



Registration of a Charge

Company name: **DONNELLY BROS. (BELFAST) LIMITED**

Company number: **NI032024**

Received for Electronic Filing: **01/03/2021**



X9ZCKWX7

Details of Charge

Date of creation: **24/02/2021**

Charge code: **NI03 2024 0003**

Persons entitled: **NORTHERN BANK LIMITED**

Brief description: **1 MALLUSK WAY, MALLUSK ROAD, NEWTOWNABBIEY, CO. ANTRIM,
LAND REGISTRY FOLIO NUMBERS AN46302L COUNTY ANTRIM &
AN49434L COUNTY ANTRIM**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT
TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

**COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

A&L GOODBODY



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI32024

Charge code: NI03 2024 0003

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 24th February 2021 and created by DONNELLY BROS. (BELFAST) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st March 2021 .

Given at Companies House, Belfast on 1st March 2021

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Dated the 24th day of February 2021

The Companies as set out in Schedule 1 hereto

(the Chargors)

Northern Bank Limited

(the Chargee)

COMPOSITE DEBENTURE

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LAND REGISTRY

Folio: AN46302L County Antrim & AN49434L County Antrim

Registered Owner: Donnelly Bros. (Belfast) Limited

Folio: FE80223, FE9120, 14028 and 14280 County Fermanagh

Registered Owner: Donnelly Bros. Garages (Fermanagh) Limited

Folios: TY604 and 34954 County Tyrone

Registered Owner: Donnelly Bros. Garages (Dungannon) Limited

THIS DEED is dated the 24th day of February 2021 and made between

- (1) **THE COMPANIES** each of whose name, address, jurisdiction of incorporation and registration number is set out in Schedule 1 hereto (together the **Chargors** and each a **Chargor**); and
- (2) **NORTHERN BANK LIMITED** a company incorporated in Northern Ireland and having its registered office at Donegall Square West, Belfast, BT1 6JS (the **Chargee**)

RECITALS

- (A) The Chargors are indebted or may hereafter become indebted to the Chargee either in respect of borrowings or as guarantor of the borrowings of other companies or otherwise.
- (B) It has been agreed between the Chargors and the Chargee that all monies now owing or which shall at any time in the future become owing on a general balance of account or otherwise from any Chargor to the Chargee with interest, costs and charges shall be secured by this Deed.

1 INTERPRETATION

1.1 Definitions

In this Deed, the following terms shall, unless the context otherwise requires, have the following meanings:

1881 Act means the Conveyancing and Law of Property Act 1881;

1911 Act means the Conveyancing Act 1911;

Account means

- (a) each account specified in Schedule 3, Part 1 (*Accounts*) with the Account Bank; and
- (b) all other current, deposit or other accounts with any bank or financial institution in which any Chargor now or in the future has an interest,

and any replacement, redesignation or reinstatement of any such account whether by current account or deposit account or otherwise;

Account Bank means any bank or financial institution with which any Chargor maintains an Account as specified in Schedule 3, Part 1 (*Accounts*);

Acts means the 1881 Act and the 1911 Act;

Ancillary Rights means all covenants, agreements, undertakings, warranties, bonds, guarantees, indemnities and other agreements the benefit of which is now or in the future vested in the Chargors, or any of them, in respect of the design, construction, fit out or maintenance of any building, structure or erection now or in the future on the Mortgaged Property or of any roads, footpaths or utilities for services now or in the future abutting or serving the Mortgaged Property or the taking in charge thereof or the paying of any charge or levy in respect thereof and all guarantees and indemnities in respect of any lessee's or licensee's obligations under any lease or licence of the Mortgaged Property;

Business Day means any day on which banks are generally open for business in Belfast, excluding Saturdays and Sundays;

Charged Securities means the securities specified in Schedule 3, Part 5;

Companies Act means the Companies Act 2006;

Compensation Rights means all present and future rights of the Chargors, or any of them, to be paid or to receive compensation by reason of any compulsory acquisition, requisitioning or exercise of other compulsory powers in relation to the Mortgaged Property or any refusal, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of the Mortgaged Property;

Converted Assets means assets that were the subject of a floating charge that has now converted to a fixed charge pursuant to clause 3.5 (*Conversion of a floating charge*);

Criminal Damage Claim means a claim made by or on behalf of any Chargor under the Criminal Damage Order in relation to damage caused to the Secured Assets located in Northern Ireland after the date hereof;

Criminal Damage Order means the Criminal Damage (Compensation) (Northern Ireland) Order 1977 as amended by the Criminal Damage (Compensation) (Amendment) (Northern Ireland) Order 2009 (or any statutory successor scheme for the compensation of criminal damage to property for the time being in force);

Dangerous Substance means any substance of whatever kind and form and in whatever combination capable of causing harm to any lifeform or the Environment (other than such substances kept at the Mortgaged Property for use in the ordinary course of business);

Delegate means any person appointed by the Chargee or any Receiver appointed pursuant to the provisions of clause 12.2 (*Delegation*);

Disposal means:

- (a) any sale, transfer, mortgage, assignment, grant of an option over, charge, pledge, loan or other disposal of Secured Assets, or an agreement to do any of the foregoing; and/or
- (b) entering into any transaction (including a derivative transaction) having an economic effect similar to any of the types of disposal described in sub-paragraph (a) above;

and **dispose** and shall be construed accordingly;

Environment means the environment generally including all of its physical and ecological aspects including:

- (a) humans, animals, plants and all other living organisms including the ecological systems of which they form part;
- (b) air (including, without limitation, air within natural or man-made structures, whether above or below ground);

- (c) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (d) land (including, without limitation, land under water).

Environmental Claim means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;

Environmental Law means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.

Indebtedness means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above.

Insurances means all insurance policies now or at any time in the future taken out by the Chargors in respect of the Secured Assets (whether pursuant to the covenants contained in these Deed or otherwise) and all monies including returns of premium from time to time payable in respect of such Insurances and the benefit of all options, rights and claims devolving under or pursuant to such Insurances, including without limitation, the Insurances specified in Schedule 3, Part 2 (Insurances);

Insurance Proceeds means all proceeds paid or payable to any Chargor under or in connection with the Insurances;

Intellectual Property means any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered and all rights or forms of protection having equivalent or similar effect anywhere in the world and includes, without limitation, such Intellectual Property as specified in Schedule 3, Part 3 (Intellectual Property);

Lease means any lease, licence, agreement for lease, agreement for licence and other agreement for the occupation, possession or use of the whole or any part or parts of the Mortgaged Property subject to which the interest of any Chargor in the Mortgaged Property is now or from time to time in the future held;

Lessee means a lessee, sub-lessee, tenant, licensee or any other party having a right of occupation under a Lease under a Lease;

Material Contracts means the contracts, agreements and/or licences specified in Schedule 3 Part 4 (Material Contracts) together with all rights, title, interest in and to all proceeds, claims, rights of action and remedies arising from the Material Contracts as the same may be amended, restated, substituted, supplemented or otherwise modified or replaced from time to time;

Mortgaged Property means the freehold land and/or leasehold (registered or unregistered) land specified against its name in Schedule 3, Part 7 (Mortgaged Property) together with all buildings, fixtures (including trade fixtures and furniture) and fixed plant and machinery from time to time thereon, all easements, rights and agreements and the benefit of all covenants given in respect thereof;

Party means a party to this Deed;

Planning Acts means the Planning (Northern Ireland) Orders 1972 to 2003, the Planning Act (Northern Ireland) 2011, the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 and the Planning and Compensation Act (Northern Ireland) 2001 and any re-enactment, variation or modification of any of them and any orders, regulations or permissions made, issued or granted under or by virtue of the foregoing Acts or any of them;

Plant and Equipment means

- (a) the plant, machinery, equipment, goods, chattels and other assets specified in Schedule 3, Part 6 (Plant and Equipment); and
- (b) all other plant, machinery, equipment, goods and chattels (including stock in trade) now or hereafter belonging to a Chargor together with all and any machines, equipment, goods, components, parts or other items whatsoever from time to time installed therein or used in replacement or by way of substitution for all or any part thereof, together with the full benefit of the insurances on the same;

Proceedings means suits, actions or proceedings arising out of or in connection with or relating in any way to this Deed or any dispute arising out of any non-contractual obligations of any nature (including those to which Regulation (EC) No. 864/2007 applies) arising between the parties or any of them (including but not limited to any suits, actions or proceedings relating to the formation, interpretation or performance of this Deed);

Receivables mean all present and future book debts and other debts, sales proceeds, revenues, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to the Chargors (whether actual or contingent and whether arising under contract or in any other manner whatsoever) including:

- (a) the benefit of all rights, guarantees, encumbrances and remedies relating to any of the foregoing (including without limitation, negotiable and non-negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid seller's liens and similar associated rights);
- (b) all things in action which may give rise to a debt, revenue or claim and all other rights and remedies of whatever nature in respect of the same; and
- (c) all proceeds of any of the foregoing;

Receiver means any receiver and/or receiver and manager appointed by the Chargee (whether pursuant to this Deed or otherwise) in respect of the Chargors or over all or any part of the Secured Assets;

Related Rights mean, in relation to the Charged Securities:

- (a) all dividends, distributions, interest and other income paid or payable on the relevant Charged Securities or any asset referred to in (b) below;
- (b) all rights, monies, benefits or property accruing or offered at any time in relation to the Charged Securities whether by way of conversion, redemption, substitution, exchange, bonus or preference, under option rights or otherwise;
- (c) all rights relating to any Charged Securities which are deposited with, or registered in the name of, any depositary, custodian, nominee, clearing house or system, investment manager, lender or other similar person or their nominee, in each case whether or not on a fungible basis (including rights against any such person); and
- (d) all other rights attaching or relating to any Charged Securities and all cash or other securities or investments in the future deriving from the Charged Securities or such rights;

Remedial Works means

- (a) any investigation, inspection, sampling or monitoring works; or
- (b) any works, steps or measures to treat, abate, remove, remedy, contain, control, manage or ameliorate the presence or actual or potential effect of any Dangerous Substance or any harm to the Environment or human health or pollution of the Environment.

Secured Assets mean all the assets of the Chargors which are the subject of the Security and **Secured Asset** means any secured asset;

Secured Obligations mean all present and future obligations and liabilities (including in respect of principal, interest, break-costs, discount, commission, fees and expenses) of the Chargors to the Chargee, actual or contingent, whether owed jointly or severally, whether as principal or as surety or in any other capacity whatsoever and in any currency, on any current or other account or otherwise in any manner whatsoever and any reference to Secured Obligations means a reference to any of them;

Security means the security constituted or intended to be constituted by this Deed;

Security Interest means any mortgage, charge (fixed or floating), pledge, lien, assignment, hypothecation, retention of title, flawed asset agreement, preferential right, trust arrangement or any security interest whatsoever or any other agreement or arrangement having the effect of conferring security, a priority of payment or a disposition contrary to the provisions of this Deed, howsoever created or arising;

Taxes means all forms of taxation, duties, imposts and levies whether of Northern Ireland or elsewhere, including (but without limitation) income tax, corporation tax, corporation profits tax, advance corporation

tax, capital gains tax, capital acquisitions tax, residential property tax, wealth tax, value added tax, dividend withholding tax, deposit interest retention tax, customs and other import and export duties, excise duties, stamp duty, capital duty, social insurance, social welfare or other similar contributions and other amounts corresponding thereto whether payable in Northern Ireland or elsewhere, and any interest, surcharge, penalty or fine in connection therewith, and the word **taxation** shall be construed accordingly;

1.2 Construction

1.2.1 Unless otherwise provided, any reference to a section, clause, sub-clause, paragraph or schedule is a reference to a section, clause, sub-clause, paragraph or schedule (as the case may be) of this Deed.

1.2.2 Headings and the contents page are inserted for ease of reference only and do not affect the construction of this Deed.

1.2.3 A document is in **the agreed form** if it is in the form of a draft agreed between or on behalf of the parties hereto on or before the date hereof.

1.2.4 If any action or duty to be taken or performed under any of the provisions of this Deed would fall to be taken or performed on a day which is not a Business Day, such action or duty shall be taken or performed on the Business Day next following such day.

1.2.5 ***Joint and several liability***

If the expression Chargors consists of two or more persons:

- (a) such expression shall mean and include two or more persons and each of them or (as the case may require) any of them;
- (b) all warranties, indemnities, covenants, agreements and obligations given or entered into by the Chargors shall be deemed to be made or undertaken by such persons jointly and severally and the act and default of any one of such persons shall be deemed to be the act or default of all or any of them;
- (c) the expression **Secured Obligations** shall be construed to include all Secured Obligations now or in the future due, owing or incurred by any one or more of such persons to the Chargee whether solely or jointly or jointly and severally with any other of them or with any other person;
- (d) none of such persons shall as against the Chargee be entitled to any of the rights or remedies legal or equitable of a surety as regards the Indebtedness, obligations or liabilities of any of the other of them or be entitled in competition with or priority to the Chargee to claim or exercise any of the rights (in the nature of contribution or otherwise) of one joint (or joint and several) debtor against another;
- (e) each shall be bound even if any of the others of them intended or expressed to be bound by this Deed shall not be so bound; and
- (f) the Chargee may release or discharge any one or more of them from any liability under this Deed or in respect of his, her or their interest in the Secured Assets or to take any composition from or make any other arrangements or variation with any one or more of them without thereby releasing or discharging any other or others of them or otherwise prejudicing its rights or remedies against any other or others of them or the Secured Assets.

1.2.6 Unless the context otherwise requires, any reference in this Deed to:

- (a) a word or phrase the definition of which is contained or referred to in the Companies Act shall have the meaning thereby given to it;
- (b) any provision of law is a reference to that provision as amended, substituted, extended or re-enacted and includes any subordinate legislation;
- (c) any Northern Irish legal term, concept, legislation or regulation (including those for any action, remedy, method of judicial proceeding, document, statute, court official, governmental authority or agency) or any accounting term or concept, in respect of any jurisdiction other than Northern Ireland will be construed as references to the term, concept, legislation or regulation which most nearly corresponds to it in that jurisdiction;
- (d) the singular includes the plural and vice versa and any gender includes the other gender;
- (e) a reference to time is a reference to time in Northern Ireland;
- (f) a person includes that person's successors, personal representatives, permitted assignees and/or transferees, substitutes, executors, administrators, successors in title (as the case may be) whether direct or indirect or any person with whom they may from time to time merge or amalgamate;
- (g) this **Deed** and **any Finance Document** or any other agreement or instrument is a reference to this Deed, such other Finance Document or such other agreement or instrument as amended, restated, extended, varied, novated, substituted, replaced or supplemented in any manner from time to time, however fundamentally and which may include, without limitation, an increase in facilities provided under a Finance Document, an increase in any interest rate applicable to facilities provided under a Finance Document, an increase in the Secured Obligations and/or any rescheduling of Indebtedness;
- (h) a **person** includes any person, firm, partnership, company, corporation, association, trust, investment fund, government, state or agency (whether or not having a separate legal personality) or two or more of the foregoing but references to individuals are deemed to be references to natural persons only;
- (i) any phrase introduced by the terms **including** or **includes** or **in particular** or any similar expression is to be construed as illustrative without limitation;
- (j) costs, charges or expenses include any value added tax or similar tax charged or chargeable in respect of such cost, charges or expenses;
- (k) 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 regulatory, self-regulatory or other authority or organisation;
- (l) **assets** includes present and future properties, revenues and rights of every description;
- (m) an **authorisation** means an authorisation, consent, approval, licence, resolution, filing or registration;
- (n) a **party** or the **parties** is a reference to a party or the parties to this Deed;

1.2.7 **Third party rights**

Unless expressly provided to the contrary herein, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

2 PAYMENT PROVISIONS

2.1 Covenant to Pay

- 2.2 The Chargors hereby covenant in favour of the Chargee that they will pay and discharge the Secured Obligations when they are due or if no time for payment is specified for payment and discharge of the Secured Obligations, promptly on demand by the Chargee.

2.3 Payment free of deduction

All payments to be made under this Deed by the Chargors shall be made free and clear of and without deduction for or on account of any set-off or counterclaim or any present or future Taxes, levies, imposts, charges, deductions or withholdings of any nature whatsoever. If a Chargor shall be compelled by law to make any deduction or withholding from any payment to the Chargee, the amount of the payment due from that Chargors shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Chargee receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

2.4 Evidence and calculation

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

3 CHARGING PROVISIONS

3.1 Real Property

Each Chargor, as legal and beneficial owner to the intent that the charges contained in this Deed will be a continuing security for the payment and discharge of the Secured Obligations in favour of the Chargee:

- 3.1.1 **HEREBY GRANTS, CONVEYS AND TRANSFERS** unto the Chargee on the terms set out in this Deed, to the extent that title to the Mortgaged Property is of freehold tenure and not subject to registration in the Land Registry of Northern Ireland pursuant to the Land Registration Act (Northern Ireland) 1970, **ALL THAT AND THOSE** the Mortgaged Property **TO HOLD** the same unto the Chargee in fee simple subject to the proviso for redemption contained in this Deed;
- 3.1.2 **HEREBY DEMISES** unto the Chargee on the terms set out in this Deed, to the extent that title to the Mortgaged Property is of leasehold tenure and not subject to registration in the Land Registry of Northern Ireland pursuant to the Land Registration Act (Northern Ireland) 1970, **ALL THAT AND THOSE** the Mortgaged Property **TO HOLD** the same unto the Chargee for the residues of the respective terms of years for which it now holds the same less the last three days thereof of each such term subject to the proviso for redemption contained in this Deed;
- 3.1.3 As registered owner or as the person entitled to be registered as owner **HEREBY CHARGES** all Mortgaged Property the ownership of which is registered in the Land Registry of Northern Ireland or is required to be so registered pursuant to the Land Registration (Northern Ireland) Act 1970 and **HEREBY ASSENTS** to the registration of the charge as a burden on the said property;
- 3.1.4 **HEREBY CHARGES** as a first fixed charge all future freehold and leasehold property of the Chargor (whether or not registered), together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon;

3.2 Fixed Charges

Each Chargor, as legal and beneficial owner to the intent that the charges contained in this Deed will be a continuing security for the payment and discharge of the Secured Obligations in favour of the Chargee, hereby:

- 3.2.1 **CHARGES** as a first fixed charge, all present and future Ancillary Rights and Compensation Rights of the Chargor;
- 3.2.2 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Plant and Equipment;
- 3.2.3 **CHARGES** as a first fixed charge, the Charged Securities together with all Related Rights;
- 3.2.4 **CHARGES** as a first fixed charge, each Account together with all monies at any time standing to the credit of each Account and all interest and other rights accruing or arising in connection with such Account or monies together with all other monies standing to the credit of the Chargor from time to time on any and all accounts with any bank, financial institution or other person not otherwise charged by this clause 3.2.4;
- 3.2.5 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the uncalled capital of the Chargor and all rights and claims to which the Chargor is now or may hereafter become entitled as a result of any calls made in relation thereto;
- 3.2.6 **CHARGES** as a first fixed charge, all goodwill, now or in the future belonging to the Chargor;
- 3.2.7 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Intellectual Property;
- 3.2.8 **CHARGES** as a first fixed charge, the Material Contracts;
- 3.2.9 **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Insurances and the Insurance Proceeds (including without limitation all of its present and future rights title and interest in and to any Criminal Damage Claim and the proceeds thereof);
- 3.2.10 **CHARGES** as a first fixed charge, the Receivables.

3.3 Security assignments

Each Chargor, as beneficial owner and as security for the payment and discharge of the Secured Obligations in favour of the Chargee, hereby assigns and agrees to assign absolutely (in each case insofar as the same are capable of assignment):

- 3.3.1 the Material Contracts;
- 3.3.2 the Insurances and the Insurance Proceeds;
- 3.3.3 the Intellectual Property;
- 3.3.4 each Account together with all monies at any time standing to the credit of the Accounts and all interest and other rights accruing or arising in connection with such Accounts or monies;
- 3.3.5 the Leases;
- 3.3.6 the Receivables;
- 3.3.7 the benefit of all Ancillary Rights;

3.3.8 any bill of exchange or other negotiable instrument held by it;

subject in each case to the right of such Chargor to redeem this Deed as contained in clause 20 (*Release of security*).

3.4 **Floating charge**

3.4.1 Each Chargor hereby charges unto the Chargee by way of first floating charge, all of its assets and undertaking whatsoever and wheresoever, both present and future and the property and assets referred to in clauses 3.1 (*Real Property*), clauses 3.2 (*Fixed Charges*) and 3.3 (*Security Assignment*) above (if and in so far as such mortgages, charges and/or assignments in this Deed shall be ineffective as fixed charges/security assignments).

3.4.2 Paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 shall apply to the floating charge hereby created to the intent that the floating charge shall be a qualifying floating charge for the purposes of the said legislation.

3.5 **Conversion of a floating charge**

3.5.1 ***Conversion by notice***

The Chargee may, by notice in writing to the Chargors, convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of the Chargors if:

- (a) the Chargee considers, in good faith, that the Secured Assets (or any of them) are in danger of being seized or sold under or pursuant to any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy; or
- (b) the Chargee considers such conversion to be necessary or desirable to protect the priority of the Security;

and such fixed charge shall apply to all assets the subject of the floating charge as specified in the notice.

3.5.2 ***Automatic conversion***

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge (without notice) as regards all assets which are subject to the floating charge if:

- (a) any Chargor creates (or attempts or purports to create) any Security Interest on or over any of the Secured Assets without the prior written consent in writing of the Chargee;
- (b) any person levies or attempts to levy any distress, execution, sequestration, attachment or other legal process against the Secured Assets (or any of them);
- (c) if a receiver and/or manager is appointed over any Chargor or any of that Chargor's assets;
- (d) if any of the monies, obligations and liabilities which are secured by this Deed and which are now or shall for the time being be due, owing or incurred to the Chargee by the Chargors, or any of them, whether solely or jointly with any other person and whether as principal or surety and including interest, discount, commission and other expenses computed and compounded from time to time become due and outstanding prior to their stated maturity
- (e) if a petition is presented for the appointment of a liquidator, administrator or other analogous insolvency official to a Chargor;

- (f) if any meeting of the directors or members of a Chargor is convened for the purposes of considering any resolution for its winding-up or liquidation or for appointing an administrator to a Chargor or other analogous insolvency procedure or with a view to a composition, assignment or arrangement with its creditors generally (or any class of its creditors) or any meeting is convened for the purposes of considering any event similar or analogous to the foregoing and such a resolution is passed; or
- (g) if a Chargor ceases to carry on business as a going concern.

3.5.3 ***Partial conversion***

The giving of notice by the Chargee pursuant to clause 3.5.1 (*Conversion by notice*) in relation to any assets of a Chargor shall not be construed as a waiver or abandonment of the rights of the Chargee to serve similar notices in respect of any other assets or of any of the other rights of the Chargee.

3.5.4 ***Treatment of floating charge assets post conversion***

The Chargors undertake to the Chargee that, following the occurrence of any of the events set out in this clause 3.5 (*Conversion of a Floating Charge*), they:

- (a) shall not sell, transfer, convey, lease, licence, assign (or enter into any agreement in connection thereto) or otherwise deal with or dispose of the Converted Assets;
- (b) shall deliver as soon as possible to the Chargee or otherwise as agreed with the Chargee in writing, such information as the Chargee shall require to identify the Converted Assets including, for the avoidance of doubt, a full description (including serial/identification numbers in respect of plant and equipment and other tangible assets, account numbers, contract details etc) of all of the assets comprised in the Converted Assets; and
- (c) shall deliver as soon as possible to the Chargee or otherwise as agreed with the Chargee in writing, all documents of title relating to such Converted Assets.

3.5.5 ***Attorns Tenant***

Each Chargor hereby attorns tenant to the Chargee of any part of the Secured Assets mortgaged or charged by clause 3.1.1 at the yearly rent of £1 (if demanded) provided always that the Chargee may at any time without notice to that Chargor determine the tenancy hereby created and enter upon such Secured Assets but so that neither the receipt of the said rent nor the said tenancy shall render the Chargee liable to account to any person as mortgagee in possession.

3.6 **Perfection of security**

3.6.1 ***Charged Securities***

Each Chargor hereby covenants and undertakes to deliver to the Chargee, on the date of execution of this Deed, or if later, on the date of acquisition by the Chargor of any Charged Security:

- (a) an undated stock transfer form (executed in blank by or on behalf of the Chargor) in respect of such Charged Securities;
- (b) all share certificates, warrants and other documents of title representing such Charged Securities (including in the case of any Charged Securities which are not in the sole name of the Chargor, a declaration of trust in respect of the interest of the Chargor in such Charged Securities executed by each nominee);

- (c) a duly passed shareholders resolution to amend the articles of association of the relevant company to ensure that the directors of the relevant company shall not have the power to refuse to register a transfer of the Charged Securities in that company to the Chargee or its nominee in accordance with this Deed.

3.6.2 ***Mortgaged Property***

Each Chargor hereby covenants and undertakes to deposit with the Chargee, on the date of execution of this Deed, or if later, on the date of acquisition by the Chargor of any Mortgaged Property, all deeds, certificates and other documents constituting or evidencing title to the Mortgaged Property.

4 **CONTINUING SECURITY**

4.1 **Continuing security**

- 4.1.1 The Security is a continuing security and will extend to the ultimate balance of the Secured Obligations until released or discharged by the Chargee in accordance with the terms of this Deed.
- 4.1.2 The Security will not be considered satisfied or discharged by any intermediate repayment or satisfaction of all or any part of the Secured Obligations.
- 4.1.3 If upon final repayment and satisfaction of the Secured Obligations there shall exist any right on the part of the Chargors, or any of them, or any other person to draw funds or otherwise which, if exercised, would or might cause a Chargor to become actually or contingently liable to the Chargee, whether as principal debtor or as surety for another person, then the Chargee will be entitled to retain the Security and all rights, remedies and powers conferred by this Deed and the Secured Assets for so long as shall or might be necessary to secure the discharge of such actual or contingent liability.

4.2 **Additional security**

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security Interest which the Chargee may at any time hold for any of the Secured Obligations.

4.3 **Right to enforce**

This Deed may be enforced against the Chargors without the Chargee first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it, irrespective of any law or any provision of this Deed to the contrary.

4.4 **Waiver of defences**

The obligations of the Chargors under this Deed and the Security shall not be affected by any act, omission, matter or thing which, but for this provision, might operate to impair, affect or discharge such obligations, in whole or in part, including, without limitation and whether or not known to or discoverable by the Chargors, the Chargee or any other person:

- 4.4.1 any time, indulgence or waiver granted to or composition with any person whatsoever;
- 4.4.2 the taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights, remedies or securities against or granted by any person whatsoever;
- 4.4.3 any legal limitation, disability, incapacity or other circumstances relating to any such party or any other person;

- 4.4.4 any amendment, novation, supplement, variation, restatement, replacement of or extension (in each case however fundamental and of whatsoever nature and whether or not more onerous) of any term of this Deed [or any other Finance Document] or any increase in the Secured Obligations to the intent that this Deed shall apply to such term as varied or in respect of the extended due date or such increase;
- 4.4.5 any judgment obtained against a Chargor;
- 4.4.6 the dissolution, liquidation, administration, amalgamation, reconstruction or reorganisation of any Chargor, or any other person; or
- 4.4.7 any irregularity, unenforceability, invalidity or frustration of any obligations of any person whatsoever under any agreement or any other document or security, or any present or future law or order of any government or authority purporting to produce or otherwise effect any such obligations, to the intent that this Deed shall remain in full force and be construed accordingly as if there were no such irregularity, unenforceability, invalidity, frustration, law or order.

4.5 **No competition**

Until the Secured Obligations have been unconditionally and irrevocably satisfied and discharged in full to the satisfaction of the Chargee, the Chargors shall not by virtue of any payment made hereunder on account of the Secured Obligations or by virtue of any enforcement by the Chargee of its rights under this Deed or the Security:

- 4.5.1 exercise any rights of subrogation in relation to any rights, security or moneys held or received or receivable by the Chargee or any person;
- 4.5.2 exercise any right of contribution or indemnity from any co-surety liable in respect of such moneys and liabilities under any other guarantee, security or agreement;
- 4.5.3 exercise any right of set-off or counterclaim against the Borrower or any co-surety;
- 4.5.4 receive, claim or have the benefit of any payment, distribution, security or indemnity from the Borrower or any such co-surety; or
- 4.5.5 claim, rank, prove or vote as a creditor of the Borrower or any such co-surety in competition with the Chargee.

The Chargors will hold in trust for and forthwith pay or transfer to the Chargee any payment or distribution or benefit of security received by it contrary to the above. If the Chargors exercise any right of set-off contrary to the above, it will forthwith pay an amount equal to the amount set-off to the Chargee.

5 **REPRESENTATIONS AND WARRANTIES**

5.1 **Nature of security**

Each Chargor represents and warrants to the Chargee that:

- 5.1.1 it is duly incorporated and validly existing under the laws of its place of incorporation and is a separate legal entity capable of suing and being sued;
- 5.1.2 it has the necessary power and authority, and all necessary corporate and other action has been taken, to enable it to execute, deliver and perform the obligations undertaken by it;
- 5.1.3 the obligations under this Deed are legally and validly binding on it and are enforceable in accordance with the terms of this Deed;

- 5.1.4 all authorisations, approvals or other action by, and notice to or filing with, any governmental or regulatory authority or regulatory body as required for the entry into and performance of this Deed, have been obtained and are in full force and effect;
- 5.1.5 the execution of this Deed, the creation of the Security or the performance by that Chargor of its obligations hereunder will not contravene its constitutional documents, any applicable law or regulation or any agreement to which the Chargor is a party or which is binding on the Chargor or the Secured Assets;
- 5.1.6 it is and will at all times be the sole lawful and beneficial owner of the Secured Assets;
- 5.1.7 on the date of execution of this Deed and on each date hereafter until the Security is released by the Chargee, the Secured Assets are free from any mortgage, charge or any other Security Interest (save for those created pursuant to this Deed) and constitutes a first priority Security Interest over the Secured Assets enforceable against the Chargor and its creditors;
- 5.1.8 its centre of main interests (as that term is used in Article 3(1) of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the **Regulation**)) is situated in Northern Ireland and it has no **establishment** (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction;
- 5.1.9 its obligations under this Deed rank and will rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally;
- 5.1.10 it is able to pay its debts within the meaning of Article 103 of the Insolvency (Northern Ireland) Order 1989 or any analogous legislation at the time of entering into this Deed and remains able to pay its debts and did not become unable to pay its debts as a consequence of entering into this Deed;
- 5.1.11 it has not taken any corporate action nor have any other steps been taken or legal proceedings been instituted or (to the best of its knowledge and belief having made all reasonable enquiries) threatened against it for its winding up or re-organisation or to appoint an administrator or receiver or any such analogous steps in relation to it or any of its assets; and
- 5.1.12 there is no litigation, arbitration, insolvency or other proceeding is taking place, pending, or, to its knowledge, threatened against it or any of its assets.

5.2 **Charged Securities**

Each Chargor represents and warrants to the Chargee that:

- 5.2.1 the Charged Securities are duly authorised, validly issued and fully paid;
- 5.2.2 it is the sole legal and beneficial owner of the Charged Securities and all Related Rights and that the Charged Securities listed in Schedule 3 constitute the entire share capital owned by the Chargor in the relevant company as at the date of this Deed;
- 5.2.3 no calls have been made in respect of the Charged Securities and remain unpaid and no calls can be made in respect of such Charged Securities in the future.

5.3 **Material Contracts**

Each Chargor represents and warrants to the Chargee that:

- 5.3.1 it has obtained all approvals and consents from the contractual parties to the Material Contracts which are necessary for it to enter into this Deed and the entry into this Deed does not and will not breach any provisions of its Material Contracts;
- 5.3.2 it is not in default of any of its obligations under any Material Contract nor has it received or given a notice or intimation of termination, rescission, suspension or breach in respect of any Material Contract;

5.4 **Intellectual Property**

Each Chargor represents and warrants to the Chargee that:

- 5.4.1 it is the sole legal and beneficial owner of the Intellectual Property and it does not have any rights to any other Intellectual Property other than as disclosed under this Deed;
- 5.4.2 all applications, fees, costs and charges relating to the Intellectual Property have been paid and are up to date;
- 5.4.3 no licence to use any of the Intellectual Property have been given to any third party;

5.5 **Real Property**

Each Chargor represents and warrants to the Chargee that:

- 5.5.1 it is the legal and beneficial owner of all of the Mortgaged Property specified in Schedule 3, Part 7 (*Mortgaged Property*);
- 5.5.2 the Mortgaged Property is free from any Security Interest (save for those created by or pursuant to this Deed);
- 5.5.3 there are no covenants, agreements, stipulations, reservations, conditions or other matters whatsoever affecting all or any part of the Mortgaged Property;
- 5.5.4 it has obtained all consents including the consent of any landlord or superior landlord (as required) under any lease or agreement for lease under which the Mortgaged Property is held to ensure that no other party to any agreement entered into by that Chargor becomes entitled to terminate such agreement or arrangement as a result of that Chargor entering into this Deed;
- 5.5.5 they are performing all the terms on their part contained in any lease, agreement for lease, licence or other agreement which gives the Chargee a right to occupy or use property comprised in the Mortgaged Property and is not doing or allowing to be done any act as a result of which any lease under which they hold any Mortgaged Property may become liable to forfeiture or otherwise be terminated;
- 5.5.6 save as may have been disclosed to the Chargee in writing prior to the date of this Deed, that Chargor has not, prior to the date of this Deed carried out or permitted to be carried out any development within the meaning of the Planning Acts upon the Mortgaged Property in respect of which any requisite permission has not been obtained and that all conditions subject to which such permissions have been granted have been duly complied with;

5.6 **Environmental laws**

Each Chargor represents and warrants to the Chargee that:

- 5.6.1 it has complied with all Environmental Laws to which it may be subject and has obtained all Environmental Licences required or desirable in connection with its business and has complied with the terms of such Environmental Licences;

- 5.6.2 there is no Environmental Claim pending or threatened against it and there are no past or present acts, omissions, events or circumstances which could form the basis of any Environmental Claim against it;

5.7 Repetition

- 5.7.1 The representations and warranties set out in this clause 5 (*Representations and Warranties*) shall be given on the date of this Deed and shall be deemed repeated on each day during the continuance of the security constituted by this Deed.
- 5.7.2 When a representation and warranty is deemed to be repeated, it is deemed to be made by reference to the facts and circumstances existing at the time of repetition.

6 UNDERTAKINGS

6.1 Negative pledge

- 6.1.1 The Chargors will not do or agree to do any of the following without the prior written consent of the Chargee:
- (a) create or permit to subsist any Security Interest on any of the Secured Assets (other than a lien arising in the ordinary and usual course of business by operation of law provided any such lien is discharged within 60 days after it arises unless being contested in good faith and by appropriate proceedings); or
 - (b) sell, transfer, lease, licence, lend or otherwise Dispose of all or any part of its interest in the Secured Assets.
- 6.1.2 The foregoing provisions of this clause 6.1 (*Negative Pledge*) shall not be construed as limiting any powers exercisable by any Receiver appointed by the Chargee under or pursuant to this Deed.

6.2 Secured Assets generally

Each Chargor covenants and undertakes to the Chargee that at all times during the continuance of the Security that each Chargor will:

6.2.1 General compliance

- (a) conduct and carry on its business in a proper and efficient manner and procure that no substantial change is made to the general nature of the business of any Chargor taken as a whole from that carried on at the date of this Deed;
- (b) comply with and observe all of the terms, conditions and obligations in relation to the Secured Assets under any present or future law, regulation, license or consent and to comply with all covenants and obligations affecting any of the Secured Assets;
- (c) comply and observe all terms and conditions of all contracts, agreements and security to which it is a party relating to the Secured Assets;
- (d) not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value (whether monetary or otherwise) or marketability of the Secured Assets (or any of them);
- (e) not take any action which would cause any of the representations made in clause 5 (*Representations and Warranties*) to be untrue or incorrect in any respect;

- (f) not to enter into any onerous or restrictive covenants or obligations affecting any part of the Secured Assets; and

6.2.2 **Information**

- (a) at the cost of the Chargors, provide the Chargee with such information relating to the business of the Chargors and the Secured Assets as the Chargee may reasonably request from time to time;
- (b) notify the Chargee within 10 Business Days of receipt of every material notice, order or proposal given or made in relation to the Secured Assets and comply with such notice, order or proposal as the Chargee may reasonably require or approve;

6.2.3 **Repair**

maintain the Secured Assets in good and substantial repair and condition and in good working order;

6.2.4 **Inspection**

permit any person authorised by the Chargee free access at all reasonable times to view the state and condition of the Secured Assets without becoming liable to account as mortgagee in possession;

6.2.5 **Pay outgoings**

pay all rents, rates, Taxes, assessments, impositions and outgoings whatsoever, whether governmental, municipal or otherwise as may be imposed upon or payable in respect of the Secured Assets as and when they shall become payable and on demand, produce the receipt for such payments;

6.2.6 **VAT**

ensure that all value added tax (within the meaning of the Value Added Tax Act, 1994 and any subsequent re-enactment, modification or amendment thereof) liabilities which if unpaid would or might with the service of any notice or otherwise have priority over the security hereby created or require payment by the Chargee shall be paid and discharged when the same must be paid;

6.3 **Insurances**

6.3.1 **Undertakings**

Each Chargor covenants and undertakes to the Chargee that at all times each Chargor will:

- (a) insure and keep insured all parts of the Secured Assets as are of an insurable nature with such insurance company as the Chargee shall from time to time approve in writing against
 - (i) loss or damage by fire, flood, explosion, riot, civil commotion, malicious damage, terrorist attack, escape of water or oil, impact, subsidence, heave and landslip, aircraft or articles dropped therefrom in a sum equal to the full reinstatement or replacement cost thereof with adequate provision to cover professional fees and other incidental fees and, where the Mortgaged Property is tenanted property, loss of rent for two years;
 - (ii) third party public liability insurances;
 - (iii) employer's liability insurances;

- (iv) such other risks as are commonly insured against from time to time in accordance with prudent practice and such other risks as the Lender may from time to time reasonably require,

and that the Chargee shall be endorsed on the policy as composite insured and as sole loss payee or with such other interest as the Chargee may otherwise direct or agree;

- (b) note the interest of the Chargee upon all policies of such insurance and procure that each policy of such insurance incorporates a mortgagee protection clause, whereby such insurances will not be invalidated, vitiated or avoided as against a mortgagee in the event of any misrepresentation, act, omission, neglect or failure to disclose on the part of the insured;
- (c) ensure that the Insurances shall contain terms providing that the Insurances will not be invalidated so far as the Chargee is concerned for failure to pay any premium due without the insurer first giving to the Chargee not less than thirty days' written notice. The Chargee shall not owe the Chargors any duty of care or responsibility to make any such payments;
- (d) upon execution of this Deed, deliver to the Chargee all policies or cover notes (including renewal cover notes or new policies) or other evidence acceptable to the Chargee of the Insurance required to be maintained in accordance with the provisions of this clause;
- (e) promptly pay all premiums and other monies necessary for effecting and keeping up the Insurances and promptly upon request, produce to the Chargee a copy of each such policy and evidence (reasonably acceptable to the Chargee) of the payment of such sums;
- (f) not do or omit to do, or permit or suffer to be done or omitted to be done, anything which might render the Insurances (or any of them) void, voidable or unenforceable.

6.3.2 **Default**

If the Chargors default in complying with clause 6.3.1 (*Insurances – Undertakings*), the Chargee may effect or renew any Insurances on such terms, in such name(s) and in such amount(s) as it reasonably considers appropriate, and all monies expended by the Chargee in doing so shall be reimbursed by the Chargors to the Chargee on demand.

6.3.3 **Application of Insurance Proceeds**

- (a) All Insurance Proceeds shall (subject to the rights and claims of any person having prior rights to such monies), prior to the security constituted by this Deed becoming enforceable, be applied on and subject to such terms and conditions as the Chargee may impose to meet the costs of repairing, reconstructing or replacing the property damaged or destroyed.
- (b) After the security constituted by this Deed has become enforceable, the Chargors shall hold such monies upon trust for the Chargee pending payment to the Chargee for application in accordance with clause 9 (*Application of proceeds*) and the Chargors waive any right they may have to require that any such monies are applied in reinstatement of any part of the Secured Assets.

6.3.4 **Criminal Damage Claims**

Each Chargor shall:

- (a) notify the Chargee in writing as soon as practicable after becoming aware of any event or circumstance which will or is likely to give rise to a Criminal Damage Claim specifying in detail the nature of the event or circumstance which will or is likely to give rise to the claim and the extent of the damage to the Secured Assets located in Northern Ireland;

- (b) institute a claim under the Criminal Damage Order and take all steps required to obtain payment of the maximum amount of compensation possible under the Criminal Damage Order;
- (c) apply all monies received pursuant to a Criminal Damage Claim in accordance with clause 6.3.3 (*Application of Insurance Proceeds*);
- (d) pay all monies received in relation to or arising out of any Criminal Damage Claim to the Chargee (or if not paid directly to the Chargee) hold or procure that such monies shall be held on trust for the Chargee; and
- (e) should the Criminal Damage Order ever be repealed in Northern Ireland, ensure that the Mortgaged Property or any other freehold or leasehold property secured hereby located in Northern Ireland is properly insured with the appropriate terrorism insurance and that the insurance obligation validly falls to it, and notify the Chargee immediately upon having put such insurance in place.

6.4 **Real Property undertakings**

Each Chargor covenants and undertakes to the Chargee that at all times during the continuance of the Security that each Chargor will:

6.4.1 ***Protection of Mortgaged Property***

not, without the previous consent in writing of the Chargee, remove or destroy any of the buildings, plant, machinery, fixtures, fittings, vehicles, computers and office and other equipment or any structure whatsoever now or in the future owned by that Chargor unless that property is worn out or rendered unfit for use or unless such removal or destruction shall be with a view immediately to replacing that property by other property of a more useful or convenient character and of at least equal value or utility.

6.4.2 ***Compliance with covenants***

- (a) do, observe and perform all its obligations and all matters and things necessary or expedient to be done, observed and performed under or by virtue of every lease, licence, agreement or other instrument relating to the Mortgaged Property and every other lease, licence and agreement to which that Chargor is party so as to preserve, protect and maintain all of the rights of that Chargor in them;
- (b) not suffer or permit any default for which any of the same may be terminated or as a result of which any party thereto may be relieved of any liability or obligation but, on the contrary, exercise and enforce from time to time all its rights and remedies;
- (c) if and when entitled to do so, renew all such leases, licences and agreements so long as the same have utility or commercial value;
- (d) on the expiration of any such leases, licences and agreements, use its best endeavours to obtain new leases, licences or agreements as the case may be on the most favourable terms available so long as the same have utility or commercial value.

6.4.3 ***Not lease***

- (a) not exercise the statutory powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by the Acts without the prior written consent of the Chargee, such consent not to be unreasonably withheld;

- (b) not without such consent either in the purported exercise of the said statutory powers or otherwise grant or agree to grant or accept or agree to accept a surrender of any lease, licence or tenancy of the Mortgaged Property or any part of thereof;
- (c) not cause any person to become a protected or statutory tenant of any of the Mortgaged Property or any thereof.

6.4.4 ***Planning Acts***

- (a) not carry out any development within the meaning of the Planning Acts in or upon the Mortgaged Property without first obtaining such permission as may be required under or by virtue of the Planning Acts;
- (b) within seven days after the receipt of any notice or proposal for a notice or order or proposal for an order given, issued or made to a Chargor by a planning authority under or by virtue of the Planning Acts in respect of the Mortgaged Property (or any part thereof), give full particulars of the notice, proposal or order to the Chargee;
- (c) if so required by the Chargee, produce the notice, proposal or order;
- (d) without delay take all reasonable or necessary steps to comply with such notice or order; and
- (e) at the request of the Chargee, make or join with the Chargee in making such application, appeal or representations against or in respect of any proposal for such notice or order as the Chargee may deem expedient.

6.4.5 ***Future acquisitions***

Promptly inform the Chargee upon acquiring any additional estate or interest in the Mortgaged Property or otherwise and deposit with the Chargee and permit the Chargee to retain as part of the security hereby constituted the deeds and documents of title thereof and if required by the Chargee, execute in favour of the Chargee a mortgage over same in similar form hereto with any modifications as the Chargee may require.

6.4.6 ***Power to remedy***

In case of default by the Chargors, or any of them, in performing any material obligation or other covenant affecting the Mortgaged Property within a reasonable period having regard to the covenant or obligation concerned, and after the security constituted by this Deed has become enforceable, the Chargors shall permit the Chargee and contractors:

- (a) to enter on the Mortgaged Property;
- (b) to comply with or object to any notice served on a Chargor relating to the Mortgaged Property; and
- (c) to take any action the Chargee may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice,

provided that nothing in this clause 6.4.6 (*Power to remedy*) (or otherwise in this Deed) shall entitle the Chargee or its contractors to any action (including any Remedial Works) relating to any notice served under or breach of any Environmental Law;

6.4.7 ***Land Registration***

In respect of any real property of the Chargors that is situated in Northern Ireland (including any unregistered properties subject to compulsory first registration at the date of this Deed) and

charged under this Deed, the relevant Chargor shall apply for the Security to be registered at the Land Registry of Northern Ireland and irrevocably consent to the Chargee applying to the Land Registry of Northern Ireland for an inhibition to be entered against the folio number(s) of that real property on the prescribed Land Registry of Northern Ireland form in the following terms:

"No disposition of the registered estate by the registered owner of the registered estate is to be registered without a written consent signed by the registered owner for the time being of the charge dated [] in favour of [] or, if appropriate, signed on such registered owner's behalf by its secretary, authorised signatory or solicitor.";

6.4.8 ***After Acquired Real Property***

If after the date hereof any Chargor acquires any real property:

- (a) title to which is, or is required to be, registered under the Land Registration Act (Northern Ireland) 1970, the relevant Chargor shall, promptly thereafter, notify the Chargee in writing of the folio number(s) of the property and, at the time it applies to the Land Registry of Northern Ireland to be registered as the registered owner of the property, apply to the Land Registry of Northern Ireland to register a new mortgage or supplemental mortgage as a burden on the folio number(s) of the property;
- (b) title to which is unregistered, the relevant Chargor shall, promptly thereafter, register the assurance to it in the Registry of Deeds of Northern Ireland in accordance with the Registration (Lands and Deeds) Order (Northern Ireland) 1992 and immediately upon completion of registration in the Registry of Deeds, submit an application for first registration to the Land Registry of Northern Ireland ensuring that Chargor is registered as registered owner of the folio number(s) and the new mortgage or supplemental mortgage is registered as a burden on the folio number(s).

6.5 **Material Contracts**

Each Chargor covenants and undertakes to the Chargee that at all times during the continuance of the Security that the Chargors will:

6.5.1 ***No amendments***

- (a) not amend, replace, supplement, waive (or agree to amend, supplement or waive) any provision of any Material Contract or exercise any right to rescind, cancel or terminate any Material Contract or release any party from any obligations under any Material Contract,
- (b) not waive any breach by any counterparty to any Material Contract or consent to any act or omission which would otherwise constitute such a breach;

without the prior written consent of the Chargee;

6.5.2 ***Information***

provide the Chargee, as soon as practicable upon receipt, with copies of all [material] notices and information received by it from any other party to any Material Contract;

6.5.3 ***Performance***

duly perform its obligations under each Material Contract and shall notify the Chargee of any default by it or any other party to a Material Contract and shall not take or omit to take any action which, in the opinion of the Chargee, would prejudice the value or the ability of the Chargee to realise the Security.

6.6 **Charged Securities**

6.6.1 ***Undertakings***

- (a) Each Chargor hereby covenants and undertakes to the Chargee that there shall be
- (i) no variation of the rights attaching to or conferred by the Charged Securities or any part of it;
 - (ii) no exercise, renunciation or assignment by any Chargor of any right to subscribe for any shares or securities;
 - (iii) no redemption, reconstruction, amalgamation, sale or other Disposal of the Charged Securities (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
- in each case, without the prior consent in writing of the Chargee.
- (b) Each Chargor hereby covenants and undertakes to the Chargee that, if any Charged Securities are in, or are converted into, uncertificated form, it shall promptly notify the Chargee and:
- (i) act on any instructions given by the Chargee and give such directions as the Chargee may require in order to protect and preserve the Chargee's Security; and
 - (ii) transfer those Charged Securities to an escrow account in respect of which it has named as escrow agent the Chargee or any nominee or agent of the Chargee notified to the Chargors or any other person approved in writing by the Chargee;
- (c) Each Chargor hereby covenants and undertakes to the Chargee that each Chargor shall provide the Chargee, as soon as practicable upon receipt, with copies of all notices and information received by it from any other party in relation to the Charged Securities.

6.6.2 ***Voting rights and dividends of Charged Securities***

- (a) Prior to the security constituted by this Deed becoming enforceable, the Chargors shall (subject to any restrictions contained in any agreement with the Chargee, and if there is any conflict the terms of the relevant agreement will apply):
- (i) be entitled to receive and retain all dividends, distributions and other monies derived from the Charged Securities;
 - (ii) exercise all voting rights and other rights and powers attaching to the Charged Securities, subject to clause 6.6.1(b) (*Undertakings*) above and provided that such exercise shall not prejudice the interests of the Chargee under this Deed;

PROVIDED THAT the Chargors' rights and powers relating to the Charged Securities (or any part thereof) shall not be exercised in any manner which would result in any variation of the rights attaching to or conferred by the Charged Securities (or any part thereof) or which in the opinion of the Chargee is inconsistent with, or prejudicial to, its security over the Charged Securities (or any part thereof) or which would result in the Chargee incurring any cost, expense or liability.

- (b) Upon the security constituted by this Deed becoming enforceable, the Chargee may, at its discretion, (in the name of the Chargors or otherwise and without any further consent or authority from the Chargors):

- (i) transfer the Charged Securities into the name of the Chargee or such nominees(s) of the Chargee as it shall require;
- (ii) exercise (or refrain from exercising) all voting and other rights and powers attaching to the Charged Securities in such a manner as the Chargee deems appropriate;
- (iii) apply all dividends, interest and other monies derived from the Charged Securities as though they were proceeds of sale under this Deed;
- (iv) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Securities including the right, in relation to any company whose shares or other securities are included in the Charged Securities, to concur or participate in:
- (v) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof);
- (vi) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
- (vii) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in the manner and on the terms the Chargee thinks fit, and the proceeds of any such action shall form part of the Charged Securities.

- (c) The Chargors shall, if requested by the Chargee after the security constituted by this Deed has become enforceable, instruct any clearance system to transfer any Charged Securities held by it for or on behalf of the Chargors to an account of the Chargee or its nominee with that clearance system or otherwise as the Chargee may direct.

6.6.3 ***Payment of calls***

The Chargors shall pay when due all calls, instalments or other payments and shall discharge all other obligations, which may become due in respect of any of the Charged Securities.

6.6.4 ***Liability of the Chargee***

Neither the Chargee nor any Receiver shall have any duty to ensure that any dividends, distributions or other monies receivable in respect of the Charged Securities are duly and punctually paid, received or collected as and when the same become due and payable or to ensure that the correct amounts (if any) are paid or received on or in respect of such Charged Securities or to ensure the taking up of any (or any offer of any) stocks, shares, rights, moneys or other property paid, distributed, accruing or offered at any time by way of redemption, bonus, rights, preference, or otherwise on or in respect of, any of the Charged Securities.

6.7 **Accounts and Receivables**

6.7.1 ***General***

- (a) Each Chargor covenants and undertakes with the Chargee that each Chargor:
 - (i) shall not, without the Chargee's prior written consent, permit or agree to any material variation of the rights attaching to an Account which is reasonably likely to prejudice the rights of the Chargee or close an Account;

- (b) The Chargors shall not be entitled to withdraw monies (including interest) from the Account(s) unless with the prior written consent of the Chargee.

6.7.2 **Receivables**

Each Chargor covenants and undertakes with the Chargee that at all times during the continuance of the Security, each Chargor will:

- (a) collect all Receivables promptly in the ordinary course of business;
- (b) immediately remit to the Chargee any monies in respect of such Receivables which are received by that Chargor and, until so remitted, hold such monies as trustee for the Chargee;
- (c) not, without the prior written consent of the Chargee, purport to charge, sell, assign, factor, transfer, discount or otherwise dispose of, or permit to subsist, any charge or lien over the Receivables or the Accounts or any interest therein in favour of any other person;
- (d) not, without the prior written consent of the Chargee, permit or agree to any variation of the rights attaching to the Receivables or any of them;
- (e) not without the prior written consent of the Chargee, release, exchange, compound, set-off, grant time or indulgence in respect of or in any other manner deal with all or any of the Receivables save as expressly provided in this Deed;
- (f) at its own expense institute, continue or defend all such proceedings in connection with the Receivables as the Chargee may require.

6.8 **Intellectual Property**

Each Chargor covenants and undertakes with the Chargee that each Chargor shall:

6.8.1 **Information**

- (a) promptly deliver to the Chargee on the date of this Deed (and, if any material change occurs thereafter and new Intellectual Property come into existence, promptly after the date of such change), details of all Intellectual Property granted to or held by or on behalf of that Chargor;
- (b) maintain such registrations to keep those registered Intellectual Property which are material to its business in force and to record its interest in those Intellectual Property;

6.8.2 **Protection**

take such steps at its own expense as are within its power (including, without limitation, the institution of legal proceedings) to prevent third parties infringing the Intellectual Property and procure that any further Intellectual Property licensed to it are freely assignable and chargeable to the Chargee.

6.8.3 **Registration**

if requested to do so by the Chargee from time to time, make entries in any appropriate public register (in Northern Ireland or elsewhere) of the Intellectual Property which record the existence of this Deed.

6.8.4 **No prejudice**

not, without the prior written consent of the Chargee:

- (a) sell, assign, transfer, mortgage, licence or otherwise dispose of or encumber all or any part of its Intellectual Property;
- (b) permit any such Intellectual Property to be abandoned or cancelled, to lapse or to be liable to any claim of revocation for non-use or otherwise; or
- (c) apply to amend the specification or drawings referred to in any of the Intellectual Property or in any registration of such Intellectual Property.

7 ENFORCEMENT OF SECURITY

7.1 When enforceable

- 7.1.1 The Security shall become enforceable immediately upon the service of a default notice by the Chargee to the Chargors or any of them, or any failure to pay any of the Secured Obligations when they fall due.
- 7.1.2 After the Security has become enforceable the Chargee may in its absolute discretion enforce all or any part of the Security in such a manner as it sees fit and the Chargee shall cease to be under any further commitment to the Chargors.

7.2 Statutory powers

- 7.2.1 At any time after the Security has become enforceable (in accordance with this clause 7 (*Enforcement of Security*)) the statutory power of sale conferred by section 19 of the 1881 Act and supplemented by Section 4 of the 1911 Act free from restrictions contained in Sections 17 and 20 of the 1881 Act will immediately arise and be exercisable by the Chargee and/or any Receiver. The provisions of section 17 of the 1881 Act shall not apply to this Deed.
- 7.2.2 The statutory powers of leasing and accepting surrenders of leases conferred on the Chargee and any Receiver by the Acts shall apply to this Deed and the Chargee and any Receiver may exercise the powers conferred by the Acts to accept surrenders of leases for any purpose that it or he thinks fit without the need to comply with the requirements of section 18 of the 1881 Act and section 3 of the 1911 Act.
- 7.2.3 The Chargee and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Acts.
- 7.2.4 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 Chargee in relation to all or any part of the Secured Assets both before and after the appointment of a Receiver.

7.3 Mortgagee in Possession

- 7.3.1 In addition to the statutory powers incidental to the estate or interest of mortgagees contained in the Acts as more particularly detailed in clause 7.2 (*Statutory powers*) and at any time after the Security has become enforceable, the Chargee may, without further notice or demand and without the need to obtain the consent of the Chargors or any of them, enter into possession of the Secured Assets.
- 7.3.2 After the Chargee, in accordance with the provisions of this Deed, enters into possession of the Mortgaged Property, the Chargee will have power to:
 - (a) effect and carry out upon any building or erection for the time being comprised in such part of the Mortgaged Property of which the Chargee is in possession any such repairs,

amendments, alterations and additions as the Chargee may reasonably consider necessary or desirable for the maintenance or protection of all or any part of the Mortgaged Property;

- (b) charge or agree to charge any or part of the Mortgaged Property of which the Chargee 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 Chargee 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 Mortgaged Property or any part thereof of which the Chargee is in possession is situate for the purpose of giving effect to the exercise of any of the said powers, authorities and discretions.

7.4 **No liability**

- 7.4.1 Neither the Chargee 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 respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct) in relation to all or any part of the Secured Assets.
- 7.4.2 Without prejudice to the generality of clause 7.4.1 above, neither the Chargee nor any Receiver will be liable to account as mortgagee in possession in respect of the Secured Assets or any part thereof nor be liable for any loss on realisation or in connection with the Secured Assets or for any default or omission for which a mortgagee in possession might be liable.

7.5 **Protection of third parties**

- 7.5.1 No person (including a purchaser) dealing with the Chargee or a Receiver or its or his agents will be concerned to enquire:
 - (a) whether the Secured Obligations have become payable;
 - (b) whether any power which the Chargee or a Receiver is purporting to exercise has become exercisable;
 - (c) whether any of the Secured Obligations remain outstanding; or
 - (d) how any money paid to the Chargee or a Receiver is to be applied,and all protections to purchasers contained in sections 21(2), 22(1) and 24(4) of the 1881 Act shall apply to all persons (including a purchaser) dealing with the Chargee 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.
- 7.5.2 No purchaser from the Chargee or any Receiver, delegate or sub-delegate shall be entitled to rely on that part of Section 21(2) of the Act which states "but any person damnified by an unauthorised, or improper, or irregular exercise of the power shall have his remedy in damages against the person exercising the power".

8 **RECEIVERS**

8.1 **Appointment of a receiver**

- 8.1.1 At any time after the Chargors so request or the Security becomes enforceable, the Chargee may, without the need for the occurrence of any of the events specified in section 24 (1) (of the 1881 Act, appoint under seal or under the hand of a duly authorised officer of the Chargee, any person or persons considered by it to be competent to be a receiver or a receiver and manager (hereinafter called a **Receiver** which expression will, where the context so admits, include the

plural and any substituted receiver or receiver and manager) of all or any part of the Secured Assets and shall be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Acts.

8.1.2 If at any time there is more than one Receiver of all or part of the Secured Assets, 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.

8.1.3 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 Chargee after the Security becomes enforceable in relation to all or part of the Secured Assets without first appointing a Receiver or notwithstanding the appointment of a Receiver of the Secured Assets, or any part thereof.

8.2 Receiver as agent

Any Receiver so appointed shall be the agent of the Chargors and the Chargors will be solely responsible for his remuneration, acts, defaults, omissions and losses and for all costs, expenses, liabilities incurred by him. The Chargee shall not incur any liability by reason of the appointment of a Receiver or for any other reason.

8.3 Remuneration

A Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Chargee (but without being limited to a maximum rate of commission as prescribed in sub-section 24(6) of the 1881 Act) and the Chargee may direct payment thereof out of the Secured Assets but the Chargors alone will be liable for payment of such remuneration.

8.4 Removal of a Receiver

The Chargee may in writing remove any Receiver so appointed and appoint another person or person as Receiver either in place of a Receiver whose appointment has been terminated or in addition to any Receiver already appointed.

8.5 Powers of a Receiver

A Receiver so appointed will have and be entitled to exercise, in addition to all powers conferred by the Acts (except where expressly disappplied in this Deed), all the powers of an administrative receiver set out in Schedule 1 of the Insolvency (Northern Ireland) Order 1989 (whether or not the receiver is an administrative receiver) and each of the additional powers, rights and obligations as set forth in Schedule 1.

9 APPLICATION OF PROCEEDS

Any monies received by the Chargee and/or any Receiver after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security and notwithstanding the provisions of section 109 (*Application of money received*) of the Act) be applied in the following order:

- 9.1 in or towards payment of all costs, charges and expenses of and incidental to the appointment of any Receiver and the exercise of all or any of the above powers and of all outgoings properly paid by the Receiver and of all remuneration due to any Receiver under or in connection with this Deed or the Secured Assets;
- 9.2 in payment in or towards the balance of the Secured Obligations;
- 9.3 in payment of the surplus (if any) to the Chargors or other person entitled to it.

This clause is without prejudice to the right of the Chargee to recover any shortfall from the Chargors.

10 CONSOLIDATION OF ACCOUNTS AND SET-OFF

10.1 Consolidation

The Chargors agree that the Chargee may at any time without notice and notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of the Chargors' existing accounts wheresoever located (including accounts in the name of the Chargors jointly with others) whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and in any currency.

10.2 Set-off

The Chargee may set off any matured obligation due from the Chargors against any matured obligation owed by the Chargee to the Chargors, regardless of the place of payment or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of set off.

11 FURTHER ASSURANCES

11.1 Each Chargor shall, at its own expense, take whatever action as may be required by the Chargee:

11.1.1 to perfect or protect the Security intended to be created by this Deed; and

11.1.2 to facilitate the realisation of the Secured Assets or the exercise of any right, power or discretion exercisable by the Chargee or any such Receiver in respect of the Secured Assets,

including the execution, acknowledgement or delivery of any agreement, transfer, mortgage, charge or assignment, notice, or the making of a registration, in each case as the Chargee may direct.

12 POWER OF ATTORNEY

12.1 Power of attorney

12.1.1 The Chargors, by way of security, hereby irrevocably appoint the Chargee, each Receiver and any of their Delegates, jointly and also severally, to be its attorney:

(a) to take any action which the Chargors are obliged to take under this Deed, including under clause 11 (*Further Assurances*);

(b) to do all such acts or things as may be required by the Chargee or any Receiver under this Deed in exercise of any of their powers.

12.1.2 The Chargors ratify and confirm all things done by any attorney appointed under this clause in the exercise or purported exercise of all or any of such attorney's powers.

12.2 Delegation

The Chargee 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 upon any terms (including the power to sub-delegate) as it may deem fit but no such delegation shall preclude the subsequent exercise of such power by the Chargee or any Receiver itself or himself or preclude the Chargee or the Receiver from making a subsequent delegation thereof to some other person. Any such delegation may be revoked by the Chargee or the Receiver at any time.

12.3 **Liability**

Neither the Chargee nor any Receiver will be in any way liable or responsible to the Chargors for any loss or liability arising from any act, default, omission or misconduct on the part of any such Delegate.

13 **COSTS AND EXPENSES**

13.1 **Transaction expenses**

The Chargors shall promptly on demand reimburse the Chargee (and every Receiver and Delegate) the amount of all costs and expenses (including legal fees) incurred by it in connection with:

- 13.1.1 the negotiation, preparation, execution and perfection of this Deed and any documents referred to in this Deed; and
- 13.1.2 a request for a waiver, amendment or consent, the evaluation, negotiation or implementation of that waiver, amendment or consent.

13.2 **Taxes**

The Chargors shall promptly pay all stamp, registration and other Taxes to which this Deed or any judgment given in connection with this Deed is or at any time may be subject and shall indemnify the Chargee against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such Taxes.

13.3 **Indemnity**

The Chargors shall promptly indemnify the Chargee and every Receiver and Delegate against any cost, loss or expenses (including legal fees) and liabilities (including VAT thereon) incurred by any of them as a result of:

- 13.3.1 the taking, holding, protection or enforcement of this Deed and the Security;
- 13.3.2 anything done in the exercise of any of the rights, powers, discretions and remedies vested in the Chargee and each Receiver and Delegate by this Deed or by law.

14 **CURRENCY CONVERSION AND INDEMNITY**

14.1 **Currency Conversion**

All monies received or held by the Chargee or any Receiver under this Deed may be converted from their existing currency into such other currency as the Chargee or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the then prevailing spot rate of exchange (as conclusively determined by the Chargee) for purchasing the currency to be acquired with the existing currency).

14.2 **Currency Indemnity**

No payment to the Chargee (whether under any judgment or court order or otherwise) will discharge the obligation or liability of the Chargors in respect of which it was made unless and until the Chargee receives payment in full in the currency in which such obligation or liability was incurred, and to the extent that the amount of any such payment, on actual conversion into such currency, falls short of such obligation or liability expressed in that currency, the Chargors shall indemnify and hold harmless the Chargee from and against any loss it suffers or incurs as a result of any such shortfall.

15 MISCELLANEOUS PROVISIONS

15.1 Suspense account

All monies received, recovered or realised by the Chargee under this Deed (including the proceeds of any conversion of currency) may, at the discretion of the Chargee, be credited to any interest-bearing suspense account for so long as the Chargee may determine (with interest accruing thereon) without the Chargee having any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Obligations.

15.2 New accounts

If the Chargee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any Security Asset and/or the proceeds of sale of any Security Asset:

15.2.1 the Chargee may open a new account for the Chargors; and

15.2.2 if the Chargee 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,

and as from that time, all payment made to the Chargee shall be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

15.3 Amendments

Any provision of this Deed may be amended, supplemented, varied, modified, released or discharged only if the Chargee and the Chargors so agree in writing.

15.4 Unfettered discretion

Save as otherwise stated in this Deed, any liability or power which may be exercised or any determination which may be made under this Deed by the Chargee may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

15.5 Severability

All the terms and provisions of this Deed are distinct and severable, and if any term or provision is held unenforceable, illegal or void in whole or in part (or any of the Security intended to be created by or pursuant to this Deed is ineffective) by any court, regulatory authority or other competent authority it shall to that extent be deemed not to form part of this Agreement, and the enforceability, legality and validity of the remainder of this Agreement will not be affected.

16 RIGHTS AND REMEDIES

16.1 Waiver and forbearance

16.1.1 No failure or delay by the Chargee or any Receiver to exercise any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. A waiver or consent by the Chargee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

16.1.2 The rights of the Chargee or any Receiver under this Deed will not be prejudiced or restricted by any indulgence or forbearance extended to the Chargors or any of them, or other parties including a release of any person or persons (whether or not a party hereto and whether or not such person or persons are jointly and/or severally liable with the Chargors) in respect of the

Secured Obligations or of any other security without prejudice either to the Security or to the liability of the Chargors for the Secured Obligations.

16.2 Remedies Cumulative

The rights and remedies of the Chargee and any Receiver under this Deed are cumulative and not exclusive of any rights or remedies provided by law.

17 ASSIGNMENT

17.1 The Chargors may not assign or transfer all or any of their rights, benefits or obligations under this Deed.

17.2 The Chargee may assign or transfer all or any part of its rights under this Deed to any person and the Chargors hereby consent to any such assignment. The Chargee will be entitled to impart any information concerning the Chargors to any assignee or successor in title.

17.3 This Deed shall be binding upon and inure to the benefit of the Chargors and their respective successors and permitted assigns and references in this Deed to any of them shall be construed accordingly.

18 NOTICES

18.1 Communications in writing

Any notice or other communication to be made under, or in connection with, this Deed shall be in writing, in the English language addressed to the relevant party.

18.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

The Chargors: Name: [•]

Address: [•]

Attention: [•]

Fax No: [•]

The Chargee: Name: [•]

Address: [•]

Attention: [•]

Fax No: [•]

or to such other address or fax number as may be notified to the Chargee by not less than five Business Days' notice.

18.3 Delivery

18.3.1 Any such notice or other communication made or delivered by one party to another under or in connection with this Deed will only be effective:

(a) if delivered by hand, on delivery;

(b) if sent by fax, upon transmission;

(c) in the case of posting, 48 hours after posting (and proof that the envelope containing the notice or communication was properly addressed, prepaid and posted will be sufficient evidence that the notice or other communication has been duly served or given);

18.3.2 Any notice or other communication to be made or delivered to the Chargee will be effective only if it is marked for the attention of the department or officer of the Chargee referred to in clause 18.2 above (*Addresses*)] (or any substitute department or officer as the Chargee shall specify for this purpose).

18.4 **Electronic communication**

18.4.1 Any communication to be made between the Chargors and the Chargee under or in connection with this Deed may be made by electronic mail or other electronic means, if the Chargors and the Chargee:

(a) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(b) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and to confirm receipt of information by that means; and

(c) notify each other of any change to their address or any other such information supplied by them.

18.4.2 Any electronic communication made between the Chargors and the Chargee will be effective only when actually received in readable form and if properly addressed as specified.

19 **COUNTERPARTS**

This Deed may be executed in counterparts and each such counterpart taken together shall be deemed to constitute one and the same instrument.

20 **RELEASE OF SECURITY**

20.1 **Release of security**

Subject to and without prejudice to clause 20.2 (*Retention of security*), if all monies, liabilities and obligations covenanted to be paid and discharged in this Deed have been unconditionally and irrevocably paid and discharged in full the Chargee shall, as soon as reasonably practicable after such payment and discharge and at the request and cost of the Company, execute such documents as may be necessary to release the security created by this Deed.

20.2 **Retention of security**

If any payment or discharge of the Secured Obligations is, in the reasonable opinion of the Chargee, liable to be avoided or invalidated under any enactment relating to insolvency, liquidation or otherwise (without limitation), the Chargee may refuse to grant any release of the Security for such further period as the risk of such avoidance or invalidity continues.

20.3 **Reinstatement**

Where any discharge in respect of the Secured Obligations is made, in whole or in part or any arrangement is made on faith of any payment, security, assurance or otherwise, which is avoided or must be restored on insolvency, liquidation or otherwise, the liability of the Chargors under this Deed shall continue as if the discharge or arrangement had not occurred.

21 **GOVERNING LAW**

This Deed and all relationships created by it and arising out of or in connection with it will in all respects be governed by and construed in accordance with the laws of Northern Ireland.

22 **ENFORCEMENT**

22.1 **Jurisdiction**

22.1.1 The Chargors hereby agree for the exclusive benefit of the Chargee that any Proceedings brought against the Chargors with respect to this Deed may be brought in the High Court in Northern Ireland or such other competent court of Northern Ireland as the Chargee may elect, and the Chargors waive any objection to Proceedings in such courts whether on grounds of venue or on the grounds that Proceedings have been brought in any inconvenient forum. The Chargors undertake to enter an unconditional appearance within 14 days after the completion of any service or process in any Proceedings. The Chargors hereby consent to the service by post of any process issued in connection with this Deed. Nothing in this Deed will affect the right to serve process in any other manner permitted by law.

22.1.2 Nothing contained in this Deed will limit the right of the Chargee to take Proceedings against the Chargors in any other court of competent jurisdiction, nor will the taking of any Proceedings in any one or more jurisdictions preclude the taking by the Chargee of Proceedings in any other jurisdiction whether concurrently or not.

IN WITNESS whereof this Deed has been duly executed by the parties to it on the date set out at the beginning of this Deed.

EXECUTION PAGE

THE CHARGORS

EXECUTED as a DEED by
DONNELLY BROS. GARAGES (DUNGANNON)
LIMITED
Acting by

Director

In the presence of:

Witness: Richard H. Stoney

Witness Address: 22 Church Place

WRECKEN CO. MOUNTAIN

Witness Occupation: Solicitor

In the presence of:

Witness: _____

Witness Address: _____

Witness Occupation: _____

EXECUTED as a DEED by
TAXI & BUS CONVERSION LIMITED
Acting by

In the presence of:

Witness: 

Witness Address: RICHARD McEVAY
Eamonn McEvoy & Co.
Solicitors Limited
22 Church Place
Lurgan BT166 6ET
Tel: 028 3832 7734

Witness Occupation: SOLICITOR

In the presence of:

Witness: _____

Witness Address: _____

Witness Occupation: _____

Director



EXECUTED as a DEED by
DONNELLY MOTORSTORE LIMITED
Acting by

In the presence of:

Witness:


Richard H. McEvoy

Witness Address: **Eamonn McEvoy & Co.**
Solicitors Limited
22 Church Place
Lurgan BT66 6EY
Tel: 028 3832 7734

Witness Occupation:

Solicitor

In the presence of:

Witness:


Witness Address:

Witness Occupation:

Director



EXECUTED as a DEED by
DONNELLY BROS. (BELFAST) LIMITED
Acting by

In the presence of: 

Witness: Richard McEvoy

Witness Address: Edmond McEvoy & Co.

Solicitors Limited
22 Church Place

Lurgan BT66 6EY
Tel: 028 3832 7734


Witness Occupation: Solicitor

In the presence of:

Witness: _____

Witness Address: _____

Witness Occupation: _____

Director 

EXECUTED as a DEED by
DONNELLY BROS. GARAGES (FERMANAGH)
LIMITED
Acting by

In the presence of:

Witness: Richard H. Dwyer

Witness Address: Donohoe McEvoy & Co.
Solicitors Limited
22 Church Place
Lurgan BT66 6EX
Tel: 028 3832 7734

Witness Occupation: Solicitor

In the presence of:


Witness: _____

Witness Address: _____

Witness Occupation: _____

Director

EXECUTED AS A DEED BY
DONNELLY BROS. (HONDA) LIMITED
Acting by

In the presence of: 

Witness: Eamonn McEvoy

Witness Address: Eamonn McEvoy & Co.
Solicitors Limited
22 Church Place
Lurgan BT66 6EY
Tel: 028 3832 7734

Witness Occupation: Solicitor

In the presence of:

Witness: _____

Witness Address: _____

Witness Occupation: _____

Director 

EXECUTED as a DEED by
DONNELLY & TAGGART (BALLYMENA)
LIMITED
Acting by

Director

In the presence of:

Witness:

Witness Address:

Eamonn McEvoy & Co.
Solicitors Limited
22 Church Place
Lurgan BT66 6EY
Tel: 028 3832 7734

Witness Occupation:

In the presence of:

Witness:

Witness Address:

Witness Occupation:

SIGNED on behalf of the Chargee

NORTHERN BANK LIMITED

in the presence of:

Address:

Attention:

SCHEDULE 1**THE CHARGORS**

<i>Name</i>	<i>Registered Office</i>	<i>Jurisdiction</i>	<i>Company Number</i>
Donnelly Bros. Garages (Dungannon) Limited	59 Moy Road, Dungannon, Co Tyrone, BT71 7DT	Northern Ireland	NI000643
Taxi & Bus Conversion Limited	59 Moy Road, Dungannon, Co Tyrone, BT71 7DT	Northern Ireland	NI060947
Donnelly Motorstore Limited	59 Moy Road, Dungannon, Co Tyrone, BT71 7DT	Northern Ireland	NI064586
Donnelly Bros. (Belfast) Limited	59 Moy Road, Dungannon, Co Tyrone, BT71 7DT	Northern Ireland	NI032024
Donnelly Bros. Garages (Fermanagh) Limited	59 Moy Road, Dungannon, Co Tyrone, BT71 7DT	Northern Ireland	NI041868
Donnelly Bros (Honda) Limited	59 Moy Road, Dungannon, Co Tyrone, BT71 7DT	Northern Ireland	NI070608
Donnelly & Taggart (Ballymena) Limited	57-59 Moy Road, Dungannon, Co Tyrone, BT71 7DT	Northern Ireland	NI047741

SCHEDULE 2

POWERS OF RECEIVER

1 POSSESSION

to take immediate possession of, get in and collect the property in respect of which the Receiver is appointed and to make such demands and take such proceedings as may seem expedient for that purpose, and to take possession of the property over which the Receiver is appointed with like rights;

2 REALISATION

to sell, realise or otherwise dispose of the Secured Assets and to make substitutions of, or improvements to, the Chargors plant and machinery as the Receiver thinks fit;

3 MANAGE

to carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying any business of the Chargors in any manner the Receiver thinks fit;

4 APPOINT ADVISORS

to appoint and discharge managers, officers, agents, professional advisers, consultants, servants, workmen, employees and others for the purposes specified in this Schedule upon such terms as to remuneration or otherwise as the Receiver thinks fit and to remove any person so appointed to any such position by the Chargors;

5 BORROW MONEY/LEND MONEY

to raise and borrow money or incur any other liability, either unsecured or on the security of any Secured Asset or otherwise and generally on any terms and for whatever purpose the Receiver thinks fit and to lend money or advance credit to any customer of the Chargors;

6 SELL

to grant rights, options or easements over, dispose of, convert into money and realise any Secured Asset by public auction or private contract and generally in any manner and on any terms the Receiver thinks fit. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period he or she thinks fit. Fixtures, plant and machinery may be severed and sold separately from the property containing them without the consent of the Chargors;

7 LEASE

to let, hire, lease, licence or grant any interest in any Secured Asset for any term and at any rent (with or without a premium) the Receiver thinks fit and to vary the terms, surrender or accept a surrender of any lease or tenancy of any Secured Asset on any terms which the Receiver thinks fit (including the payment of money to a lessee or tenant on a surrender) and to exercise on behalf of the Chargors, and without the consent of or notice to the Chargors, all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the secured assets.

8 SHARE CALLS

where any Chargor is a company, to require the relevant Chargor, or the directors of that Chargor, to make calls conditionally or unconditionally upon the shareholders of that Chargor in respect of any of its uncalled

capital and enforce payment of any call so made by action (in the name of that Chargor or the Receiver as the Receiver may think fit) or otherwise;

9 **RECEIVABLES**

to sell or assign all or any of the Receivables in respect of which the Receiver is appointed in such manner, and generally on such terms and conditions, as the Receiver thinks fit.

10 **VOTING RIGHTS**

to exercise in respect of any Secured Asset all voting or other powers or rights in such manner as the Receiver thinks fit;

11 **LAND REGISTRY**

to exercise on behalf of the Chargors and in the name of the Chargors all powers and rights of the Chargors relevant to effecting and necessary to effect the registration in the Land Registry of any fixed or specific charge created on any registered land, of the crystallisation of any floating charge or his or her appointment as Receiver;

12 **COMPROMISE**

to settle, adjust, refer to arbitration, allow time for payment, compromise and arrange any claim, contract, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargors or relating in any way to any Secured Asset;

13 **LEGAL ACTIONS**

to bring, prosecute, enforce, defend and abandon any action, suit or proceedings both in the Receiver's own name and in the name of the Chargors in relation to any Secured Asset which the Receiver thinks fit;

14 **RECEIPTS**

to give a valid receipt for any money and execute any assurance or thing that may be necessary or desirable for realising any Secured Asset;

15 **COMPANY REORGANISATION**

where any Chargor is a company, to form a subsidiary of that Chargor, arrange for any such subsidiary to trade or cease to trade as the Receiver sees fit, in his or her capacity as shareholder and transfer to that subsidiary any secured asset and sell or otherwise dispose of any such subsidiary;

16 **DELEGATION**

to delegate the Receiver's powers;

17 **MATERIAL CONTRACTS**

To enter into, abandon, perform, repudiate, rescind, vary or cancel any material contracts as the Receiver thinks fit;

18 **INSURANCES**

to effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurances required to be maintained under any Finance Document entered into by the Chargors;

19 **TAXES**

to make any election for value-added tax purposes that the Receiver thinks fit and to run the tax affairs of the Chargors in any manner that the Receiver thinks fit;

20 **INTELLECTUAL PROPERTY**

to take all steps necessary to effect any registration, renewal, application or notification that the Receiver thinks fit to maintain in force or protect any Intellectual Property;

21 **SETTLE ACCOUNTS**

to redeem any prior Security Interest and to settle and pass the accounts to which that Security Interest relates. Any accounts so settled and passed are conclusive and binding on the Chargors, and any money so paid shall be taken to be an expense properly incurred by him or her;

22 **PROTECT AND MANAGE**

to effect any repair or insurance and do any other act which the Chargors might do in the ordinary conduct of its business to protect or improve any Secured Asset and to arrange for or provide any service proper for the efficient use or management of the Secured Assets.

23 **PLANNING/BUILDING**

to apply for and maintain any planning permission, building regulation approval or any other authorisation and to commence and complete any building operation, and to complete any building operation already begun;

24 **USE THE CHARGORS' NAME**

to use the name of the Chargors when exercising any of the rights, powers or discretions conferred on the Receiver;

25 **COMPANY SEAL**

where the Chargor is a company, to use the Chargor's seal;

26 **INSOLVENCY**

to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the Chargors and to receive dividends, and to accede to the trust deeds for the creditors of any such person;

27 **PAYMENTS**

to make any payment which is necessary or incidental to the performance of his or her functions;

28 **OTHER RIGHTS**

to do all other acts and things which he or she may consider desirable or necessary for realising any Secured Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver;

to exercise in relation to a Secured Asset all the rights, powers and authorities that he or she could exercise if he or she were the absolute beneficial owner of the Secured Asset;

to do all acts and to execute in the name and on behalf of the Chargors any deed, receipt or other document;

to draw, accept, make or endorse any bill of exchange or promissory note in the name of and on behalf of the Chargors.

SCHEDULE 3

Part 1 Accounts

SCHEDULE 4

Part 1: Mortgaged property

Security Provider	Description of Mortgaged Property	Folio Number
Donnelly Bros. (Belfast) Limited	1 Mallusk Way, Mallusk Road, Newtownabbey, Co. Antrim	AN46302L County Antrim & AN49434L County Antrim
Donnelly Bros. Garages (Dungannon) Limited	181 Ballygawley Road, Dungannon, County Tyrone, which is comprised in a Lease dated 30 September 2011 between Terence and Briege McQuaid of the one part and Donnelly Bros. Garages (Dungannon) Limited for a term of 15 years from 1 June 2011 to 1 June 2026 at a rent of £59,000 per annum	None
Donnelly Bros. Garages (Fermanagh) Limited	101 Irvinestown Road, Enniskillen, Co. Fermanagh	FE80223, FE9120, 14028 and 14280 County Fermanagh
Donnelly Bros. Garages (Dungannon) Limited	Rugby Lands, Dungannon, Co. Tyrone	TY604 and 34954 County Tyrone

SCHEDULE 5

FORM OF NOTICE OF ASSIGNMENT OF MATERIAL CONTRACTS AND ACKNOWLEDGEMENT

Part 1 – Notice of assignment

(On headed notepaper of the Chargor)

[Date]

To: [Insert Addressee - Material Contract Counterparty details]

Attention: []

Re: [Insert Material Contract details] **(the Material Contract)**

Dear Sirs

We hereby give you notice that we have [charged and] assigned to [Insert the Chargee details] **(the Chargee)** pursuant to a [debenture] entered into by us in favour of the Chargee on [] over all our right, title and interest in and to the Material Contracts including all monies which may be payable in respect of such Material Contracts.

With effect from your receipt of this notice, we hereby irrevocably instruct and authorise you:

- 1 [to pay all monies due to us under or arising from the Material Contract to the Chargee or to its order as it may specify in writing from time to time;]
- 2 to disclose to the Chargee at our expense (without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure), such information relating to the Material Contract as the Chargee may from time to time request;
- 3 to comply with any written notice or instructions in any way relating to, or purporting to relate to, the Material Contracts, which you receive at any time from the Chargee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instructions; and
- 4 to send copies of all notices and other information given or received under the Material Contract to the Chargee.

We are not permitted to agree any amendment or supplement to, or waive any obligation under, the Material Contract without the prior written consent of the Chargee.

These instructions may only be revoked or amended with the prior written consent of the Chargee.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and return the same to the Chargee at **[Insert address details of the Chargee]** marked for the attention of [].

This letter is governed by, and shall be construed in accordance with, the laws of Northern Ireland.

Yours faithfully

Authorised Signatory

For and on behalf of **[the Chargor]**

Part 2 – Acknowledgement of assignment

(On headed notepaper of relevant Material Contract Counterparty)

[Date]

To: **[Insert addressee – The Chargee - details]**

Re: [Insert Material Contract details] **(the Material Contract)**

In the name of [] (the Assignor)

Dear Sirs,

We confirm receipt from **[insert name of Assignor]** of a notice (**Notice**) dated • with respect to the assignment of the Assignor's rights, title and interest in and to the Material Contract.

We confirm that:

- 1 we accept the instructions contained in that notice and we undertake to act in accordance with and comply with the terms of that notice;
- 2 we have not received notice of the creation of any assignment, charge or other interest over the Chargors' rights, title or interest in or to the Material Contract; and
- 3 notwithstanding such assignment, the Chargors remain liable to perform and observe all obligations on its part contained in the Material Contract and you shall not be in any way responsible for performing or observing those obligations or for any failure on the part of the Chargor to do so.

This letter is governed by, and shall be construed in accordance with, the laws of Northern Ireland.

Yours faithfully

On behalf of

[Counterparty]

SCHEDULE 6

FORM OF NOTICE OF ASSIGNMENT OF INSURANCES AND ACKNOWLEDGEMENT

Part 1 – Notice of assignment

[Date]

To: [Insert Insurer Addressee details]

Attention: []

Re: [Insert Insurances details] **(the Insurances)**

Dear Sirs,

We hereby give you notice that we have assigned to [Insert the Chargee details] **(the Chargee)** pursuant to a [debenture] entered into by us in favour of the Chargee on [] over all our right, title and interest in and to the proceeds of the Insurances.

With effect from your receipt of a notice from the Chargee the security constituted by this Deed becoming enforceable, we instruct you to:

- (i) make all payments and claims under or arising from the Insurances to the Chargee or to its order to such account as it may specify in writing from time to time;
- (ii) note the interest of the Chargee on the Insurances; and
- (iii) disclose to the Chargee, without further approval from us, such information regarding the Insurances as the Chargee may from time to time request and to send it copies of all notices issued by you in relation to the Insurances.

You will give notice to the Chargee in writing:

- (iv) if the Chargors propose to cancel or gives notice of cancellation of any Insurances at least 30 days before such cancellation is to take effect;
- (v) of any material alteration or, the termination or expiry of any such Insurances at least 30 days before such alteration, termination or expiry is to take effect; and
- (vi) promptly of any default in the payment of any premium or failure to renew any such Insurances and shall give the Chargee not less than 30 days in which to pay the defaulted premium without cancelling the policy during such 30 days period.

With effect from your receipt of a notice from the Chargee confirming that the security constituted by this Deed becoming enforceable, all rights, interest and benefits whatsoever accruing to or for the benefit of ourselves arising from the Insurances (including all rights to compel performance) belong to and are exercisable by the Chargee.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and return the same to the Chargee at [Insert address details of the Chargee] marked for the attention of [].

This letter is governed by, and shall be construed in accordance with, the laws of Northern Ireland.

Yours faithfully,

.....
Authorised Signatory

For and on behalf of **[The Chargors]**

Part 2 – Acknowledgment of assignment

(On headed notepaper of relevant Insurance Company)

[Date]

To: **[Insert addressee details]**

Re: **[Insert Insurance details] (the Insurances)**

In the name of [] (the Chargor)

Dear Sirs,

We acknowledge receipt of a notice in the terms set out above and confirm that we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice.

We further confirm that no amendment or termination of the Insurances shall be effective unless we have given [the Chargee] [thirty (30)] days written notice of such amendment or termination.

Yours faithfully,

.....
for and on behalf of

[INSURER]

SCHEDULE 7

FORM OF NOTICE OF ASSIGNMENT OF ACCOUNT AND ACKNOWLEDGEMENT

Part 1 – Notice of assignment

[Date]

To: [Insert Addressee details]

Attention: []

Re: Our Account(s) numbered [●] (the **Account(s)**)

Dear Sirs,

We hereby give you notice that by a Debenture (the **Deed**) dated ●, (a copy of which is attached hereto) we have [charged and] assigned in favour of ● (the **Assignee**, which term includes its successors and assigns) all our rights, title and interest in the Account(s) together with all monies standing to the credit of the Account(s) from time to time.

Please note that the Assignee has been irrevocably appointed by ourselves as our true and lawful attorney to do [(inter alia)] all acts and things which we could do and to act in relation to the administration or enforcement or attempted enforcement of the Assignment and you are required to follow all instructions that the Assignee may give to you in accordance with the terms of the Assignment.

We hereby irrevocably authorise and instruct you:

- 1 To disclose to the Assignee without any reference to or further authority from us and without any inquiry by you as to the justification for such disclosure, such information relating to the Account(s) and the sums therein as the Assignee may at any time and from time to time request;
- 2 To hold all sums from time to time standing to the credit of the Account(s) to the order of the Assignee;
- 3 To pay or release all or any part of the sums from time to time standing to the credit of the Account(s) in accordance with the written instructions of the Assignee at any time or times;
- 4 To comply with the terms of the written notice or instructions in any way relating to, or purporting to relate to the Deed, the sums standing to the credit of the Account(s) from time to time or the debts represented thereby which you receive at any time from the Assignee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instructions.

Please note that we are not permitted to withdraw any amount from the Account(s) without the prior written consent of the Assignee.

Please also note that these instructions are not to be revoked or varied without the prior written consent of the Assignee.

This letter is governed by, and shall be construed in accordance with, the laws of Northern Ireland.

Please confirm your agreement to the above by sending the attached acknowledgement to the Assignee with a copy to ourselves.

Yours faithfully,

Authorised Signatory

For and on behalf of **[The Chargors]**

Part 2 – Acknowledgment of assignment

(On headed notepaper of relevant Account Bank)

[Date]

To: **[Insert addressee details]**

Re: Account(s) numbered **[•]** **(the Account(s))**

In the name of [] (the **Assignor**)

Dear Sirs,

We confirm receipt from **[insert name of Assignor]** of a notice (**Notice**) dated • with respect to the [charge over and] assignment of the Assignor's rights, title and interest in and to the Account(s).

[Terms not defined in this letter shall have the meanings given to them in the Notice.]

- 1 We accept the instructions and authorisations contained in the Notice and we undertake to act in accordance and comply with the terms of that Notice;
- 2 We are not aware of any interest of any third party in the Account(s) and will notify you if we become aware of any such interest;
- 3 We have neither claimed nor exercised nor will claim nor exercise any security interest, set-off, counterclaim or other rights in respect of the Account(s) the sums therein or the debts represented thereby; and
- 4 We shall not permit any amount to be withdrawn from the Account(s) without your prior written consent, save as we otherwise agree with you.

This letter is governed by, and shall be construed in accordance with, the laws of Northern Ireland.

Yours faithfully,

Authorised Signatory

For and on behalf of **[Account Bank]**