



**Registration of a Charge**

Company Name: **THE MOOT GROUP LTD**

Company Number: **11551283**



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**Details of Charge**

Date of creation: **19/01/2022**

Charge code: **1155 1283 0001**

Persons entitled: **ESPRESSO CAPITAL LTD**

Brief description: **CLAUSE 4.3.7 STIPULATES THAT AS A CONTINUING SECURITY FOR THE PAYMENT AND DISCHARGE OF THE SECURED LIABILITIES, THE MOOT GROUP LTD WITH FULL TITLE GUARANTEE CHARGES ALL PRESENT AND FUTURE INTELLECTUAL PROPERTY OF THE MOOT GROUP LTD IN FAVOUR OF ESPRESSO CAPITAL LTD. "INTELLECTUAL PROPERTY" MEANS THE BORROWER'S PRESENT AND FUTURE PATENTS, UTILITY MODELS, RIGHTS TO INVENTIONS, COPYRIGHT AND NEIGHBOURING AND RELATED RIGHTS, MORAL RIGHTS, TRADE MARKS AND SERVICE MARKS, BUSINESS NAMES AND DOMAIN NAMES, RIGHTS IN GET-UP AND TRADE DRESS, GOODWILL AND THE RIGHT TO SUE FOR PASSING OFF OR UNFAIR COMPETITION, RIGHTS IN DESIGNS, RIGHTS IN COMPUTER SOFTWARE, DATABASE RIGHTS, RIGHTS TO USE, AND PROTECT THE CONFIDENTIALITY OF, CONFIDENTIAL INFORMATION (INCLUDING KNOW- HOW AND TRADE SECRETS) AND ALL OTHER INTELLECTUAL PROPERTY RIGHTS, IN EACH CASE WHETHER REGISTERED OR UNREGISTERED AND INCLUDING ALL APPLICATIONS AND RIGHTS TO APPLY FOR AND BE GRANTED, RENEWALS OR EXTENSIONS OF, AND RIGHTS TO CLAIM PRIORITY FROM, SUCH RIGHTS AND ALL SIMILAR OR EQUIVALENT RIGHTS OR FORMS OF PROTECTION WHICH SUBSIST OR WILL SUBSIST NOW OR IN THE FUTURE IN ANY PART OF THE WORLD.**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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## **Authentication of Form**

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

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## **Authentication of Instrument**

Certification statement: **I CERTIFY THAT 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: **REED SMITH LLP**



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

Company number: 11551283

Charge code: 1155 1283 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th January 2022 and created by THE MOOT GROUP LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd February 2022 .

Given at Companies House, Cardiff on 3rd February 2022

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**

DATED

JANUARY 19, 2022

(1) THE MOOT GROUP LTD (AS BORROWER)

(2) ESPRESSO CAPITAL LTD (AS SECURITY AGENT)

ORIGINAL/COUNTERPART

## DEBENTURE

CERTIFIED 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.

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**THIS DEED** dated January 19, 2022

**BETWEEN:**

- (1) **The Moot Group Ltd.** incorporated and registered in England and Wales with company number 11551283 whose registered office is at Unit 1 Tollgate Park, Stafford, England, ST16 3EF as Borrower (**Borrower**).
- (2) **Espresso Capital Ltd.**, incorporated and registered in Ontario with Ontario Company Number 002442523 whose registered office is at Suite 300, 8 King Street East, Toronto, Ontario M5C 1B5 acting as the security trustee and administrative and collateral agent of the Secured Parties (**Security Agent**).

**RECITALS**

- (A) The Lender (as defined below) has agreed, pursuant to the Loan Agreement, to provide the Borrower with a loan note facility on a secured basis.
- (B) It is a condition to the availability or continuing availability of the loan note facility to the Borrower, that it enter into this deed and grant security to the Security Agent.
- (C) Under this deed, the Borrower provides security to the Security Agent for the repayment and satisfaction of the Secured Liabilities.
- (D) The Security Agent has agreed to enter into this deed as security trustee for the Secured Parties and to hold the benefit of the Security on trust under the terms and conditions of the Loan Agreement.

**AGREED TERMS**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 DEFINITIONS**

Terms defined in the Loan Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed.

**"Administrator"** means an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 13.8.

**"Book Debts"** means all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them.

**"Business Day"** means a day (other than a Saturday, Sunday or a bank holiday) on which banks are open for general business in London.

**"Charged Property"** means any freehold, leasehold or commonhold property the subject of the security constituted by this deed and secured in favour of the Security Agent and references to "Charged Property" shall include references to the whole or any part or part of it.

**"Delegate"** means any person appointed by a Secured Party or any Receiver pursuant to clause 18 and any person appointed as attorney of a Secured Party, Receiver or Delegate.

**"Designated Account"** means any account of the Borrower nominated by the Security Agent as a designated account for the purposes of this deed.

**"Equipment"** means all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property owned by the Borrower or in which it has an interest, including any part of it and all spare parts, replacements, modifications and additions.

**"Event of Default"** has the meaning given to that expression in the Loan Agreement.

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

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*).

**"Insurance Policy"** means each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to Intellectual Property, the Charged Properties or the Equipment).

**"Intellectual Property"** means the Borrower's present and future patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**"Investments"** means all certificated shares, stock, debentures, bonds or other securities or investments (whether or not marketable) from time to time legally or beneficially owned by or on behalf of the Borrower.

**"Lender"** has the meaning given to that expression in the Loan Agreement.

**"Loan Agreement"** means the Loan Agreement entered into on or about the date hereof and made between the Borrower, the Lender and the Security Agent, as may be amended, modified, restated, replaced or supplemented, from time to time.

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

**"Material Adverse Effect"** means (a) a material adverse effect upon: (i) the business, operations, properties, assets or financial condition of the Borrower, (ii) the ability of the Borrower to perform its obligations to repay or ensure repayment is made under the Loan Documents no later than when due, or (ii) the validity or enforceability of a Loan Document or any Security, or the rights or remedies of the Lender or Security Agent under any Loan Document.

**"Receiver"** means a receiver, receiver and manager or administrative receiver appointed by the Secured Party under clause 16.

**"Rights"** means any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise.

**"Secured Assets"** means all the assets, property and undertaking of the Borrower which are, or are expressed to be, subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).

**"Secured Liabilities"** means all present and future obligations and liabilities of the Borrower to the Security Agent, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Loan Documents or this deed (including, without limitation, those arising under clause 30), together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

**"Secured Parties"** means the Lender, the Security Agent and any Delegates.

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

**"Security"** means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**"Security Agent"** means Espresso Capital Ltd, acting as security trustee and administrative and collateral agent of the Secured Parties.

**"Security Period"** means the period starting on the date of this deed and ending on the date on which the Security Agent is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

**"VAT"** means value added tax or any equivalent tax chargeable in the UK or elsewhere.

## **1.2 INTERPRETATION**

In this deed:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- 1.2.2 a reference to a **person** shall include a reference to an individual, corporation, partnership, limited liability company, partnership, joint venture, syndicate, sole proprietorship or corporation, joint stock company, unincorporated association, trust, executor or any other entity of whatever nature, including any legal personal representative, government, governmental agency or authority, or entity however designated or constituted;
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8 a reference to **writing** or **written** includes fax and email;
- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- 1.2.11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.2.12 any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.13 a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- 1.2.14 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;

- 1.2.15 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it;
- 1.2.17 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.18 a reference to continuing in relation to an Event of Default means an Event of Default that has not been waived;
- 1.2.19 a reference to **material** or **materially** means of such nature as the Security Agent would reasonably consider significant in its assessment of the Borrower's ability to perform its obligations under this deed; and
- 1.2.20 capitalised terms used herein and not otherwise defined shall have the meanings given to them in the Loan Agreement.
- 1.2.21 The Security Agent takes the benefit of this deed, the Security and any payments in respect thereof for itself and as trustee for each other Secured Party and can enforce the foregoing on its own behalf and on behalf of each other Secured Party.

### **1.3 EFFECT AS A DEED**

This Deed is intended to take effect as a deed notwithstanding that the Security Agent may have executed it underhand only.

### **1.4 CLAWBACK**

If the Security Agent considers that any amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

### **1.5 NATURE OF SECURITY OVER REAL PROPERTY**

A reference in this deed to a charge or mortgage of or over any Charged Property includes:

- 1.5.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of that Charged Property at any time;
- 1.5.2 the proceeds of the sale of any part of that Charged Property and any other monies paid or payable in respect of or in connection with that Charged Property;
- 1.5.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Charged Property, and any monies paid or payable in respect of those covenants; and
- 1.5.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property.

### **1.6 NATURE OF SECURITY OVER INVESTMENTS**

A reference in this deed to any share, stock, debenture or other security or investment includes:

- 1.6.1 any dividend, interest or other distribution paid or payable in respect of that share, stock, debenture or other security or investment;
- 1.6.2 any right, money, shares or property accruing, offered or issued at any time in relation to that share, stock, debenture or other security or investment by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

## **1.7 LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989**

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

## **1.8 PERPETUITY PERIOD**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

## **2. COVENANT TO PAY**

The Borrower hereby covenants with the Security Agent (as trustee for itself and the other Secured Parties) that it shall, on demand, pay and discharge the 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 Loan Documents.

## **3. SECURITY TRUST**

**3.1** Each of the Secured Parties (other than the Security Agent) hereby appoints the Security Agent to act as trustee of the trusts contained under this deed and in connection with the Loan Documents in accordance with the terms of this deed.

**3.2** Each of the Secured Parties (other than the Security Agent) authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with the Loan Documents together with any other incidental rights, powers, authorities and discretions.

**3.3** The Security Agent shall exercise such rights, powers and discretions as are specifically given to the Security Agent under this deed and pursuant to the general law.

**3.4** The Security Agent holds all of the covenants, undertakings, security interests and other rights and benefits made or given under this deed and the other Transaction Documents on trust for itself and the other Secured Parties upon and subject to the terms and conditions of this deed.

## **4. GRANT OF SECURITY**

### **4.1 GENERAL**

4.1.1 All of the Security created under or pursuant to this deed:

- (a) is created in favour of the Security Agent for itself and as trustee on behalf of the other Secured Parties;
- (b) is created over present (and to the extent the law permits) future Secured Assets;
- (c) is security for the payment or discharge of the Secured Liabilities;
- (d) is made with full title guarantee.

4.1.2 The term all of its rights as used in this Clause 4 (*Grant of Security*) includes, unless the context requires otherwise:

- (a) the benefit of all covenants, undertakings, representations, warranties and indemnities;
- (b) all powers and remedies of enforcement and/or protection;
- (c) all rights to receive payment of all amounts assured or payable (or to become payable), all rights to take such steps as are required to cause payment due and payable; and
- (d) all causes and rights in respect of any breach and all rights to receive damages or obtain relief in respect thereof,

(e) in each case, in respect of the relevant Secured Asset.

## **4.2 LEGAL MORTGAGE**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Security Agent for itself and as trustee on behalf of the other Secured Parties, by way of a first legal mortgage, all estates or interests in any freehold, leasehold or commonhold property now owned by it.

## **4.3 FIXED CHARGES**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Security Agent for itself and as trustee on behalf of the other Secured Parties, by way of a first fixed charge:

- 4.3.1 all present and future estates or interests of the Borrower in, or over, any freehold, leasehold or commonhold property (other than any such property effectively mortgaged under clause 4.2);
- 4.3.2 the benefit of all other contracts, guarantees, appointments and warranties relating to each Charged Property and other documents to which the Borrower is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of any Charged Property or otherwise relating to any Charged Property (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them);
- 4.3.3 all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business or the use of any Secured Asset, and all rights in connection with them;
- 4.3.4 all its present and future goodwill;
- 4.3.5 all its uncalled capital;
- 4.3.6 all the Equipment;
- 4.3.7 all the Intellectual Property;
- 4.3.8 all the Book Debts;
- 4.3.9 all the Investments;
- 4.3.10 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person (including each Designated Account), together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 4.3.11 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, to the extent not effectively assigned under clause 4.4; and
- 4.3.12 all its rights in respect of all agreements, instruments and rights relating to the Secured Assets, to the extent not effectively assigned under clause 4.4.

## **4.4 ASSIGNMENT**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Security Agent for itself and as trustee on behalf of the other Secured Parties absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- 4.4.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and

- 4.4.2 the benefit of all agreements, instruments and rights relating to the Secured Assets.

#### **4.5 FLOATING CHARGE**

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Security Agent for itself and as trustee on behalf of the other Secured Parties, by way of first floating charge, all its undertaking, property, assets and rights not otherwise effectively mortgaged, charged or assigned under clause 4.1 to clause 4.4 inclusive.

#### **4.6 QUALIFYING FLOATING CHARGE**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 4.5.

#### **4.7 AUTOMATIC CRYSTALLISATION OF FLOATING CHARGE**

The floating charge created by clause 4.5 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

- 4.7.1 the Borrower:
- 4.7.2 creates, or attempts to create, without the prior written consent of the Security Agent, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Loan Agreement); or
- 4.7.3 disposes, or attempts to dispose of, all or any part of the Secured Assets (other than, in the ordinary course of business, Secured Assets that are only subject to the floating charge while it remains uncrystallised);
- 4.7.4 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or
- 4.7.5 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower; or
- 4.7.6 an application is made to court, or an order is made, for the appointment of an administrator, or notice of intention to appoint an administrator is given or an administrator is appointed.

#### **4.8 CRYSTALLISATION OF FLOATING CHARGE BY NOTICE**

Except as provided in clause 4.10, the Security Agent may, in its sole discretion, at any time and by written notice to the Borrower, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Security Agent in that notice.

#### **4.9 ASSETS ACQUIRED AFTER ANY FLOATING CHARGE HAS CRYSTALLISED**

Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Security Agent confirms otherwise to the Borrower in writing) be charged to the Security Agent by way of first fixed charge.

#### **4.10 PART A1 MORATORIUM**

- 4.10.1 Subject to clause 4.10.2 below, the floating charge created by clause 3.4 may not be converted into a fixed charge solely by reason of obtaining a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986.
- 4.10.2 Clause 4.10.1 above does not apply to any floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

## **5. LIABILITY OF THE BORROWER**

### **5.1 LIABILITY NOT DISCHARGED**

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or otherwise affected by:

- 5.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to the Security Agent or any other Secured Party that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 5.1.2 the Security Agent or any other Secured Party renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person;
- 5.1.3 any intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities;
- 5.1.4 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Security Agent or any other Secured Party may now or after the date of this deed have from or against the Borrower or any other person in connection with the Secured Liabilities;
- 5.1.5 any act or omission by the Security Agent or any other Secured Party or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Borrower or any other person;
- 5.1.6 any termination, amendment, variation, novation, replacement or supplement of or to any of the Secured Liabilities;
- 5.1.7 any grant of time, indulgence, waiver or concession to the Borrower or any other person;
- 5.1.8 any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Borrower or any other person;
- 5.1.9 any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Borrower or any other person in connection with the Secured Liabilities;
- 5.1.10 any claim or enforcement of payment from the Borrower or any other person; or
- 5.1.11 any other act or omission which would not have discharged or affected the liability of the Borrower as a principal debtor or anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Borrower or otherwise reduce or extinguish its liability under this deed.

### **5.2 IMMEDIATE RECOURSE**

The Borrower waives any right it may have to require the Security Agent or any other Secured Party:

- 5.2.1 to take any action or obtain judgment in any court against any other person;
- 5.2.2 to make or file any claim in a bankruptcy, liquidation, administration or insolvency of any other person; or
- 5.2.3 to make demand, enforce or seek to enforce any claim, right or remedy against any other person, before taking steps to enforce any of its rights or remedies under this deed.

### **5.3 NON-COMPETITION**

The Borrower warrants to the Security Agent or any other Secured Party that it has not taken or received, and shall not take, exercise or receive the benefit of any Rights from or against its liquidator, an administrator or any other person in connection with any liability of, or payment by, the Borrower under this deed but:



- 5.3.1 if any of the Rights is taken, exercised or received by the Borrower, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Borrower on trust for the Secured Parties for application in or towards the discharge of the Secured Liabilities under this deed; and
- 5.3.2 on demand by the Security Agent, the Borrower shall promptly transfer, assign or pay to the Security Agent all other Rights and all monies from time to time held on trust by the Borrower under this Clause 5.3.

## **6. REPRESENTATIONS AND WARRANTIES**

### **6.1 DUE INCORPORATION**

The Borrower:

- 6.1.1 is a duly incorporated limited liability company validly existing under the law of England and Wales; and
- 6.1.2 has the power to own its assets and carry on its business as it is being conducted.

### **6.2 POWERS**

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

### **6.3 NON-CONTRAVENTION**

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

- 6.3.1 its constitutional documents;
- 6.3.2 any agreement or instrument binding on the Borrower or its assets or constitute a default or termination event (however described) under any such agreement or instrument where such contravention or conflict would reasonably be expected to have a Material Adverse Effect; or
- 6.3.3 any law or regulation or judicial or official order applicable to it.

### **6.4 AUTHORISATIONS**

The Borrower has obtained all required or desirable authorisations to enable it to enter into, exercise its rights and comply with its obligations under this deed and to make it admissible in evidence in its jurisdiction of incorporation. Any such authorisations are in full force and effect.

### **6.5 BINDING OBLIGATIONS**

- 6.5.1 The Borrower's obligations under this deed are legal, valid, binding and enforceable.
- 6.5.2 This deed creates (or, once entered into, will create):
  - (a) valid, legally binding and enforceable Security for the obligations expressed to be secured by it; and
  - (b) subject to registration in accordance with the Companies Act 2006 and, in the case of real property, registration at the Land Registry, perfected Security over the assets expressed to be subject to Security in it, in favour of the Security Agent, having the priority and ranking expressed to be created by this deed and ranking ahead of all (if any) Security and rights of third parties, except those preferred by law.

**6.6 NO FILING OR STAMP TAXES**

Under the law of its jurisdiction of incorporation, is not necessary to file, record or enrol this deed (other than as provided in Clause 6.5) with any court or other authority in that jurisdiction or pay any stamp, registration or similar taxes in relation to this deed or any transaction contemplated by it (other than in connection with registrations at Companies House and the Land Registry).

**6.7 LITIGATION**

No litigation, arbitration, administrative proceedings or investigations are taking place, pending or, to the Borrower's knowledge, threatened in writing against it, any of its directors or any of its assets which, if adversely determined, will have or might reasonably be expected to have a Material Adverse Effect.

**6.8 TIMES FOR MAKING REPRESENTATIONS AND WARRANTIES**

The Borrower makes the representations and warranties set out in this clause 6 to the Security Agent and the Secured Parties on the date of this deed and the representations and warranties contained in this clause 6 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

**6.9 OWNERSHIP OF SECURED ASSETS**

The Borrower is the sole legal and beneficial owner of, and has good, valid and marketable title to, the Secured Assets.

**6.10 NO SECURITY**

The Secured Assets are free from any Security other than the Security created by this deed or otherwise permitted under the Loan Agreement.

**6.11 NO ADVERSE CLAIMS**

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

**6.12 NO ADVERSE COVENANTS**

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

**6.13 NO BREACH OF LAWS**

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

**6.14 NO INTERFERENCE IN ENJOYMENT**

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use.

**6.15 NO OVERRIDING INTERESTS**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Charged Property.

**6.16 AVOIDANCE OF SECURITY**

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

**6.17 NO PROHIBITION OR BREACHES**

There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Borrower does not, and will not, constitute a breach of any Insurance Policy or any other policy, agreement, document, instrument or obligation binding on the Borrower or its assets.

**6.18 ENFORCEABLE SECURITY**

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

**6.19 INVESTMENTS**

6.19.1 The Investments are fully paid and are not subject to any option to purchase or similar rights.

6.19.2 No constitutional document of an issuer of an Investment, nor any other agreement:

- (a) restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this deed; or
- (b) contains any rights of pre-emption in relation to the Investments.

6.19.3 The Borrower has complied with all notices relating to all or any of the Investments received by it pursuant to sections 790D and 790E of the Companies Act 2006.

6.19.4 No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Investments.

**7. GENERAL COVENANTS****7.1 AUTHORISATIONS**

The Borrower shall promptly obtain all consents and authorisations necessary under any law or regulation (and do all that is needed to maintain them in full force and effect) to enable it to perform its obligations under the Loan Agreement and this deed and to ensure the legality, validity, enforceability and admissibility in evidence of the Loan Agreement and this deed in its jurisdiction of incorporation.

**7.2 COMPLIANCE WITH LAW**

The Borrower shall comply in all respects with all relevant laws to which it may be subject if failure to do so would materially impair its ability to perform its obligations under the Loan Agreement and this deed.

**7.3 NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

The Borrower shall not at any time, except with the prior written consent of the Security Agent.

7.3.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed;

7.3.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or

7.3.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

#### **7.4 PRESERVATION OF SECURED ASSETS**

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

#### **7.5 COMPLIANCE WITH LAWS AND REGULATIONS**

7.5.1 The Borrower shall not, without the Security Agent's prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

7.5.2 The Borrower shall:

- (a) comply with the requirements of any law or regulation relating to or affecting the Secured Assets or the use of it or any part of them;
- (b) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset; and
- (c) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets.

#### **7.6 ENFORCEMENT OF RIGHTS**

The Borrower shall use its best endeavours to:

- 7.6.1 procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Borrower and forming part of the Secured Assets of the covenants and other obligations imposed on such counterparty (including each insurer in respect of an Insurance Policy); and
- 7.6.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Security Agent may require from time to time.

#### **7.7 NOTICES TO BANKS AND FINANCIAL INSTITUTIONS**

The Borrower shall on the execution of this deed and as so requested by the Security Agent from time to time, give notice to each bank, financial institution or other person with whom the Borrower holds an account (including each Designated Account) in the form set out in Part 1 (*Form of Notice*) of Schedule 1 (*Notice and Acknowledgement - Bank Account*), and shall use reasonable endeavours to procure that each such bank, financial institution or other person provides to the Security Agent promptly an acknowledgement of the notice in the form set out in Part 2 (*Form of Acknowledgement*) of Schedule 1 (*Notice and Acknowledgement - Bank Account*).

#### **7.8 NOTICE OF MISREPRESENTATION AND BREACHES**

The Borrower shall, promptly on becoming aware of any of the same, notify the Security Agent in writing of:

- 7.8.1 any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 7.8.2 any breach of any covenant set out in this deed.

#### **7.9 INFORMATION**

The Borrower shall:

- 7.9.1 give the Security Agent such information concerning the location, condition, use and operation of the Secured Assets as the Security Agent may require;

- 7.9.2 following this Security becoming enforceable, permit any persons designated by the Security Agent and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and
- 7.9.3 promptly notify the Security Agent in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Security Agent's prior approval, implement those proposals at its own expense.

#### **7.10 PAYMENT OF OUTGOINGS**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets, and, on demand, produce evidence of payment to the Security Agent.

#### **7.11 TITLE DOCUMENTS**

The Borrower shall, as so required by the Security Agent, deposit with the Security Agent and the Security Agent shall, for the duration of this deed be entitled to hold:

- 7.11.1 all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Borrower (and if they are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all those deeds and documents of title);
- 7.11.2 all Insurance Policies and any other insurance policies relating to any of the Secured Assets that the Borrower is entitled to possess;
- 7.11.3 all deeds and documents of title (if any) relating to the Book Debts as the Security Agent may specify from time to time; and
- 7.11.4 a copy of each Relevant Agreement, certified to be a true copy by either a director of the Borrower or by the Borrower's solicitors.

#### **7.12 INSURANCE**

- 7.12.1 The Borrower shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Secured Assets against:
- (a) loss or damage by fire or terrorist acts, including any third party liability arising from such acts;
  - (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and
  - (c) any other risk, perils and contingencies as the Security Agent may reasonably require.
- 7.12.2 Any such insurance must:
- (a) be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Security Agent;
  - (b) include property owners' public liability and third party liability insurance;
  - (c) be for not less than the replacement value of the relevant Secured Assets (meaning in the case of any premises on any Charged Property, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for shoring or propping up, demolition, site clearance and reinstatement with adequate allowance for inflation) and, in the case of any Charged Property, loss of rents payable by the tenants or other occupiers of any Charged Property for a period of at least three years, including provision for increases in rent during the period of insurance.

- 7.12.3 The Borrower shall, if requested by the Security Agent, produce to the Security Agent each policy, certificate or cover note relating to any insurance as is required by clause 7.11.1 (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).
- 7.12.4 The Borrower shall, if requested by the Security Agent, procure that a note of the Security Agent's interest is endorsed under each Insurance Policy (other than public liability and third party liability insurances) effected or maintained by it or any person on its behalf in accordance with clause 7.11.1 but without the Security Agent having any liability for any premium in relation to those insurance policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy.
- 7.12.5 The Borrower shall ensure that each Insurance Policy effected or maintained by it or any person on its behalf in accordance with clause 7.11.1 contains:
- (a) a loss payee clause under which the Security Agent is named as first loss payee (other than in respect of any claim under any public liability and third party liability insurances);
  - (b) terms ensuring that it cannot be avoided or vitiated as against the Security Agent by reason of the act or default of any other insured party or any misrepresentation, non-disclosure or failure to make a fair presentation of risk by any other insured party;
  - (c) a waiver of each insurer's rights of subrogation against the Borrower, the Security Agent and the tenants of any Charged Property other than any such rights arising in connection with any fraud or criminal offence committed by any of those persons in respect of any Charged Property or any Insurance Policy; and
  - (d) terms ensuring that no insurer can repudiate, rescind or cancel it, treat it as avoided in whole or in part nor treat it as expired due to non-payment of premium without giving at least 30 days' prior written notice to the Security Agent.

### **7.13 INSURANCE PREMIUMS**

The Borrower shall:

- 7.13.1 promptly pay all premiums in respect of each Insurance Policy as is required by clause 7.11.1 and do all other things necessary to keep that policy in full force and effect; and
- 7.13.2 (if the Security Agent so requires) give to the Security Agent copies of the receipts for all premiums and other payments necessary for effecting and keeping up each Insurance Policy as is required by clause 7.11.1 (or where, in the case of leasehold property, insurance is effected by the landlord, such evidence of the payment of premiums as the Borrower is entitled to obtain from the landlord under the terms of the relevant lease).

### **7.14 NO INVALIDATION OF INSURANCE**

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any Insurance Policy as is required by clause 7.11.1.

### **7.15 PROCEEDS FROM INSURANCE POLICIES**

All monies payable under any Insurance Policy maintained by the Borrower in accordance with clause 7.11.1 at any time (whether or not the security constituted by this deed has become enforceable) shall:

- 7.15.1 be paid immediately to the Security Agent or into an account designated by the Security Agent;
- 7.15.2 (if they are not paid directly to the Security Agent by the insurers or into the account designated by the Security Agent) be held, pending such payment, by the Borrower as trustee of the same for the benefit of the Security Agent; and
- 7.15.3 at the option of the Security Agent, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities.

**7.16 NOTICES TO INSURERS**

The Borrower shall on the execution of this deed and as so requested by the Security Agent from time to time give notice to each insurer under an Insurance Policy in the form set out in Part 1 of Schedule 2, and procure that each insurer provides to the Security Agent within 5 Business Days an acknowledgement of the notice in the form set out in Part 2 of Schedule 2.

**8. INVESTMENTS COVENANTS****8.1 DEPOSIT OF TITLE DOCUMENTS**

8.1.1 The Borrower shall (a) on the execution of this deed, deposit with the Security Agent, or as the Security Agent may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Borrower at that time and (b) on the purchase or acquisition by it of Investments after the date of this deed, deposit with the Security Agent, or as the Security Agent may direct, all stock or share certificates and other documents of title or evidence of ownership relating to those Investments.

8.1.2 At the same time as depositing documents with the Security Agent, or as the Security Agent may direct, in accordance with clause 8.1.1, the Borrower shall also deposit with the Security Agent, or as the Security Agent may direct:

- (a) all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Borrower, but with the name of the transferee, the consideration and the date left blank; and
- (b) any other documents (in each case duly completed and executed by or on behalf of the Borrower) that the Security Agent may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments, so that the Security Agent may, at any time and without notice to the Borrower, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

**8.2 NOMINATIONS**

8.2.1 The Borrower shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:

- (a) Does not exercise any rights in respect of any Investments without the prior written approval of the Security Agent; and
- (b) Immediately on receipt by it, forward to the Security Agent all communications or other information received by it in respect of any Investments for which it has been so nominated.

8.2.2 The Borrower shall not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 of the Companies Act 2006) to nominate any person in respect of any of the Investments.

**8.3 PRE-EMPTION RIGHTS AND RESTRICTIONS ON TRANSFER**

The Borrower shall:

8.3.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Investments, for the transfer of the Investments to the Security Agent or its nominee, or to a purchaser on enforcement of the security constituted by this deed; and

8.3.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that the Security Agent may require in order to permit the transfer of the Investments to the Security Agent or its nominee, or to a purchaser on enforcement of the security constituted by this deed.

#### **8.4 DIVIDENDS AND VOTING RIGHTS BEFORE ENFORCEMENT**

- 8.4.1 Before the security constituted by this deed becomes enforceable, the Borrower may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to the Security Agent or any of its nominees, the Security Agent will hold all those dividends, interest and other monies received by it for the Borrower and will pay them to the Borrower promptly on request.
- 8.4.2 Before the security constituted by this deed becomes enforceable, the Borrower may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by the Security Agent or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:
- (a) it shall not do so in any way that would breach any provision of the Loan Agreement or this deed or for any purpose inconsistent with the Loan Agreement or this deed; and
  - (b) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in the Security Agent's opinion, have an adverse effect on the value of the Investments or otherwise prejudice the Secured Party's security under this deed.
- 8.4.3 The Borrower shall indemnify the Security Agent against any loss or liability incurred by the Security Agent (or its nominee) as a consequence of the Security Agent (or its nominee) acting in respect of the Investments at the direction of the Borrower.
- 8.4.4 The Security Agent shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Security Agent considers prejudicial to, or impairing the value of, the security created by this deed.

#### **8.5 DIVIDENDS AND VOTING RIGHTS AFTER ENFORCEMENT**

After the security constituted by this deed has become enforceable:

- 8.5.1 all dividends and other distributions paid in respect of the Investments and received by the Borrower shall be held by the Borrower on trust for the Security Agent and immediately paid into a Designated Account or, if received by the Security Agent, may be applied by the Security Agent in accordance with clause 19.1; and
- 8.5.2 all voting and other rights and powers attaching to the Investments may be exercised by, or at the direction of, the Security Agent and the Borrower shall, and shall procure that its nominees shall, comply with any directions the Security Agent may give, in its absolute discretion, concerning the exercise of those rights and powers.

#### **8.6 CALLS ON INVESTMENTS**

Notwithstanding the security created by this deed, the Borrower shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Borrower acknowledges that the Security Agent shall not be under any liability in respect of any such calls, instalments or other payments.

#### **8.7 NO ALTERATION OF CONSTITUTIONAL DOCUMENTS OR RIGHTS ATTACHING TO INVESTMENTS**

The Borrower shall not, without the prior written consent of the Security Agent, amend, or agree to the amendment of:

- 8.7.1 the memorandum or articles of association, or any other constitutional documents, of any issuer of the Investments that is not a public company; or
- 8.7.2 the rights or liabilities attaching to, or conferred by, all or any of the Investments.



**8.8      PRESERVATION OF INVESTMENTS**

The Borrower shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of any of the Investments (that is not a public company) shall not:

- 8.8.1      consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;
- 8.8.2      issue any new shares or stock; or
- 8.8.3      refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, the Security Agent or the Borrower in accordance with this deed.

**9.      INVESTMENTS INFORMATION**

The Borrower shall, promptly following receipt, send to the Security Agent copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.

**9.1      COMPLIANCE WITH REQUESTS FOR INFORMATION**

The Borrower shall promptly send a copy to the Security Agent of, and comply with, all requests for information which is within its knowledge and which are made under any law or regulation or any similar provision in any articles of association or other constitutional document, or by any listing or other authority, relating to any of the Investments. If it fails to do so, the Security Agent may elect to provide such information as it may have on behalf of the Borrower.

**10.      EQUIPMENT COVENANTS****10.1      MAINTENANCE OF EQUIPMENT**

10.1.1      The Borrower shall:

- (a)      maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;
- (b)      at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and
- (c)      not permit any Equipment to be:
  - (i)      used or handled other than by properly qualified and trained persons; or
  - (ii)     overloaded or used for any purpose for which it is not designed or reasonably suitable.

**10.2      PAYMENT OF EQUIPMENT TAXES**

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Security Agent.

**11.      BOOK DEBTS COVENANTS****11.1      REALISING BOOK DEBTS**

- 11.1.1      The Borrower shall as an agent for the Security Agent, collect in and realise all Book Debts, pay the proceeds into an account over which the Security Agent has Security pursuant to this Deed immediately on receipt and, pending that payment, hold those proceeds in trust for the Security Agent;
- 11.1.2      The Borrower shall not, without the prior written consent of the Security Agent, withdraw any amounts standing to the credit of the account specified under clause 11.1.1 above.

- 11.1.3 The Borrower shall, if called on to do so by the Security Agent, execute a legal assignment of the Book Debts to the Security Agent on such terms as the Security Agent may require and give notice of that assignment to the debtors from whom the Book Debts are due, owing or incurred.

## **11.2 PRESERVATION OF BOOK DEBTS**

The Borrower shall not (except as provided by clause 11.1 or with the prior written consent of the Security Agent) release, exchange, compound, set off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Book Debts.

## **11.3 RELEVANT AGREEMENTS**

- 11.3.1 The Borrower shall, unless the Security Agent agrees otherwise in writing, comply with the terms of any document, agreement or arrangement comprising the Secured Assets.

- 11.3.2 The Borrower shall not, unless the Security Agent agrees otherwise in writing:

- (a) amend or vary or agree to any change in, or waive any requirement of or its rights under;
- (b) settle, compromise, terminate, rescind or discharge (except by performance); or
- (c) abandon, waive dismiss, release or discharge any action, claim or proceedings against any counterparty to such agreement or other person in connection with,

any such document, agreement or arrangement comprising the Secured Assets.

## **12. INTELLECTUAL PROPERTY COVENANTS**

### **12.1 PRESERVATION OF RIGHTS**

The Borrower shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

### **12.2 REGISTRATION OF INTELLECTUAL PROPERTY**

The Borrower shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Security Agent informed of all matters relating to each such registration.

### **12.3 MAINTENANCE OF INTELLECTUAL PROPERTY**

The Borrower shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

## **13. POWERS OF THE SECURITY AGENT**

### **13.1 POWER TO REMEDY**

- 13.1.1 The Security Agent shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.

- 13.1.2 The Borrower irrevocably authorises the Security Agent and its agents to do all things that are necessary or desirable for that purpose.

- 13.1.3 Any monies expended by the Security Agent in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Security Agent on a full indemnity basis and shall carry interest in accordance with clause 20.1.

### **13.2 EXERCISE OF RIGHTS**

- 13.2.1 The rights of the Security Agent under clause 13.1 are without prejudice to any other rights of the Security Agent under this deed.

- 13.2.2 The exercise of any rights of the Security Agent under this deed shall not make the Security Agent liable to account as a mortgagee in possession.

### **13.3 POWER TO DISPOSE OF CHATTELS**

- 13.3.1 At any time after the security constituted by this deed has become enforceable, the Security Agent or any Receiver may, as agent for the Borrower, dispose of any chattels or produce found on any Charged Property.
- 13.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 13.3.1, the Borrower shall indemnify the Security Agent and any Receiver against any liability arising from any disposal made under clause 13.3.1.

### **13.4 SECURITY AGENT HAS RECEIVER'S POWERS**

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Security Agent in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

### **13.5 CONVERSION OF CURRENCY**

- 13.5.1 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 it under this deed (including the proceeds of any previous conversion under this clause 13.5) from their existing currencies of denomination into any other currencies of denomination that the Security Agent may think fit.
- 13.5.2 Any such conversion shall be effected at the Security Agent's then prevailing spot selling rate of exchange for such other currency against the existing currency.
- 13.5.3 Each reference in this clause 13.5 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

### **13.6 NEW ACCOUNTS**

- 13.6.1 If the Security Agent receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Security Agent may open a new account for the Borrower in the Security Agent's books. Without prejudice to the Security Agent's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 13.6.2 If the Security Agent does not open a new account immediately on receipt of the notice, or deemed notice, under clause 13.6.1, then, unless the Security Agent gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Security Agent shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Security Agent.

### **13.7 INDULGENCE**

The Security Agent may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities, or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.

### **13.8 APPOINTMENT OF AN ADMINISTRATOR**

- 13.8.1 The Security Agent may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.

13.8.2 Any appointment under this clause 13.8 shall:

- (a) be in writing signed by a duly authorised signatory of the Security Agent; and
- (b) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

13.8.3 The Security Agent may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 13.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

### **13.9 FURTHER ADVANCES**

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

## **14. WHEN SECURITY BECOMES ENFORCEABLE**

### **14.1 SECURITY BECOMES ENFORCEABLE ON EVENT OF DEFAULT**

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

### **14.2 DISCRETION**

After the security constituted by this deed has become enforceable, the Security Agent may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

## **15. ENFORCEMENT OF SECURITY**

### **15.1 ENFORCEMENT POWERS**

15.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.

15.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 14.1.

15.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

### **15.2 EXTENSION OF STATUTORY POWERS OF LEASING**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Security Agent and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Borrower, to:

15.2.1 grant a lease or agreement for lease;

15.2.2 accept surrenders of leases; or

15.2.3 grant any option in respect of the whole or any part of the Secured Assets with whatever rights relating to other parts of it, whether or not at a premium and containing such covenants on the part of the Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Security Agent or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

### **15.3 ACCESS ON ENFORCEMENT**

15.3.1 At any time after the Security Agent has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Loan Agreement, the Borrower will allow the Security Agent or its Receiver, without further notice or demand, immediately

to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Security Agent or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.

- 15.3.2 At all times, the Borrower must use its best endeavours to allow the Security Agent or its Receiver access to any premises for the purpose of clause 15.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

#### **15.4 REDEMPTION OF PRIOR SECURITY**

- 15.4.1 At any time after the security constituted by this deed has become enforceable, the Security Agent may:

- (a) redeem any prior Security over any Secured Asset;
- (b) procure the transfer of that Security to itself; and
- (c) settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower).

- 15.4.2 The Borrower shall pay to the Security Agent immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this deed as part of the Secured Liabilities.

#### **15.5 PROTECTION OF THIRD PARTIES**

No purchaser, mortgagee or other person dealing with the Security Agent, the Agent, any Receiver or any Delegate shall be concerned to enquire:

- 15.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- 15.5.2 whether any power the Security Agent, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
- 15.5.3 how any money paid to the Security Agent, any Receiver or any Delegate is to be applied.

#### **15.6 PRIVILEGES**

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

#### **15.7 NO LIABILITY AS MORTGAGEE IN POSSESSION**

- 15.7.1 None of the Secured Parties, nor any Receiver or Delegate shall be liable, to the Borrower or any other person:

- (a) by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable; or
- (b) for any expense, loss or liability:
  - (i) relating to the enforcement of, or any failure to enforce or delay in enforcing, any security constituted by or pursuant to this deed;
  - (ii) relating to an exercise of rights, or by any failure to exercise or delay in exercising, rights under this deed; or
  - (iii) arising in any other way in connection with this deed, except that this does not exempt the Secured Parties or any Receiver or Delegate from liability for losses caused by the

gross negligence, fraud or wilful misconduct of the Secured Parties or the relevant Receiver or Delegate.

## **15.8 CONCLUSIVE DISCHARGE TO PURCHASERS**

The receipt of the Secured Parties, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Secured Parties, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

## **15.9 RIGHT OF APPROPRIATION**

15.9.1 To the extent that:

- (a) the Secured Assets constitute Financial Collateral; and
- (b) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement, the Security Agent shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Security Agent may, acting on the instructions of the Secured Parties, determine.

15.9.2 The value of any Secured Assets appropriated in accordance with this clause shall be:

- (a) in the case of cash, the amount standing to the credit of each of the Borrower's accounts with any bank, financial institution or other person, together with any accrued but unpaid interest, at the time the right of appropriation is exercised; and
- (b) in the case of Investments, the market price of those Investments at the time the right of appropriation is exercised determined by the Security Agent by reference to a recognised market index or by any other method that the Security Agent may select (including independent valuation).

15.9.3 The Borrower agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

## **16. RECEIVER**

### **16.1 APPOINTMENT**

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Security Agent may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

### **16.2 REMOVAL**

The Security Agent may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **16.3 REMUNERATION**

The Security Agent may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

### **16.4 POWER OF APPOINTMENT ADDITIONAL TO STATUTORY POWERS**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Security Agent under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

**16.5 POWER OF APPOINTMENT EXERCISABLE DESPITE PRIOR APPOINTMENTS**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Security Agent despite any prior appointment in respect of all or any part of the Secured Assets.

**16.6 SECURITY AGENT OF THE BORROWER**

Any Receiver appointed by the Security Agent under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Security Agent.

**17. POWERS OF RECEIVER****17.1 GENERAL**

17.1.1 Any Receiver appointed by the Security Agent under this deed shall, in addition to the powers conferred on it by statute, have the rights, powers and discretions set out in clause ~~17.2~~ to clause ~~17.23~~.

17.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.

17.1.3 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.

17.1.4 Any exercise by a Receiver of any of the powers given by clause ~~17~~ may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause ~~17.16~~) or itself.

**17.2 REPAIR AND DEVELOP CHARGED PROPERTIES**

A Receiver may undertake or complete any works of repair, alteration, building or development on the Charged Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

**17.3 GRANT OR ACCEPT SURRENDERS OF LEASES**

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting any Secured Asset on any terms, and subject to any conditions, that it thinks fit.

**17.4 EMPLOY PERSONNEL AND ADVISERS**

17.4.1 A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit.

17.4.2 A Receiver may discharge any such person or any such person appointed by the Borrower.

**17.5 MAKE AND REVOKE VAT OPTIONS TO TAX**

A Receiver may make, exercise or revoke any VAT option to tax as it thinks fit.

**17.6 REMUNERATION**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Security Agent may prescribe or agree with it.

**17.7 POSSESSION**

A Receiver may take immediate possession of, get in and realise any Secured Asset.

**17.8 MANAGE OR RECONSTRUCT THE BORROWER'S BUSINESS**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Borrower.

**17.9 DISPOSE OF SECURED ASSETS**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

**17.10 SEVER FIXTURES AND FITTINGS**

A Receiver may sever and sell separately any fixtures or fittings from any Charged Property without the consent of the Borrower.

**17.11 SELL BOOK DEBTS**

A Receiver may sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit.

**17.12 VALID RECEIPTS**

A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

**17.13 MAKE SETTLEMENTS**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Borrower or relating in any way to any Secured Asset.

**17.14 LEGAL ACTION**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

**17.15 IMPROVE THE EQUIPMENT**

A Receiver may make substitutions of, or improvements to, the Equipment as it may think expedient.

**17.16 MAKE CALLS ON BORROWER MEMBERS**

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

**17.17 INSURE**

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 20, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed.

**17.18 SUBSIDIARIES**

A Receiver may form a subsidiary of the Borrower and transfer to that subsidiary any Secured Asset



**17.19 BORROW**

A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Security Agent consents, terms under which that security ranks in priority to this deed).

**17.20 REDEEM PRIOR SECURITY**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

**17.21 DELEGATION**

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

**17.22 ABSOLUTE BENEFICIAL OWNER**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do, in the ownership and management of the Secured Assets or any part of the Secured Assets.

**17.23 INCIDENTAL POWERS**

A Receiver may do any other acts and things that it:

- 17.23.1 may consider desirable or necessary for realising any of the Secured Assets;
- 17.23.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- 17.23.3 lawfully may or can do as agent for the Borrower.

**18. DELEGATION****18.1 DELEGATION**

The Security Agent or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 22.1).

**18.2 TERMS**

The Security Agent and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

**18.3 LIABILITY**

None of the Secured Parties nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability of any nature arising from any act, default, omission or misconduct on the part of any Delegate.

**19. APPLICATION OF PROCEEDS****19.1 ORDER OF APPLICATION OF PROCEEDS**

All monies received or recovered by the Security Agent, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Security Agent's right to recover any shortfall from the Borrower):

- 19.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Secured Parties (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- 19.1.2 in or towards payment of the Secured Liabilities in any order and manner that the Security Agent determines; and
- 19.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.

## **19.2 APPROPRIATION**

Neither the Security Agent, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

## **19.3 SUSPENSE ACCOUNT**

All monies received by the Security Agent, a Receiver or a Delegate under this deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):

- 19.3.1 may, at the discretion of the Security Agent, Receiver or Delegate, be credited to a suspense account;
- 19.3.2 shall bear interest, if any, at the rate agreed in writing between the Security Agent and the Borrower; and
- 19.3.3 may be held in that account for so long as the Security Agent, Receiver or Delegate thinks fit.

## **20. COSTS AND INDEMNITY**

### **20.1 COSTS**

The Borrower shall, promptly on demand, pay to, or reimburse, the Secured Parties and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Secured Parties, any Receiver or any Delegate in connection with:

- 20.1.1 the negotiation, preparation, execution and delivery of this deed or the Secured Assets;
- 20.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Secured Party's, a Receiver's or a Delegate's rights under this deed; or
- 20.1.3 any amendment, extension, waiver, consent or suspension of rights (or any proposal for any of these) under or in connection with this deed;
- 20.1.4 any release of any security constituted by this deed; or
- 20.1.5 taking proceedings for, or recovering, any of the Secured Liabilities, together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of the Borrower) at the rate and in the manner specified in the Loan Agreement.

### **20.2 INDEMNITY**

- 20.2.1 The Borrower shall indemnify the Secured Parties, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
- (b) taking, holding, protecting, perfecting, preserving, releasing or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Borrower in performing any of its obligations under this deed.

20.2.2 Any past or present employee or agent may enforce the terms of this clause 20.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **21. FURTHER ASSURANCE**

### **21.1 FURTHER ASSURANCE**

The Borrower shall promptly, at its own expense, take whatever action the Security Agent or any Receiver may reasonably require for:

- 21.1.1 creating, perfecting or protecting the security created or intended to be created by this deed;
- 21.1.2 facilitating the realisation of any Secured Asset; or
- 21.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Security Agent or any Receiver in respect of any Secured Asset, including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Security Agent or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Security Agent may consider necessary or desirable.

## **22. POWER OF ATTORNEY**

### **22.1 APPOINTMENT OF ATTORNEYS**

By way of security, the Borrower irrevocably appoints the Security Agent, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, while an Event of Default is continuing, to execute any documents and do any acts and things that:

- 22.1.1 the Borrower is required to execute and do under this deed; or
- 22.1.2 any attorney deems necessary, proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Security Agent, any Receiver or any Delegate.

### **22.2 RATIFICATION OF ACTS OF ATTORNEYS**

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 22.1.

## **23. RELEASE**

Subject to clause 30.3, at the end of the Security Period, the Security Agent shall, at the request and cost of the Borrower, take whatever action is necessary to:

- 23.1.1 release the Secured Assets from the security constituted by this deed; and
- 23.1.2 reassign the Secured Assets to the Borrower.

## **24. ASSIGNMENT AND TRANSFER**

### **24.1 ASSIGNMENT BY SECURITY AGENT**

- 24.1.1 At any time, without the consent of the Borrower, the Security Agent may assign any of its rights or transfer any or all of its rights and obligations under this deed.

- 24.1.2 The Security Agent may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this deed that the Security Agent considers appropriate.

## **24.2 ASSIGNMENT BY BORROWER**

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

## **25. SET-OFF**

### **25.1 SECURITY AGENT'S RIGHT OF SET-OFF**

The Security Agent may at any time set off any liability of the Borrower to the Security Agent against any liability of the Security Agent to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Security Agent may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Security Agent of its rights under this clause 25 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

### **25.2 EXCLUSION OF BORROWER'S RIGHT OF SET-OFF**

All payments made by the Borrower to the Security Agent under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **26. AMENDMENTS, WAIVERS AND CONSENTS**

### **26.1 AMENDMENTS**

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

### **26.2 WAIVERS AND CONSENTS**

- 26.2.1 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

- 26.2.2 A failure by the Security Agent or the Secured Parties to exercise, or delay by them in exercising any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Security Agent or any other Secured Party shall be effective unless it is in writing.

### **26.3 RIGHTS AND REMEDIES**

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

## **27. SEVERANCE**

### **27.1 SEVERANCE**

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

**28. COUNTERPARTS****28.1 COUNTERPARTS**

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

**29. THIRD PARTY RIGHTS****29.1 THIRD PARTY RIGHTS**

29.1.1 Except as expressly provided in clause ~~20.2~~, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

29.1.2 The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

**30. FURTHER PROVISIONS****30.1 INDEPENDENT SECURITY**

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

**30.2 CONTINUING SECURITY**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Security Agent discharges this deed in writing.

**30.3 DISCHARGE CONDITIONAL**

Any release, discharge or settlement between the Borrower and the Security Agent shall be deemed conditional on no payment or security received by the Security Agent in respect of the Secured Liabilities being avoided, reduced, set aside or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

30.3.1 the Security Agent or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Security Agent deems necessary to provide the Security Agent with security against any such avoidance, reduction or order for refund; and

30.3.2 the Security Agent may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

**30.4 CERTIFICATES**

A certificate or determination by the Security Agent as to any amount for the time being due to it from the Borrower under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due.

**30.5 CONSOLIDATION**

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

### **30.6** **PART A1 MORATORIUM**

Notwithstanding anything to the contrary in this deed, neither the obtaining of a moratorium by the Borrower under Part A1 to the Insolvency Act 1986 nor the doing of anything by the Borrower with a view to obtaining such a moratorium (including any preliminary decision or investigation), other than in respect of a floating charge referred to in section A52(4) of the Insolvency Act 1986 shall be, or be construed as:

- 30.6.1 an event under this deed which causes any floating charge created by this deed to crystallise or to be converted into a fixed charge;
- 30.6.2 an event under this deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property by the Borrower; or
- 30.6.3 a ground under this deed for the appointment of a Receiver.

### **30.7** **AGENCY**

Pursuant to clause 23 (*Agency*) of the Loan Agreement, the Lender appoints the Security Agent to act on its behalf as the administrative and collateral agent under this deed and authorises the Security Agent to take such actions on its behalf and to exercise such powers as are delegated to the Security Agent in accordance with the services agreement between the Security Agent and the Lender.

### **31.** **NOTICES**

#### **31.1** **DELIVERY**

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

- 31.1.1 in writing;
- 31.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax or email; and
- 31.1.3 sent to:

(a) the Borrower at:

Address: Unit 1, Tollgate Park, Paton Drive, Tollgate Industrial Estate, Stafford, ST16 3EF, United Kingdom

Email: [REDACTED]

Attention: Nick Moutter, Director

(b) the Security Agent at:

Address: Suite 300, 8 King Street East, Toronto, Ontario M5C 1B5

Email: [REDACTED]

Attention: Enio Lazzer, CFO & COO

with a copy to the Lender at:

Address: Suite 300, 8 King Street East, Toronto, Ontario M5C 1B5

Email: [REDACTED]

Attention: Enio Lazzer, CFO & COO

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

### **31.2 RECEIPT BY BORROWER**

Any notice or other communication that the Security Agent gives to the Borrower shall be deemed to have been received:

- 31.2.1 if delivered by hand, at the time it is left at the relevant address;
- 31.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- 31.2.3 if sent by email, when received in legible form.

A notice or other communication given as described in clause 31.1.1 or clause 31.1.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

### **31.3 RECEIPT BY SECURITY AGENT**

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

### **31.4 SERVICE OF PROCEEDINGS**

This clause 31 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **32. GOVERNING LAW AND JURISDICTION**

### **32.1 GOVERNING LAW**

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

### **32.2 JURISDICTION**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Security Agent to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**SCHEDULE 1  
NOTICE AND ACKNOWLEDGEMENT - BANK ACCOUNT**

**PART 1  
FORM OF NOTICE**

*[On headed notepaper of the Borrower]*

[BANK, FINANCIAL INSTITUTION OR OTHER PERSON] [ADDRESS LINE 1]

[ADDRESS LINE 2] [POSTCODE]

Copy: [Security Agent]

[DATE]

Dear Sirs / Mesdames

**Debenture dated [DATE] between Espresso Capital Ltd as the security trustee (the Security Agent) and The Moot Group Ltd. as the borrower (the Debenture)**

This letter constitutes notice to you that under the Debenture we have charged, by way of first fixed charge, in favour of the Security Agent as security trustee for the Secured Parties all monies from time to time standing to the credit of the account held with you and detailed below (the **Account**), together with all other rights and benefits accruing to or arising in connection with the Account (including, but not limited to, entitlements to interest):

**Name of Account: [NAME OF ACCOUNT] Sort code: [SORT CODE]**

**Account number: [ACCOUNT NUMBER]**

We irrevocably instruct and authorise you to:

- Disclose to the Security Agent any information relating to the Account requested from you by the Security Agent.
- Comply with the terms of any written notice or instructions relating to the Account received by you from the Security Agent.
- Following your receipt of a notice that an Event of Default has occurred under the Debenture (an **"Enforcement Notice"**) hold all sums from time to time standing to the credit of the Account to the order of the Security Agent.
- Following your receipt of an Enforcement Notice, pay or release all or any part of the monies standing to the credit of the Account in accordance with the written instructions of the Security Agent.

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

If the Security Agent sends you an Enforcement Notice, we will not be permitted to withdraw any amount from the Account without the prior written consent of the Security Agent.

The instructions in this notice may only be revoked or amended with the prior written consent of the Security Agent.

This notice, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

Please acknowledge receipt of this notice by sending the attached acknowledgement to the Security Agent at Suite 300, 8 King Street East, Toronto, Ontario M5C 1B5, and by email to Martin Ross [REDACTED] and Meran Glass [REDACTED] with a copy to us.

Yours sincerely,



Signed.....  
**The Moot Group Ltd.**

**PART 2**  
**FORM OF ACKNOWLEDGEMENT**

*[On headed notepaper of the bank, financial institution or other person]*

Espresso Capital Ltd.  
Suite 300  
8 King Street East  
Toronto, Ontario M5C 1B5

By email: Martin Ross [REDACTED]; and Meran Glass [REDACTED]

Copy: [Borrower]

[DATE]

Dear Sirs / Mesdames

**Debenture dated [DATE] between Espresso Capital Ltd. as the security trustee (the Security Agent) and The Moot Group Ltd. as the borrower (the Borrower) (the Debenture)**

We confirm receipt from the Borrower of a notice (the **Notice**) dated [DATE] of a charge (on the terms of the Debenture) over all monies from time to time standing to the credit of the account detailed below (the **Account**), together with all other rights and benefits accruing to or arising in connection with the Account (including, but not limited to, entitlements to interest).

We confirm that we:

- Accept the instructions contained in the Notice and agree to comply with the Notice.
- Following receipt of an Enforcement Notice (as defined in the notice received from you), will not permit any amount to be withdrawn from the Account without your prior written consent.
- Following receipt of an Enforcement Notice, will hold all sums from time to time standing to the credit of the Account to your order.
- Following receipt of an Enforcement Notice, will pay or release all or any part of the monies standing to the credit of the Account in accordance with your written instructions.
- Have not received notice of the interest of any third party in the Account.
- Have neither claimed nor exercised, nor will claim or exercise any security interest, set-off, counter-claim or other right in respect of the Account.

The Account is:

**Name of Account: [NAME OF ACCOUNT]**

**Sort code: [SORT CODE]**

**Account number: [ACCOUNT NUMBER]**

This letter, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

**SCHEDULE 2  
NOTICE AND ACKNOWLEDGEMENT - INSURANCE POLICY**

**PART 1  
FORM OF NOTICE**

*[On headed notepaper of the Borrower]*

[NAME OF INSURER]  
[ADDRESS LINE 1]  
[ADDRESS LINE 2]  
[POSTCODE]

Copy: [Security Agent]

[DATE]

Dear [NAME OF INSURER],

**Debenture between Espresso Capital Ltd. as the security trustee (the Security Agent) and The Moot Group Ltd. as the borrower (Debenture)**

We refer to the [DESCRIBE INSURANCE POLICY AND SPECIFY ITS POLICY NUMBER] (Policy).

This letter constitutes notice to you that under the Debenture (a copy of which is attached) we have charged by way of first fixed charge to the Security Agent and assigned to the Security Agent, absolutely, subject to a proviso for reassignment, all our rights in the Policy, including all claims, the proceeds of all claims and all returns of premium in connection with the Policy.

We irrevocably instruct and authorise you to:

- Note the Security Agent's interest on the Policy as Chargee and Assignee (except in relation to public liability and third party liability insurance).
- Name the Security Agent as first loss payee (other than in respect of any claim under any public liability and third party liability insurances).
- Comply with the terms of any written instructions received by you from the Security Agent relating to the Policy, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions.
- Hold all sums from time to time due and payable by you to us under the Policy to the order of the Security Agent.
- Pay, or release, all monies to which we are entitled under the Policy to the Security Agent, or to such persons as the Security Agent may direct.
- Disclose information in relation to the Policy to the Security Agent on request by the Security Agent.

Neither the Debenture nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Policy.

Subject to the foregoing, you may continue to deal with us in relation to the Policy until you receive written notice to the contrary from the Security Agent. Thereafter, we will cease to have any right to deal with you in relation to the Policy and you must deal only with the Security Agent.

The instructions in this notice may only be revoked or amended with the prior written consent of the Security Agent.

Please confirm that you agree to the terms of this notice and to act in accordance with its provisions by sending the attached acknowledgement to the Security Agent and Agent at Suite 300, 8 King Street East, Toronto, Ontario M5C 1B5, email: [REDACTED] with a copy to us.

This notice, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

Yours sincerely,

.....  
[THE MOOT GROUP LTD.]

**PART 2  
FORM OF ACKNOWLEDGEMENT**

*[On headed notepaper of the insurer]*

Espresso Capital Ltd.  
Suite 300,  
8 King Street East,  
Toronto, Ontario  
M5C 1B5,  
email: [REDACTED]

Copy: [Borrower]

[DATE]

Dear Sir/Madam,

**Debenture between Espresso Capital Ltd. as the security trustee (the Security Agent) and The Moot Group Ltd. as the borrower (Debenture)**

We confirm receipt from the Borrower of a notice (Notice) dated [DATE] of a first fixed charge in favour of the Security Agent and an assignment to the Security Agent, subject to a proviso for reassignment of all the Borrower's rights in [DESCRIBE INSURANCE POLICY AND ITS NUMBER] (Policy), including all claims, the proceeds of all claims and all returns of premiums in connection with the Policy.

[Terms defined in the Notice shall have the same meaning when used in this acknowledgement].

We confirm that:

We accept the instructions and authorisations contained in the Notice and agree to comply with the Notice.

- We have noted the Security Agent's interest on the Policy as Chargee and Assignee (except in relation to public liability and third party liability insurances).
- There has been no amendment, waiver or release of any rights or interests in the Policy since the date the Policy was issued.
- We have not, as at the date of this acknowledgement, received notice that the Borrower has assigned its rights under the Policy 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.
- The Policy shall not be avoided or vitiated as against the Security Agent by reason of the act or default of any [other] insured party or any misrepresentation, non-disclosure or failure to make a fair presentation of risk by any [other] insured party.
- [We waive our rights of subrogation against the Borrower, the Security Agent and the tenants of any property mortgaged or charge under the Debenture) other than any such rights arising in connection with any fraud or criminal offence committed by any of those persons in respect of any such property or the Policy].
- We will not repudiate, rescind or cancel the Policy, treat it as avoided in whole or in part nor treat it as expired due to non-payment of premium without giving at least 30 days' prior written notice to the Security Agent.
- The Security Agent will not have any liability for any premium in relation to the Policy unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of the Policy.

This letter, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation), shall be governed by and construed in accordance with the law of England and Wales.

Yours sincerely,

.....

[NAME OF INSURER]

**DEBENTURE**

**SIGNATURE PAGES**

**SECURITY AGENT**  
**ESPRESSO CAPITAL LTD.**

acting by:



-----849DBDA2A01B4AB....

Enio Lazzer, COO & CFO

**BORROWER**

Executed as a deed by  
**THE MOOT GROUP LTD**  
acting by:

[Redacted Signature] .....

Nick Moutter, Director

email: [Redacted]

[Redacted Signature] .....

Ben Peace

Address: [Redacted]

Email Address: [Redacted]

Occupation: Operations Manager