



**Registration of a Charge**

Company Name: **PICCADILLY BIDCO LIMITED**

Company Number: **12092396**



XCA3L1E1

Received for filing in Electronic Format on the: **17/08/2023**

**Details of Charge**

Date of creation: **16/08/2023**

Charge code: **1209 2396 0001**

Persons entitled: **NATIONAL WESTMINSTER BANK PLC**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

Certification statement: **WE 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: **OSBORNE CLARKE LLP**



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

Company number: 12092396

Charge code: 1209 2396 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th August 2023 and created by PICCADILLY BIDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th August 2023 .

Given at Companies House, Cardiff on 18th August 2023

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**

**DATE: 16 August 2023**

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**SECURITY AGREEMENT**

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Between

**PICCADILLY BIDCO LIMITED**

(as Chargor)

and

**NATIONAL WESTMINSTER BANK PLC**

(as Lender)

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We certify that, save for material redacted pursuant to s. 859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

Dated this **17 August 2023**

Signed

*Osborne Clarke LLP*

Osborne Clarke LLP  
One London Wall  
London  
EC2Y 5EB

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**THIS DEED** is made on 16 August 2023.

**BETWEEN:**

- (1) **PICCADILLY BIDCO LIMITED** incorporated in England and Wales with registration no. 12092396 and having its registered office at City View House 5 Union Street, Ardwick, Manchester, England, M12 4JD (the “**Chargor**”); and
- (2) **NATIONAL WESTMINSTER BANK PLC** as lender (the “**Lender**”).

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

***Definitions***

- 1.1 Terms defined in the Facility Agreement (defined below) shall, unless otherwise defined in this Deed, have the same meanings when used in this Deed and in addition in this Deed:

“**Charged Property**”: means all the assets of the Chargor which from time to time are the subject of any security created or expressed to be created in favour of the Lender by or pursuant to this Deed.

“**Debt Proceeds**”: means any proceeds of any book debts and other debts or monetary claims (including any chose in action which may give rise to a monetary claim) owing to the Chargor (including, without limitation, any sums of money received by the Chargor from any of the assets charged under clause 3.2.5 (*Book debts*) and/or clause 3.2.6 (*Bank accounts and deposits*)).

“**Declared Default**”: means an Event of Default has occurred in relation to which the Lender has delivered a notice to the Company pursuant to clause 21.18 (*Acceleration*) of the Facility Agreement.

“**Delegate**”: means any person appointed by the Lender or any Receiver pursuant to clauses 12.2 to 12.4 (*Delegation*) and any person appointed as attorney of the Lender and/or any Receiver or Delegate.

“**Event of Default**”: has the meaning given to it in the Facility Agreement.

“**Excluded Property**”: means

- (a) any freehold property with a value of less than £1,000,000; and
- (b) any leasehold property with an unexpired term of less than 15 years to run.

“**Expenses**”: means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Lender or any Receiver or Delegate at any time in connection with the Charged Property or the Secured Liabilities or in taking, holding or perfecting this Deed or in protecting, preserving, defending or enforcing the security constituted by this Deed or in exercising any rights, powers or remedies provided by or pursuant to this Deed (including any right or power to make payments on behalf of the Chargor under the terms of this Deed) or by law in each case on a full indemnity basis.

“**Facility Agreement**”: means a facility agreement dated on or about the date of this Deed and made between, among others, the Chargor and the Lender.

“**Finance Documents**”: has the meaning given to it in the Facility Agreement.

“**Insurances**”: means contracts and policies of insurance or assurance (including, without limitation, life policies and the proceeds of them) (other than third party or public liability policies)

from time to time taken out by or for the benefit of the Chargor or in which the Chargor from time to time has an interest, together with all bonuses and other moneys, benefits and advantages that may become payable or accrue under them or under any substituted policy.

**“Intellectual Property”:**

- (a) any intellectual property listed in schedule 2 (*Intellectual Property*);
- (b) all legal and beneficial interests of each member of the Group (in any part of the world) (which may now or in the future subsist) in any patents, trade marks, service marks, licenses, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow, improvements, modifications, processes, formulae, algorithms, rights in computer software and other intellectual property rights and interests, whether registered or unregistered; and
- (c) the benefit of all applications and rights to use such assets described in paragraphs (a) and (b) above of each member of the Group (which may now or in the future subsist).

**“IT System”:** means all computer hardware (including network and telecommunications equipment), databases and software (including associated user manuals, object code and source code).

**“Liability Period”:** means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied, acting in good faith, that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

**“LPA”:** means the Law of Property Act 1925.

**“Mortgaged Property”:** means any freehold, commonhold or leasehold property the subject of the security constituted by this Deed and references to any “Mortgaged Property” shall include references to the whole or any part or parts of it (for the avoidance of doubt, excluding any Excluded Property).

**“Planning Acts”:** means all legislation from time to time regulating the development, use, safety and control of property including, without limitation, the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 and any other instrument, plan, regulation, permission or direction made or issued under any such legislation.

**“Premises”:** means all buildings and erections from time to time situated on or forming part of any Mortgaged Property.

**“Receiver”:** means a receiver, receiver and manager or administrative receiver of the whole or any part or parts of the Charged Property.

**“Related Rights”:** means, in relation to the Securities, all dividends, interest, benefits, property, rights, accretions, moneys, advantages, credits, rebates, refunds (including rebates and refunds in respect of any tax, duties, imposts or charges) and other distributions paid or payable in respect of the Securities, whether by way of bonus, capitalisation, conversion, preference, option, substitution, exchange, redemption or otherwise.

**“Secured Liabilities”:** means all present and future indebtedness, moneys, obligations and liabilities of the Chargor, each Obligor and each other member of the Group to the Lender, in whatever currency denominated, whether actual or contingent, whether owed jointly or severally or as principal or as surety or in some other capacity and whether or not the Lender was an original



party to the relevant transaction and in whatever name or style, including all interest, discount, commission and fees for which each Obligor and each other member of the Group and/or the Chargor may be or become liable to the Lender (including, without limitation, under or in connection with the Finance Documents).

**“Securities”**: means all stocks, shares, loan notes, bonds, certificates of deposit, depository receipts, loan capital indebtedness, debentures or other securities from time to time legally or beneficially owned by or on behalf of the Chargor, including, without limitation, any of the same specified in schedule 3 (*Securities*), together with all property and rights of the Chargor in respect of any account held by or for it as participant, or as beneficiary of a nominee or trustee participant, with any clearance or settlement system or depository or custodian or sub-custodian or broker in the United Kingdom or elsewhere.

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

**“Specified Contracts”**: means each of the contracts specified in schedule 4 (*Specified Contracts*).

**“Tax”**: means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**“VAT”**: means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

### ***Construction***

#### 1.2 Any reference in this Deed to:

- 1.2.1 the **“Lender”**, the **“Chargor”**, the **“Company”**, any **“Borrower”**, any **“Obligor”** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.2 **“assets”** includes present and future properties, revenues and rights of every description;
- 1.2.3 **“indebtedness”** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.4 a **“person”** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.5 a **“regulation”** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
- 1.2.6 a provision of law is a reference to that provision as amended or re-enacted.

#### 1.3 Clause and schedule headings are for ease of reference only.

#### 1.4 Any reference in this Deed to a mortgage, charge or assignment of any asset shall be construed so as to include:

- 1.4.1 the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that asset and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that asset;

- 1.4.2 the proceeds of sale of any part of that asset and any other moneys paid or payable in respect of or in connection with that asset; and
- 1.4.3 in respect of any Mortgaged Property, all Premises and all fixtures and fittings (including trade fixtures and fittings and tenants' fixtures and fittings) from time to time in or on that Mortgaged Property.
- 1.5 Any reference in this Deed to “**this Deed**” shall be deemed to be a reference to this Deed as a whole and not limited to the particular clause, schedule or provision in which the relevant reference appears and to this Deed as amended, novated, assigned, supplemented, extended, substituted or restated from time to time and any reference in this Deed to a “**clause**” or a “**schedule**” is, unless otherwise provided, a reference to a clause or a schedule of this Deed.
- 1.6 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.7 Where any provision of this Deed is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision.
- 1.8 It is intended that this document shall take effect as and be a deed of the Chargor notwithstanding the fact that the Lender may not execute this document as a deed.
- 1.9 Any change in the constitution of the Lender or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Deed.

### ***Third Party Rights***

- 1.10 Unless otherwise expressly provided to the contrary in this Deed, nothing in this Deed is intended to confer on any person any right to enforce or enjoy the benefit of any provision of this Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.
- 1.11 Notwithstanding any term of this Deed, the consent of any person who is not a party is not required to rescind or vary this deed at any time.
- 1.12 Any Receiver may enforce or enjoy the benefit of any clause which expressly confers rights on it subject to clause 1.11 above and the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **2. COVENANT TO PAY AND GUARANTEE**

### ***Covenant to Pay***

- 2.1 The Chargor covenants with the Lender that it shall pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with their terms or, in the absence of any such express terms, on demand.

### ***Guarantee and Indemnity***

- 2.2 The Chargor irrevocably and unconditionally:
  - 2.2.1 guarantees to the Lender punctual payment, performance and discharge by each Obligor and each other member of the Group of the Secured Liabilities;
  - 2.2.2 undertakes with the Lender that whenever an Obligor or any other member of the Group does not pay any amount or perform or discharge any obligation in respect of the Secured Liabilities when due, the Chargor shall immediately on demand pay that amount or perform or discharge that obligation as if it was the principal obligor;

- 2.2.3 indemnifies the Lender immediately on demand against any cost, loss or liability suffered by the Lender if any obligation guaranteed by the Chargor is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which the Lender would otherwise have been entitled to recover; and
- 2.2.4 agrees with the Lender that if, for any reason, any amount claimed by the Lender under this clause 2.2 is not recoverable on the basis of a guarantee, it will be liable as a principal debtor and primary obligor to indemnify the Lender on demand against any cost, loss or liability the Lender incurs as a result of an Obligor or any other member of the Group or performing or discharging any obligation in respect of the Secured Liabilities on the date when it is expressed to be due. The amount payable by the Chargor under this indemnity will not exceed the amount it would have had to pay under this clause 2.2 if the amount claimed had been recoverable on the basis of a guarantee.

### 3. FIXED SECURITY

#### *Charges*

- 3.1 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Lender by way of a first legal mortgage all of its right, title and interest in and to the freehold, commonhold and leasehold property now vested in it (including, but not limited to, the freehold, commonhold and leasehold property (if any) specified in schedule 1 (*Real Property*)) (excluding any Excluded Property).
- 3.2 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Lender by way of first fixed charge all of its right, title and interest in and to the following assets, both present and future:
  - 3.2.1 all estates or interests in any freehold, commonhold or leasehold property (excluding any Excluded Property) (other than such property effectively mortgaged under clause 3.1 above);
  - 3.2.2 all licences held by it to enter upon or use land and/or to carry on the business carried on upon that land and all agreements relating to land to which it is a party or otherwise entitled;
  - 3.2.3 all fixed and other plant and machinery, IT System, vehicles, office equipment and other chattels in its ownership or possession (but excluding any of those items to the extent that they are part of its stock in trade);
  - 3.2.4 all Insurances, including all claims, the proceeds of all claims and all returns of premium in connection with Insurances;
  - 3.2.5 all book debts and all other debts or monetary claims (including all choses in action which may give rise to a debt or monetary claim), all proceeds thereof and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same;
  - 3.2.6 all moneys from time to time deposited in or standing to the credit of any bank account with the Lender or any other bank or financial institution (including, without limitation the bank accounts specified in schedule 5 (*Bank Accounts*));
  - 3.2.7 all Securities and their Related Rights;
  - 3.2.8 all of its goodwill and uncalled capital;
  - 3.2.9 all Intellectual Property;

- 3.2.10 each of the Specified Contracts, including, in each case, but without limitation, the right to demand and receive all moneys whatsoever 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 whatsoever accruing to or for its benefit arising from any of them.

***Assignment***

- 3.3 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, assigns to the Lender absolutely by way of a first legal assignment all of its right, title and interest in and to the Specified Contracts.

**4. FLOATING CHARGE**

***Creation of Floating Charge***

- 4.1 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Lender by way of a first floating charge all of its undertaking and all its other property, assets and rights, present and future, including all of its stock in trade and all of its property, assets and rights not otherwise validly and effectively mortgaged, charged or assigned (whether at law or in equity) by way of fixed security pursuant to clause 3 (*Fixed Security*).

***Qualifying Floating Charge***

- 4.2 The provisions of paragraph 14 of schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created pursuant to clause 4.1 (*Creation of Floating Charge*).

***Conversion by Notice***

- 4.3 The Lender may by notice in writing at any time to the Chargor convert the floating charge created pursuant to clause 4.1 (*Creation of Floating Charge*) with immediate effect into a fixed charge (either generally or specifically as regards any assets of the Chargor specified in the notice) if:
- 4.3.1 the security constituted by this Deed becomes enforceable; or
  - 4.3.2 the Lender reasonably considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process or that it is desirable to do so in order to protect or preserve the security constituted by this Deed over any of the Charged Property and/or the priority of that security.

***Automatic Conversion***

- 4.4 Notwithstanding clause 4.3 (*Conversion by Notice*) and without prejudice to any law which may have a similar effect, the floating charge created by clause 4.1 (*Creation of Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to that floating charge if:
- 4.4.1 the Chargor creates or attempts to create any Security over any of the Charged Property;
  - 4.4.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or
  - 4.4.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor or an administrator is appointed in respect of the Chargor.

***Part A1 moratorium*****4.5**

- 4.5.1 Subject to clause 4.5.2 below the obtaining of a moratorium under Part A1 of the Insolvency Act 1986, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any floating charge created by this Deed to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of any asset by a Chargor or a ground for the appointment of a Receiver.
- 4.5.2 Clause 4.5.1 above does not apply in respect of any floating charge referred to in subsection (4) of section A52 of Part A1 of the Insolvency Act 1986.

**5. PERFECTION OF SECURITY*****Registration at HM Land Registry***

- 5.1 For the purposes of panel 8 of each Form RX1 that may be required to be completed by the Lender in relation to any Mortgaged Property registered or required to be registered at HM Land Registry, the Chargor hereby consents to an application being made by the Lender to the Chief Land Registrar to enter the following restriction in Form P against its title to such Mortgaged Property:
- “No disposition of the registered estate by the proprietor of the registered estate , or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ ] in favour of National Westminster Bank Plc referred to in the charges register [or its conveyancer *[or specify appropriate details]*”.
- 5.2 Whether or not the title to any of the Mortgaged Property is registered at HM Land Registry, in the event that any caution against first registration or any notice (whether agreed or unilateral) is registered against the Chargor’s title to any Mortgaged Property, the Chargor shall immediately provide the Lender with full particulars of the circumstances relating to such registration or notice and, if such caution or notice shall have been registered in order to protect a purported interest the creation of which is not permitted under this Deed, the Chargor shall immediately and at its own expense take such steps as the Lender may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

***Further Advances***

- 5.3 The Lender covenants with the Chargor that it shall perform its obligations to make advances under any agreement to which it and the Chargor is party (including any obligation to make available further advances).

***Notices of Charge and Assignment***

- 5.4 The Chargor shall, promptly upon the request of the Lender from time to time, give or join the Lender in giving:
- 5.4.1 a notice in the form set out in part I of schedule 6 (*Form of Notice of Charge – Specified Contracts*) or, as applicable, part I of schedule 7 (*Form of Notice of Charge – Accounts not with the Lender*) or in such other form as the Lender may reasonably require to each of the counterparties to each Specified Contract and to each bank or financial institution (other than the Lender) in respect of each account of the Chargor opened or maintained with it; and

5.4.2 in respect of any other asset which is charged or assigned pursuant to clause 3 (*Fixed Security*), a notice of charge or as applicable, assignment in such form as the Lender may reasonably require to the relevant obligor, debtor or other third party (as the case may be).

5.5 Prior to the occurrence of a Declared Default, the Lender shall not give notice to any bank or financial institution with which the Chargor maintains any account charged pursuant to clause 3.2.6 instructing such bank or financial institution to hold any moneys deposited in or standing to the credit of that account to the order of the Lender.

5.6 ***Acknowledgement of Notice***

Each such notice shall be duly signed by or on behalf of the Chargor and it shall use all reasonable endeavours to procure that each of the persons on whom any such notice is served promptly provides to the Lender a duly signed acknowledgement of that notice in the form as the Lender may reasonably require.

***Deposit of Documents of Title***

5.7 The Chargor shall promptly deposit with the Lender (unless already held by its solicitors on behalf of and to the Lender's order or at HM Land Registry for the purpose of registration of the security constituted by this Deed) all deeds, certificates and other documents of title from time to time relating to the Mortgaged Property.

***Deposit of Securities***

5.8 The Chargor shall, in respect of any Securities which are in certificated form, promptly:

5.8.1 deposit with the Lender or as it may direct all stock and share certificates and other documents of title or evidence of ownership from time to time relating to such Securities; and

5.8.2 execute and deliver to the Lender all share transfers and other documents as the Lender may from time to time request in order to enable the Lender (or its nominee(s)) to be registered as the owner or otherwise obtain a legal title to or to perfect its security interest in such Securities, to the intent that the Lender may at any time without notice complete and present such transfers and documents for registration.

5.9 The Chargor shall, in respect of any Securities which are in uncertificated form, promptly upon being requested to do so by the Lender, give or procure the giving of, in accordance with and subject to the facilities and requirements of the relevant system, all instructions necessary to effect a transfer of title to such Securities into an account in the name of the Lender (or its nominee(s)) and to cause the Operator to register on the relevant register of securities the transfer of such title.

5.10 For the purposes of clauses 5.8 and 5.9 above, the expressions “**certificated**”, “**instruction**”, “**Operator**”, “**relevant system**” and “**uncertificated**” shall have the meanings given to those terms in the Uncertificated Securities Regulations 2001.

**6. FURTHER ASSURANCE**

***Further Assurance***

6.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender or any Receiver may reasonably specify (and in such form as the Lender or any Receiver may reasonably require in favour of the Lender or its nominee(s)) to:

- 6.1.1 perfect the security created or intended to be created in respect of the Charged Property (which may include the execution by the Chargor of a mortgage, charge, assignment or other Security over all or any of the assets forming part of, or which are intended to form part of, the Charged Property);
- 6.1.2 confer on the Lender Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Deed;
- 6.1.3 facilitate the exercise of any rights, powers and remedies of the Lender or any Receiver or Delegate provided by or pursuant to this Deed or by law;
- 6.1.4 facilitate the realisation of the assets which form part of, or are intended to form part of, the Charged Property; and/or
- 6.1.5 create any charge by way of legal mortgage over any freehold, commonhold or leasehold property which becomes vested in the Chargor after the date of this Deed (other than any Excluded Property).

***Necessary Action***

- 6.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Lender by or pursuant to this Deed.

***Acquisition of New Land***

- 6.3 The Chargor shall immediately notify the Lender of any acquisition by it of any freehold, commonhold or leasehold property or of any agreement entered into by it or of which it has the benefit for the acquisition of any such property (in each case other than any Excluded Property)..

***Implied Covenants for Title***

- 6.4 Each of the mortgages, charges and assignments granted by the Chargor under this Deed are granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994, save that the covenants set out in section 2(1)(a), section 3 and section 4 of that Act shall extend to the Chargor without, in each case, the benefit of section 6(2) of that Act.

**7. UNDERTAKINGS**

***General***

- 7.1 The undertakings in this clause 7 remain in force from the date of this Deed for so long as any amount is outstanding under this Deed.

***Negative Pledge***

- 7.2 The Chargor shall not create or extend or permit to arise or subsist any Security (other than any Security constituted by this Deed) over the whole or any part of the Charged Property except with the prior written consent of the Lender or as expressly permitted under the Facility Agreement.

***Voting Rights and Dividends relating to Securities***

- 7.3 At any time before the security constituted by this Deed has become enforceable:
  - 7.3.1 the Chargor shall be entitled to exercise all voting and other rights and powers in respect of the Securities or, if any of the same are exercisable by the Lender (or its nominee(s)),

to direct in writing the exercise of those voting and other rights and powers, **provided that** the Chargor shall not exercise or direct the exercise of any voting or other rights and powers in any manner which would, in the opinion of the Lender, prejudice the value of the Securities or otherwise jeopardise the security constituted by this Deed, other than as expressly permitted under the Facility Agreement; and

7.3.2 the Chargor shall be entitled to retain and apply for its own use all dividends, interest and other moneys paid or payable in respect of the Securities and, if any of the same are paid or payable to the Lender (or its nominee(s)), the Lender will hold all such dividends, interest and other moneys received by it for the account of the Chargor and will pay such dividends to the Chargor promptly on request.

7.4 At any time after the security constituted by this Deed has become enforceable, the Lender may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):

7.4.1 exercise (or refrain from exercising) all voting and other rights and powers in respect of the Securities;

7.4.2 apply all dividends, interest and other moneys arising from the Securities in accordance with clause 15.1 (*Order of Application*) and, if any of the same are paid or payable to the Chargor, the Chargor shall hold all such dividends, interest and other moneys on trust for the Lender and pay the same immediately to the Lender or as it may direct to be applied in accordance with clause 15.1;

7.4.3 if not already so transferred, transfer the Securities into the name of, or (as applicable) into an account in the name of, the Lender (or its nominee(s)); and

7.4.4 in addition to any other power created under this Deed, exercise (or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities and, except as expressly provided for in the Deed, all the powers and discretions conferred on trustees by the Trustee Act 1925 and the Trustee Act 2000, including, without limitation, the general power of investment set out in section 3 of the Trustee Act 2000, *provided that* the duty of care set out in section 1 (1) of the Trustee Act 2000 shall not apply to the exercise of any other power of investment (however conferred) by the Lender (or its nominee(s)) in respect of securities or property subject to a trust.

#### ***Calls and Other Obligations in respect of Securities***

7.5 The Chargor shall promptly pay all calls and other payments which may be or become due in respect of all or any part of the Securities and, if it fails to do so, the Lender may elect (but shall not be obliged) to make such payments on behalf of the Chargor. Any sums so paid by the Lender shall be reimbursed by the Chargor to the Lender on demand.

7.6 The Chargor shall remain liable to observe and perform all of the other conditions and obligations assumed by it in respect of any of all or any part of the Securities.

7.7 Neither the Lender nor its nominee(s) shall be liable to make any payment in respect of any calls or other payments which may be or become due in respect of the Securities or be under any duty to make any enquiry into the nature or sufficiency of any payment received by it in respect of the Securities or to present or file or make any claim, take any action or do any other act or thing for the purpose of collecting and/or enforcing the payment of any amount to which it may be entitled in respect of the Securities.



- 7.8 The Chargor shall copy to the Lender and comply with all requests for information which is within its knowledge and which are made under section 793 of the Companies Act 2006 or any similar provision contained in any articles of association or other constitutional documents relating to all or any part of the Securities and, if it fails to do so, the Lender may elect (but shall not be obliged) to provide such information as it may have on behalf of (and at the expense of) the Chargor.
- 7.9 The Chargor shall not, without the prior written consent of the Lender, do or cause or permit to be done anything which shall require any company in which any of the Securities is held to treat any person who is not the registered holder of any of the Securities as entitled to enjoy or exercise any rights of a member in relation to the whole or any part of the Securities, except pursuant to the terms of this Deed.

***Book Debts and Other Debts***

- 7.10 The Chargor shall not at any time deal with its book debts and other debts and monetary claims except by getting in and realising them in the ordinary and usual course of its business and paying all Debt Proceeds into the current account of the Chargor or other member of the Group with the Lender or into such other account with a bank or financial institution in the United Kingdom as the Lender shall have approved in advance (such approval not to be unreasonably withheld or delayed).
- 7.11 Notwithstanding clause 7.10 above, the Chargor may, prior to a Declared Default, on arms lengths terms in the ordinary and usual course of business: sell, factor, discount, charge, assign, declare a trust over or otherwise dispose of or release, exchange, compound, set off or grant time or indulgence or otherwise deal with all or any of the Debt Proceeds in favour of any other person.
- 7.12 At any time before the security constituted by this Deed has become enforceable, the Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance which arises on any account of the Chargor with any bank or financial institution referred to in clause 7.10 above as a result of Debt Proceeds being credited or transferred to that account from time to time.

***Bank Accounts***

- 7.13 The Chargor shall promptly deliver to the Lender, on the date of this Deed and, if any change occurs thereafter, on the date of such change, details of each account maintained by it with any bank or financial institution (other than the Lender).
- 7.14 The Chargor undertakes that it shall not, without the Lender's prior written consent:
- 7.14.1 permit or agree to any variation of the rights attaching to any account referred to in clause 7.13 above other than where such variation is imposed unilaterally by the bank or institution with which that account is held; or
  - 7.14.2 close any such account, other than where the proceeds of any such account are transferred on closure of that account to another account subject to a charge in favour of the Lender pursuant to clause 3.2.6.
- 7.15 Subject to clause 7.12 above, the Chargor agrees with the Lender that it shall not be entitled to receive, utilise, transfer or withdraw any credit balance from time to time on any account (whether that account is with the Lender or any other bank or financial institution) except with the prior written consent of the Lender.
- 7.16 At any time after the security constituted by this Deed has become enforceable, the Chargor shall not be entitled to receive, utilise, transfer or withdraw any credit balance from time to time on any account except with the prior written consent of the Lender.

***Mortgaged Property***

- 7.17 The Chargor shall not, except with the prior written consent of the Lender:
- 7.17.1 exercise any statutory or other power of leasing or letting, or accept or agree to accept surrenders of any leases, or enter into any agreement for lease or letting, in respect of any Mortgaged Property; or
  - 7.17.2 create any licence in respect of any Mortgaged Property, or let any person into occupation of, or share occupation of, any Mortgaged Property or grant any other proprietary or other right or interest in any Mortgaged Property.
- 7.18 The Chargor shall:
- 7.18.1 observe and perform all the terms on its part contained in any lease or agreement for lease comprised within the Mortgaged Property; and
  - 7.18.2 duly and punctually perform and observe and indemnify the Lender for any breach of any covenants, stipulations and obligations (restrictive or otherwise) affecting the Mortgaged Property.
- 7.19 The Chargor shall not:
- 7.19.1 enter into any onerous or restrictive covenants affecting the Mortgaged Property; or
  - 7.19.2 sever or unfix or remove any of the fixtures from any Mortgaged Property.
- 7.20 The Chargor shall punctually pay or cause to be paid (except when contested on reasonable grounds) and shall indemnify the Lender and any Receiver or Delegate on demand against all present and future rents, rates, Taxes, assessments and outgoings of whatsoever nature imposed upon or payable in respect of the Mortgaged Property or by the owner or occupier of the Mortgaged Property upon the same becoming due and payable or within any applicable grace period. If any of the foregoing shall be paid by the Lender or any Receiver or Delegate they shall be reimbursed by the Chargor to the Lender or such Receiver or Delegate on demand.
- 7.21 The Chargor shall not, without the prior written consent of the Lender:
- 7.21.1 make or, insofar as it is able, permit others to make any application for planning permission in respect of any Mortgaged Property;
  - 7.21.2 carry out or permit to be carried out on any Mortgaged Property any development (within the meaning of that expression in the Planning Acts); or
  - 7.21.3 make any VAT election in relation to any Mortgaged Property.

***Remedying Mortgaged Property Defaults***

- 7.22 In case of any default which is outstanding by the Chargor in performing or complying with any covenant, undertaking, restriction, applicable law or regulations affecting the Mortgaged Property, the Chargor shall permit the Lender and its agents and contractors to:
- 7.22.1 enter on the Mortgaged Property;
  - 7.22.2 comply with or object to any notice served on the Chargor in respect of the Mortgaged Property; and
  - 7.22.3 take any action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of any such covenant, undertaking, restriction, applicable law or regulations or to comply with or object to any such notice.

- 7.23 All moneys expended by the Lender in taking any steps referred to in clause 7.22 above shall be reimbursed by the Chargor to the Lender on demand.

***Specified Contracts***

- 7.24 The Chargor shall not make or agree to make any amendments, variations or modifications to the Specified Contracts or waive any of its rights under the Specified Contracts, without the prior written consent of the Lender or except as expressly permitted under the Facility Agreement.

***Information***

- 7.25 The Chargor shall promptly supply to the Lender such information as the Lender may reasonably require about the Charged Property and its compliance with the terms of this Deed and such further information regarding its financial condition, assets and operations as the Lender may reasonably request.
- 7.26 The Chargor shall promptly notify the Lender in writing of any action, claim or demand made by or against it in connection with all or any part of the Charged Property or of any fact, matter or circumstance which may with the passage of time give rise to such an action, claim or demand, together with the Chargor's proposals for settling, liquidating, compounding or contesting the same and shall, subject to the Lender's approval of such proposals, implement them at its own expense.

***Notices relating to Charged Property***

- 7.27 The Chargor shall, within 14 days after the receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority with respect to the whole or any part of the Charged Property:
- 7.27.1 deliver a copy to the Lender;
  - 7.27.2 inform the Lender of the steps taken or proposed to be taken by it to comply with the relevant application, requirement, order or notice; and
  - 7.27.3 comply with any reasonable request by the Lender to take such action as the Lender may believe necessary to preserve or protect the Charged Property or the security constituted or intended to be constituted by this Deed.

***Not Jeopardise Security***

- 7.28 The Chargor shall not do or cause or permit to be done anything which might in any way depreciate, jeopardise or otherwise prejudice the value to the Lender of the security constituted or intended to be constituted by this Deed, except to the extent expressly permitted by the terms of this Deed or the Facility Agreement.

**8. ENFORCEMENT OF SECURITY**

***When Security becomes Enforceable***

- 8.1 The security constituted by this Deed shall become immediately enforceable and the power of sale and other powers conferred by section 101 of the LPA, as varied or extended by this Deed, shall be immediately exercisable upon and at any time after the occurrence of a Declared Default.
- 8.2 After the security constituted by this Deed has become enforceable, the Lender 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 Charged Property.

***Right of Appropriation***

- 8.3 To the extent that any of the Charged Property constitutes “**financial collateral**” and this Deed and the obligations of the Chargor under this Deed constitute a “**security financial collateral arrangement**” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (the “**FCA Regulations**”)), the Lender shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral shall be (in the case of cash) the amount standing to the credit of each bank account of the Chargor, together with any accrued but unpaid interest, at the time the right of appropriation is exercised and (in the case of Securities) the market price of such Securities determined by the Lender by reference to a public index or by such other process as the Lender may select, including independent valuation. In each case, the parties agree that the manner of valuation provided for in this clause 8.3 shall constitute a commercially reasonable manner of valuation for the purposes of the FCA Regulations.

***Redemption of Prior Mortgages***

- 8.4 At any time after the security constituted by this Deed has become enforceable, the Lender or any Receiver may:
- 8.4.1 redeem any prior Security over any Charged Property; or
  - 8.4.2 procure the transfer of that Security to the Lender; or
  - 8.4.3 settle and pass the accounts of the person or persons entitled to such Security (and any accounts so settled and passed shall be conclusive and binding on the Chargor).
- 8.5 All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption or transfer shall be paid by the Chargor to the Lender and every Receiver on demand and shall be secured by this Deed.

**9. EXTENSION AND VARIATION OF THE LPA*****General***

- 9.1 For the purposes of all powers implied by the LPA, such powers shall arise (and the Secured Liabilities shall be deemed to have become due and payable for that purpose) on the date of this Deed.
- 9.2 Section 103 of the LPA (restricting the power of sale) and section 93 of the LPA (restricting the right of consolidation) shall not apply to the security constituted by this Deed.
- 9.3 The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender and any Receiver at any time after the security constituted by this Deed has become enforceable to make any lease or agreement for lease, accept surrenders of leases and/or grant options on such terms as it or he shall think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the LPA.

***Privileges***

- 9.4 Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers.

## **10. APPOINTMENT OF RECEIVER AND ADMINISTRATOR**

### ***Appointment***

10.1 At any time after the security constituted by this Deed has become enforceable or if an application is presented for the making of an administration order in relation to the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or if the Chargor so requests the Lender in writing (in which case, in each such case, the security constituted by this Deed shall become immediately enforceable), the Lender may without prior notice to the Chargor:

10.1.1 appoint free from the restrictions imposed by section 109(1) of the LPA either under seal or in writing under its hand any one or more persons to be a Receiver of the whole or any part or parts of the Charged Property in like manner in every respect as if the Lender had become entitled under the LPA to exercise the power of sale conferred under the LPA; or

10.1.2 appoint one or more persons to be an administrator of the Chargor.

### ***Removal***

10.2 The Lender may by writing under its hand (or by an application to the court where required by law):

10.2.1 remove any Receiver appointed by it; and

10.2.2 appoint, whenever it deems it expedient, any one or more persons to be a new Receiver in the place of or in addition to any Receiver.

### ***Statutory Powers of Appointment***

10.3 The powers of appointment of a Receiver conferred by this Deed shall be in addition to all statutory and other powers of appointment of the Lender under the LPA (as extended by this Deed) or otherwise and such powers shall be and remain exercisable from time to time by the Lender in respect of any part or parts of the Charged Property.

### ***Capacity of Receiver***

10.4 Each Receiver shall be deemed to be the agent of the Chargor for all purposes. The Chargor alone shall be responsible for a Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him.

10.5 The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

10.6 If there is more than one Receiver holding office at the same time, each Receiver shall (unless the document appointing him states otherwise) be entitled to act (and to exercise all of the powers conferred on a Receiver under this Deed) individually or together with any other person appointed or substituted as Receiver.

### ***Remuneration of Receiver***

10.7 The Lender may fix the remuneration of any Receiver appointed by it without any restriction imposed by section 109(6) of the LPA and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately upon its being paid by the Lender.

## 11. POWERS OF RECEIVER

### *General*

- 11.1 Each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out below in this clause 11 in addition to those conferred by law.
- 11.2 Without prejudice to the generality of this clause 11, each Receiver shall have all the rights, powers and discretions of an administrative receiver under schedule 1 to the Insolvency Act 1986 whether he falls within the statutory definition of an administrative receiver or not.

### *Specific Powers*

- 11.3 Each Receiver shall have the following powers (and every reference in this clause 11.3 to the “**Charged Property**” shall be read as a reference to that part or parts of the Charged Property in respect of which that Receiver was appointed):
- 11.3.1 power to purchase or acquire land and purchase, acquire or grant any interest in or right over land as he thinks fit;
  - 11.3.2 power to take immediate possession of, get in and collect any Charged Property;
  - 11.3.3 power to carry on the business of the Chargor as he thinks fit;
  - 11.3.4 power (but without any obligation to do so) to:
    - (a) make and effect all repairs, alterations, additions and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Charged Property;
    - (b) commence or complete any building operations on the Charged Property;
    - (c) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence in respect of the Charged Property; and
    - (d) negotiate for compensation with any authority which may intend to acquire or be in the process of acquiring all or any part of the Charged Property and make objections to any order for the acquisition of all or any part of the Charged Property and represent the Chargor at any enquiry to be held to consider such objections or otherwise relating to any such acquisition,
 in each case as he thinks fit;
  - 11.3.5 power to appoint and discharge managers, officers, agents, advisers, accountants, servants, workmen, contractors, surveyors, architects, lawyers and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit and power to discharge any such persons appointed by the Chargor (and the costs incurred by any Receiver in carrying out such acts or doing such things shall be reimbursed to that Receiver by the Chargor on demand);
  - 11.3.6 power to raise and borrow money either unsecured or (with the prior consent of the Lender) on the security of any Charged Property either in priority to the security constituted by this Deed or otherwise and generally on any terms and for whatever purpose he thinks fit;

- 11.3.7 power to sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms as he thinks fit;
- 11.3.8 power to sever and sell separately any fixtures from the property containing them without the consent of the Chargor;
- 11.3.9 power to let any Charged Property for any term and at any rent (with or without a premium) as he thinks fit and power to accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender);
- 11.3.10 power to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Charged Property;
- 11.3.11 power to bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Charged Property or in relation to the Chargor which may seem to him to be expedient;
- 11.3.12 power to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising any Charged Property;
- 11.3.13 power to form a subsidiary of the Chargor and transfer to that subsidiary any Charged Property;
- 11.3.14 power to do all such acts as may seem to him to be necessary or desirable in order to initiate or continue any development of any Charged Property and for these purposes to appoint and to enter into such contracts with such building and engineering contractors or other contractors and professional advisers as he may think fit;
- 11.3.15 power to call any meeting of the members or directors of the Chargor in order to consider such resolutions or other business as he thinks fit;
- 11.3.16 power to exercise in relation to any Charged Property all the powers and rights which he would be capable of exercising if he were the absolute beneficial owner of the same;
- 11.3.17 power to do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed; and
- 11.3.18 power to exercise any of the above powers in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor.

***Lender's Powers***

- 11.4 To the fullest extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) upon a Receiver may after the security constituted by this Deed has become enforceable be exercised by the Lender in relation to any Charged Property, irrespective of whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

## **12. DISCRETIONS AND DELEGATION**

### ***Discretion***

- 12.1 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Lender or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

### ***Delegation***

- 12.2 Each of the Lender and 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).
- 12.3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Lender or any Receiver (as the case may be) shall think fit.
- 12.4 Neither the Lender nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **13. POWER OF ATTORNEY**

### ***Appointment and Powers***

- 13.1 The Chargor, by way of security, irrevocably appoints the Lender, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:
- 13.1.1 carrying out any obligation imposed on the Chargor by this Deed; and/or
- 13.1.2 enabling the Lender or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Deed or by law (including the exercise of any right of an absolute legal or beneficial owner of the Charged Property).

### ***Ratification***

- 13.2 The Chargor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under clause 13.1 (*Appointment and Powers*).

## **14. PROTECTION OF PURCHASERS**

### ***Consideration***

- 14.1 The receipt of the Lender 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 Charged Property (including a disposal by a Receiver or Delegate to any subsidiary of the Chargor) or in making any acquisition in the exercise of their respective powers, the Lender, every Receiver and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

### ***Protection of Third Parties***

- 14.2 No person (including a purchaser) dealing with the Lender, any Receiver or any Delegate shall be bound to enquire:
- 14.2.1 whether the Secured Liabilities have become payable; or



- 14.2.2 whether any power which the Lender or any Receiver or Delegate is purporting to exercise has arisen or become exercisable; or
- 14.2.3 whether any Secured Liabilities remain due to the Lender; or
- 14.2.4 how any money paid to the Lender or to any Receiver or Delegate is to be applied, or shall be concerned with any propriety, regularity or purpose on the part of the Lender or any Receiver or Delegate in such dealings or in the exercise of any such power.

## **15. APPLICATION OF PROCEEDS**

### ***Order of Application***

- 15.1 All moneys received or recovered by the Lender, any Receiver or any Delegate pursuant to this Deed, after the security constituted by this Deed has become enforceable, shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied in the following order (but without prejudice to the right of the Lender to recover any shortfall from the Chargor):
  - 15.1.1 in or towards payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of his rights and powers, including his remuneration, and all outgoings paid by him;
  - 15.1.2 in or towards payment of all other Expenses;
  - 15.1.3 in or towards payment of all other Secured Liabilities or such part of them as is then due and payable to the Lender in such order as the Lender may select; and
  - 15.1.4 in payment of the surplus (if any) to the Chargor or other person entitled to it.
- 15.2 Clause 15.1 (*Order of Application*) will override any appropriation made by the Chargor.

### ***New Accounts***

- 15.3 If the Lender at any time receives, or is deemed to have received, notice of any subsequent Security or other interest affecting any Charged Property, the Lender may open a new account with the Chargor.
- 15.4 If the Lender does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, such notice. As from that time all payments made by or on behalf of the Chargor to the Lender shall be credited or be treated as having been credited to the new account of the Chargor and not as having been applied in reduction of the Secured Liabilities.

### ***Currency Conversion***

- 15.5 For the purpose of or pending the discharge of any of the Secured Liabilities, the Lender may (in its absolute discretion) convert any moneys received or recovered by the Lender or any Receiver or Delegate pursuant to this Deed or any moneys subject to application by the Lender or any Receiver or Delegate pursuant to this Deed from one currency to another and any such conversion shall be made at the Lender's spot rate of exchange for the time being for obtaining such other currency with the first currency and the Secured Liabilities shall be discharged only to the extent of the net proceeds of such conversion realised by the Lender. Nothing in this Deed shall require the Lender to make, or shall impose any duty of care on the Lender in respect of, any such currency conversion.

## **16. NO LIABILITY AS MORTGAGEE IN POSSESSION**

- 16.1 Neither the Lender nor any Receiver or Delegate shall in any circumstances (either by reason of entering into or taking possession of any Charged Property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to the Chargor for anything, except actual receipts, or be liable to the Chargor for any costs, charges, losses, liabilities or expenses arising from the realisation of any Charged Property or from any act, default or omission of the Lender, any Receiver, any Delegate or any of their respective officers, agents or employees in relation to the Charged Property or from any exercise or purported exercise or non-exercise by the Lender or any Receiver or Delegate of any power, authority or discretion provided by or pursuant to this Deed or by law or for any other loss of any nature whatsoever in connection with the Charged Property or the Finance Documents.

## **17. SET-OFF**

- 17.1 Without limiting any other rights conferred on the Lender by law or by any other agreements entered into with the Chargor, the Lender may (but shall not be obliged to) set off any matured obligation due from the Chargor under this Deed (to the extent beneficially owned by the Lender) against any obligation (whether matured or not) owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If the obligation owed by the Lender is unliquidated or unascertained, the Lender may set off in an amount estimated by it in good faith to be the amount of that obligation.

## **18. EFFECTIVENESS OF GUARANTEE AND SECURITY**

### ***Continuing Guarantee and Security***

- 18.1 The guarantee and security constituted by this Deed shall remain in full force and effect as a continuing guarantee and security for the Secured Liabilities, unless and until discharged by the Lender, and will extend to the ultimate balance of all the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

### ***Cumulative Rights***

- 18.2 The guarantee and security constituted by this Deed and all rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law shall be cumulative and in addition to, and independent of, any other guarantee or Security now or subsequently held by the Lender for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Lender over the whole or any part of the Charged Property shall be superseded by, or supersede or merge into, the security constituted by this Deed.

### ***Reinstatement***

- 18.3 If any discharge, release or arrangement (whether in respect of the obligations of an Obligor or any other member of the Group or any Security for those obligations or otherwise) is made by the Lender in whole or in part on the faith of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under, the guarantee and security constituted by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.
- 18.4 The Lender may concede or compromise any claim that any payment or any discharge is liable to avoidance or restoration.

***Waiver of Defences***

- 18.5 Neither the obligations of the Chargor under this Deed nor the security constituted by this Deed nor the rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law will be affected by an act, omission, matter or thing which, but for this clause 18.5, would reduce, release or prejudice any of its obligations under this Deed, any of that security or any of those rights, powers and remedies (without limitation and whether or not known to it or the Lender) including:
- 18.5.1 any time, waiver or consent granted to, or composition with, an Obligor or any other member of the Group or any other person;
  - 18.5.2 the release of an Obligor or any other member of the Group or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
  - 18.5.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, an Obligor or any other member of the Group or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
  - 18.5.4 any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status of, an Obligor or any other member of the Group or any other person;
  - 18.5.5 any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement (in each case, however fundamental and of whatsoever nature and whether or not more onerous) or replacement of any agreement, account arrangement, transaction or engagement entered into between the Lender and an Obligor or any other member of the Group or any other document or Security including without limitation any change in the purpose of, any extension of or any increase in, any facility or the addition of any new facility under any such agreement, account arrangement, transaction or engagement or any other document or Security;
  - 18.5.6 any unenforceability, illegality or invalidity of any obligation of an Obligor or any other member of the Group or any other person under any agreement, account arrangement, transaction or engagement entered into between the Lender and an Obligor or any other member of the Group or any other document or Security; or
  - 18.5.7 any insolvency or similar proceedings.

***Guarantor Intent***

- 18.6 Without prejudice to the generality of clause 18.5 (*Waiver of Defences*), the Chargor expressly confirms that it intends that the guarantee constituted by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any facility or amount made available under any of the Finance Documents and/or any such agreement, account arrangement, transaction or engagement including, without limitation, any of the same which are for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; and/or any other variation or extension of the purposes for

which any such facility or amount might be made available from time to time, together with any fees, costs and/or expenses associated with any of the foregoing.

***Immediate Recourse***

- 18.7 The Chargor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or Security or claim payment from any person or file any proof or claim in any insolvency, administration, winding up or liquidation proceedings relating to any person before claiming from it under this Deed. This waiver applies irrespective of any law or any provision of any agreement, account arrangement, transaction or engagement or other document or Security entered into by any other member of the Group with the Lender to the contrary.

***Appropriations***

- 18.8 Until all the Secured Liabilities which may be or become payable by the Chargor under or in connection with this Deed have been irrevocably paid, performed and discharged in full, the Lender may:

18.8.1 without affecting the liability of the Chargor under this Deed:

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by it in respect of the Secured Liabilities; or
- (b) apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to direct the appropriation of any such moneys, Security or rights or to enjoy the benefit of the same; and/or

18.8.2 hold in a suspense account any moneys received from or on behalf of the Chargor or on account of the Chargor's liability in respect of the Secured Liabilities. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Lender to be a fair market rate.

***Deferral of Chargor's Rights***

- 18.9 Until the Secured Liabilities, and all amounts which may be or become due and payable in respect of the Secured Liabilities, have been irrevocably paid, performed or discharged in full and unless the Lender otherwise directs, the Chargor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising under, clause 2.2 (*Guarantee and Indemnity*):

- 18.9.1 to be indemnified by an Obligor or any other member of the Group;
- 18.9.2 to claim any contribution from any other guarantor of an Obligor or any other member of the Group's obligations;
- 18.9.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender;
- 18.9.4 to bring legal or other proceedings for an order requiring an Obligor or any other member of the Group to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under clause 2.2 (*Guarantee and Indemnity*);
- 18.9.5 to exercise any right of set-off against an Obligor or any other member of the Group; and/or

- 18.9.6 to claim or prove as a creditor of an Obligor or any other member of the Group or in its estate in competition with the Lender.
- 18.10 The rights of the Lender under clause 18.9 above shall be free from any right of quasi-retainer or other rule or principle of fund ascertainment arising either at law or in equity.
- 18.11 If the Chargor receives any benefit, payment or distribution in relation to any rights referred to in clause 18.9 above, it shall hold that benefit, payment or distribution to the extent necessary to enable all the Secured Liabilities, and all amounts which may be or become due and payable in respect of the Secured Liabilities, to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with clause 15.1 (*Order of Application*).

***No Security held by Chargor***

- 18.12 The Chargor shall not take or receive any Security from an Obligor or any other member of the Group or any other person in connection with its liability under this Deed. However, if any such Security is so taken or received by the Chargor:
- 18.12.1 it shall be held by the Chargor on trust for the Lender, together with all moneys at any time received or held in respect of such Security, for application in or towards payment and discharge of the Secured Liabilities; and
- 18.12.2 on demand by the Lender, the Chargor shall promptly transfer, assign or pay to the Lender all Security and all moneys from time to time held on trust by the Chargor under this clause 18.12.

**19. CERTIFICATES AND DETERMINATIONS**

- 19.1 Any certificate or determination by the Lender of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**20. PARTIAL INVALIDITY**

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

**21. REMEDIES AND WAIVERS**

- 21.1 No failure to exercise, nor any delay in exercising, on the part of the Lender, any right, remedy or power under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right, remedy or power prevent any further or other exercise or the exercise of any other right, remedy or power. The rights, remedies and powers provided in this Deed are cumulative and not exclusive of any rights, remedies or powers provided by law.
- 21.2 Any amendment, waiver or consent by the Lender under this Deed must be in writing and may be given subject to any conditions thought fit by the Lender. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

## **22. NOTICES**

### ***Communications in writing***

- 22.1 Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by email or letter.

### ***Addresses***

- 22.2 The address and email address (of the Chargor and the Lender for any communication or document to be made or delivered under or in connection with this Deed is that identified in the Facility Agreement.

### ***Delivery***

- 22.3 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:
- 22.3.1 if by way of email, upon transmission; or
  - 22.3.2 if by way of letter, when it has been left at the relevant address or five business days after being deposited in the post postage prepaid in an envelope addressed to it at that address.
- 22.4 Any communication or document to be made or delivered to the Lender will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified with the Lender's name under the Facility Agreement.

## **23. COUNTERPARTS**

- 23.1 This Deed may be executed in any number of counterparts and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

## **24. ASSIGNMENT**

- 24.1 The Lender may assign, charge or transfer all or any of its rights under this Deed without the consent of the Chargor. The Lender may disclose any information about the Chargor and this Deed as the Lender shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation.

## **25. RELEASES**

- 25.1 Upon the expiry of the Liability Period (but not otherwise) and subject to clauses 18.3 and 18.4 (*Reinstatement*), the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Deed.

## **26. GOVERNING LAW**

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

**27. ENFORCEMENT**

***Jurisdiction***

- 27.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a “**Dispute**”).
- 27.2 The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary or take proceedings relating to a Dispute in any other courts.
- 27.3 Clauses 27.1 and 27.2 above are for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS** of which this Deed has been entered into as a deed and is intended to be and is delivered on the day and year first before written.

**SCHEDULE 1  
REAL PROPERTY**

**Part 1**

**Registered Land**

**(Freehold, commonhold or leasehold property (if any) in England and Wales of which the Chargor is registered as the proprietor at the Land Registry)**

None at the date of this Deed.

**Part 2**

**Unregistered Land**

**(Freehold or leasehold property (if any) in England and Wales title to which is not registered at the Land Registry of which the Chargor is the owner)**

None at the date of this Deed.



**SCHEDULE 2**  
**INTELLECTUAL PROPERTY**

**Registered trademarks / trademark applications**

None at the date of this Deed.

**Unregistered trade marks material to the business**

None at the date of this Deed.

**Patents / patent applications**

None at the date of this Deed.

**Registered design rights / design rights applications**

None at the date of this Deed.

**Unregistered design rights material to the business**

None at the date of this Deed.

**Copyright (including source code) material to the business**

None at the date of this Deed.

**Domain names**

None at the date of this Deed.

**Other intellectual property**

None at the date of this Deed.

**Intellectual property licences material to the operation of the business**

None at the date of this Deed.

### SCHEDULE 3 SECURITIES

#### Part 1 Shares

<b>Details of company in which shares are held</b>	<b>Jurisdiction</b>	<b>Registration Number</b>	<b>Number of shares</b>	<b>Description of shares (class, par value etc)</b>	<b>Registered holder</b>	<b>Share certificate numbers/ Uncertificated?</b>
Trivoni Software Ltd	UK	09816677	120	£1.00 Ordinary	Piccadilly Bidco Limited	N/A

#### Part 2 Other Securities

None at the date of this deed.

**SCHEDULE 4**  
**SPECIFIED CONTRACTS**

None at the date of this deed.

**SCHEDULE 5**  
**BANK ACCOUNTS**

<b>Bank account holder</b>	<b>Currency</b>	<b>Account Number</b>	<b>Account Sort Code</b>	<b>Account Bank</b>	<b>Account Branch Address</b>	<b>Reference/ designation</b>
Piccadilly Bidco Limited	GBP	██████	██████	National Westminster Bank Plc	As below	Current account

National Westminster Bank Plc  
Warrington Street  
Ashton-Under-Lynne  
Greater Manchester  
OL16 6JL

## SCHEDULE 6

### FORM OF NOTICE OF CHARGE – SPECIFIED CONTRACTS

#### Part I

#### Form of Notice

To: [Name of relevant counterparty to Specified Contract]

Address: [ ] [Date]

Dear Sirs

**NATIONAL WESTMINSTER BANK PLC** (the “**Lender**”) and [ ] (the “**Company**”) HEREBY GIVE NOTICE that by a charge contained in a security agreement dated [ ] and made between the Company and the Lender (the “**Security Agreement**”) the Company charged to the Lender by way of first fixed charge all of its present and future right, title and interest in and to the following agreement:

[describe agreement]

(the “**Agreement**”) including, but not limited to, the right to demand and receive all moneys whatsoever payable to or for the benefit of the Company under or arising from the Agreement, all remedies provided for in the Agreement or available at law or in equity in relation to the Agreement, the right to compel performance of the Agreement and all other rights, interests and benefits whatsoever accruing to or for the benefit of the Company arising from the Agreement.

All moneys payable by you to the Company pursuant to the Agreement shall be paid to the Company’s account (account number [insert account number], sort code [insert sort code] and account reference “[insert account name]”) with the Lender unless and until you receive notice from the Lender to the contrary, in which event you should make all future payments as directed by the Lender.

Notwithstanding the charge referred to above or the making of any payment by you to the Lender pursuant to it, the Company shall remain liable under the Agreement to perform all the obligations assumed by it under the Agreement and neither the Lender nor any receiver nor any delegate appointed by the Lender or any such receiver shall be at any time under any obligation or liability to you under or in respect of the Agreement. The Company shall also remain entitled to exercise all its rights, powers and discretions under the Agreement and you should continue to give notices under the Agreement to the Company in each case unless and until you receive notice from the Lender to the contrary when all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Lender or as it directs.

Please note that, pursuant to the Security Agreement, the Company and the Lender have agreed that the Company will not make or agree to make any amendments, variations or modifications to the Agreement or waive any of its rights under the Agreement, without the prior written consent of the Lender.

The Company confirms that:

- (i) in the event of any conflict between communications received from it and from the Lender, the communication from the Lender shall prevail;
- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the “**Notice**”) can be revoked or varied in any way except with the Lender’s specific written consent; and
- (iii) any written notice or instructions given to you by the Lender in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Lender at [address] for the attention of [officer/department].

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

Yours faithfully,

for and on behalf of

[ ]

for and on behalf of

**NATIONAL WESTMINSTER BANK PLC**

## Part II

### Form of Acknowledgement

*[on duplicate]*

To:

*[insert name of Lender]*

Address:

[ ]

Attention:

[ ]

**[Date]**

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We give any consent to the creation of the charge required pursuant to the Agreement and agree to and confirm that:

- (a) we will pay all moneys hereafter becoming due to the Company in respect of the Agreement as directed in the Notice and accept and will comply with the terms of the Notice;
- (b) we will send to you copies of any notices which we may give to the Company under the Agreement at the same time as we send them to the Company;
- (c) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over, or affecting, the Agreement or any other notice relating to the Agreement; and
- (d) this acknowledgement is freely assignable or transferable by you, by any subsequent assignee, transferee or successor in title in accordance with the terms of the Agreement (“**Subsequent Party**”) and by any receiver appointed by you or by any Subsequent Party pursuant to the Security Agreement.

Yours faithfully

.....

for and on behalf of

[Name of relevant counterparty to Specified Contract]

**SCHEDULE 7**  
**FORM OF NOTICE OF CHARGE – ACCOUNTS NOT WITH THE LENDER**

**Part I**  
**Form of Notice**

To: [Name of relevant bank or financial institution]

Address: [ ] [Date]

Dear Sirs

**NATIONAL WESTMINSTER BANK PLC** (the “**Lender**”) and [ ] (the “**Company**”) HEREBY GIVE NOTICE that by a charge contained in a security agreement dated [•] and made between the Company and the Lender (the “**Security Agreement**”) the Company charged to the Lender by way of first fixed charge all of its present and future right, title and interest in and to all moneys from time to time deposited in or standing to the credit of any bank account with any bank or financial institution, including the following account(s) (each a “**Relevant Account**”) maintained with you:

[Specify accounts: account name, account number, details of branch etc].

Accordingly, the Company hereby irrevocably and unconditionally instructs and authorises you:

- (a) to disclose to the Lender, without any reference to or further authority from the Company and without any enquiry by you as to the justification for such disclosure, such information relating to any of the Relevant Accounts and the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts as the Lender may at any time and from time to time request you to disclose to it; and
- (b) to comply with the terms of any other written notice or instructions that you receive at any time and from time to time from the Lender in any way relating to the Security Agreement, any of the Relevant Accounts or the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts, including any written notice or instruction to hold all moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts to the order of the Lender and to pay or release all or any part of such moneys in accordance with the written instructions of the Lender at any time and from time to time, without any reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instructions.

The Lender has agreed that the Company may withdraw any moneys from any of the Relevant Accounts without any reference to or further authority from the Lender except to the extent that the Lender gives you notice to the contrary. Upon and after the giving of such notice, the Company shall cease to be entitled to make any such withdrawal to the extent specified in the notice.

The Company confirms that:

- (i) in the event of any conflict between communications received from it and from the Lender, the communication from the Lender shall prevail;
- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the “**Notice**”) can be revoked or varied in any way except with the Lender’s specific written consent; and
- (iii) any written notice or instructions given to you by the Lender in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Lender at [address] for the attention of [officer/department].

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

Yours faithfully,

for and on behalf of

[ ]

for and on behalf of

NATIONAL WESTMINSTER BANK PLC

**Part II**  
**Form of Acknowledgement**  
**[on duplicate]**

To: [insert name of Lender]

Address: [ ]

Attention: [ ]

[Date]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We agree to and confirm the following:

- (a) we accept and will comply with the terms of the Notice;
- (b) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over or affecting any of the Relevant Accounts;
- (c) we have not claimed or exercised and will not claim or exercise (except with the Lender's prior written consent) any security interest, right of set-off, consolidation or counterclaim or any other right against or in respect of any of the Relevant Accounts, except in respect of our usual administrative and transactional fees and charges in relation to the Relevant Account in question; and
- (d) we shall not permit the Company to make any withdrawal from any of the Relevant Accounts after receipt by us of a notice from the Lender prohibiting such withdrawals to the extent specified in that notice.

Yours faithfully

.....

for and on behalf of

[name of relevant bank or financial institution]



**EXECUTION PAGE**

**THE CHARGOR**

Executed as a deed by )  
**PICCADILLY BIDCO LIMITED** )  
on being signed by Alec Kemp ) (Director)  
a Director in the presence of a witness )  
pursuant to a resolution of the Board )

Name of witness: .David Ball.....


Signature: [Redacted Signature] .....

Address: [Redacted Address] G

Occupation: .Retired.....

**THE LENDER**

Executed as a deed by )  
**NATIONAL WESTMINSTER BANK PLC** )  
)

  
Kit Maclaren .....  
Authorised signatory