



Registration of a Charge

Company Name: **WOLSELEY GROUP LIMITED**

Company Number: **13087930**



XBHZGGCJ

Received for filing in Electronic Format on the: **02/12/2022**

Details of Charge

Date of creation: **23/11/2022**

Charge code: **1308 7930 0004**

Persons entitled: **ATLANTIC PARK STRATEGIC CAPITAL FUND, L.P.**

Brief description: **NIL**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **CONOR CAMPBELL OF WEIL, GOTSHAL & MANGES**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 13087930

Charge code: 1308 7930 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd November 2022 and created by WOLSELEY GROUP LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd December 2022 .

Given at Companies House, Cardiff on 5th December 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**

_23 November 2022

WOLSELEY GROUP LIMITED

(as CHARGOR)

IN FAVOUR OF

**ATLANTIC PARK STRATEGIC CAPITAL FUND,
L.P.**

(as TERM LOAN SECURITY AGENT)

SHARE CHARGE – UNITRANCHE

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THIS DEED is made on 23 November 2022

BY:

- (1) **WOLSELEY GROUP LIMITED** a limited liability company organised under the laws of England and Wales with registration number 13087930 (the “**Chargor**”) in favour of
- (2) **ATLANTIC PARK STRATEGIC CAPITAL FUND, L.P.** as security agent for the Senior Secured Creditors on the terms and conditions set out in the Intercreditor Agreement (the “**Term Loan Security Agent**”) which expression shall include any person for the time being appointed as trustee or as an additional trustee for the purpose of, and in accordance with, the Intercreditor Agreement, as defined below).

RECITALS:

- (A) The Chargor has agreed to grant security with the applicable ranking as specified herein over the Charged Property to secure its obligations to the Senior Secured Creditors under the Senior Secured Debt Documents from time to time.
- (B) For all purposes this Deed and the Security Interest created by it shall secure the Secured Obligations and is subject to the terms set out in the Intercreditor Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

“**ABL Security**” means any security created by the Chargor pursuant to a Transaction Security Document in favour of BNP Paribas Commercial Finance Limited as ABL security agent.

“**Account**” has the meaning it is given in the Debenture.

“**Act**” means the Land and Conveyancing Law Reform Act 2009.

“**Additional Senior Secured Financing Agreement**” has the meaning it is given in the Intercreditor Agreement.

“**Agreed Security Principles**” has the meaning given to such term in the Intercreditor Agreement.

“**Charged Property**” means all the Shares of the Chargor which from time to time are the subject of the security created or expressed to be created in favour of the Term Loan Security Agent by or pursuant to this Deed.

“**Collateral Rights**” means all rights, powers and remedies of the Term Loan Security Agent provided by or pursuant to this Deed or by law.

“**Company**” means Cooperstorm Limited, a company incorporated in Ireland, having its registered address at Suite 3, One Earlsfort Centre, Lower Hatch Street, Dublin 2 with company number 708182.

“**Debenture**” means the English law governed debenture dated 27 January 2021 and made between (1) the companies listed in schedule 1 therein and (2) the Term Loan Security Agent.

“Delegate” means any delegate, agent, attorney or co-trustee appointed by the Term Loan Security Agent.

“Discharge Date” has the meaning given to Senior Secured Liabilities Discharge Date but shall apply to the discharge of any Senior Secured Debt Document.

“Enforcement Event” means either an Event of Default that has resulted in automatic acceleration of the relevant Secured Obligations or a Senior Secured Liabilities Acceleration Event in respect of which a notice has been served under clause 36.19 (*Acceleration and Cancellation*) of the Initial Senior Facility Agreement or any equivalent provision of any other Additional Senior Secured Financing Agreement.

“Event of Default” has the meaning it is given in the Initial Senior Facility Agreement or any equivalent term of any Additional Senior Secured Financing Agreement.

“Fixed Security” means any mortgage, fixed charge or assignment expressed to be created by or pursuant to Clause 4 (*First-Ranking Fixed Security*) of this Deed.

“Initial Senior Facility Agreement” means the senior facility agreement dated 27 January 2021 and made between, amongst others, the Chargor, the Parent and the Term Loan Security Agent, as amended by an amendment letter dated 14 April 2021, as amended and restated by an amendment and restatement agreement dated 28 October 2021 and as amended, restated, varied, novated, supplemented or acceded to from time to time.

“Intercreditor Agreement” means the intercreditor agreement dated 27 January 2021 between, amongst others, the Term Loan Security Agent and the Chargor, as amended, extended, restructured, renewed, novated, supplemented, restated, refunded, replaced, modified or acceded to from time to time.

“Parent” means Wolseley Group Holdings Limited, a limited liability company organised under the laws of England and Wales with registration number 13134776.

“Permitted Security” means Security that is (i) Permitted Security (as defined in the Initial Senior Facility Agreement); as well any (ii) “permitted security” (howsoever defined) under each other Additional Senior Secured Financing Agreement, **provided that** the Initial Senior Facility Agreement and any other Additional Senior Secured Financing Agreement shall be disregarded for the purposes of this definition to the extent that the Discharge Date for such instrument has occurred.

“Receiver” means a receiver or receiver and manager appointed in respect of the Chargor or over all or any part of the Charged Property and that term will include any appointee made under a joint and/or several appointment.

“Related Rights” means, in relation to any asset:

- (a) the proceeds of sale or rental of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of or derived from that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset.

“**Secured Obligations**” has the meaning given to “Senior Secured Obligations” in the Intercreditor Agreement.

“**Security**” or “**Security Interest**” means a mortgage, charge, pledge, lien or other security interest having a similar effect.

“**Security Period**” means the period beginning on the date of this Deed and ending on the Senior Secured Liabilities Discharge Date.

“**Senior Secured Creditors**” has the meaning it is given in the Intercreditor Agreement.

“**Senior Secured Debt Documents**” has the meaning it is given in the Intercreditor Agreement.

“**Senior Secured Financing**” has the meaning it is given in the Intercreditor Agreement.

“**Senior Secured Liabilities**” has the meaning it is given in the Intercreditor Agreement.

“**Senior Secured Liabilities Acceleration Event**” has the meaning it is given in the Intercreditor Agreement.

“**Senior Secured Liabilities Discharge Date**” has the meaning it is given in the Intercreditor Agreement.

“**Shares**” means (i) any stocks, shares, debentures and other securities listed in Schedule 1 (*Shares*) and (ii) all other shares held by, to the order or on behalf of the Chargor in the Company at any time (except any such shares secured in favour of the Term Loan Security Agent under a Transaction Security Document other than this Deed or not required to be secured in favour of the Term Loan Security Agent pursuant to the Agreed Security Principles).

“**Transaction Security Documents**” has the meaning given to such term in the Intercreditor Agreement.

1.2 **Terms defined in the Intercreditor Agreement**

Unless defined in this Deed, or the context otherwise requires, a term defined in the Intercreditor Agreement has the same meaning in this Deed, or any notice given under or in connection with this Deed as if all references in those defined terms to the Intercreditor Agreement were a reference to this Deed or that notice.

1.3 **Construction**

In this Deed:

- 1.3.1 the rules of interpretation contained in clause 1.2 (*Construction*) of the Intercreditor Agreement shall apply to the construction of this Deed;
- 1.3.2 any reference to a “**Chargor**”, a “**Creditor Representative**”, the “**Senior Secured Creditors**” or the “**Term Loan Security Agent**” shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interest and, in the case of the Term Loan Security Agent, any person for the time being appointed as Term Loan Security Agent in accordance with the Intercreditor Agreement;
- 1.3.3 references in this Deed to any Clause or Schedule, unless the context otherwise requires, shall be to a clause or schedule contained in this Deed;

- 1.3.4 notwithstanding that the Term Loan Security Agent may only execute it under hand or not at all, it is intended that this Deed take effect as a deed;
- 1.3.5 notwithstanding anything to the contrary in this Deed, the obligations, liabilities and undertakings under this Deed shall be deemed not to be undertaken or incurred to the extent that the same would (i) constitute unlawful financial assistance prohibited by section 82 of the Companies Act 2014 (or any analogous provision of any other applicable law), or (ii) constitute a breach of section 239 of the Companies Act 2014 (or any analogous provision of any other applicable law).

1.4 **Intercreditor Agreement and second-ranking charges**

Notwithstanding any term of this Deed to the contrary:

- 1.4.1 this Deed is in all respects subject to the Intercreditor Agreement and in the event of any inconsistency between the terms of this Deed and the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail; and
- 1.4.2 prior to the Senior Secured Liabilities Discharge Date, any requirement under this Deed for the Chargor to deliver to the Term Loan Security Agent any Charged Property that is secured pursuant to Clause 4 (*First-Ranking Fixed Security*) and/or any documents constituting or evidencing title to such Charged Property (including but not limited to any instrument of transfer) shall be satisfied by the Chargor delivering or having delivered (or procuring delivery, or having procured delivery, of) such Charged Property and/or such documents, to the Term Loan Security Agent to be held, subject to the Intercreditor Agreement, in accordance with the terms of the Senior Secured Debt Documents.

1.5 **ABL Security**

Notwithstanding anything to the contrary in this Deed, it is acknowledged that the Chargor has, on or about the date of this Deed, entered into the ABL Security pursuant to which the Chargor has granted a second ranking fixed charge over the Shares.

1.6 **Present and future assets**

- 1.6.1 A reference in this Deed to any Charged Property or other assets includes, unless the contrary intention appears, present and future Charged Property and other assets.
- 1.6.2 The absence of or incomplete details of any Charged Property in any Schedule shall not affect the validity or enforceability of any Security Interest under this Deed.

2. **PAYMENT OF SECURED OBLIGATIONS**

2.1 **Covenant to Pay**

The Chargor covenants with the Term Loan Security Agent as trustee for the Senior Secured Creditors that it shall on demand of the Term Loan Security Agent discharge all Secured Obligations as and when they fall due according to their terms and the Chargor shall pay to the Term Loan Security Agent when due and payable every sum at any time owing, due or incurred by the Chargor to the Term Loan Security Agent (whether for its own account or as trustee for the Senior Secured Creditors) or any of the other Senior Secured Creditors in respect of any such liabilities **provided that** neither such covenant nor the Security Interest constituted by this Deed shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or security to be unlawful or prohibited by any applicable law.

2.2 Interest on Demand

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate determined in accordance with the provisions of clause 27.5 (*Interest on demand*) of the Intercreditor Agreement.

3. COMMON PROVISIONS

3.1 Common provisions as to all Security

All the Security Interests created by or pursuant to this Deed are:

- 3.1.1 created as beneficial owner (subject to any Permitted Security and the ABL Security);
- 3.1.2 created in favour of the Term Loan Security Agent as trustee for the Senior Secured Creditors and the Term Loan Security Agent shall hold the benefit of this Deed and the Security Interests created by or pursuant to it on trust for the Senior Secured Creditors; and
- 3.1.3 continuing security for the payment and discharge of all the Secured Obligations.

3.2 Consent for Fixed Security

The Chargor creates the Fixed Security subject to obtaining any necessary consent to the Fixed Security from any relevant third party, subject to Clause 6.3 (*Consents*).

4. FIRST-RANKING FIXED SECURITY

4.1 Fixed charge over Shares

The Chargor charges, by way of first fixed charge, all of its rights, title and interest from time to time in and to its Shares and all dividends, interest and other monies payable in respect of those Shares and all Related Rights (whether derived by way of redemption, bonus, preference, options, substitution, conversion, compensation or otherwise).

5. PERFECTION OF SECURITY

5.1 Negative Pledge

Except as not prohibited under any of the Senior Secured Debt Documents, the Chargor shall not at any time during the Security Period create or permit to subsist any Security Interest over all or any part of the Charged Property.

5.2 No Disposal of Interests

The Chargor undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Deed, except as not expressly prohibited by any of the Senior Secured Debt Documents or by Clause 5.1 (*Negative Pledge*) create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Charged Property.

5.3 Implied covenants for title

- 5.3.1 It shall be implied in respect of Clause 4 (*First-Ranking Fixed Security*) the Chargor is, subject to any Permitted Security and the ABL Security, disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

5.4 Further Advances

- 5.4.1 Subject to the terms of the Senior Secured Debt Documents, each Senior Secured Creditor is under an obligation to make further advances to the Debtors and that obligation will be deemed to be incorporated into this Deed as if set out in this Deed.

5.5 Delivery of Share Certificates

The Chargor shall:

- (a) on the date of this Deed (or, if later, the date on which the Chargor accedes to this Deed), and promptly after the date of acquisition or receipt by the Chargor of any Shares, deposit with the Term Loan Security Agent (or procure the deposit of) all certificates or other documents of title to the Shares, and stock transfer forms (executed in blank by or on behalf of the Chargor) in respect of such Shares; and
- (b) promptly upon the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Shares, notify the Term Loan Security Agent of that occurrence and procure the delivery to the Term Loan Security Agent of (a) all certificates or other documents of title representing such items and (b) such stock transfer forms or other instruments of transfer (executed in blank on behalf of the Chargor) in respect thereof as the Term Loan Security Agent may reasonably request,

in each case, on the basis that the Term Loan Security Agent shall be entitled to hold and retain such certificates, documents of title and stock transfer forms until the release of the Security Interest constituted by this Deed and shall be entitled, following the occurrence of an Enforcement Event, to complete, under its power of attorney given in this Deed, the stock transfer forms on behalf of the Chargor in favour of itself or such other person as it shall select.

6. FURTHER ASSURANCE

6.1 Further assurance

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

- 6.1.1 to create, perfect, protect and/or maintain 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 or assignment over all or any of the assets constituting, or intended to constitute, Charged Property) or for the exercise of the Collateral Rights;
- 6.1.2 to confer on the Term Loan Security Agent security over any asset or undertaking of the Chargor located in any jurisdiction outside Ireland equivalent or similar to the Security Interests intended to be conferred by or pursuant to this Deed; and/or
- 6.1.3 following the occurrence of an Enforcement Event, to facilitate the realisation of the Charged Property subject to and in accordance with the terms of the Intercreditor Agreement.

6.2 Necessary Action

Subject to the Agreed Security Principles, the Chargor shall, at the cost and expense of the Chargor, 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 Term Loan Security Agent by or pursuant to this Deed.

6.3 Consents

6.3.1 Subject to the Agreed Security Principles, the Chargor shall use reasonable endeavours to obtain (in form and content reasonably satisfactory to the Term Loan Security Agent) as soon as reasonably practicable any consents necessary to enable the assets of the Chargor that are material to be the subject of the relevant Fixed Security pursuant to this Deed **provided however that** such consent shall not be required if seeking to obtain such consent is reasonably likely to be prejudicial to its business or commercial relationships.

6.3.2 Immediately upon obtaining any such consent or removing any such restriction, the asset concerned will become subject to the Fixed Security and the Chargor shall promptly deliver a copy of such consent or evidence of such removal to the Term Loan Security Agent.

7. SHARES

7.1 Shares: Dividends prior to an Enforcement Event

Unless an Enforcement Event has occurred, and to the extent permitted under the Senior Secured Debt Documents, the Chargor shall be entitled to receive and shall pay all dividends, interest and other monies received by it from the Shares into an Account.

7.2 Shares: Dividends after an Enforcement Event

Subject to the terms of the Intercreditor Agreement, following the occurrence of an Enforcement Event, the Term Loan Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) apply all dividends, interest and other monies arising from the Shares in accordance with Clause 13 (*Application of Monies*).

7.3 Shares: Voting rights prior to an Enforcement Event

Unless an Enforcement Event has occurred, the Chargor shall be entitled to exercise all voting rights in relation to the Shares in a manner which does not and is not reasonably likely to adversely affect the validity or enforceability of the Security Interest or cause an Event of Default to occur.

7.4 Shares: Voting rights after an Enforcement Event

Subject to the terms of the Intercreditor Agreement, following the occurrence of an Enforcement Event, the Term Loan Security Agent may, at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor), exercise (or refrain from exercising) any voting rights in respect of the Shares and transfer the Shares into the name of such nominee(s) of the Term Loan Security Agent as it shall require.

7.5 Shares: Payment of Calls

The Chargor shall, during the Security Period, pay when due all calls or other payments which may be or become due in respect of any of the Shares, and in any case of default by the Chargor in such payment, the Term Loan Security Agent may make such payment on behalf of the Chargor in which case any sums paid by the Term Loan Security Agent shall be reimbursed by the Chargor to the Term Loan Security Agent on demand and shall carry interest from the date

of payment by the Term Loan Security Agent until reimbursed at the rate and in accordance with Clause 2.2 (*Interest on Demand*).

8. REPRESENTATIONS

8.1 General

The Chargor represents and warrants to the Term Loan Security Agent as set out in this Clause 8 on the date of this Deed.

8.2 Legal and beneficial ownership

All the Shares are free from any Security Interest other than the Security Interests created by or pursuant to the ABL Security and this Deed and all those Shares are fully paid.

9. ENFORCEMENT OF SECURITY

9.1 Enforcement

Following the occurrence of an Enforcement Event or if the Chargor requests the Term Loan Security Agent to exercise any of its powers under this Deed or if a petition or application is presented for the making of an administration order in relation to the Chargor or if 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 (save to the extent that such petition, application, notice or filing is not made by a member of the Group or any director of any member of the Group and is frivolous or vexatious and is stayed, dismissed or withdrawn within four (4) Business Days of such petition, application, notice or filing being made), the Security Interest created by or pursuant to this Deed is immediately enforceable and the Term Loan Security Agent may, without notice to the Chargor and without prior authorisation from any court, in its absolute discretion:

- 9.1.1 secure and perfect its title to all or any part of the Charged Property of the Chargor;
- 9.1.2 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 of the Chargor (and any property of the Chargor which, when got in, would be part of the Charged Property) at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration); and
- 9.1.3 whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorities and discretions in relation to the Charge Property conferred by the Act (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

9.2 No Liability as Mortgagee in Possession

Neither the Term Loan Security Agent nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable.

9.3 Right of Appropriation

Subject to the terms of the Intercreditor Agreement, and to the extent that any of the Charged Property constitutes “financial collateral” and this Deed and the obligations of the Chargor hereunder constitute a “security financial collateral arrangement” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements Regulations 2010 (SI No 626 of

2010) (the “**Regulations**”)) the Term Loan Security Agent shall have the right, following the occurrence of an Enforcement Event, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be in the case of Shares, the market price of such Shares determined by the Term Loan Security Agent by reference to a public index or by such other process as the Term Loan Security Agent (acting reasonably) may select, including independent valuation.

In each case, the parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

9.4 Effect of moratorium

The Term Loan Security Agent shall not be entitled to exercise its rights under Clause 9.1 (*Enforcement*) where the right arises as a result of an Enforcement Event occurring solely due to any person obtaining, or taking steps to obtain, a moratorium pursuant to Part A1 of the Insolvency Act 1986 of England and Wales.

10. EXTENSION OF POWERS AND RIGHTS OF APPROPRIATION

10.1 Extension of power of sale

At any time after the Security has become enforceable (in accordance with clause 9 (*Enforcement of Security*)):

- (a) the statutory power of sale conferred by Section 100 (*Power of sale*) of the Act free from restrictions contained in Section 100(1), (2), (3) and (4) and without the requirement to serve notice (as specified in the final proviso to Section 100(1)); and
- (b) the incidental powers of sale conferred by Section 102 (*Incidental powers*),

will immediately arise and be exercisable by the Term Loan Security Agent and/or any Receiver. The provisions of Section 96(1)(c) of the Act shall not apply to this Deed.

10.2 Statutory powers

10.2.1 The Term Loan Security Agent and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act.

10.2.2 All of the powers, authorities and discretions which are conferred by this Deed upon a Receiver (either expressly or impliedly) may be exercised after the security constituted by this Deed becomes enforceable by the Term Loan Security Agent in relation to all or any part of the Charged Property both before and after the appointment of a Receiver.

10.3 Mortgagee in possession

10.3.1 In addition to the statutory powers incidental to the estate or interest of mortgagees contained in the Act as more particularly detailed in clauses 10.1 to 10.3 inclusive and at any time after the Security has become enforceable, the Term Loan Security Agent may, without further notice or demand and without the need to obtain the consent of the Chargor or obtain an order for possession under Section 97 (*Taking possession*) and Section 98 (*Abandoned property*) of the Act, enter into possession of the Charged Property.

10.3.2 Neither the Term Loan Security Agent nor any Receiver will be obliged to take any steps to sell or lease the Charged Property (or any part thereof) and the provisions of Section 99 (*Mortgagee*

in possession) and Section 101 (*Applications under Sections 97 and 100*) of the Act shall not apply to this Deed.

10.3.3 After the Term Loan Security Agent, in accordance with the provisions of this Deed, enters into possession of the Charged Property, the Term Loan Security Agent will have power to:

- (a) effect and carry out upon any building or erection for the time being comprised in such part of the Charged Property of which the Term Loan Security Agent is in possession any such repairs, amendments, alterations and additions as the Term Loan Security Agent may reasonably consider necessary or desirable for the maintenance or protection of all or any part of the Charged Property;
- (b) charge or agree to charge any or part of the Charged Property of which the Term Loan Security Agent is in possession for such period at such rent and upon such terms with or without a premium or fine in all respects as the Term Loan Security Agent may from time to time think fit; and
- (c) perform or cause to be performed all acts and things requisite or desirable according to the law of the country in which the Charged Property or any part thereof of which the Term Loan Security Agent is in possession is situate for the purpose of giving effect to the exercise of any of the said powers, authorities and discretions.

10.4 **No liability**

10.4.1 Save as provided for in Section 103 (*Obligations on selling*) of the Act, neither the Term Loan Security Agent nor any Receiver will be liable for any loss or damages which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his/her respective powers (unless such loss or damage is caused by its or his/her gross negligence or wilful misconduct) in relation to all or any part of the Charged Property.

10.4.2 Without prejudice to the generality of clause above, neither the Term Loan Security Agent nor any Receiver will be liable to account as mortgagee in possession in respect of the Charged Property or any part thereof nor be liable for any loss on realisation or in connection with the Charged Property or for any default or omission for which a mortgagee in possession might be liable.

10.5 **Protection of third parties**

10.5.1 No person (including a purchaser) dealing with the Term Loan Security Agent or a Receiver or its or his/her agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Term Loan Security Agent or a Receiver is purporting to exercise has become exercisable;
- (c) whether any of the Secured Obligations remain outstanding under the Finance Documents (or any of them); or
- (d) how any money paid to the Term Loan Security Agent or a Receiver is to be applied,

and all protections to purchasers contained in Sections 105(1), 106 and 108(5) of the Act shall apply to all persons (including a purchaser) dealing with the Term Loan Security Agent or any Receiver in like manner as if the statutory powers of sale and appointing a receiver had not been varied or extended by this Deed.

- 10.5.2 No purchaser from the Term Loan Security Agent or any Receiver, delegate or sub-delegate shall be entitled to rely on Section 105(2) of the Act which is disapplied by this Deed.
- 10.5.3 The Chargor shall not take any action in relation to the Charged Property or this Deed under the provisions of Section 94 of the Act (*Court order for sale*).

11. APPOINTMENT OF RECEIVER

11.1 Appointment and Removal

Subject to the terms of the Intercreditor Agreement, after any Security Interest created by or pursuant to this Deed has become enforceable in relation to the Chargor in accordance with Clause (*Enforcement*), the Term Loan Security Agent may, without the need for the occurrence of any of the events specified in paragraphs (a) to (c) of Section 108(1) (*Appointment of a receiver*) of the Act, by deed, under hand or otherwise (acting through an authorised officer of the Term Loan Security Agent):

11.1.1 without prior notice to the Chargor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Charged Property of the Chargor, and such persons shall be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act;
- (b) appoint two or more Receivers of separate parts of the Charged Property of the Chargor and if at any time there is more than one Receiver of all or part of the Charged Property, each such Receiver may, unless otherwise stated in any appointment document exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of each other Receiver;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
- (d) appoint another person(s) as an additional or replacement Receiver(s).

11.1.2 Section 99 of the Act shall not apply to this Deed.

11.1.3 All of the powers, authorities and discretions which are conferred by this Deed, either expressly or impliedly, upon any Receiver may be exercised by the Term Loan Security Agent after the Security becomes enforceable in relation to all or part of the Charged Property without first appointing a Receiver or notwithstanding the appointment of a Receiver of the Charged Property, or any part thereof.

11.2 Capacity of Receivers

11.2.1 Each person appointed to be a Receiver pursuant to Clause 11.1 (Appointment and Removal) shall be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) for all purposes deemed to be the agent of the Chargor and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor shall be solely responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver, for liabilities incurred by a Receiver and for the payment of a Receiver's remuneration and no Receiver shall at any time act as agent for the Term Loan Security Agent; and

- (c) entitled to remuneration for his services at a rate to be fixed by the Term Loan Security Agent from time to time (but without being limited to a maximum rate of commission as prescribed in Section 108(7) (*Appointment of a receiver*) of the Act).

11.2.2 No Secured Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

11.3 Statutory Powers of Appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Term Loan Security Agent under the Act (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Term Loan Security Agent in respect of any part of the Charged Property.

11.4 Remuneration

A Receiver shall be entitled to remuneration for his/her services at a rate to be fixed by the Term Loan Security Agent (but without being limited to a maximum rate of commission as prescribed in Section 108(7) (*Appointment of a receiver*) of the Act) and the Term Loan Security Agent may direct payment thereof out of the Secured Assets but the Chargor alone will be liable for payment of such remuneration.

11.5 Removal of Receiver

The Term Loan Security Agent may by notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

12. POWERS OF RECEIVER

A Receiver shall, in relation to the Charged Property over which he is appointed, have all powers conferred by the Act and all other statutes in the same way as if the Receiver had been duly appointed under the Act and shall be entitled to exercise such powers in such manner and on such terms as he may in his absolute discretion think fit. Furthermore a Receiver shall have (in each case at the cost of the Chargor in respect of which the Receiver is appointed) the following additional powers:

- 12.1.1 to take possession of, collect and get in all or any part of the Charged Property in respect of which the Receiver is appointed and for that purpose take any proceedings in the name of the Chargor or otherwise as may seem expedient;
- 12.1.2 to redeem any Security Interest on, over or affecting the Charged Property of the Chargor in respect of which the Receiver is appointed or any part of the Charged Property of the Chargor in respect of which the Receiver is appointed;
- 12.1.3 to sell (whether by public auction, private contract or otherwise) or dispose of all or any of the Charged Property of the Chargor in respect of which the Receiver is appointed on any terms and for any consideration (including for deferred consideration or a consideration payable wholly or partly in instalments or consisting in whole or in part of shares or securities of any other company or of any other non-cash asset) on such terms and conditions as he may think fit (including conditions excluding or restricting the personal liability of the Receiver or the Term Loan Security Agent);
- 12.1.4 to enter and perform, repudiate, rescind or vary such contracts and arrangements to which the Chargor in respect of which the Receiver is appointed is a party or incur any obligations in relation to such contracts and/or arrangements;

- 12.1.5 to bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Property (or any part of the Charged Property);
- 12.1.6 to exercise all voting and other rights attaching to the Charged Property;
- 12.1.7 to exercise, in relation to any Charged Property in respect of which the Receiver is appointed, all the other powers, authorities and things which he would be capable of exercising if he were the absolute legal and/or beneficial owner of that Charged Property.

13. APPLICATION OF MONIES

13.1 Application of Monies

All monies received or recovered and any non-cash recoveries made or received by the Term Loan Security Agent or any Receiver pursuant to this Deed or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Act) be applied in accordance with clause 20 (*Application of Proceeds*) of the Intercreditor Agreement.

13.2 Proceeds of Realisation

The Term Loan Security Agent shall not nor shall any Receiver appointed as aforesaid nor any attorney or agent of the Term Loan Security Agent by reason of taking possession of all or any of the Charged Property or any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever be liable to account for anything except actual receipts or be liable for any loss or damage arising from realisation of, or enforcement of rights in respect of, all or any of the Charged Property or any other property, assets, rights or undertakings of whatsoever nature (including but not limited to any other Charged Property) whether or not owned by the Chargor or any other person or in which the Chargor or such other person has an interest, from any act, default or omission in relation to all or any of the Charged Property or any other property, assets, rights or undertakings of whatsoever nature (including but not limited to any other Charged Property) whether or not owned by the Chargor or any other person or in which the Chargor or such other person has an interest, or from any exercise or non-exercise by it of any power, authority or discretion conferred upon it in relation to all or any of the Charged Property or any other property, assets, rights or undertakings of whatsoever nature (including but not limited to any other Charged Property) whether or not owned by the Chargor or any other person or in which the Chargor or such other person has an interest (except to the extent arising from the Term Loan Security Agent or Receiver's gross negligence or wilful default).

13.3 Good Discharge

An acknowledgement of receipt signed by the relevant person to whom payments are to be made under this Clause 13 shall constitute good discharge of the Term Loan Security Agent.

13.4 Section 108 of the Act

Section 108 (7) of the Act shall not apply to a Receiver appointed under this Deed.

14. PROTECTION OF PURCHASERS

14.1 Consideration

The receipt of the Term Loan Security Agent or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property or making any acquisition, the Term Loan Security Agent or any Receiver may do so for such consideration (whether cash or non-cash), in such manner and on such terms as it thinks fit.

14.2 Protection of Purchasers

No purchaser or other person dealing with the Term Loan Security Agent or any Receiver shall be bound to inquire whether (i) the right of the Term Loan Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be required to inquire whether that power has been properly or regularly exercised by the part of the Term Loan Security Agent or such Receiver in such dealings or (ii) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

15. POWER OF ATTORNEY

15.1 Appointment and Powers

The Chargor by way of security irrevocably appoints the Term Loan Security Agent and any Receiver severally 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 (acting reasonably) for:

- 15.1.1 carrying out any obligation imposed on the Chargor by this Deed or any other agreement binding on the Chargor to which the Term Loan Security Agent is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Charged Property and perfecting and/or releasing the Security Interests created or intended to be created in respect of the Charged Property).

15.2 Exercise of Power

The Power of Attorney set out in Clause 15.1 (*Appointment and Powers*) above shall only be exercised:

- 15.2.1 Subject to and in accordance with the Intercreditor Agreement, following the occurrence of an Enforcement Event; or
- 15.2.2 if the Chargor has failed to comply with Clause 6 (*Further Assurance*) or any other perfection obligation of this Deed within ten (10) Business Days of the Chargor being notified of that failure.

15.3 Ratification

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

16. EFFECTIVENESS OF SECURITY

16.1 Continuing Security

- 16.1.1 The Security Interests created by or pursuant to this Deed shall remain in full force and effect as continuing security for the Secured Obligations unless and until discharged by the Term Loan Security Agent.
- 16.1.2 No part of the Security from time to time intended to be constituted by this Deed will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

16.2 Cumulative Rights

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

16.3 No Prejudice

The Security Interests created by or pursuant to this Deed and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any forbearance, neglect, indulgence, abandonment, extension of time, release, surrender or loss of securities, dealing, variation or arrangement granted to the Chargor or any other person, or the Term Loan Security Agent (whether in its capacity as trustee or otherwise) or any of the other Senior Secured Creditors or by any variation of the terms of the trust upon which the Term Loan Security Agent holds the security or by any other thing which might otherwise prejudice that security or any Collateral Right.

16.4 Term Loan Security Agent

The provisions set out in clause 22 (*the Security Agents*) of the Intercreditor Agreement shall govern the rights, duties and obligations of the Term Loan Security Agent under this Deed.

16.5 Remedies and Waivers

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

16.6 No Liability

None of the Term Loan Security Agent, its nominee(s) or any Receiver shall be liable, by reason of entering into possession of any Charged Property: (a) to account as a mortgagee or mortgagee in possession; or for any loss on realisation or enforcement of rights; (b) for any default or omission for which a mortgagee in possession might be liable or (c) for any loss arising by reason of taking any action permitted by this Deed, neglect or default in connection with the Charged Property or taking possession of or realising all or any part of the Charged Property, except in the case of gross negligence or wilful misconduct upon its part.

16.7 Partial Invalidity

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

16.8 Waiver of defences

The obligations assumed, and the Security Interests created by, the Chargor under this Deed and the Collateral Rights will not be affected by an act, omission, matter or thing which, but for this Clause 16.8, would reduce, release or prejudice any of its obligations under, or the Security Interests created by, this Deed (without limitation and whether or not known to it or any Senior Secured Creditor) including:

- 16.8.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 16.8.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- 16.8.3 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, the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 16.8.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 16.8.5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Senior Finance Document, an ABL Finance Document or any other document or security or of the Secured Obligations;
- 16.8.6 any unenforceability, illegality or invalidity of any obligation of any person under any Senior Finance Document, an ABL Finance Document or any other document or security or of the Secured Obligations; or
- 16.8.7 any insolvency or similar proceedings.

16.9 Immediate recourse

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

16.10 Deferral of Rights

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

- 16.10.1 to be indemnified by any Debtor;
- 16.10.2 to claim any contribution from any guarantor of the Chargor's obligations under this Deed; and/or
- 16.10.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Senior Secured Creditors under the Senior Secured Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, this Deed by any Senior Secured Creditor.

16.11 No obligations in relation to Charged Property

The Term Loan Security Agent is not obliged to do any of the following in respect of any Charged Property:

- (a) perform any obligation of the Chargor;
- (b) make any payment;
- (c) make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor;
- (d) present or file any claim or take any other action to collect or enforce the payment of any amount to which it or the Chargor may be entitled; or
- (e) exercise any rights to which it or the Chargor may be entitled.

17. PRIOR SECURITY INTERESTS

17.1 Redemption or transfer

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security Interest against any of the Charged Property or in the case of exercise by the Term Loan Security Agent or any Receiver of any power of sale or rights of appropriation or application under this Deed, the Term Loan Security Agent may redeem such prior Security Interest or procure the transfer thereof to itself.

17.2 Accounts

Subject to the terms of the Intercreditor Agreement, following the occurrence of an Enforcement Event, the Term Loan Security Agent may settle and agree the accounts of the prior Security Interest and any accounts so settled and agreed will be conclusive and binding on the Chargor.

17.3 Costs of redemption or transfer

All principal monies, interest, costs, charges and expenses of and incidental to any such redemption or transfer of a prior ranking Security Interest following the occurrence of an Enforcement Event will be paid by the Chargor to the Term Loan Security Agent on demand.

18. SUBSEQUENT SECURITY INTERESTS

If the Term Loan Security Agent (acting in its capacity as trustee or otherwise) or any of the other Senior Secured Creditors at any time receives or is deemed to have received notice of any subsequent Security Interest, affecting all or any part of the Charged Property which is prohibited by the terms of any Senior Secured Debt Document, all payments thereafter made by or on behalf of the Chargor to the Term Loan Security Agent (whether in its capacity as trustee or otherwise) or any of the other Senior Secured Creditors will (in the absence of any express contrary appropriation by the Chargor) be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time that notice was received.

19. RELEASE OF SECURITY

19.1 Release of Security

19.1.1 (i) Upon the occurrence of the Senior Secured Liabilities Discharge Date, or (ii) in circumstances permitted by the Senior Secured Debt Documents, the Term Loan Security Agent shall, at the request and cost of the Chargor, release and cancel the Security constituted by this Deed and procure the reassignment to the Chargor of the relevant property and assets assigned to the Term Loan Security Agent pursuant to this Deed, in each case subject to Clause 19.2 (*Clawback*) and without recourse to, or any representation or warranty by, the Term Loan Security Agent or any of its nominees.

19.1.2 Without prejudice to Clause 19.1.1 above, in connection with (i) any disposal of any property or asset that is subject to this Deed permitted by the Senior Secured Debt Documents, (ii) any sale or other disposition of any property or asset that is subject to this Deed where the requisite Senior Secured Creditors have consented to the disposal pursuant to the applicable Senior Secured Debt Documents or (iii) any sale or any other disposition of any property or asset that is subject to this Deed pursuant to a merger, consolidation, reorganisation, winding-up, securitization, Special Purpose Financing (as defined in the Initial Senior Facility Agreement) or sale and leaseback, in each case as permitted by the Senior Secured Debt Documents, and to the extent necessary to ensure that such merger, consolidation, reorganisation, winding-up, securitization, Special Purpose Financing (as defined in the Initial Senior Facility Agreement) or sale and leaseback can take place, the Term Loan Security Agent shall, at the request and cost of the Chargor, release and cancel the security provided by the Chargor and procure the reassignment to the Chargor of the property and assets assigned to the Term Loan Security Agent pursuant to this Deed, *provided that*, to the extent that the disposal of such property or asset is permitted by the Senior Secured Debt Documents, the property or asset shall be declared to be automatically released from this Deed with effect from the day of such disposal (the “**Automatic Release**”) and the Term Loan Security Agent and any applicable Creditor Representative shall do all such acts which are reasonably requested by the Chargor (at the cost of the Chargor) in order to release such property or asset, provided that the Automatic Release shall not apply to the disposal of: (i) Shares and/or (ii) assets pursuant to a Special Purpose Financing or otherwise to a Special Purpose Entity (each as defined in the Initial Senior Facility Agreement).

19.2 Clawback

If the Term Loan Security Agent (acting reasonably) considers that any amount paid or credited to any Senior Secured Creditor is at risk of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargor under this Deed and the Security constituted by this Deed will continue and such amount will not be considered to have been irrevocably paid or credited.

19.3 Discharge Conditional

Any settlement or discharge between the Chargor and any Senior Secured Creditor shall be conditional upon no security or payment to that Senior Secured Creditor by the Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Senior Secured Creditor under this Deed) that Senior Secured Creditor shall be entitled to recover from the Chargor the value which that Senior Secured Creditor has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

20. SET-OFF

- 20.1.1 Without prejudice to clause 44 (*Set-off*) of the Initial Senior Facility Agreement (or any equivalent provision in any other Senior Facility Agreement), the Chargor authorises the Term Loan Security Agent (but the Term Loan Security Agent shall not be obliged to exercise such right), after the Security created by or pursuant to this Deed has become enforceable in accordance with Clause 9.1 (*Enforcement*), to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Term Loan Security Agent to the Chargor and apply any credit balance to which the Chargor is entitled on any account with the Term Loan Security Agent in accordance with Clause 13 (*Application of Monies*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account). If the obligations are in different currencies, the Term Loan Security Agent may convert either obligation at the prevailing market rate of exchange for the purpose of the set-off.
- 20.1.2 The Term Loan Security Agent may exercise its rights under paragraph 20.1.1 above notwithstanding that the amounts concerned may be expressed in different currencies and the Term Loan Security Agent is authorised to effect any necessary conversions at the prevailing market rate of exchange.
- 20.1.3 The Chargor will pay all amounts payable under this Deed without any set-off, counterclaim or deduction whatsoever unless required by law, in which event the Chargor will pay an additional amount to ensure that the payment recipient receives the amount which would have been payable had no deduction been required to have been made.

21. ASSIGNMENT

21.1 No assignment or transfers by Chargor

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Deed, except to the extent permitted by the Senior Secured Debt Documents or the Intercreditor Agreement.

21.2 Assignments by the Term Loan Security Agent

To the extent permitted by the Senior Secured Debt Documents, the Term Loan Security Agent may assign and transfer any of its rights or obligations under this Deed. The Term Loan Security Agent shall be entitled to disclose such information concerning the Chargor and this Deed in accordance with:

- 21.2.1 clause 22.13 (*Resignation of a Security Agent*) of the Intercreditor Agreement; and
- 21.2.2 clause 50 (*Confidentiality*) of the Initial Senior Facility Agreement and any equivalent provision in any other Senior Secured Debt Document..

21.3 Successors

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

successor to the Term Loan Security Agent for all purposes under the Senior Secured Debt Documents).

22. EXPENSES

Clauses 27.1 (*Transaction Expenses*), 27.2 (*Amendment Costs*) and 27.3 (*Enforcement and Preservation Costs*) of the Intercreditor Agreement are incorporated *mutatis mutandis* into this Deed (including all capitalised terms as defined therein) but as if each reference therein to:

22.1.1 the “Parent” is a reference to Wolseley Group Holdings Limited;

22.1.2 a “Debt Document” and this “Agreement” in each case is a reference to this Deed;

22.1.3 a “Debtor” is a reference to the Chargor.

23. DISCRETION AND DELEGATION

23.1 Discretion

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

23.2 Delegation

23.2.1 The Term Loan Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

23.2.2 Any such delegation may be made upon any terms (including power to sub-delegate) which the Term Loan Security Agent or any Receiver may think fit.

23.2.3 Neither the Term Loan Security Agent nor any Receiver will be in any way responsible or liable to the Chargor or any other person for any cost, expense, loss or liability arising from any act, omission, default, or misconduct on the part of any delegate or sub-delegate.

24. MISCELLANEOUS

24.1 Certificates Conclusive

A certificate or determination of the Term Loan Security Agent as to any amount payable under this Deed will be conclusive and binding on the Chargor, except in the case of manifest error.

24.2 Counterparts

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

24.3 Failure to Execute

Failure by one or more parties (“**Non-Signatories**”) to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other Parties who do execute this Deed. Such Non-Signatories may execute this Deed on a subsequent date and will thereupon become bound by its provisions

25. PERPETUITY PERIOD

The perpetuity period under the rule against perpetuities, if applicable to this Deed, shall be the period of eighty years from the date of the Intercreditor Agreement.

26. GOVERNING LAW

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

27. JURISDICTION

27.1 Irish Courts

The courts of Ireland have exclusive jurisdiction to settle any dispute (a “**Dispute**”) arising out of, or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Deed).

27.2 Convenient Forum

The parties agree that the courts of Ireland are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

27.3 Exclusive Jurisdiction

This Clause 27 (*Jurisdiction*) is for the benefit of the Term Loan Security Agent only. As a result and notwithstanding Clause 27.1 (*Irish Courts*), it does not prevent the Term Loan Security Agent from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Term Loan Security Agent may take concurrent proceedings in any number of jurisdictions.

THIS DEED has been signed on behalf of the Term Loan Security Agent and executed as a deed by the Chargor and is delivered as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1

SHARES

Chargor	Company	Description and number of shares held
Wolseley Group Limited	Cooperstorm Limited	300 ordinary shares of €1.00 each

EXECUTION PAGES TO DEED

The Chargor

EXECUTED as a **DEED**

by **WOLSELEY GROUP LIMITED**



Signature of Director

Name of Director

in the presence of: witness signature:



~~Signature of Director/Secretary~~

witness

~~Name of Director/Secretary~~

name: LAUREN VERGO

Address: c/o CD&R LLP
Cleveland House
33 King Street
London
SW1Y 6RJ

witness Wolseley, 2 King's
address: Court, White
City Bay.


Fax: +44 (0) 207 747 3801

Attention: Diego Straziota

witness
occupation: SOLICITOR

EXECUTED as a DEED

by ATLANTIC PARK STRATEGIC CAPITAL FUND, L.P.

By: _____  _____

Name: George Fan

Title: Authorized Signatory

Notice Details

Attention: George Fan and Viral Naik

Address: 527 Madison Avenue, 25th Floor, New York, NY 10022

Email: george.fan@ironparkcap.com; viral.naik@ironparkcap.com

Facsimile: N/A