



Registration of a Charge

Company name: **SIERRA PRIVATE HOLDINGS I LTD**

Company number: **10158579**



X5EN12GO

Received for Electronic Filing: **01/09/2016**

Details of Charge

Date of creation: **19/08/2016**

Charge code: **1015 8579 0001**

Persons entitled: **CERBERUS BUSINESS FINANCE, LLC**

Brief description:

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:

STEPHENSON HARWOOD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10158579

Charge code: 1015 8579 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th August 2016 and created by SIERRA PRIVATE HOLDINGS I LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st September 2016 .

Given at Companies House, Cardiff on 2nd September 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

Security Agreement

Dated 19 August 2016

(1) The persons listed in Schedule 1 (*The Chargors*)
(together the **Chargors**)

and

(2) Cerberus Business Finance, LLC
(the **Collateral Agent**)

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Security Agreement

Dated 19 August 2016

Between

- (1) The persons listed in Schedule 1 (*The Chargors*) (each a **Chargor** and together the **Chargors**); and
- (2) **Cerberus Business Finance, LLC** as security trustee for the Secured Parties (the **Collateral Agent**).

This deed witnesses

1 Definitions and interpretation

1.1 Definitions

This Security Agreement is intended to be a deed between the parties to it and is referred to here as '**this Deed**'. Any references in this Deed to the Security Agreement are also a reference to this Deed. Words and expressions defined in the Facility Agreement have the same meanings in this Deed, unless they are expressly defined in this Deed:

Account means each bank account in the name of a Chargor held with an Account Bank.

Account Bank means each bank with which a Chargor holds an Account.

Agent means the Administrative Agent (as defined in the Facility Agreement).

Agreement for Lease means an agreement to grant an Occupational Lease for all or part of a Secured Property;

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

Dividend means all dividends, interest and other distributions paid or payable or arising from time to time in respect of any Investment.

Equivalent Financial Collateral shall have the same meaning as it has in the Regulations.

Equipment means all fixed and moveable plant, machinery, tools, vehicles, computers, office and other equipment and the benefit of all related Authorisations, agreements and warranties.

Facility Agreement means the facility agreement dated on or around the date of this Deed between (among others) Sierra Private Merger Sub, Inc., (to be merged with and into Xura, Inc.) as a U.S. Borrower, Sierra Private Holdings II Ltd. as a U.K. Borrower and Cerberus Business Finance, LLC as Collateral Agent and Administrative Agent.

Finance Document means Loan Document (as defined in the Facility Agreement).

Finance Party means the Agents and the Lenders.

Financial Collateral shall have the same meaning as it has in the Regulations.

Headlease means a lease under which a Chargor holds title to any part of a Secured Property.

Insurances means each contract or policy of insurance to which any Chargor is a party or in which it has an interest.

Insurance Proceeds means all amounts payable from time to time to under each of the Insurances and all rights in connection with those amounts including any payment by way of refund.

Intellectual Property Rights means:

- (a) any patents, petty patents, trademarks, service marks, trade names, designs, business names, domain names, moral rights, rights in designs, software rights, utility models, database rights, copyrights, rights in the nature of copyright, and all other forms of intellectual or industrial property and other intellectual property rights and interests;
- (b) any rights in or to inventions, formulae, confidential or secret processes and information, know-how and similar rights, topographical or similar rights, goodwill and any other rights and assets of a similar nature and other intellectual property rights and interests; and
- (c) any other right to use, or application to register or protect, any of the rights listed in paragraphs (a) or (b),

arising or subsisting in any jurisdiction and whether registered or not.

Investments means:

- (a) all or any shares, debentures, stocks, bonds and securities of any kind negotiable instruments, warrants, other investments of whatever nature and any other financial instruments as defined in the Regulations;
- (b) all Equivalent Financial Collateral; and
- (c) the shares listed in Schedule 3 (*Investments*).

LPA means the Law of Property Act 1925.

Lease Document means:

- (a) an Agreement for Lease; or
- (b) an Occupational Lease.

Legal Mortgage means a charge by way of legal mortgage in respect of any Real Property by a Chargor in favour of the Collateral Agent substantially in the form set out in Schedule 9 (*Form of Legal Mortgage*).

Obligor means Loan Party (as defined in the Facility Agreement).

Occupational Lease means any lease or licence or other right of occupation or right to receive rent to which a Secured Property may at any time be subject and includes any guarantee of a tenant's obligations under the same.

Party means a party to this Deed.

Permitted Security means Permitted Liens as defined in the Facility Agreement together with any Security otherwise permitted by the Facility Agreement and/or the Finance Documents.

Real Property means:

- (a) all right, title and interest in all interests in all freehold, leasehold and commonhold property of each Chargor, from time to time situated in England and Wales;
- (b) all buildings or parts of buildings on or part of any property referred to in paragraph (a); and
- (c) all fixtures, fittings and fixed plant and machinery, including trade fixtures and fittings, from time to time, situated on or forming part of any property referred to in paragraph (a).

Receivables means, in relation to each Chargor, all its right, title and interest from time to time in and to all book and other debts of any nature, all other rights to receive money (excluding Accounts), and all Related Rights.

Receiver means a receiver appointed pursuant to this Deed or to any applicable law, whether alone or jointly, and includes a receiver and manager and, if the Collateral Agent is permitted by law to appoint an administrative receiver, includes an administrative receiver.

Registered IP means, in relation to each Chargor, all registered Intellectual Property Rights owned by a Chargor and including, but not limited to, those described in Part 1 of Schedule 8 (*Registered IP*).

Regulations means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements, as amended by (i) the Financial Collateral Arrangements (No 2) Regulations 2003 (Amendment) Regulations 2009 (SI 2009/2462), and (ii) the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010 (SI 2010/2993), and **Regulation** means any of them.

Related Rights means, in relation to a Security Asset:

- (a) any proceeds of sale, transfer or other disposal, lease, licence, sub-licence, or agreement for sale, transfer or other disposal, lease, licence or sub-licence, of that Security Asset;
- (b) any moneys or proceeds paid or payable deriving from that Security Asset;

- (c) any rights, claims, guarantees, indemnities, Security or covenants for title in relation to that Security Asset;
- (d) any awards or judgments in favour of a Chargor in relation to that Security Asset; and
- (e) any other assets deriving from, or relating to, that Security Asset.

Secured Liabilities means Obligations as defined in the Facility Agreement.

Secured Property means all of the Real Property subject to (i) any Security created by or under this Deed or (ii) any supplemental Legal Mortgage dated on or after the date of this Deed.

Security means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

Security Assets means all of the assets of whatever nature of each Chargor which are the subject of any Security created by or under this Deed.

Security Period means the period starting on the date of the Facility Agreement and ending on the date on which the Agent is satisfied that all of the Secured Liabilities are irrevocably discharged in full and no Finance Party has any commitment or liability, whether present or future, actual or contingent, in relation to any Commitment under the Facility Agreement.

Tax means Taxes as defined in the Facility Agreement.

USD means the lawful currency of the United States of America.

1.2 Construction

1.2.1 The principles of construction set out in clause 1.03 (*Certain Matters of Construction*) of the Facility Agreement apply to this Deed, insofar as they are relevant to it and subject to any necessary changes, as they apply to the Facility Agreement.

1.2.2 Unless a contrary intention appears, any reference in this Deed to:

- (a) this **Deed** and any other **Finance Document** is a reference to this Security Agreement or that Finance Document as amended, varied, novated, supplemented and replaced from time to time (but excluding any such amendment, variation, novation, supplement or replacement which is contrary to the Finance Documents);
- (b) **assets** includes revenues, property and rights of every kind, present, future, actual and contingent and whether tangible or intangible (including uncalled share capital);
- (c) **guarantee** means (other than contained in any Finance Document) any guarantee, letter of credit, bond, indemnity, documentary or other credit or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any

indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness

- (d) any **person** includes one or more of that person's assigns, transferees or successors in title, delegates, sub-delegates and appointees (in the case of a Party, in so far as such assigns, transferees or successors in title, delegates, sub-delegates and appointees are permitted) and any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality);
- (e) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (f) a **Secured Party** includes any Receiver;
- (g) each **Chargor**, the **Collateral Agent** or any other **Secured Party** or a **Receiver** includes any one or more of its assigns, transferees and successors in title (in the case of each Chargor, so far as any such is permitted); and
- (h) the **Collateral Agent** or any other **Secured Party** or a **Receiver** (except for the references in Clause 16 (*Power of attorney*)), includes its duly appointed nominees, attorneys, correspondents, trustees, advisers, agents, delegates and sub-delegates.

1.2.3 Each of the mortgages, fixed charges and assignments contained in Clauses 4.1 (*Real Property*) to 4.11 (*Other Contractual Rights*) over each category of assets and each asset specified in those Clauses shall be read and construed separately, as though each such category and asset were mortgaged, charged or assigned as applicable, independently and separately of each other.

1.2.4 Where this Deed creates Security over any Security Asset which constitutes Financial Collateral, this Deed is intended to be a **security financial collateral arrangement** as defined in the Regulations.

1.3 Third party rights

1.3.1 Each Secured Party and their respective officers, employees and agents may enforce any term of this Deed which purports to confer a benefit on that person, principally in relation to rights and indemnities in clauses 12 (*Protecting Secured Parties and Receivers*) and Clause 1.6.5, but no other person who is not a party to this Deed has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

- 1.3.2 Notwithstanding any term of any Finance Document, the Parties to this Deed and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of any person who is not a Party to this Deed.

1.4 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Collateral Agent.

1.5 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the Finance Documents and of any side letters between any parties in relation to any Finance Document are incorporated in this Deed, to the extent required to ensure that any purported disposition of an interest in Real Property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.6 Incorporation of terms from the Facility Agreement

The following clauses from the Facility Agreement are incorporated into this Deed *mutatis mutandis* as if set out in full, but so that references to the Facility Agreement shall be construed as references to this Deed:

- 1.6.1 subject to Clause 15 of this Deed, clause 7.01(s) (*Further assurances*);
- 1.6.2 clause 12.01 (*Notices, etc.*);
- 1.6.3 clause 12.04 (*Expenses, Taxes, Attorneys' fees*);
- 1.6.4 clause 12.05 (*Right of Set-off*); and
- 1.6.5 clause 12.23 (*Judgment Currency*).

1.7 Conflict

- 1.7.1 It is agreed that each Legal Mortgage is supplemental to this Deed, and to the extent the provisions of this Deed conflict with those of any Legal Mortgage, the provisions of that Legal Mortgage shall prevail.
- 1.7.2 This Deed is subject to the terms of the Facility Agreement. In the event of a conflict between the terms of this Deed and the terms of the Facility Agreement, the terms of the Facility Agreement shall prevail.

2 Covenant to pay

Each Chargor shall pay and discharge the Secured Liabilities when due in accordance with the terms of the Finance Documents.

3 Nature of Security created

3.1 General

All of the Security created under this Deed is created:

- 3.1.1 in favour of the Collateral Agent as trustee for the Secured Parties;
- 3.1.2 as a continuing security to secure the payment and discharge of all of the Secured Liabilities;
- 3.1.3 except for in the case of assets which are the subject of a legal mortgage under this Deed or where otherwise provided under this Deed, over all present and future assets of the kind described which are owned by each Chargor and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them; and
- 3.1.4 with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4 Creation of Security

Subject to Clause 4.14 (*Excluded Assets*), each Chargor creates the following Security in accordance with Clause 3 (*Nature of Security Created*) above.

4.1 Real Property

Each Chargor:

- 4.1.1 charges by way of first legal mortgage all Real Property listed in Schedule 2, (*Real Property charged by way of legal mortgage by the Chargors*);
- 4.1.2 charges to the extent not subject to the charge by way of legal mortgage in clause 4.1.1, by way of first fixed charge all of its Real Property and any other Real Property which it may subsequently acquire;
- 4.1.3 assigns absolutely, insofar as they are not charged by way of legal mortgage under Clause 4.1.1 (*Real Property*), all its rights and interests under or in respect of:
 - (a) in each agreement, licence, contract, easement, option, guarantee, Security, warranty, covenant for title or other right or document relating to the use, disposal or acquisition of the property referred in the definition of Real Property or other asset or right relating to all Real Property, including the Real Property listed in Schedule 2 (*Real Property charged by way of legal mortgage by the Chargors*);
 - (b) any Occupational Lease relating to the Real Property; and
 - (c) any proceeds of sale of any Real Property.

4.2 Equipment

Each Chargor charges by way of first fixed charge all Equipment insofar as it is not charged by way of legal mortgage under Clause 4.1 (*Real Property*).

4.3 Investments

Each Chargor charges by way of first fixed charge:

- 4.3.1 all Investments owned by it from time to time including those held for it by any nominee;
- 4.3.2 all allotments, accretions, offers, options, rights, moneys, property, bonuses, benefits and advantages, whether by way of conversion, exchange, bonus, redemption, preference, option rights, substitution or otherwise which at any time accrue to or are offered or arising from any Investment;
- 4.3.3 all Dividends; and
- 4.3.4 any proceeds of sale of each Investment or any right relating to it.

4.4 Intellectual Property Rights

Each Chargor charges by way of first fixed charge:

- 4.4.1 all Intellectual Property Rights;
- 4.4.2 any proceeds of sale or realisation of each Intellectual Property Right or any right relating to it;
- 4.4.3 any proceeds of any licence or right to use each Intellectual Property Right; and
- 4.4.4 all Security, guarantees, indemnities, options, agreements, rights, licences, warranties, agreement for use or other undertakings or covenants of title in respect of any Intellectual Property Right.

4.5 Goodwill

Each Chargor charges by way of first fixed charge its goodwill.

4.6 Uncalled capital

Each Chargor charges by way of first fixed charge its uncalled capital.

4.7 Authorisations

Subject to any restrictions at law or under the terms of any Authorisation, each Chargor charges by way of first fixed charge the benefit of all Authorisations held in relation to any Security Asset.

4.8 Insurances

Each Chargor charges by way of first fixed charge all its present and future right to receive the Insurance Proceeds from time to time under the Insurances.

4.9 Receivables

Each Chargor charges by way of first fixed charge all its Receivables.

4.10 Contractual Rights

Each Chargor assigns absolutely all its rights and interests under or in respect of:

4.10.1 each Lease Document; and

4.10.2 any Material Contract.

4.11 Other Contractual Rights

Each Chargor charges by first fixed charge, to the extent not effectively assigned under Clause 4.10 (*Contractual Rights*) all its rights and interest under and in respect of any contract listed under that Clause.

4.12 Floating charge over other assets

4.12.1 Each Chargor charges by way of first floating charge all its present and future business, undertaking, assets, rights and revenues which are not effectively charged by way of legal mortgage, charged by way of fixed charge or assigned under this Clause 4.

4.12.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to any floating charge created by this Deed to the extent that each floating charge shall be a 'qualifying floating charge' within the meaning of that paragraph.

4.13 Trust

If or to the extent that any assignment or charging of whatever nature, of any Security Asset is prohibited other than any Security Asset excluded from any fixed Security pursuant to Clause 4.14 (*Excluded Assets*), each Chargor holds it on trust for the Collateral Agent.

4.14 Excluded Assets

4.14.1 Unless otherwise expressly agreed in writing between each Chargor and the Collateral Agent after the date on which it becomes a party to this Deed, there shall be excluded from any fixed Security created by this Clause 4, from the other provisions of this Deed and from the operation of any further assurance provisions contained in the Finance Documents:

- (a) any asset or undertaking which a Chargor is at any time prohibited from creating Security on or over by reason of any contract, licence, lease, instrument or other arrangement with a third party (including any asset or undertaking which a Chargor is precluded from creating Security on or over without the prior consent of a third party);
- (b) any asset or undertaking which, if subject to any such Security or the provisions of this Deed, would give a third party the right to terminate or otherwise amend any rights, benefits and/or obligations of any member of the Consolidated Group in respect of that asset or undertaking or require any member of the Consolidated Group to take any action materially adverse to the interests of the Consolidated Group or any member thereof; and
- (c) any asset or undertaking subject to Security in favour of a third party or any cash constituting regulatory capital or customer cash.

- 4.14.2 If at any time a Chargor notifies the Collateral Agent that an asset being subject to the Security created by this Clause 4 or any other provision of this Deed is excluded by virtue of this Clause 4.14, and the Collateral Agent, acting reasonably, is satisfied that this is the case, the Collateral Agent shall promptly enter into such documentation as is required by the relevant Chargor in order to release that asset from the Security created by this Clause 4 and the other provisions of this Deed, provided that any costs and expenses incurred by the Collateral Agent entering into such documentation at the request of the relevant Chargor pursuant to this Clause 4.14.2 shall be for the account of the Chargor (subject to any relevant limitations set out in the Facility Agreement). The Collateral Agent is entitled to (but is not required to) rely absolutely and without any further investigation on any such notification from the relevant Chargor.
- 4.14.3 None of this Clause 4.14 shall apply to Security created pursuant to this Deed over the shares listed in Schedule 3.

5 Conversion of floating charge

5.1 Automatic conversion

Each floating charge created by this Deed will convert automatically into a fixed charge:

- 5.1.1 if the Collateral Agent receives notice of an intention to appoint an administrator to any Chargor;
- 5.1.2 if any steps are taken, (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of any Chargor over all or any part of its assets, or if such person is appointed in each case other than in circumstances not prohibited under the Finance Documents;
- 5.1.3 if any Chargor creates or attempts to create Security over all or any of the Security Assets, other than any Permitted Security;
- 5.1.4 on the crystallisation of any other floating charge over any of the Security Assets;
- 5.1.5 if any person seizes, attaches, charges, takes possession of or sells any Security Asset under any form of distress, sequestration, execution or other process, or attempts to do so; and
- 5.1.6 in any other circumstances prescribed by law.

5.2 Conversion on notice

Subject to Clause 5.3 (*Limitation*), the Collateral Agent may, by written notice to each Chargor at any time during the Security Period, convert the floating charges created by this Deed into fixed charges in respect of any Security Asset of such Chargor specified in that notice if:

- 5.2.1 an Event of Default is continuing; or

- 5.2.2 the Collateral Agent (acting reasonably) considers that Security Asset to be in danger of being seized, attached, charged, taken possession of or sold under any form of distress, sequestration, execution or other process or otherwise to be in jeopardy.

5.3 Limitation

Clause 5.2 (*Conversion on notice*) shall not apply by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986. Obtaining a moratorium or doing anything with a view to obtaining a moratorium pursuant to Schedule A1 of the Insolvency Act 1986 (including any preliminary decision or investigation) shall not in and of itself cause the floating charge over all or any Security Asset to crystallise.

6 Representations and warranties

The Collateral Agent has entered into this Deed in reliance on the representations of each Chargor set out in this Clause 6, and each Chargor warrants, to the Collateral Agent and the Secured Parties on the date of this Deed, as set out in this Clause 6.

6.1 Chargor IP

It is the registered proprietor of each Registered IP described opposite its name in Part 1 of Schedule 8 (*Registered IP*), and full and accurate details of all Registered IP owned by it are set out in Schedule 8 (*Registered IP*);

7 Undertakings relating to the Security Assets

The undertakings in this Clause 7 remain in force from the date of this Deed until the expiry of the Security Period.

7.1 Disposals

No Chargor shall enter into a single transaction or a series of transactions (whether related or not, and whether voluntary or involuntary), dispose of any Security Asset or part of any Security Asset, or enter into an agreement to make any disposal, except as permitted under the terms of the Facility Agreement or with the written consent of the Collateral Agent.

7.2 Negative pledge

No Chargor shall create or permit to subsist any Security over any Security Asset except the Permitted Security.

7.3 Preservation of Assets

Each Chargor, subject to the terms of the Facility Agreement, in relation to any Real Property which is subject to a Mortgage under this Deed or pursuant to Clause 15.3 (*Future Property*), shall not exercise any of the powers conferred by sections 99 (*Lease of powers of mortgages and mortgage in possession*) and 100 (*Powers of mortgagor in possession to accept surrenders of leases*) of the LPA of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases.

7.4 Notices of assignment and charge

Each Chargor shall promptly after the execution of this Deed:

- 7.4.1 serve the following notices substantially in the forms set out in the relevant Schedule referred to in this Clause;
- 7.4.2 deliver to the Collateral Agent a copy of each notice; and
- 7.4.3 use all reasonable endeavours to procure that the recipient of such notice acknowledges that notice in writing substantially in the form set out in the relevant Schedule referred to in this Clause provided that, if the Chargor has used all reasonable endeavours but has not been able to obtain such acknowledgement, its obligation to use reasonable endeavours to obtain such acknowledgement shall cease on the expiry of the applicable time period for the relevant acknowledgement:
 - (a) in respect of each Account, notice to the Account Bank of the floating charge in the form set out in Part 1 of Schedule 5 (*Forms of letter to and from Account Bank*) and acknowledgment set out in Part 2 of Schedule 5 (*Forms of letter to and from Account Bank*), with such notices to be delivered within 1 Business Day of the date of this Deed and any such acknowledgement to be delivered to the Collateral Agent within 90 days of receipt by the relevant Account Bank;
 - (b) in respect of Insurances, notice of the fixed charge to each insurer and acknowledgement each in the form set out in Schedule 6 (*Forms of letter for Insurances and acknowledgement*) with any such acknowledgement to be delivered to the Collateral Agent within 20 Business Days of receipt by the relevant insurer; and
 - (c) in respect of Receivables or contractual rights, notice of assignment to the counterparties and acknowledgements each in the form set out in Schedule 7 (*Forms of letter for assigned agreements and acknowledgement*) as applicable, provided that such notices need not be delivered prior to request by the Collateral Agent, which may only be made whilst an Event of Default which is continuing.
- 7.4.4 The Collateral Agent shall not give notice to any Account Bank, insurer or counterparty under any notice served by a Chargor pursuant to this Clause 7.4 unless and until an Event of Default has occurred and is continuing.

7.5 Exercise of rights

Subject to the terms of the Facility Agreement, and to the terms of any such notice or acknowledgement given or received under Clause 7.3 (*Preservation of Assets*), while no Event of Default is continuing each Chargor may:

- 7.5.1 exercise its rights in respect of the agreements assigned pursuant to Clauses 4.8 (*Insurances*) and 4.10 (*Contractual Rights*); and
- 7.5.2 deal with the relevant counterparties in respect of those agreements.

7.6 Persons of Significant Control

- 7.6.1 Each Chargor shall comply with all notices it receives pursuant to Part 21A of the Companies Act 2006 (the "**PSC Register Regime**") and provide the Collateral Agent with copies of any such notices.
- 7.6.2 Each Chargor whose shares are being charged in favour of the Collateral Agent pursuant to this Deed shall not issue any restrictions notice in accordance with the PSC Register Regime unless required by law.

8 Investments

8.1 Undertakings, Dividends and Voting rights etc.

- 8.1.1 Each Chargor which has granted a charge over any Investment under this Deed, shall comply with any notice served on it, under the Companies Act 2006 or pursuant to its articles of association or any other constitutional document, in respect of or in connection with the Investments or any of them.
- 8.1.2 Each Chargor shall, if any Investments are in, or are converted into, uncertificated form, promptly notify the Collateral Agent and:
 - (a) act on any instructions given by the Collateral Agent, and give such directions as the Collateral Agent may reasonably require to protect and preserve the Collateral Agent's Security in respect of those Investments; and
 - (b) if requested by the Collateral Agent, transfer those Investments which are or become uncertificated to an escrow account, in respect of which it has named as escrow agent the Collateral Agent or any nominee or agent of the Collateral Agent, notified to the relevant Chargor or any other person approved in writing by the Collateral Agent.

8.2 Before an Event of Default

Until an Event of Default occurs and is continuing, each Chargor having granted a charge over Investments under this Deed, may:

- 8.2.1 receive and retain Dividends, and exercise all voting and other rights and powers attached to the Investments; or
- 8.2.2 in respect of any Investments of which the Collateral Agent is the legal owner, direct the Collateral Agent to pay over the Dividends to it, and exercise all such voting and other rights and powers,

but, in each case, only in a manner which does not materially adversely affect the validity of or the ability of the Collateral Agent to enforce the Security over such Investments or other rights created under this Deed.

8.3 After an Event of Default

After an Event of Default occurs and is continuing and the Collateral Agent has given notice to a Chargor that it intends to exercise its rights under this Clause 8.3:

- 8.3.1 each Chargor shall, if requested by the Collateral Agent promptly pay over to the Collateral Agent all Dividends which it may receive, and shall direct all Dividends to be paid into such account as the Collateral Agent shall direct, and exercise all voting and other rights and powers attached to the Investments in any manner which the Collateral Agent may direct; or
- 8.3.2 in respect of Investments of which the Collateral Agent is the legal owner, the Collateral Agent may receive and retain all Dividends and apply them in any manner permitted by this Deed, and may exercise all such voting and other rights and powers in such manner as it determines,

except that in the exercise of any such rights referred to in this Clause, the Collateral Agent shall only do so for the purpose of preserving or enforcing the Security created over the Investments pursuant to this Deed.

9 Enforcement

9.1 When Security becomes enforceable

The Security created by this Deed shall become immediately enforceable:

- 9.1.1 on the occurrence of an Event of Default and at any time when the Event of Default is continuing; or
- 9.1.2 if any Chargor so requests in writing.

9.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Collateral Agent may (without prejudice to any other of its rights and remedies and without notice to any Chargor) do all or any of the following:

- 9.2.1 exercise all the powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 (*Regulation of exercise of power of sale*) or 109(1) (*Appointment, powers, remuneration and duties of receiver*) of the LPA;
- 9.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Security Asset, without the restrictions imposed by sections 99 (*Leasing powers of mortgagor and mortgagee in possession*) and 100 (*Powers of mortgagor and mortgagee in possession to accept surrenders of leases*) of the LPA;
- 9.2.3 to the extent that any Security Asset constitutes Financial Collateral, appropriate it and transfer the title to it to the Collateral Agent insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18 (*Duty to value collateral and account for any difference in value on appropriation*);

- 9.2.4 promptly value any Security Asset which constitutes Financial Collateral, at the time of appropriation as referred to in the Regulations, as the market price of the relevant Security Asset, as confirmed by the Collateral Agent by reference to either the relevant public quoted index reflecting the right to effect immediate sale thereof on a recognised stock exchange at such price on such date of valuation (if applicable) or a fair valuation opinion provided by an independent reputable internationally recognised third party professional firm or advisors and, in any event in a 'commercially reasonable manner' for the purposes of the Regulations;
- 9.2.5 subject to Clause 10.1 (*Method of appointment and removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Security Assets;
- 9.2.6 appoint an administrator to each and any of the relevant Chargors; and
- 9.2.7 if it has not done so, serve notices substantially in the forms referred to in Clause 7.4 (*Notices of assignment and charge*).

9.3 Disposal of the Security Assets

In exercising the powers referred to in Clause 9.2 (*Powers on enforcement*), the Collateral Agent or any Receiver may sell or dispose of all or any of the Security Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

9.4 Application of moneys

9.4.1 The Collateral Agent or any Receiver shall apply moneys received by them under this Deed after the Security created under this Deed has become enforceable in the following order:

- (a) **first**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid costs and expenses of the Collateral Agent and any Receiver under this Deed or which are incidental to any Receiver's appointment, from the date those amounts became due until the date they are irrevocably paid in full;
- (b) **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Collateral Agent and any Receiver;
- (c) **thirdly**, in or towards the discharge of all liabilities having priority to the Secured Liabilities;
- (d) **fourthly**, in or towards the discharge of the Secured Liabilities in accordance with the Facility Agreement; and
- (e) **fifthly**, in the payment of any surplus to each relevant Chargor or other person entitled to it,

and section 109(8) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

9.4.2 Clause 9.4.1 will override any appropriation made by a Chargor.

10 Appointment and powers of Receivers

10.1 Method of appointment and removal

10.1.1 The Collateral Agent may not appoint a Receiver by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A (*Moratorium*) of the Insolvency Act 1986.

10.1.2 Every appointment or removal of a Receiver, of any delegate or of any other person by the Collateral Agent pursuant to this Deed may be made in writing under the hand of any officer or manager of the Collateral Agent (subject to any requirement for a court order in the removal of an administrative receiver).

10.2 Powers of Receiver

Every Receiver shall have all the powers:

10.2.1 of the Collateral Agent under this Deed;

10.2.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;

10.2.3 which are specified in Schedule 1 (*Powers of Administrator or Administrative Receiver*) of the Insolvency Act 1986 in relation to, and to the extent applicable to, the Security Assets or any of them (whether or not the Receiver is an administrative receiver within the meaning of the Insolvency Act 1986) together with the additional powers set out in Schedule 4 (*Additional powers of Receiver*);

10.2.4 in relation to any Security Asset, which he would have if he were its only absolute legal and beneficial owner;

10.2.5 to use the name of each Chargor in relation to any of its powers or actions under this Deed; and

10.2.6 to do whatever, in the opinion of the Receiver it:

- (a) considers necessary or desirable to realise, protect, exploit, maintain or increase the value of the Security Assets or any of them, including bringing or defending proceedings in the name or on behalf of any Chargor or the Collateral Agent and entering into and executing documents and taking any action in the name of that Chargor or the Collateral Agent;
- (b) considers incidental or conducive to any right, power, function, discretion or authority of the Receiver under this Deed or by law; and
- (c) considers necessary or desirable to undertake as agent of each Chargor.

10.3 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on a Receiver by this Deed.

10.4 Receiver as agent

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

10.5 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Collateral Agent and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

11 Protection of purchasers

No purchaser or other person dealing with the Collateral Agent or any Receiver shall be bound or concerned:

- 11.1.1 to see or enquire whether the right of the Collateral Agent or any Receiver to exercise any of the powers conferred by this Deed has arisen or not;
- 11.1.2 with the propriety of the exercise or purported exercise of those powers; or
- 11.1.3 with the application of any moneys paid to the Collateral Agent, to any Receiver or to any other person.

12 Protection of the Secured Parties and Receivers

12.1 Exclusion of liability

- 12.1.1 Clause 12.15 (*Indemnification, Limitation of Liability for Certain Damages*) of the Facility Agreement shall be incorporated into this Deed as if set out in full here. In addition none of the Secured Parties, or any of their respective officers or employees shall have any responsibility or liability to account as mortgagee in possession or for any loss upon realisation of any Security Asset or for any other default or omission in relation to all or any of the Security Assets for which a mortgagee in possession might be liable, except in the case of gross negligence or wilful misconduct on the part of that person.
- 12.1.2 Each Secured Party and their respective officers and employees shall be entitled to be indemnified out of the Security Assets or any part of them in respect of the indemnities referred to in clause 12.15 (*Indemnification, Limitation of Liability for Certain Damages*) of the Facility Agreement and may retain and use monies received by it under this Deed towards payment of any sums under those indemnities.

13 Preservation of Security

13.1 Reinstatement

If any payment by a Chargor or discharge given by the Collateral Agent (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:

- 13.1.1 the liabilities of that Chargor and the Security created by this Deed shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- 13.1.2 the Secured Parties shall be entitled to recover the value or amount of that Security or payment from that Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

13.2 Waiver of defences

Neither the Security created by this Deed nor the obligations of each Chargor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it, the Collateral Agent or any other Secured Party) including:

- 13.2.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 13.2.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 13.2.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Obligor 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;
- 13.2.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- 13.2.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any document or Security, including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or Security;
- 13.2.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or

13.2.7 any insolvency, liquidation, administration or similar proceedings.

13.3 Chargor intent

Without prejudice to the generality of Clause 13.2 (*Waiver of defences*), each Chargor expressly confirms that it intends that the Security created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

13.3.1 acquisitions of any nature;

13.3.2 increasing working capital;

13.3.3 enabling distributions to be made;

13.3.4 carrying out restructurings;

13.3.5 refinancing existing facilities;

13.3.6 refinancing any other indebtedness;

13.3.7 making facilities available to new borrowers;

13.3.8 any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and

13.3.9 any fees, costs and/or expenses associated with any of the foregoing.

13.4 Immediate recourse

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from that Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

13.5 Appropriations

During the Security Period each Secured Party may:

13.5.1 refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 9.4 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and no Chargor shall be entitled to the benefit of the same; and

13.5.2 hold in an interest-bearing suspense account any moneys received from a Chargor or on account of the Secured Liabilities.

13.6 Deferral of a Chargor's rights

During the Security Period and unless the Collateral Agent otherwise directs, no Chargor shall exercise any rights which it may have by reason of performance by it of its obligations under this Deed or the enforcement of the Security created by this Deed:

- 13.6.1 to receive or claim payment from, or be indemnified by an Obligor;
- 13.6.2 to claim any contribution from any guarantor of, or party who has granted Security in respect of, any Obligor's obligations under the Finance Documents;
- 13.6.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
- 13.6.4 to exercise any right of set-off against any Obligor; and/or
- 13.6.5 to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If a 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 Parties and shall promptly pay or transfer the same to the Collateral Agent as the Collateral Agent may direct for application in accordance with this Deed and the Facility Agreement.

13.7 Additional Security

This Deed is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security now or in the future held by or available to any Secured Party.

13.8 New accounts

If any subsequent Security is granted over or affects all or any of the Security Assets, the Collateral Agent or any other Secured Party may open a new account or accounts in the name of the relevant Chargor from the date it receives notice of such Security or the date it is deemed to have received such notice. If it does not do so, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that subsequent Security. As from that time, all payments made by or on behalf of the relevant Chargor to that Secured Party:

- 13.8.1 shall be credited or be treated as having been credited to the new account of that Chargor; and
- 13.8.2 shall not operate to reduce the Secured Liabilities.

14 Tacking for further advances

For the purposes of section 94(1) (*Tacking and further advances*) of the LPA and section 49(3) (*Tacking and further advances*) of the Land Registration Act 2002, the

Collateral Agent confirms on behalf of the Lenders that the Lenders shall perform their obligations under the Finance Documents, including any obligation to make further advances to the Obligors.

15 Further assurances

15.1 Application to Land Registrar

Subject to the provisions of Clause 4.13 (*Excluded Assets*) the Chargors shall apply to the Land Registry in Form RX1 and consent to the registration against the registered titles of any Real Property specified in Schedule 2 (*Real Property charged by way of legal mortgage by the Chargors*) of:

15.1.1 a restriction in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [*date of this Deed*] in favour of [*insert name of Collateral Agent*] referred to in the charges register or their conveyancer. (Form P)"; and

15.1.2 a notice that the Lenders are under an obligation to make further advances on the terms and subject to the conditions of the Finance Documents.

15.2 Further action

Clause 7.01(s) (*Further Assurances*) of the Facility Agreement shall be incorporated into this Deed as if set out in full here, and any such document executed pursuant to that clause may disapply section 93 (*Restriction on consolidation of mortgages*) of the LPA.

15.3 Future Property

15.3.1 If, in accordance with clause 7.01(m) (*After Acquired Real Property*) of the Facility Agreement, the Collateral Agent notifies the relevant Chargor that it requires a Mortgage in respect of any Real Property acquired by a Chargor after the date of this Deed, that Chargor must:

- (a) at its own expense, promptly execute and deliver to the Collateral Agent a legal mortgage substantially in the form set out in Schedule 9 (*Form of Legal Mortgage*);
- (b) if the title to that Real Property is registered at the Land Registry, or required to be so registered, make an application to the Land Registry for a restriction against the registered titles in the terms set out in Clause 15.1 (*Application to Land Registrar*); and
- (c) if applicable, ensure that this Deed is correctly noted in the Register of Title against that title at the Land Registry.

15.3.2 If the consent of the landlord in whom the reversion of a lease is vested is required for a Chargor to execute a legal mortgage over it, that Chargor will

obtain the landlord's consent within 60 days of a request by the Collateral Agent (or such longer period as the Collateral Agent may agree).

15.4 Deposit of documents

Each Chargor shall, on or as soon as is reasonably practicable following the date of this Deed and at all times during the Security Period, and if the Collateral Agent so requests, deposit with the Collateral Agent:

15.4.1 all deeds, certificates and other documents of or evidencing title for the Security Assets (to the extent such Security Assets are the subject of a Mortgage under this Deed or pursuant to Clause 15.3 (*Future Property*)); and

15.4.2 certificates together with signed undated transfers in respect of the Investments charged under Clause 4.3 (*Investments*), completed in blank and, if the Collateral Agent so requires, pre-stamped.

15.5 Law of Property (Miscellaneous Provisions) Act 1994

The covenant set out in section 2(1)(b) (*Right to dispose and further assurance*) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the provisions set out in this Clause 15.

16 Power of attorney

16.1 Each Chargor by way of security, irrevocably and severally, appoints each of the Collateral Agent, any Receiver, and any of its delegates or sub-delegates, or other person nominated in writing by, an officer of the Collateral Agent or Receiver jointly and severally as its attorney, in the name of that Chargor, on its behalf and in such manner as the attorney may in its or his absolute discretion think fit at any time while an Event of Default is continuing to take any action, sign or execute any documents which that Chargor is obliged to take, sign or execute under with this Deed.

16.2 Each Chargor ratifies and confirms, and agrees to ratify and confirm, all such actions taken and documents signed or executed or purported to be done by any attorney under its appointment under this Deed in accordance with Clause 16.1 above.

17 Collateral Agent

17.1 Declaration of Trust

The Collateral Agent declares itself security trustee of the Security Assets, and the Security constituted by this Security Agreement and of all moneys, property and assets paid to the Collateral Agent or to its order or held by the Collateral Agent or its nominee or received by the Collateral Agent or its nominee pursuant to or in connection with this Deed with effect from the date hereof are held on trust for each of the Secured Parties and any Receiver absolutely in accordance with the terms of the Facility Agreement and this Deed.

17.2 Powers Supplemental

The rights, powers and discretions conferred upon the Collateral Agent by this Security Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 ("**Trustee Acts**") and in addition to any which may be vested in the Collateral Agent by general law, pursuant to the terms of any of the Finance Documents or otherwise.

17.3 Disapplication

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Collateral Agent in relation to the trusts constituted by this Security Agreement. Where there are any inconsistencies between the Trustee Acts and the provisions of this Security Agreement, the provisions of this Security Agreement shall, to the extent allowed by applicable law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Security Agreement shall constitute a restriction or exclusion for the purpose of that Act.

17.4 Winding Up

Subject to Clause 17.7 (*Perpetuity Period*), upon the release of the Security Assets from the Security created by this Security Agreement, the trusts constituted by this Security Agreement shall be automatically wound up and the Collateral Agent shall be released from its obligations hereunder (save for those which arose prior to such winding-up to the extent that such obligations, by the express terms of this Security Agreement, are to survive the termination of this Security Agreement).

17.5 Indemnity

Any indemnity expressed in favour of the Collateral Agent under any Finance Document shall be deemed to be expressed in favour of any Receiver also and any such Receiver may rely on this clause.

17.6 Other

Every obligation, undertaking and representation and warranty given to the Collateral Agent under this Security Agreement is given to it as Collateral Agent and trustee for the Secured Parties in accordance with the terms of its appointment as Collateral Agent.

17.7 Perpetuity Period

The perpetuity period under the rule against perpetuities, if applicable to this Security Agreement, shall be the period of one hundred and twenty-five (125) years from the date of the Facility Agreement.

18 Discharge of Security

At the end of the Security Period, unless any third party has any subrogation or other rights in respect of the Security created by this Deed at that time, the Collateral Agent shall, or shall procure that its appointees will, at the request and cost of the relevant Chargor:

- 18.1 release the Security Assets or any part of them from the Security created by or under this Deed; and
- 18.2 re-assign to the relevant Chargor those Security Assets that have been assigned to the Collateral Agent by or under this Deed.

Section 93 (*Restriction on consolidation of mortgages*) of the LPA shall not apply to this Deed.

19 Calculations and certificates

19.1 Accounts

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

19.2 Certificates and determinations

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

20 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

21 Remedies and waivers

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

22 Counterparts

This Deed 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 Deed.

23 Governing law

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

24 Enforcement

24.1 Jurisdiction

- 24.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity and termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed (a "**Dispute**").
- 24.1.2 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.
- 24.1.3 This Clause is for the benefit of the Collateral Agent only. As a result the Collateral 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 Collateral Agent may take concurrent proceedings in a number of jurisdictions.

Executed as a deed and delivered on the date appearing at the beginning of this Deed.

Schedule 1
The Chargors

Name of Chargor	Registration Number
Sierra Private Holdings I Ltd	10158579
Sierra Private Holdings II Ltd	10159026

Schedule 2**Real Property charged by way of legal mortgage by the Chargors****Part 1 – Registered Land**

Name of Chargor	Description address	Title number

Part 2 – Unregistered Land

Name of Chargor	Description address

Schedule 3
Investments

Name of Chargor	Shares	Securities	Other Investments
Sierra Private Holdings I Ltd	2 ordinary shares of Sierra Private Holdings II Ltd		

Schedule 4

Additional powers of Receiver

Each Receiver appointed to a Chargor ("**Relevant Chargor**") or in relation to all or any of the Security Assets of a Relevant Chargor, shall have:

- (i) the powers conferred by the LPA on receivers and mortgagees in possession;
- (ii) the powers conferred by Clause 10.2 (*Powers of Receiver*); and
- (iii) the powers set out in this Schedule.

1 Security Assets

- 1.1 To enter into, take immediate possession of, collect and get in the Security Assets.
- 1.2 To take all such action and execute all such documentation as the Receiver may consider necessary or desirable for the management, operation or realisation of all or any part of the Security Assets.

2 Sale and disposal of Security Assets

To sell, exchange, surrender, renounce, deal with, convert into money, dispose of and realise the Security Assets or any of them or part of the Security Assets:

- 2.1 in any manner;
- 2.2 subject to any exceptions, reservations, covenants and obligations; and
- 2.3 with or without consideration, such consideration taking the form of cash, debentures, shares, securities, other assets or obligations or other valuable consideration, payable in a lump sum or instalments over a period of time;

in each case as the Receiver may consider necessary or desirable.

3 Manage the business

To continue, commence, manage, develop, amalgamate, diversify or undertake any business of the relevant Chargor.

4 Collect moneys

To collect and get in all moneys or proceeds in any way arising from the Security Assets or any document or right affecting the Security Assets whether directly or indirectly.

5 Apportion payments

To apportion any income and any financial liabilities.

6 Real property rights

- 6.1 To acquire, renew, extend, grant, vary or otherwise deal with such easements, servitudes, rights, privileges and/or licences as the Receiver considers necessary or desirable.

- 6.2 To construct or complete:
 - 6.2.1 any building, development and repair to the Secured Property whether or not it is in accordance with the development planned or being carried on at any Secured Property; and
 - 6.2.2 any roads, access ways and services.
- 6.3 To carry out any work involving furnishing or fitting out or the installation or provision of any Equipment on any part of any of the Secured Property.
- 6.4 To dedicate any part or parts of the Secured Property as a highway where to do so is desirable in order that any Secured Property may more conveniently be developed.
- 6.5 To make any change or arrangement as to boundaries of any Secured Property with adjoining owners and neighbours so as to resolve any dispute or to facilitate development.
- 6.6 To make any application for, and maintain any planning consent, building regulations approval or similar consent or licence relating to any of the Secured Property.
- 6.7 Provided this does not result in a breach of the terms of any Headlease or any Occupational Lease, to effect and maintain Insurances, against including but not limited to:
 - 6.7.1 fire and other physical risks;
 - 6.7.2 loss of rent;
 - 6.7.3 third party or public liability;
 - 6.7.4 structural or latent defect;
 - 6.7.5 indemnities of any kind; or
 - 6.7.6 other matters as the Receiver considers necessary or desirable,and to make, prove, negotiate, adjust or enforce any claim on any Insurances whether effected by the Relevant Chargor or the Receiver.

7 Leases

- 7.1 To grant any lease or tenancy for any term, at any or no rent, with or without any premium on such terms as the Receiver considers necessary or desirable.
- 7.2 To accept the surrender or renunciation of any lease or tenancy, whether or not for the purpose of enabling a new lease to be granted on such terms as the Receiver considers necessary or desirable, including any payment to the tenant on such surrender or renunciation.
- 7.3 To give an effectual receipt for any premium payable on any grant, surrender or renunciation of any lease or tenancy.

- 7.4 To exercise, observe and perform any or all of the powers, obligations or duties conferred or imposed on any owner or occupier of any Secured Property, whether as landlord and/or tenant, at common law or by statute.
- 7.5 To initiate, oppose, negotiate, participate in, compromise or conclude any review or revision of any rent payable in respect of any lease or tenancy.

8 Equipment

- 8.1 To sever and sell, or dispose of separately from any Secured Property containing it, any Equipment other than landlord's fixtures without the consent of the relevant Chargor.
- 8.2 To substitute, repair or improve the Equipment or any part of it.

9 VAT

To exercise any option or right of election available in law to the Relevant Chargor or the Receiver to waive exemption so that the supplies shall be supplies chargeable or taxable for VAT purposes at the standard or other applicable rate of tax.

10 Enter into, vary and execute documents

- 10.1 To sign, seal using the company seal of the Relevant Chargor, execute, deliver, complete and perfect all notices and documents, whether agreements or deeds for exercising, observing and performing any of the powers, obligations or duties conferred or imposed on the Relevant Chargor by this Deed or by any law in respect of the Security Assets, all as the Receiver considers necessary or desirable.
- 10.2 To agree any variation, modification or determination of any existing deeds or agreements and enter into, make or obtain any new agreement or deeds as the Receiver considers may be necessary or desirable.

11 Receipts

To give valid receipts for all moneys or realisation proceeds in respect of any Security Asset.

12 Book debts

To sell or assign or otherwise dispose of book debts in any manner and on the terms the Receiver considers necessary or desirable.

13 Dealings with a company

To promote, incorporate, manage or wind up, either alone or with others, any company, which may or may not be a Subsidiary of the Relevant Chargor, either for the purposes of:

- 13.1 disposing of any Security Asset to that company;
- 13.2 undertaking works on or providing services to the occupiers of any Security Asset; and/or

13.3 realising any Security Asset,
as the Receiver considers necessary or desirable.

14 Use of moneys

To utilise any moneys received to finance any expenditure from time to time incurred in connection with, the powers set out in this Schedule in advance of any other payments.

15 Borrow

To borrow, raise or secure the payment of money which may be required for the exercise of any of the powers conferred by this Deed, to create Security over any of the Security Assets in whatever form, or provide collateral, which may be granted in priority to the Security created by this Deed and the Permitted Security, as the Receiver considers necessary or desirable.

16 Lend

To lend money and make available any facility to the Relevant Chargor, any Obligor or to such other person as the Receiver considers necessary or desirable.

17 Uncalled capital

To make calls of whatever nature on the members of the Relevant Chargor for uncalled capital and to request payment of such uncalled capital and enforce such payment in accordance with the constitutional documents of the Relevant Chargor.

18 Voting rights

To exercise all voting rights which the Relevant Chargor may exercise as a member of a company, other corporate or legal entity.

19 Authorisations

To obtain, renew, extend, amend or otherwise deal with Authorisations relating to (i) the Security Assets, (ii) its business, (iii) trade and (iv) ordinary activities as the Receiver considers necessary or desirable.

20 Employees and contractors

20.1 To employ or appoint staff, solicitors, accountants, architects, surveyors, quantity surveyors, estate agents, insurance brokers, contractors, builders, workmen, security staff, watchmen, building managers, managers, officers, agents and other personnel or professional advisers on the terms and at such remuneration as the Receiver considers necessary or desirable.

20.2 To discharge any such person or persons referred to in paragraph 20.1 appointed by the relevant Chargor, officer or delegate of the relevant Chargor.

21 Proceedings

To take, defend, appeal, enforce, abandon or otherwise join in any proceedings (including any arbitration or determination of any issue or dispute by an independent expert) concerning or incidental to the Security Assets, any claims in relation to the relevant Chargor, or any of the powers set out in this Schedule.

22 Compromise

To make any arrangement, settlement, compromise, or enter into any contract, or refer to arbitration any claim or dispute by any person who is a creditor or the relevant Chargor or in relation to any of the Security Assets which the Receiver considers necessary or desirable.

23 Redeem prior Security

To redeem any prior Security and settle any liabilities outstanding for which that Security had been granted.

24 Delegation

To delegate all or any power or action of a Receiver under this Deed.

25 Incidental powers

To take any other actions which the Receiver:

- 25.1 considers necessary or desirable to realise, protect, exploit, maintain or increase the value of the Security Assets or any of them;
- 25.2 considers incidental or conducive to any right, power, function, discretion or authority of the Receiver under this Deed or by law; and
- 25.3 may undertake as agent of the Relevant Chargor.

Schedule 5

Forms of letter to and from Account Bank

Part 1

Notice to Account Bank regarding an Account¹

To: *[insert name and address of Account Bank]*

[Date]

Dear Sirs

Security Agreement dated [] between *[insert name of relevant Chargor]* and *[Collateral Agent]* (the "Security Agreement")

- 1 We are writing to give you notice of certain rights in respect of the *[insert Account Number/Sort Code for the Account]* (the "**Account**") that we have granted to *[Collateral Agent]* in its capacities (as applicable) as security trustee for certain banks and financial institutions (the "**Collateral Agent**").
- 2 Under the Security Agreement we have charged in favour of the Collateral Agent by way of first floating charge, all our rights in respect of any moneys standing to the credit of the Account.
- 3 We notify you that:
 - 3.1 after you have received notice from the Collateral Agent under paragraph 5 of this letter, we may not withdraw any moneys from the Account without first obtaining the prior written consent of the Collateral Agent;
 - 3.2 there is a prohibition in the Security Agreement on the creation of any further Security over the Account; and
 - 3.3 you are authorised to disclose information relating to the Account to the Collateral Agent on the request of the Collateral Agent.
- 4 After you have received notice from the Collateral Agent under paragraph 5 of this letter, we irrevocably authorise and instruct you to:
 - 4.1 hold all moneys from time to time standing to the credit of the Account to the order of the Collateral Agent; and
 - 4.2 pay all or any part of those moneys to the Collateral Agent (or as it may direct) promptly following receipt of written instructions from the Collateral Agent to that effect.

¹ On notepaper of the relevant Chargor.

5 By counter-signing this notice the Bank confirms that we may make withdrawals from the Account until such time as the Collateral Agent shall notify you (with a copy to us) in writing that its permission is withdrawn.

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

The instructions in this letter may not be revoked or amended without the prior written consent of the Collateral Agent.

This letter is governed by English law.

Please confirm your agreement to the above by sending the attached acknowledgement to the Collateral Agent at [*insert Collateral Agent's address*] with a copy to us.

Yours faithfully

.....
[*relevant Chargor*]

.....
[*Collateral Agent*]

Part 2

Acknowledgement from Account Bank regarding Accounts

To: [insert name and address of Collateral Agent] (as security trustee for certain banks and financial institutions, the **Collateral Agent**)

Attention: []

[Date]

Dear Sirs

Security Agreement dated [] between [insert name of relevant Chargor] and [Collateral Agent] (the "Security Agreement")

We acknowledge receipt of a notice (the "**Notice**") from [] (the "**Chargor**") dated [] that under the Security Agreement it has charged by way of floating charge in favour of the Collateral Agent all of the Chargor's right, title and interest in, and relating to the Account (the "**Security**").

Terms defined in the Notice have the same meaning in this letter.

We confirm that:

- 1 we acknowledge receipt of the Notice and accept the authorisations and instructions contained in the Notice and we undertake to comply with its terms;
- 2 we have not received notice of:
 - 2.1 any other assignment of, Security or encumbrance over the Account; or
 - 2.2 any interest, claim or right in or to it by any third party,and we shall promptly give you notice of any such actual, potential or asserted assignment, Security, encumbrance, interest, claim or right of which we become aware;
- 3 we do not, and will not, hold or otherwise have the benefit of any Security or other encumbrance over the Account; and
- 4 we will not exercise any right of combination, consolidation, merger or set-off which we may have in respect of the Account.

We are aware that you are relying on this letter in connection with your rights under the Security.

This letter is governed by English law.

Yours faithfully

.....
(Authorised signatory)

[Account Bank]

Schedule 6

Forms of letter for Insurances and acknowledgement²

To: **[insert name and address of insurance company]**

Attention: []

[Date]

Dear Sirs

Notice of assignment

- 1 We refer to the *[specify the relevant insurance policy]* dated [] between us and you (the "**Policy**").
- 2 We notify you that:
 - 2.1 under a Security Agreement dated [] between us and *[Collateral Agent]* (the "**Collateral Agent**") we have charged by way of fixed charge for the benefit of itself and certain other banks and financial institutions (together with the Collateral Agent, the Secured Parties) all our right to receive all amounts payable to it under the Policy and all our rights in connection with those amounts as security for certain obligations owed to the Secured Parties;
 - 2.2 until you receive written notice to the contrary from the Collateral Agent that an Event of Default has occurred, you may continue to deal with us in relation to the Policy and credit all moneys to which we are entitled under the Policy to the following account in our name: *[insert details of relevant Account]*;
 - 2.3 after receipt of written notice in accordance with paragraph 2.3 we will cease to have any right to deal with you in relation to the Policy and from that time you should deal only with the Collateral Agent; and
 - 2.4 you are authorised to disclose information relating to the Policy to the Collateral Agent on request of the Collateral Agent.
- 3 We request that you:
 - 3.1 after receipt of written notice in accordance with paragraph 2.3, ensure that all moneys to which we are entitled under the Policy are credited to any account of the Collateral Agent specified by the Collateral Agent (and are not paid to us);
 - 3.2 immediately note on the Policy the Collateral Agent's security under the Security Agreement; and
 - 3.3 give the Collateral Agent not less than 30 days' written notice of you terminating the Policy or allowing the Policy to lapse.

² On notepaper of the relevant Chargor.

4 Please sign and return the enclosed copy of this notice to the Collateral Agent at *[insert Collateral Agent's address]* (with a copy to us) to confirm that you:

- 4.1 agree to the terms of this notice and to act in accordance with its provisions;
- 4.2 have not received notice that we have [assigned our rights under the Policy] OR [charged by way of fixed charge our rights to receive all amounts payable to it under the Policy and all our rights in connection with those amounts] to a third party or created any other interest (whether by way of security or otherwise) in the Policy in favour of a third party; and
- 4.3 have not claimed or exercised, nor do you have any outstanding right to claim or exercise against us, any right of set-off, counter-claim or other right relating to the Policy.

The provisions of this notice are governed by English law.

Yours faithfully

.....
for and on behalf of ***[insert name of relevant Chargor]***

Copy to: Collateral Agent

[On acknowledgement copy]

To: ***[insert name and address of Collateral Agent]***

Copy to: ***[insert name and address of relevant Chargor]***

We acknowledge receipt of the above notice and confirm the matters set out in paragraph 4.

.....
for and on behalf of ***[insert name of insurance company]***

Date: []

Schedule 7

Forms of letter for assigned agreements and acknowledgement

To: [insert name and address of counterparty]

Attention: []

[Date]

Dear Sirs

Notice of assignment

1 We refer to the [specify the relevant assigned agreement] dated [] between us and you (the "**Agreement**").

2 We notify you that:

2.1 under a Security Agreement dated [] between, among others, us and [Collateral Agent] (the "**Collateral Agent**") we have assigned to the Collateral Agent for the benefit of itself and certain other banks and financial institutions (together with the Collateral Agent, the "**Secured Parties**") all our right, title and interest in and to, and all benefits accruing under, the Agreement as security for certain obligations owed to the Secured Parties;

2.2 we may not agree to amend or terminate the Agreement without the prior written consent of the Collateral Agent;

2.3 until you receive written notice to the contrary from the Collateral Agent that an Event of Default has occurred, you may continue to deal with us in relation to the Agreement and credit all moneys to which we are entitled under the Agreement to the following account in our name: [insert details of relevant Account];

2.4 [after receipt of written notice in accordance with paragraph 2.3 we will cease to have any right to deal with you in relation to the Agreement and from that time you should deal only with the Collateral Agent;] and

2.5 you are authorised to disclose information relating to the Agreement to the Collateral Agent on request of the Collateral Agent.

3 We request that you:

3.1 after receipt of written notice in accordance with paragraph 2.3, ensure that all moneys to which we are entitled under the Agreement are credited to the account of the Collateral Agent specified in that notice (and are not paid to us);

3.2 give the Collateral Agent written notice of any breach of the Agreement as soon as you become aware of it; and

- 3.3 give the Collateral Agent not less than 30 days' written notice of you terminating the Agreement.
- 4 Please sign and return the enclosed copy of this notice to the Collateral Agent at *[insert Collateral Agent's address]* (with a copy to us) to confirm that you:
- 4.1 agree to the terms of this notice and to act in accordance with its provisions;
- 4.2 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; and
- 4.3 have not claimed or exercised, nor do you have any outstanding right to claim or exercise against us, any right of set-off, counter-claim or other right relating to the Agreement.
- 5 The provisions of this notice are governed by English law.

Yours faithfully

.....
for and on behalf of ***[insert name of relevant Chargor]***

Copy to: Collateral Agent

[On acknowledgement copy]

To: ***[insert name and address of Collateral Agent]***

Copy to: ***[insert name and address of relevant Chargor]***

We acknowledge receipt of the above notice and confirm the matters set out in paragraph 4.

.....
for and on behalf of ***[insert name of counterparty]***

Date: []

Schedule 8
Registered IP

Chargor	Description	Registration number

Schedule 9
Form of Legal Mortgage

Dated []

(1) [*insert name of Chargor*]
(the **Chargor)**

and

(2) [*insert name of Collateral Agent*]
(the **Collateral Agent)**

Stephenson Harwood LLP
1 Finsbury Circus, London EC2M 7SH
T: +44 20 7329 4422 | F: +44 20 7329 7100
DX: 64 Chancery Lane | www.shlegal.com

STEPHENSON
HARWOOD

This deed is dated [] between:

- (1) [Chargor], a company incorporated under the laws of [England and Wales] with registered number [] having its registered office at [] (the **Chargor**); and
- (2) [Collateral Agent] of [] as trustee for the Secured Parties (the **Collateral Agent**).

This deed witnesses as follows:

1 Definitions and interpretation

1.1 Definitions

Words and expressions defined in the Facility Agreement and the Security Agreement have the same meanings in this Mortgage unless they are expressly defined in it, and in addition:

"Facility Agreement" means the facility agreement dated [] [on or around the date of this Deed] [on or around that date of the Security Agreement] between, among others, the Chargor and others as Obligors, the Arranger, the Original Lenders, the Hedge Counterparty, the Agent and the Collateral Agent.

"Security Agreement" means the security agreement dated [] [on or about the date of this Deed] [on or about the date of the Facility Agreement] between the Chargor and others and the Collateral Agent.

1.2 Interpretation

This Mortgage takes effect as a deed even if it is signed under hand on behalf of the Collateral Agent.

2 Incorporation of provisions into each Legal Mortgage

Clauses 1.2 (*Construction*), 1.3 (*Third party rights*), 1.6 (*Incorporation of terms from the Facility Agreement*), 6 (*Representations and Warranties*), 9 (*Enforcement*), 10 (*Appointment and powers of Receivers*), 11 (*Protection of purchasers*), 12 (*Protection of the Secured Parties and Receivers*), 13 (*Preservation of Security*), 14 (*Tacking for further advances*), 15 (*Further assurance*), 16 (*Power of attorney*), 17 (*Collateral Agent*), 18 (*Discharge of Security*), 20 (*Partial invalidity*) and 24 (*Enforcement*) of the Security Agreement are deemed to form part of this Deed as if expressly incorporated into this Deed and as if references in those Clauses to (a) the Security Agreement were references to this Deed and (b) the Security Assets were references to the assets of the Chargor from time to time charged in favour of, or assigned (whether at law, or in equity) to the Collateral Agent by or pursuant to this Deed.

3 Nature of security created

All of the Security created under this Mortgage is created:

- 3.1 in favour of the Collateral Agent as trustee for the Secured Parties;

- 3.2 as a continuing security to secure the payment and discharge of all of the Secured Liabilities;
- 3.3 (except in the case of assets which are the subject of a legal mortgage under this Mortgage) over all present and future assets of the kind described which are owned by the Chargor and, to the extent that it does not own those assets, shall extend to any right or interest which it may have in them; and
- 3.4 with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4 Fixed security

The Chargor:

- 4.1 charges by way of first legal mortgage its Real Property including those listed in the Schedule, (*Real Property charged by way of legal mortgage*); and
- 4.2 charges, to the extent not subject to the charge by way of legal mortgage in clause 4.1, by way of first fixed charge its Real Property which it has now or which it owns and which it may subsequently acquire.

5 Application to Land Registrar

The Chargor shall apply to the Land Registry in Form RX1 and consents to the registration against the registered titles specified in the Schedule (*Real Property charged by way of legal mortgage*) of:

- 5.1 a restriction in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [*the date of this Mortgage*] in favour of [*insert name of Collateral Agent*] referred to in the charges register or their conveyancer. (Form P)"; and
- 5.2 a notice that the Lenders are under an obligation to make further advances on the terms and subject to the conditions of the Finance Documents.

6 Negative pledge

The Chargor shall not create or permit to subsist any Security over any Security Asset except for Permitted Security.

7 Governing law

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

Executed as a deed and delivered on the date appearing at the beginning of this Deed.

Schedule**Real Property charged by way of legal mortgage****Description address**

[]

Title Number

[]

[By company not using a seal - one director in the presence of a witness]

acting by a director in the presence of:

signature

Director

signature
of witness

print name

name

```
print name of witness
```


address

Signed for and on behalf of)
[Collateral Agent])

EXECUTION PAGE TO SECURITY AGREEMENT

The Chargors

Executed as a deed by **Sierra Private Holdings I Ltd** acting by a director in the presence of:

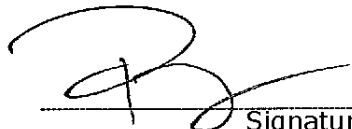

signature _____ Signature redacted
Director
Peter Berger
print name

signature _____
of witness 
Signature redacted

name Hina Patel
print name of witness

address 601 Lexington Ave. 59th Fl
New York, NY 10022

Executed as a deed by **Sierra Private Holdings II Ltd** acting by a director in the presence of:


signature _____ Signature redacted
Director
Peter Berger
print name

signature _____
of witness 
Signature redacted

name Hina Patel
print name of witness

address 601 Lexington Ave. 59th Fl
New York, NY 10022

The Collateral Agent

Signed for and on behalf of)
Cerberus Business Finance, LLC)