required to ensure that any purported disposition of Charged Assets contained in this deed is a valid disposition in accordance with s.2(1) Law of Property (Miscellaneous Provisions) Act 1989.

20.6 **Third party rights**

Save as expressly provided to the contrary in a Finance Document, a third party (being any person other than the Chargor and the Secured Parties and their successors and permitted assigns) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this deed. Notwithstanding any term of any Finance Document, the consent of such third party is not required to rescind or vary this deed at any time.

20.7 **Joint and several liability**

The covenants, agreements, obligations and liabilities of the Chargor contained in this deed or implied on their part are joint and several and shall be construed accordingly.

20.8 **Trustee Act 2000**

The Chargor and the Security Agent agree that the Security Agent shall not be subject to the duty of care imposed on the trustees by the Trustee Act 2000.

21. **DEMANDS AND NOTICES**

Any demand, notice, consent or communication to be made or given by or to the Chargor or the Security Agent under or in connection with this deed shall be made and delivered as provided in clause 34 (Notices) of the Facilities Agreement. Any demand on the Chargor shall be validly made whether or not it contains an accurate statement of the amount of the Secured Liabilities.

22. **ASSIGNMENT AND TRANSFER**

22.1 **Assignment by Security Agent**

The Security Agent may at any time without the consent of the Chargor, assign or transfer the whole or any part of its rights under this deed to any person to which it can transfer its rights in accordance with the terms of the Subordination Agreement.

22.2 **Assignment by Chargor**

No Chargor may assign any of its rights or transfer any of its obligations under this deed or enter into any transaction which would result in any of these rights or obligations passing to another person.

23. **RELEASE OF SECURITY**

23.1 **Release**

Subject to clause 23.4 (Discharge conditional), upon the expiry of the Security Period (but not otherwise) the Security Agent shall at the request and cost of the Chargor, take whatever action is necessary to release the Charged Assets from the Security constituted by this deed.

23.2 Where the Chargor makes a disposal permitted by the terms of the Facilities Agreement, the Security agent shall at the request and cost of the Chargor, take all or any action (including the provision of a letter of non-crystallisation) necessary to release the Charged Assets the subject of such disposal from the Security constituted by this deed.

23.3 **Avoidance of payments and reinstatement**

If any payment by an Obligor or any discharge given by a Secured Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is (a) capable of being avoided or reduced (in the opinion of the Security Agent) or (b) avoided or reduced in each case as a result of insolvency or any similar event, then:

- (a) the liability of each Obligor will continue as if the payment, discharge, avoidance or reduction had not occurred;
- (b) each Secured Party will be entitled to recover the value or amount of that security or payment from each Obligor, as if the payment, discharge, avoidance or reduction had not occurred; and
- (c) the Security Agent shall be entitled to enforce this deed subsequently as if such payment, discharge, avoidance or reduction had not occurred.

23.4 **Discharge conditional**

Any release, discharge or settlement between the Chargor and the Security Agent or any other Secured Party shall be deemed conditional upon no payment or security received by the Security Agent or such other Secured Party in respect of the Secured Liabilities being avoided or reduced or ordered to be refunded pursuant to any provision of any enactment relating to insolvency, bankruptcy, winding-up, administration or receivership and, notwithstanding any such release, discharge or settlement:

- (a) the Security Agent or its nominee shall be at liberty to retain this deed and the Security created by or pursuant to this deed, including all certificates and documents relating to the Charged Assets or any part thereof, for such period as the Security Agent shall deem necessary (acting reasonably) to provide the Security Agent with security against any such avoidance or reduction or order for refund; and
- (b) the Security Agent shall be entitled to recover the value or amount of such security or payment from the Chargor concerned subsequently as if such settlement, discharge or release had not occurred and the Chargor agrees with the Security Agent accordingly and charges the Charged Assets and the proceeds of sale thereof with any liability under this clause, whether actual or contingent.

24. **GOVERNING LAW**

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

25. **JURISDICTION OF ENGLISH COURTS**

25.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) (a "**Dispute**").

25.2 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.

25.3 This clause 25 is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

26. **COUNTERPARTS**

This deed may be executed in counterparts, all of which when taken together shall be deemed to constitute one and the same instrument.

IN WITNESS whereof this deed has been duly executed and delivered on the above date first above written.

SCHEDULE 1

Properties currently owned

Part 1 - Registered Land

None at the date of this deed.

Part 2 - Unregistered Land

None at the date of this deed.

SCHEDULE 2**Accounts****Part 1 - Designated Accounts**

Bank	Account name	Account number	Sort code
National Westminster Bank Plc	MSP Capital Four Limited	██████████	██████

Part 2 - Trading Accounts

Bank	Account name	Account number	Sort code
National Westminster Bank Plc	MSP Capital Four Limited	██████████	██████

SCHEDULE 3

Part 1 - Form of notice to insurers

From: MSP Capital Four Limited (the "**Company**")

To: [**insurer**]

Date:

Dear Sirs

We refer to the [describe policy and its number] (the "**Policy**").

We hereby give notice that, pursuant to a security agreement dated [●] (the "**Security Agreement**"), we have assigned to Shawbrook Bank Limited as security trustee for the Secured Parties (as defined therein) (the "**Security Agent**") all our right, title, interest and benefit in and to the Policy.

We irrevocably authorise and instruct you following receipt of a notice from us or the Security Agent after the Security Agreement has become enforceable:

- (a) to disclose to the Security Agent without any reference to or further authority from us (and without any enquiry by you as to the justification for each disclosure), such information relating to the Policy as the Security Agent may at any time and from time to time request;
- (b) to hold all sums from time to time due and payable by you to us under the Policy to the order of the Security Agent;
- (c) to pay or release all or any part of the sums from time to time due and payable by you to us under the Policy only in accordance with the written instructions given to you by the Security Agent from time to time;
- (d) to comply with any written notice or instructions in any way relating to, or purporting to relate to, the Policy, the sums payable to us from time to time under the Policy or the debts represented thereby which you receive at any time from the Security Agent without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction; and
- (e) to send copies of all notices and other information given or received under the Policy to the Security Agent.

Following receipt of a notice from us or the Security Agent after the Security Agreement has become enforceable we are not permitted to receive from you, otherwise than through the Security Agent, any amount in respect of or on account of the sums payable to us from time to time under the Policy or to agree any amendment or supplement to, or waive any obligation under, the Policy without the prior written consent of the Security Agent.

This notice may only be revoked or amended with the prior written consent of the Security Agent.

Please confirm by completing the enclosed acknowledgement and returning it to the Security Agent (with a copy to us) that:

- (i) you accept the instructions and authorisations contained in this notice;
- (ii) you have not, at the date this notice is returned to the Security Agent, received any notice that any third party has or will have any right or interest in, or has made, or will be making

any claim or demand or taking any action in respect of, the rights of the Company under or in respect of the Policy and you will notify the Security Agent promptly if you should do so in future; and

- (iii) [you will not exercise any right to cancel or avoid the Policy without first giving at least 28 days' written notice to the Security Agent.]¹

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

Yours faithfully

.....
for and on behalf of
MSP Capital Four Limited

¹ Include for Insurance Policies other than third party liability policies and contents insurance.

Part 2 - Form of acknowledgement from insurers

From: **[insurer]**
To: Shawbrook Bank Limited, as Security Agent
Date:

Dear Sirs

We acknowledge receipt of a notice dated [●] (the "**Notice**") and addressed to us by [●] (the "**Company**") regarding the Policy (as defined in the Notice).

- (a) we accept the instructions and authorisations contained in this notice;
- (b) we have not, at the date of this acknowledgement, received any notice that any third party has or will have any right or interest in, or has made, or will be making any claim or demand or taking any action in respect of, the rights of the Company under or in respect of the Policy and we will notify the Security Agent promptly if we should do so in future;
- (c) [we will not exercise any right to cancel or avoid the Policy without first giving at least 28 days' written notice to the Security Agent.]²

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

Yours faithfully

[insurer]

² Include for Insurance Policies other than third party liability policies and contents insurance.

SCHEDULE 4

Part 1 - Form of notice to counterparties of Assigned Agreements

From: MSP Capital Four Limited

To: **[counterparty]**

Date:

Dear Sirs

We refer to the [*describe relevant Assigned Agreement*] (the "**Agreement**")

We hereby notify you that pursuant to a security agreement dated [●] (the "**Security Agreement**") we have assigned to Shawbrook Bank Limited as security trustee for the Secured Parties (as defined therein) (the "**Security Agent**") absolutely (subject to a proviso for reassignment on redemption) all our right, title, interest and benefit in and to the Agreement.

You may continue to deal with us in relation to the Agreement until you receive written notice described in the paragraph below to the contrary from the Security Agent. Thereafter we will cease to have any right to deal with you in relation to the Agreement and therefore from that time you should deal only with the Security Agent.

We further notify you that following receipt of a notice from us or the Security Agent after the Security Agreement has become enforceable:

- (a) we may not agree to amend, modify or terminate the Agreement without the prior written consent of the Security Agent;
- (b) you are authorised to disclose information in relation to the Agreement to the Security Agent on request;
- (c) you must pay all monies to which we are entitled under the Agreement direct to the Security Agent (and not to us) unless the Security Agent otherwise agrees in writing; and
- (d) the provisions of this notice may only be revoked with the written consent of the Security Agent.

Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to us) by way of confirmation that:

- (i) you agree to the terms set out in this notice and to act in accordance with its provisions; and
- (ii) you have not received notice that we have assigned our rights under the Agreement to a third party or created any other interest (whether by way of security or otherwise) in the Agreement in favour of a third party.

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

Yours faithfully

.....
for and on behalf of
MSP Capital Four Limited

Part 2 - Form of acknowledgement from counterparties of Assigned Agreements

From: [counterparty]

To: Shawbrook Bank Limited, as Security Agent

Copy to: MSP Capital Four Limited

Date:

We hereby acknowledge receipt of the notice dated [●], a copy of which is attached to the acknowledgment (the "**Notice**") and confirm the matters set out in paragraphs (i) and (ii) of the Notice.

.....
for and on behalf of
[counterparty]

SCHEDULE 5

Part 1 - Form of notice of charge to third party bank

To: [name and address of third party bank]

Attention: [●]

Date:

Dear Sirs

We hereby give you notice that by a security agreement dated [●] (the "**Security Agreement**") (a copy of which is attached) we have charged to Shawbrook Bank Limited as security trustee for the Secured Parties (as defined therein) (the "**Security Agent**") all our right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following accounts in our name with you together with all interest credited thereto and the debts represented by those sums:

[●] (together the "**Accounts**")

We hereby irrevocably instruct and authorise you:

1. to credit to each Account all interest from time to time earned on the sums of money held in that Account;
2. to disclose to the Security Agent, without any reference to or further authority from us and without any liability or inquiry by you as to the justification for such disclosure, such information relating to the Accounts and the sums in each Account as the Security Agent may, at any time and from time to time, request you to disclose to it;
3. following receipt of a notice from us or the Security Agent after the Security Agreement has become enforceable, to hold all sums from time to time standing to the credit of each Account in our name with you to the order of the Security Agent;
4. following receipt of a notice from us or the Security Agent after the Security Agreement has become enforceable, to pay or release all or any part of the sums from time to time standing to the credit of each Account in our name with you in accordance with the written instructions of the Security Agent at any time and from time to time; and
5. following receipt of a notice from us or the Security Agent after the Security Agreement has become enforceable, to comply with the terms of any written notice or instructions in any way relating to the Accounts or the sums standing to the credit of any Account from time to time which you may receive at any time from the Security Agent without any reference to or further authority from us and without any liability or inquiry by you as to the justification for or validity of such notice or instructions.

[Please note we are not permitted to withdraw any amount from the Accounts without the prior written consent of the Security Agent.]³

OR

[In accordance with the terms of the Security Agreement, we may make withdrawals from the Accounts until such time as we or the Security Agent shall in accordance with the terms of the Security Agreement notify you in writing that our permission is withdrawn, whereupon we will not

³ Use if a Designated Account. See clause 5.

be permitted to withdraw any amounts from any Account without the prior written consent of the Security Agent.]⁴

These instructions cannot be revoked or varied without the prior written consent of the Security Agent.

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

Please confirm your acceptance of the above instructions by returning the attached acknowledgement to the Security Agent with a copy to ourselves.

Yours faithfully

By:
for and on behalf of
MSP Capital Four Limited

⁴ Use if a Trading Account. See clause 5.

Part 2 - Form of acknowledgement from third party bank

To: Shawbrook Bank Limited, as Security Agent

Date:

Dear Sirs

We confirm receipt of a notice dated [●] (the "**Notice**") from [*relevant Chargor*] (the "**Company**") of a charge, upon the terms of a Security Agreement dated [●], over all the Company's right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following accounts with us in the name of the Company together with interest relating thereto:

[●] (together the "**Accounts**")

We confirm that:

1. we accept the instructions and authorisations contained in the Notice and undertake to comply with its terms;
2. we have not received notice of the interest of any third party in any Account or in the sums of money held in any Account or the debts represented by those sums and we will notify you promptly should we receive notice of any third party interest;
3. we have not claimed or exercised, nor will we claim or exercise, any Security or right of set-off or combination or counterclaim or other right in respect of any Account, the sums of money held in any Account or the debts represented by those sums;
4. [we will not permit any amount to be withdrawn from any Account except against the signature of one of your authorised signatories;]⁵

OR

5. [until you or the Company notify us in writing that withdrawals are prohibited in accordance with the terms of the Security Agreement, the Company may make withdrawals from the Accounts; upon receipt of such notice we will not permit any amount to be withdrawn from any Account except against the signature of one of your authorised signatories;]⁶ and
6. we will not seek to modify, vary or amend the terms upon which sums are deposited in the Accounts without your prior written consent.

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

Yours faithfully

.....
for and on behalf of
[**third party bank**]

⁵ Use if a Designated Account. See clause 5.

⁶ Use if a Trading Account. See clause 5.

SIGNATORIES TO SECURITY AGREEMENT

The Chargor

Executed as a deed by **MSP CAPITAL**)
FOUR LIMITED)
)
)

Signature of director
Name of director
Paul Miracca

DocuSigned by:
[Redacted Signature]
47406839979048F...

Signature of director
Name of director
Martin Higgins

DocuSigned by:
[Redacted Signature]
32E1B478B40E4FD...

The Security Agent

Signed by)
)
for and on behalf of **SHAWBROOK**)
BANK LIMITED:)

DocuSigned by:
[Redacted Signature]
566EDE8A1D7C4F9...
Warren Mutch