



Registration of a Charge

Company name: **MCELHINNEY ASSOCIATES (N.I.) LIMITED**

Company number: **NI041926**



X8257VRV

Received for Electronic Filing: **27/03/2019**

Details of Charge

Date of creation: **25/03/2019**

Charge code: **NI04 1926 0005**

Persons entitled: **ALLIED IRISH BANKS P.L.C.**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

MCKENNA DURCAN SOLICITORS



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI41926

Charge code: NI04 1926 0005

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 25th March 2019 and created by MCELHINNEY ASSOCIATES (N.I.) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th March 2019 .

Given at Companies House, Belfast on 27th March 2019

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

EXECUTION VERSION

DATED 25 March 2019

- (1) McELHINNEY ASSOCIATES (N.I.) LIMITED
- (2) ALLIED IRISH BANKS, p.l.c.

MORTGAGE DEBENTURE

governed by the laws of Northern Ireland

I CERTIFY THAT, SAVE FOR THE
MATERIAL REDACTED PURSUANT
TO SECTION 859G OF THE
COMPANIES ACT 2006, THIS
INSTRUMENT IS A CORRECT
COPY OF THE ORIGINAL
INSTRUMENT

DATED THE 25th day of March
2019

Mc Kenna Durcan

LAND REGISTRY OF NORTHERN IRELAND

FOLIO:

COUNTY:

REGISTERED OWNER:

This MORTGAGE DEBENTURE is made as a DEED and dated 25 March 2019 BETWEEN

- (1) McELHINNEY ASSOCIATES (N.I.) LIMITED, a company incorporated under the laws of Northern Ireland with registered number NI041926 having its registered office at 114 Strand Road, Londonderry, Northern Ireland, BT48 7NR (the "Chargor"); and
- (2) ALLIED IRISH BANKS, p.l.c., a company incorporated under the laws of the Republic of Ireland with registered number 24173 having its registered office at Bankcentre, Ballsbridge, Dublin 4 (the "Secured Creditor").

WHEREAS

- (A) The Chargor is or may in the future become indebted to the Secured Creditor (whether as principal debtor or as guarantor, surety or in any other capacity whatsoever).
- (B) As security for the payment and discharge of all Obligations of the Chargor to the Secured Creditor, the Chargor has agreed to provide the Secured Creditor with a mortgage debenture on the terms more particularly set out herein.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed:

"Accounts" means each account held by the Chargor (or held by a nominee on behalf of the Chargor) with any bank or other financial institution including those (if any) set out in Schedule 2 (Charged Assets) Part E (Accounts) and any account designated as a realisations account for the proceeds of any Disposal of the assets of the Chargor;

"Administrator" means one or more administrators of the Chargor appointed or to be appointed pursuant to the provisions of this Deed or under any applicable provision of law;

"Administrative Receiver" means one or more administrative receivers of the Chargor appointed or to be appointed pursuant to the provisions of this Deed or under any applicable provision of law;

"Advisers" means each of the professional advisers of the Secured Creditor engaged by the Secured Creditor to advise in respect of any matters connected with the Chargor or any Finance Document to include the Secured Creditor's legal, financial, environmental, tax, property, construction, planning and other advisers and the term "Adviser" means any one or more of them as the context may require or admit;

"Business Day" means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general business in Belfast;

"Charged Assets" means those assets which are, from time to time, the subject of Clause 3.2;

"Chattels" means (save to the extent that it is part of the stock-in-trade of the Chargor) all chattel items, plant, machinery, vessels, vehicles, furniture, fittings, computers and office and other equipment and utensils of the Chargor of whatsoever nature and wheresoever situate (both present and future) including the Chattels (if any) more particularly set out in Schedule 2 (Charged Assets) Part B (The Chattels);

"Contracts" means each contract, agreement, instrument, deed or other arrangement entered into between the Chargor and any person (other than the Secured Creditor) including all contracts for the maintenance and repair of any Charged Asset and any warranty relating to a Charged Asset including the Contracts (if any) more particularly set out in Schedule 2 (Charged Assets) Part D (Contracts);

"Construction Rights" means:

- (i) all Rights of the Chargor relating to any covenant agreement or undertaking in relation to the construction and maintenance of all roads, pavements and utilities for services required in connection with any Real Property of the Chargor or charges, levies or such like in respect of the same or the taking in charge thereof by the local authority and any indemnity in respect of the matters aforesaid;
- (ii) any Right, benefit or agreement made between the Chargor and the local authority or any other person pursuant to which the Chargor has been or may be granted rights of access or rights of way in relation to any Real Property of the Chargor; and
- (iii) all of the Chargor's Rights to be paid or receive compensation under any statute by reason of any compulsory acquisition or other exercise of compulsory powers in relation to any Real Property of the Chargor or any refusal, grant subject to conditions, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of any Real Property of the Chargor;

"Criminal Damage Compensation" means all Rights of the Chargor under The Criminal Damage (Compensation) (Northern Ireland) Order 1977 and all Rights to any compensation or other amounts due to or paid to the Chargor under the aforesaid Order;

"Debts" means a monetary claim of any kind due and owing from a third party to the Chargor (whether present, future or contingent and whether originally owing to the person entitled to it or acquired by that person from someone else) and all Rights (including any Security Interest) connected with it;

"Default Interest" means interest on the relevant amount accruing at (i) any rate identified in any Finance Document as the rate of interest applying upon a default of the relevant principal obligor (whether or not that rate is described as the "default rate" of interest or otherwise) and in the event of more than one such rate being applicable, the highest of such rates or (ii) in the absence of such rate being so specified, the rate being two per cent. per annum above any rate of interest applicable to any Finance Document and, in the event of more than one such rate being applicable, the highest of such rates or (iii) in the absence of either of the foregoing rates being so specified, the rate being two per cent. per annum above the Bank of England's Official Bank Rate (or, if that rate ceases to exist, the nearest equivalent interest rate set by the Bank of England or by any central bank or monetary authority which replaces the Bank of England);

"Deposit" means all monies from time to time standing to the credit of any one or more, as the context requires or admits, of the Accounts together with all other Rights and benefits accruing to or arising in connection with each Account (including, without limitation but only if applicable, any entitlements to interest or other amounts accruing to that Account);

"Disposal" means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of a Security Interest and the term "Dispose" shall be construed accordingly;

"Enforcement Time" means any time at which an Event of Default has occurred and is continuing;

"Environment" means all of the air, water and land, including (without limitation) the air within buildings and the air within other natural or man-made structures above or below ground, ground and surface water and surface and sub-surface soil;

"Environmental Law" means all applicable statutes, treaties, regulations, directives or similar measures relating to the pollution or protection of the Environment that affects the Charged Assets;

"Event of Default" means the occurrence of any one of more of the following:

- (a) the happening of an event which constitutes an event of default (howsoever described) in any Finance Document or the happening of any event under any Finance Document or other arrangement with the Secured Creditor whereby the Secured Obligations become immediately due and payable;
- (b) if any of the Secured Obligations are not paid or otherwise discharged in the manner and on the due date for same;
- (c) if there is a breach by the Chargor of any provision of any Finance Document;
- (d) if any statement, representation, warranty or undertaking given or made (or deemed to be given or made) to the Secured Creditor by the Chargor is or would, if given or made at any time after the date hereof by reference to the facts then subsisting, be incorrect or misleading in any material respect;
- (e) if any indebtedness of the Chargor is not paid when due, becomes or is capable of being declared payable prior to its stated maturity or any Security Interest from time to time created by the Chargor becomes enforceable; or
- (f) if the Chargor commences negotiations to reschedule the whole or any part of its indebtedness which it would or might otherwise be unable to pay when due or is unable to pay its debts as they fall due or stops or threatens to stop payment or is deemed to be unable to pay its debts for the purpose of any law of any jurisdiction to which it is subject; or
- (g) if (save for the purpose of and followed by an amalgamation or reconstruction which shall have first been approved in writing by the Secured Creditor) a petition is presented, or an order is made, or a resolution is passed, or a notice is issued convening a meeting for the purpose of considering a resolution, or analogous proceedings or action are taken, to wind up the Chargor or to appoint an examiner, administrator, administrative receiver, receiver or manager, trustee or similar official to the Chargor or the Secured Creditor has reason to believe that any of the foregoing may be about to happen; or
- (h) if an encumbrancer takes possession or exercises or attempts to exercise any power of sale or a receiver or similar official is appointed over the whole or any part of the undertaking property assets or revenues of the Chargor; or

- (i) if any judgment or order made against the Chargor is not complied with within seven days or an execution distress sequestration or other process is levied or enforced upon or sued out against any part of the undertaking property assets or revenues of the Chargor; or
- (j) if the Chargor without the prior consent in writing of the Secured Creditor ceases or threatens to cease to carry on its business or any material part thereof in the normal course or changes the nature or mode of conduct of its trading in any material respect; or
- (k) if any Finance Document or any guarantee, indemnity or other security for any of the Secured Obligations fails or ceases in any respect to have full force and effect or to be continuing or is terminated or is disputed or becomes in jeopardy, invalid or unenforceable; or
- (l) if any licence, authorisation, consent or registration at any time necessary or desirable to enable the Chargor to comply with its Obligations to the Secured Creditor or to carry on its business in the normal course shall be revoked, withheld or materially modified or shall fail to be granted or perfected or shall cease to remain in full force and effect; or
- (m) if any material adverse change occurs in the affairs of the Chargor which in the opinion of the Secured Creditor gives grounds for belief that the Chargor may not or may be unable to perform its Obligations to the Secured Creditor; or
- (n) if any of the foregoing events occur, without the prior consent in writing of the Secured Creditor, in relation to any third party which now or hereafter has guaranteed or provided security for or given an indemnity in respect of the Secured Obligations;

"Facility Document" means each and every facility letter, facility agreement, loan agreement, letter of offer, loan note instrument, bond, letter of credit, facility for a guarantee or indemnity, hedging agreement or similar agreement or instrument pursuant to which the Secured Creditor has made available financial accommodation of whatsoever nature to (i) the Chargor or (ii) (where the Chargor has executed this Deed as a collateral security in respect of the Obligations of a third party as the principal obligor (whether as a third party charge or in support of the Chargor's Obligations under any guarantee, indemnity or other contract of surety)) the relevant principal obligor including, for the avoidance of doubt and without limitation, the loan agreement entered into on or about the date hereof between the Secured Creditor (as lender) and the Chargor (as borrower);

"Finance Document" means each Facility Document and each Security Document;

"Financial Collateral" shall have the meaning given to that expression in the Financial Collateral Regulations;

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

"Fixed Charge Receiver" means one or more receivers or managers appointed, or to be appointed, under this Deed who is not an Administrative Receiver;

"Guarantees" means each and every guarantee provided in relation to a Lease including the Guarantees (if any) which are specified in Schedule 2 (Charged Assets) Part A (Secured Real Property);

"Insolvency Event" in relation to a person, means:

- (a) the dissolution, liquidation, provisional liquidation, administration, provisional administration, administrative receivership, receivership or examinership of that person or the entering into by that person of a voluntary arrangement or scheme of arrangement with creditors;
- (b) any analogous or similar procedure in any jurisdiction other than Northern Ireland; or
- (c) any other form of procedure relating to insolvency, bankruptcy, reorganisation or dissolution in any jurisdiction;

"Insolvency Legislation" means:

- (a) the Insolvency (Northern Ireland) Order 1989 and any legislation, rules or regulations made under it; and
- (b) any other primary or secondary legislation, rules or regulations in Northern Ireland from time to time relating to insolvency, bankruptcy, reorganisation or dissolution;

"Insurances" means all present and future contracts and policies of insurance and re-insurance of any kind taken out or, as the context requires, to be taken out and maintained by or on behalf of the Chargor in connection with the Charged Assets or in which the Chargor has an interest in connection with the Charged Assets;

"Insurance Proceeds" means all proceeds of Insurances payable to or received by the Chargor (whether by way of claims, return premiums, ex gratia payments or otherwise) but excluding, for the avoidance of doubt, liability of the Chargor for third party claims to the extent that those proceeds are applied directly to discharge a liability of the Chargor to a third party;

"Intellectual Property" means:

- (a) all copyright (including Rights in computer software), patents, trade-marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register or rights to apply for registration) which, in each case, are of a type which are not disposed of in the ordinary course of trading;
- (b) any intellectual property that supplements or replaces intellectual property described in (a) above;
- (c) any intellectual property (of whatsoever nature or howsoever described) acquired after the date of this Deed,

including the Intellectual Property (if any) more particularly set out in Schedule 2 (Charged Assets) Part F (The Intellectual Property);

"Investment" means:

- (a) all loans advanced by the Chargor to any person (but not including, for the avoidance of doubt, any credit balances or monies standing to the account of any bank account held with the Secured Creditor);
- (b) any loan capital held in any Subsidiary;

- (c) any investment (of whatsoever nature or howsoever described);
- (d) any other debt security or any warrant or option to acquire or subscribe for any such security (whether it is held directly or through a custodian, clearing house or other person) unless it is of a type which is not held as an investment and is accordingly disposed of in the ordinary course of trading;
- (e) the Shares; and
- (f) any shares (other than the Shares) in the share capital of any company or, in respect of any other corporate entity, any Rights entitling the Chargor to participation rights in that corporate entity,

and, in each case, any accretions to them and other Rights arising in connection with them including the Investments (if any) more particularly set out in Schedule 2 (Charged Assets) Part C (The Investments);

"Leases" means each and every lease, licence or contract or agreement to lease, licence or let or contract of occupation entered into by the Chargor in relation to any Real Property including the Leases (if any) which are specified in Schedule 2 (Charged Assets) Part A (Secured Real Property);

"Obligations" in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are:

- (a) to pay money or to perform (or not to perform) any other act;
- (b) express or implied;
- (c) present, future or contingent;
- (d) joint or several;
- (e) incurred as a principal, guarantor or surety or in any other manner; or
- (f) originally owing to the person claiming performance or acquired by that person from someone else;

"Obligor" means any one or more, as the context requires or admits, of (i) the Chargor and (ii) the principal obligor in respect of any Facility Document;

"Officer" in relation to a person, means any officer, employee or agent of that person;

"Permitted Security Interests" means each Security Interest which the Secured Creditor has, from time to time, agreed in writing with the Chargor shall constitute a Permitted Security including the Security Interests more particularly set out in Schedule 7;

"Real Property" means, in each case wherever located in the world, any freehold, leasehold or other immoveable property now or at any time hereafter belonging to, or any estate or interest vested in, the Chargor together with all rights, liberties, powers, easements, quasi easements and appurtenances (in each case of whatever nature) attached or appurtenant thereto and all buildings, erections, fixtures, fittings (including trade fixtures and fittings) and all fixed plant and machinery from time to time therein or thereon and the term "Real Property" shall, for the avoidance of doubt, include any Secured Real Property;

"Receiver" means an Administrative Receiver or a Fixed Charge Receiver;

"Rental Income" means all monetary amounts paid to the Chargor in connection with a Lease or a Licence and all monetary claims due and owing by a third party to the Chargor in connection with a Lease or a Licence (in each case, whether present or future) together with (i) all Rights and claims of the Chargor against all lessees, sub lessees, licensees or occupiers of the relevant Real Property and (ii) all guarantees and securities for the Obligations of any of the foregoing;

"Right" means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary;

"Secured Obligations" means the Obligations undertaken to be paid or discharged in Clause 2 (Payment of Secured Obligations);

"Secured Real Property" means the Real Property (if any) more particularly described in Schedule 2 (The Charged Assets) Part A (Secured Real Property);

"Security Document" means each and every document or arrangement creating or evidencing (i) a Security Interest or (ii) a guarantee, indemnity or other contract of suretyship in each case made by an Obligor in favour of the Secured Creditor and which secures or guarantees the payment or discharge of any Obligations of any Obligor to the Secured Creditor and the term "Security Document" shall include this Deed;

"Security Financial Collateral Arrangement" shall have the meaning given to that expression in the Financial Collateral Regulations;

"Security Interest" means:

- (a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, assignation in security, trust, arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction;
- (b) any blocked account or "flawed asset" arrangement which has the commercial effect of creating security for financial indebtedness;
- (c) any right of set-off whether it is created by agreement or by operation of law; and
- (d) any other proprietary interest over an asset, or any arrangement in relation to an asset, in each case created in relation to financial indebtedness and which has the same commercial effect as if security had been created over it;

"Security Period" means the period starting on the date of this Deed and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and no further Secured Obligations are capable of being outstanding;

"Shares" means the shares (if any) more particularly identified in Schedule 2 (Charged Assets) Part C (The Investments);

"Subsidiary" means a subsidiary within the meaning of Section 1159 of the Companies Act 2006, and for this purpose if any shares are held by way of security, the person providing that security shall be treated as the member of the relevant company unless and until that security is realised, notwithstanding that the beneficiary of that security (or a nominee of that beneficiary) may be registered as a member of the relevant company;

"Tax" means any tax (including VAT), levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same); and

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature or effect.

- 1.2 Unless a contrary indication appears, any reference in this Deed:
- 1.2.1 to any words denoting the singular number only shall be construed as including the plural and vice versa and to any words denoting any gender shall be construed as including all genders;
 - 1.2.2 to any person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - 1.2.3 to assets includes present and future properties, assets, intellectual property rights, real property, heritable property, personal property, rights, revenues, uncalled capital and any Rights to receive, or require delivery of, or exercise direct control over any of the foregoing;
 - 1.2.4 to any agreement or instrument is a reference to that agreement or instrument as in force for the time being and as from time to time (i) amended, restated, supplemented, varied, modified or novated or (ii) replaced or superseded by any other agreement or instrument between the parties to that agreement or instrument;
 - 1.2.5 to the terms including or includes shall be construed as meaning including without limitation or includes without limitation;
 - 1.2.6 to an obligation means any duty, obligation or liability of any kind;
 - 1.2.7 to an indemnity or indemnifying any person against any circumstance includes indemnifying and keeping that person harmless from all demands, actions, claims and proceedings from time to time made or brought against that person and all loss or damage and all payments, costs, expenses, liabilities and other Obligations from time to time made, suffered or incurred by that person as a direct or indirect consequence of, or which would not have arisen but for, the relevant circumstance;
 - 1.2.8 to indebtedness includes any obligation, whether incurred as a principal or as surety, for the payment or repayment of money, whether present or future, actual or contingent and whether owed jointly or severally or in any other capacity;
 - 1.2.9 to a person includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - 1.2.10 to a regulation includes any present or future law, regulation, rule, official directive, request or guideline having the force of law of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - 1.2.11 to the winding up, dissolution, administration or bankruptcy of a person shall be construed as to include any equivalent or analogous procedures under the laws of any jurisdiction in which such person is incorporated or resident, any jurisdiction in which such person carries on business or in which any of its assets are located (including the seeking of a liquidation, winding up, appointment of bankruptcy trustee, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors, insolvency and suspension of payments);

- 1.2.12 to a provision of law or regulation shall be a reference to that provision as amended, supplemented, replaced or re-enacted;
- 1.2.13 to £ or pounds sterling or GBP shall be to pounds sterling the lawful currency for the time being of the United Kingdom of Great Britain and Northern Ireland;
- 1.2.14 to a time of day shall be a reference to Belfast time; and
- 1.2.15 to Clauses and Schedules are to be construed as references to Clauses of and Schedules to this Deed.
- 1.3 Clause and Schedule headings are for ease of reference only and shall be ignored in the interpretation of this Deed.
- 1.4 In this Deed an Event of Default is "continuing" if it has not been remedied or waived to the satisfaction of the Secured Creditor.
- 1.5 Where this Deed imposes an Obligation on the Chargor to do something if required or requested by the Secured Creditor, it will do so as soon as practicable after it becomes aware of the requirement or request.
- 1.6 It is intended that this document takes effect as a deed even though the Secured Creditor may only execute it under hand.
- 1.7 This Deed may be executed in counterparts.
- 1.8 Where a definition of a type of asset in Clause 1.1 contains a number of categories, each category will be construed as separate from each other category.
- 1.9 If the Secured Creditor considers that an amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.10 The Rights conferred on each Receiver and on each Officer of the Secured Creditor or a Receiver under Clause 13 (Expenses, liability and indemnity) and Clause 14 (Payments) are enforceable by each of them under the Contracts (Rights of Third Parties) Act 1999. No other term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by anyone who is not a party to this Deed. The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they may not terminate this Deed or vary any of its terms if this would have the effect of terminating or adversely affecting the Rights of a Receiver or of an Officer of the Secured Creditor or a Receiver under this Deed without its consent, BUT ONLY to the extent that the relevant Receiver or Officer has notified the Secured Creditor that it intends to enforce or rely on the relevant provision prior to the time of the termination or variation.

2. PAYMENT OF SECURED OBLIGATIONS

- 2.1 The Chargor will pay or otherwise discharge all Obligations from time to time due by the Chargor to the Secured Creditor, in each case when they become due for payment or discharge in accordance with their respective terms. In the absence of any specific term for payment or discharge applying to all or any part of such Obligations, the relevant Obligations shall be repayable on demand in writing by the Secured Creditor.

- 2.2 For the avoidance of doubt the Obligations covenanted to be paid by the Chargor under this Clause 2 (Payment of Secured Obligations) will include all amounts whether in respect of principal, interest, broken funding costs, amounts due under hedging contracts, costs, fees, expenses and charges and all amounts payable or to be paid by the Chargor under any provision of any Finance Document.

3. CREATION OF SECURITY INTERESTS

- 3.1 The grants, demises, mortgages, charges and security assignments contained in this Clause 3 (Creation of Security Interests):

- 3.1.1 are given to the Secured Creditor in its capacity as a secured creditor of the Chargor;
- 3.1.2 secure the payment and discharge of the Secured Obligations;
- 3.1.3 are given as beneficial owner by the Chargor within the meaning of Section 7 (Covenants for title to be implied) of the Conveyancing and Law of Property Act 1881; and
- 3.1.4 are given as a continuing security, shall extend to the ultimate balance of the Secured Obligations and shall continue in force notwithstanding any intermediate payment or discharge in whole or in part of the Secured Obligations unless and until the Secured Creditor discharges this Deed in writing.

3.2 The Chargor:

- 3.2.1 GRANTS and DEMISES so much of the Secured Real Property as is unregistered land TO HOLD (i) as to so much thereof as is freehold unto the Secured Creditor for the term of 10,000 years from the date hereof and (ii) as to so much thereof as is leasehold unto the Secured Creditor for the residue or residues of the term or respective terms of years for which the same are held less the last 3 days of such term or of each of such terms;
- 3.2.2 as registered owner or the person entitled to become registered as owner CHARGES BY WAY OF FIRST FIXED CHARGE unto the Secured Creditor so much of the Secured Real Property as is registered or as is required to be registered in the Land Registry by virtue of the statutes in that behalf or otherwise and assents to the registration of the charge hereby created as a burden affecting such Real Property,
- 3.2.3 CHARGES BY WAY OF FIRST FIXED CHARGE unto the Secured Creditor all Real Property to the extent that such Real Property is not already subject to a Security Interest granted and created pursuant to Clause 3.2.1 or Clause 3.2.2 above;
- 3.2.4 CHARGES BY WAY OF FIRST FIXED CHARGE and ASSIGNS BY WAY OF FIRST FIXED SECURITY ASSIGNMENT unto the Secured Creditor all the Rights which it now has and all of the Rights which it obtains at any time in the future in:
 - (a) the Chattels;
 - (b) the Investments;
 - (c) the Insurances and the Insurance Proceeds;
 - (d) the Contracts;
 - (e) the Accounts and the Deposits;

- (f) the Intellectual Property;
- (g) the Debts;
- (h) all of the Chargor's goodwill and uncalled capital;
- (i) any Criminal Damage Compensation;
- (j) the Leases and the Rental Income;
- (k) the Licences;
- (l) the Guarantees;
- (m) the Construction Rights; and
- (n) any Rights accruing to, derived from or otherwise connected with any of the Charged Assets (including, without limitation, any income associated with or generated by a Charged Asset and the proceeds of any Disposal of a Charged Asset); and

3.2.5 CHARGES BY WAY OF FIRST FLOATING CHARGE unto the Secured Creditor all of its property, undertaking and all its present and future assets including, for the avoidance of doubt, all or any part of the assets of the Chargor expressed to be subject to a Security Interest pursuant to any of the foregoing provisions of this Clause 3.2 to the extent that same fails (for whatsoever reason) to take effect as such.

3.3 Paragraph 15 of Schedule B1 to the Insolvency (Northern Ireland) Order 1989 shall apply to the floating charge created by this Deed.

3.4 The floating charge set out in Clause 3.2.5 above:

3.4.1 shall automatically crystallise and be converted into a fixed charge if:

- (a) the Chargor ceases to carry on all or any material part of its business without the prior consent in writing of the Secured Creditor; or
- (b) a petition is presented, any resolution is proposed (whether or not passed) or any order is made for, in each case, the liquidation or winding up of the Chargor;
- (c) an Administrator or Receiver is appointed; or

(d) the Secured Creditor receives notice of an intention to appoint an Administrator or a Receiver; or

(e) any property, assets or undertaking of the Chargor shall (i) become subject to a Security Interest in favour of any person other than the Secured Creditor or (ii) be the subject of a Disposal (in each case save as otherwise permitted pursuant to the terms of any Finance Documents or where the Secured Creditor has given its prior consent in writing); and

3.4.2 shall crystallise and be converted into a fixed charge if the Secured Creditor shall serve a notice in writing on the Chargor specifying the identity of the assets in respect of which such floating charge has crystallised and, for the avoidance of doubt:

- (a) such notice may be served whether or not the Secured Creditor makes demand under Clause 2 (Payment of Secured Obligations) and whether or not an Event of Default shall have occurred; and

- (b) the Secured Creditor may exercise its Rights under this Clause 3.4.2 more than once, and in each such case, forthwith upon crystallisation, the Chargor shall no longer be at liberty to dispose of the assets which are the subject of such crystallisation without the express consent in writing of the Secured Creditor.

3.5 For the purposes of crystallisation under Clause 3.4 above the time of crystallisation shall be deemed to be:

3.5.1 in respect of crystallisation under Clause 3.4.1, immediately prior to the relevant event occurring;

3.5.1 in respect of crystallisation under Clause 3.4.2, at the time such notice is deemed to have been served in accordance with the provisions of Clause 16 (Notices);

3.6 The Chargor hereby applies to the Registrar of Titles for the registration of the following restriction in the above-mentioned folio(s) (and against any title to any unregistered property comprised in the Secured Real Property which is or ought to be the subject of a first registration of title at the Land Registry at the date of this Deed):

"Except under an order of the Registrar no disposition or dealing is to be registered or noted without the consent of the Registered Owner for the time being of the Charge or Mortgage dated []",

and the Chargor further authorises the Secured Creditor to make all such applications which may be required in order register such restriction on behalf of the Chargor.

3.7 The Chargor shall stand possessed of the reversion immediately expectant upon the term of years hereby granted in any part of the Secured Real Property mortgaged by Clause 3.2.1 of this Deed in trust for the Secured Creditor and agrees to assign, convey or dispose of the same as the Secured Creditor may direct (subject to the proviso for redemption contained herein) and the Secured Creditor may at any time during the continuance of the security hereby created remove the Chargor or any other person, persons or body corporate from being a trustee of the trust declared by this Clause 3.7 and on the removal of the Chargor or such other person, persons or body corporate appoint a new trustee or trustees in his, their or its place.

3.8 The Chargor hereby attorns tenant to the Secured Creditor of any part of the Secured Real Property mortgaged by Clause 3.2.1 at the yearly rent of five pence (if demanded) provided always that the Secured Creditor may at any time without notice to the Chargor determine the tenancy hereby created and enter upon such part of the Charged Assets but so that neither the receipt of the said rent nor the said tenancy shall render the Secured Creditor liable to account to any person as mortgagee in possession.

3.9 With respect to the Construction Rights which have been charged and assigned pursuant to Clause 3.2.4, production of these presents to the person liable to pay such compensation shall be sufficient authority to it or him to pay such moneys to the Secured Creditor.

4. SET-OFF, LIEN AND COMBINATION OF ACCOUNTS

4.1 The Secured Creditor may set off any Secured Obligation due from the Chargor (whether or not then matured) against any Obligation owed by the Secured Creditor to the Chargor, regardless of the place of payment, booking branch or currency of either Obligation.

4.2 In respect of the Obligations of the Chargor under this Deed, the Secured Creditor shall have

a lien on all securities or other property of the Chargor held by the Secured Creditor whether for safe custody or otherwise.

- 4.3 If the Secured Creditor has more than one account for the Chargor in its books, the Secured Creditor may transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account which may be in debit. The Secured Creditor shall notify the Chargor of any such transfer once made PROVIDED THAT failure to do so shall not invalidate or call into question the aforesaid transfer.
- 4.4 The Secured Creditor may, at any time and either with or without giving notice to the Chargor, apply any monies held by it on account for the Secured Creditor towards satisfaction of all or any part of the Secured Obligations.
- 4.5 The Rights under this Clause 4 (Set-off, lien and combination of accounts) may be exercised both before and after demand hereunder, either with or without notice to the Chargor and are in addition to all other Rights conferred on the Secured Creditor under this Deed or rights under the general law. For the avoidance of doubt, in this Clause 4.5 the term 'rights under the general law' includes any rights of set-off, combination or consolidation of accounts, lien or similar rights which the Secured Creditor has under any applicable law.
- 4.6 The Secured Creditor may, in exercising its power of set off under this Clause 4 (Set-off, lien and combination of accounts), exercise its Rights under Clause 11.4 (Currency conversion) to effect any currency conversion necessary or which the Secured Creditor considers desirable.

5. PROTECTION OF SECURITY

- 5.1 The security constituted by this Deed is a continuing security and will extend to the ultimate balance of sums payable by the Chargor to the Secured Creditor in connection with the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.
- 5.2 The Obligations of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 5.2, would reduce, release or prejudice any of its Obligations under this Deed (whether or not known to it or the Secured Creditor) including:
- (a) any time, waiver or consent granted to, or composition with, an Obligor or any other person;
 - (b) the release of an Obligor or any other person under the terms of any composition or arrangement with any creditor of any person;
 - (c) the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any Rights against, or Security Interest over assets of, an Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security Interest;
 - (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members, name or status of an Obligor or any other person;
 - (e) any amendment, novation, supplement, extension (however fundamental and whether or not more onerous), or replacement, assignment, avoidance or termination of any document or Security Interest including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any document or Security Interest;
 - (f) any unenforceability, illegality or invalidity of any Obligation of, or any Security Interest created by, any person under this Deed, any other document; or

- (g) any insolvency, liquidation, administration or similar procedure.
- 5.3 Without prejudice to the generality of Clause 5.2, the Chargor expressly confirms that it intends that this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the documents or instruments constituting the Secured Obligations and/or any facility or amount made available under any of the foregoing for the purposes of or in connection with any of the following:
- (a) acquisitions of any nature;
 - (b) increasing working capital;
 - (c) enabling investor distributions to be made;
 - (d) carrying out restructurings;
 - (e) refinancing existing facilities;
 - (f) refinancing any other indebtedness;
 - (g) making facilities available to new borrowers;
 - (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
 - (i) any fees, costs and/or expenses associated with any of the foregoing.
- 5.4 The Chargor waives any right it may have of first requiring the Secured Creditor (or any trustee or agent on its behalf) to proceed against or enforce any other Rights or Security Interests or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any regulation or any provision of any document to the contrary.
- 5.5 During the Security Period, the Secured Creditor may:
- (a) refrain from applying or enforcing any other moneys, Security Interests or Rights held or received by it (or any trustee or agent on its behalf) in respect of amounts which may be or become payable by an Obligor to the Secured Creditor under or in connection with the Secured Obligations, or apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of them; and
 - (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's Obligations and liability under this Deed.
- 5.6 During the Security Period, and unless the Secured Creditor otherwise directs in writing, the Chargor will not exercise any Rights which it may have by reason of performance by it of its Obligations under this Deed or any other document or by reason of any amount being payable, or liability arising, under this Deed:
- (a) to receive or claim payment from or be indemnified by any Obligor or any other person;
 - (b) to claim any contribution from any provider of a Security Interest in respect of any of the Secured Obligations;
 - (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any Rights of the Secured Creditor under any document relating to the Secured Obligations;

- (d) to exercise any right of set-off against any Obligor or any other person; and/or
 - (e) to claim or prove as a creditor of an Obligor or any other person in competition with the Secured Creditor.
- 5.7 During the Security Period, the Chargor shall not take, or retain, any security, guarantee, indemnity or other assurance or undertaking against payment from any Obligor or any other person in connection with any of the Chargor's Obligations under this Deed.
- 5.8 If the Chargor is in breach of Clause 5.6 or Clause 5.7, the Chargor shall hold on trust the payment, contribution, benefit, right or security, guarantee, indemnity or other assurance or undertaking against payment to transfer or pay it to the Secured Creditor to the extent necessary to satisfy any of the Chargor's Obligations under this Deed.
- 5.9 If this Deed ceases to be continuing for any reason, the Secured Creditor may open a new account or accounts with the Chargor and, if it does not do so, it shall nevertheless be treated as if it had done so at the time this Deed ceased to be continuing (whether by determination, calling in, demand or otherwise), and as from that time all payments made by the Chargor to the Secured Creditor:
- (a) shall be credited or be treated as having been credited to the new account; and
 - (b) shall not operate to reduce the Secured Obligations at that time.

6. RESTRICTIONS

- 6.1 The Chargor will ensure that the restrictions contained in this Clause 6 (Restrictions) are complied with at all times during the Security Period unless the Secured Creditor agrees in writing to the contrary.
- 6.2 No Security Interest other than a Permitted Security Interest will exist over, or in relation to, any Charged Asset.
- 6.3 There will be no Disposal of any Charged Asset save that, prior to crystallisation of the floating charge set out in Clause 3.2.5, the Chargor may Dispose of any Charged Asset which is subject only to such floating charge in the ordinary course of business.

7. PERFECTION

- 7.1 General action
- 7.1.1 The Chargor will, at its own expense, create all Security Interests, execute all documents, give all notices, effect all registrations (whether, at Companies House, Land Registry of Northern Ireland, Registry of Deeds of Northern Ireland, any other relevant asset registry or otherwise), deposit all documents and do all other things as the Secured Creditor may require from time to time in order to:
- (a) ensure that it has effective mortgages, fixed charges, security assignments and floating charges as contemplated by Clause 3.2; and
 - (b) facilitate the enforcement of the security constituted by the Security Documents, the realisation of the Charged Assets or the exercise of any Rights held by the Secured Creditor or any Receiver under or in connection with any Finance Document.

- 7.1.2 The scope of Clause 7.1 (General action) is not limited by the specific provisions of the rest of this Clause 7 (Perfection) or by any other provision of any Finance Document.

7.2 Notification of subsequent acquisitions

If, after the date of this Deed, the Chargor acquires Rights in any material asset it will notify the Secured Creditor as soon as reasonably practicable and will provide it with such information about the acquisition as the Secured Creditor may reasonably require.

8. UNDERTAKINGS RELATING TO THE CHARGED ASSETS

The Chargor shall, save with the prior consent in writing of the Secured Creditor, comply with each of the undertakings and other covenants set out in Schedule 1 (Undertakings and covenants) at all times during the Security Period.

9. REPRESENTATIONS AND WARRANTIES

- 9.1 The Chargor represents and warrants to the Secured Creditor that:

- 9.1.1 the Chargor has power and capacity under its memorandum and articles of association, any applicable shareholders' agreement or investment agreement, any trust deed and all other relevant constitutional documents to execute and enter into each Finance Document and the Obligations being so undertaken by the Chargor are legal, valid, binding and enforceable against the Chargor in accordance with their respective terms;
- 9.1.2 the Chargor is the legal and beneficial owner of the Charged Assets;
- 9.1.3 the Charged Assets are free from any Security Interest other than the Permitted Security Interests;
- 9.1.4 the Chargor has not received or acknowledged notice of any adverse claim by any person in respect of the Charged Assets or any interest in the whole or any part of same;
- 9.1.5 there are no covenants, agreements, reservations, conditions, interests, Rights or other matters whatever, which materially adversely affect the Charged Assets;
- 9.1.6 there is no breach of any regulation which materially adversely affects the Charged Assets;
- 9.1.7 no facility necessary for the enjoyment and use of the Charged Assets is subject to terms entitling any person to terminate or curtail its use;
- 9.1.8 nothing has arisen or has been created or is subsisting which would be an overriding interest in any of the Charged Assets;
- 9.1.9 no Security Interest expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise;
- 9.1.10 the Chargor has at all times complied in all material respects with all applicable laws and regulations relating to the Environment and the conduct of its business; and
- 9.1.11 the entry into this Deed by the Chargor does not and will not constitute a breach of any agreement or instrument binding on the Chargor or its assets.

- 9.2 The representations and warranties set out in this Clause 9 (Representations and warranties) are made on the date of this Deed and shall be deemed to be repeated on each day of the Security Period with reference to the facts and circumstances then existing.

10. ENFORCEMENT

10.1 Time for enforcement

- 10.1.1 The Secured Creditor's power of sale under the Conveyancing and Law of Property Act 1881 shall arise and become exercisable and the Secured Creditor may enforce any Security Document at any time which is an Enforcement Time or if the Chargor requests it to do so.

- 10.1.2 The restrictions set out in Section 20 (Regulation of exercise of power of sale) of the Conveyancing and Law of Property Act 1881 shall not apply to this Deed.

10.2 Methods of enforcement

- 10.2.1 The Secured Creditor may enforce the Security Documents by:

- (a) (if permitted to do so by the Insolvency Legislation or by any other applicable Law) appointing an Administrator of the Chargor;
- (b) (if permitted to do so by the Insolvency Legislation or by any other applicable Law) appointing an Administrative Receiver of the Chargor;
- (c) appointing a Fixed Charge Receiver of assets of the Chargor;
- (d) going into possession of, receiving the benefit of, or selling assets of the Chargor, giving notice to the Chargor or any other person in relation to any assets of the Chargor, exercising a right of set-off or in any other way it may decide; or
- (e) taking any other action it may decide in any jurisdiction other than Northern Ireland

- 10.2.2 An Administrator must be appointed in accordance with the Insolvency Legislation and/or any other applicable Law.

- 10.2.3 A Receiver must be appointed by an instrument in writing and (where relevant) in accordance with the Insolvency Legislation and/or any other applicable Law. Such appointment may be made, at the discretion of the Secured Creditor, under hand or as a deed.

- 10.2.4 The appointment of a Receiver may be made subject to such limitations as are specified by the Secured Creditor in the appointment.

- 10.2.5 If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that the Secured Creditor may specify to the contrary in the appointment.

- 10.2.6 Subject to the Insolvency Legislation and/or any other applicable Law, the Secured Creditor may remove or replace any Receiver.

- 10.2.7 If required by the Insolvency Legislation and/or any other applicable Law, an Administrator or Receiver must be a person qualified to act as such under it.

- 10.2.8 The powers granted to the Secured Creditor and any Receiver by this Deed shall be in addition to all statutory and other powers of the Secured Creditor and such Receiver under the

Conveyancing and Law of Property Act 1881, the Conveyancing Act 1911 or otherwise and all such powers shall remain exercisable from time to time by the Secured Creditor in respect of the Charged Assets.

10.3 Powers on enforcement

10.3.1 An Administrator will have the powers given to him by the Insolvency Legislation and/or any other applicable Law.

10.3.2 An Administrative Receiver will have:

- (a) the powers given to him by the Insolvency Legislation and/or any other applicable Law;
- (b) the powers given to a mortgagee or a receiver by the Conveyancing and Law of Property Act 1881 and the Conveyancing Act 1911, but without the restrictions contained in Section 20 (Regulation of exercise of power of sale) of the Conveyancing and Law of Property Act 1881; and
- (c) the power to do, or omit to do, on behalf of the Chargor, anything which the Chargor itself could have done, or omitted to do, if its assets were not the subject of Security and the Chargor was not in insolvency proceedings.

10.3.3 A Fixed Charge Receiver will, in respect of the Charged Assets over which he is appointed, have the same powers as an Administrative Receiver would have if he were duly appointed as the administrative receiver of the Chargor (notwithstanding that the Fixed Charge Receiver is not, and nothing set out in this Deed shall be deemed to constitute the Fixed Charge Receiver as, an administrative receiver).

10.3.4 The Secured Creditor will, if it enforces the Security Documents itself, have, in respect of the assets which are the subject of the enforcement, the same powers as an Administrative Receiver would have had if he were duly appointed as the administrative receiver of the Chargor (notwithstanding that the Secured Creditor is not, and nothing set out in this Deed shall be deemed to constitute the Secured Creditor as, an administrative receiver).

10.3.5 Except to the extent provided by law, none of the powers described in this Clause 10 (Enforcement) will be affected by an Insolvency Event in relation to the Chargor.

10.4 Status and remuneration of Receiver

10.4.1 A Receiver will be the agent of the Chargor until the Chargor goes into liquidation. He will have no authority to act as agent for the Secured Creditor, even in the liquidation of the Chargor.

10.4.2 The Secured Creditor may from time to time determine the remuneration of any Receiver.

10.5 Appropriation of Financial Collateral

10.5.1 To the extent that any of the Charged Assets constitutes Financial Collateral and this Deed and the Obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement, the Secured Creditor shall have the right, at any time after this Deed has become enforceable, to appropriate all or any of that part of relevant Charged Assets in or towards the payment and/or discharge of the Secured Obligations in such order as the Secured Creditor in its absolute discretion may from time to time determine.

10.5.2 The value of the Charged Assets appropriated in accordance with this Clause shall be (i) in the case of cash, the amount of cash appropriated and (ii) in the case of any Investment, the market price of such Investment determined by the Secured Creditor in its absolute discretion.

10.5.3 The Chargor agrees that the method of valuation provided for in this Clause 10.5 (Appropriation of Financial Collateral) is commercially reasonable for the purposes of the Financial Collateral Regulations.

10.6 Third parties

10.6.1 A person dealing with the Secured Creditor or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:

- (a) those persons have the power to do those things which they are purporting to do; and
- (b) they are exercising their powers properly.

10.6.2 The receipt of the Secured Creditor or a Receiver shall be conclusive discharge to a purchaser and, in making a Disposal of all or any part of the Charged Assets, the Secured Creditor or Receiver may do so for such consideration, in such manner and on such terms as it considers fit.

11. POWERS OF THE SECURED CREDITOR

11.1 Notification of subsequent Security Interest and opening of new account

If the Secured Creditor receives notice that any Security Interest has been created over Charged Assets which is not a Permitted Security Interest, the Secured Creditor will be treated as if it had immediately opened a new account for the Chargor and all payments received by the Secured Creditor from the Chargor will be treated as if they had been credited to the new account and will not reduce the amount then due from the Chargor to the Secured Creditor.

11.2 Remediation of breaches and exclusion of liability as mortgagee in possession

The Secured Creditor shall be entitled (but shall not be bound) to remedy a breach at any time by the Chargor of any of its Obligations contained in this Deed and the Chargor irrevocably authorises the Secured Creditor and its agents to do all such things as are necessary or desirable for that purpose. The Rights of the Secured Creditor under this Clause 11.2 (Remediation of breaches and exclusion of liability as mortgagee in possession) are without prejudice to any other Rights of the Secured Creditor under this Deed. The exercise of those Rights shall not make the Secured Creditor liable to account as a mortgagee in possession.

11.3 Redemption of prior Security Interests

11.3.1 At any time during an Enforcement Time, the Secured Creditor may:

- (a) redeem any prior Security Interest, or procure its transfer to itself; and
- (b) settle any account of the holder of any prior Security Interest.

11.3.2 The settlement of any such account shall be conclusive and binding on the Chargor. All monies paid by the Secured Creditor to an encumbrancer in settlement of such an account shall, as from its payment by the Secured Creditor, be due from the Chargor to the Secured Creditor on current account, shall bear Default Interest up to and including the date of actual payment (both before and after judgment) and be secured as part of the Secured Obligations.

11.4 Currency conversion

11.4.1 For the purpose of, or pending the discharge of, any of the Secured Obligations, the Secured Creditor may convert any monies received, recovered or realised by the Secured Creditor under this Deed (including the proceeds of any previous conversion under this Clause 11.4 (Currency conversion)) from their existing currencies of denomination into such other currencies of denomination as the Secured Creditor may think fit.

11.4.2 Any such conversion shall be effected at the exchange rate notified to the Secured Creditor by such reputable bank or financial institution as the Secured Creditor may determine as being the prevailing rate of exchange for such other currency against the existing currency.

11.4.3 Each reference in this Clause 11.4 (Currency conversion) to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

11.5 Powers in respect of the Investments

11.5.1 Without prejudice to the other provisions of this Deed, during an Enforcement Time, the Secured Creditor may, at its discretion, (in the name of the Chargor or otherwise and without requiring any further consent or authority from the Chargor):

- (a) exercise or refrain from exercising all of the voting rights and rights of participation in respect of any Investment;
- (b) apply all dividends, interest, bonus issues or other payments arising from an Investment in accordance with Clause 11 (Application of proceeds);
- (c) transfer the Investments into the name of the Secured Creditor or any nominee as it may require; and
- (d) exercise or refrain from exercising and enjoying all of the Rights, powers and benefits (without limitation) conferred on or exercisable by the legal or beneficial owner of the Investment.

11.5.2 Prior to an Enforcement Time the Chargor shall be entitled to exercise and enjoy all of the Rights, powers and benefits as set out in this Clause 11.5 (Powers in respect of the Investments) PROVIDED ALWAYS that it does so in a manner which, in the opinion of the Secured Creditor, will not prejudice the value of, or the ability of the Secured Creditor to realise the Security Interest created by this Deed.

11.6 Indulgence

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

11.7 Remediation by the Secured Creditor

If the Chargor does not comply with its Obligations under any Finance Document, the Secured Creditor may do so on the Chargor's behalf on such basis as the Secured Creditor may in its absolute discretion decide. The Chargor will indemnify the Secured Creditor on demand against the amount certified by the Secured Creditor to be the cost, loss or liability suffered by it as a result of doing so.

12. APPLICATION OF PROCEEDS

- 12.1 All monies received by the Secured Creditor or a Receiver in the exercise of any enforcement powers conferred by this Deed shall be applied:
 - 12.1.1 first in paying all unpaid fees, costs and other liabilities incurred by or on behalf of the Secured Creditor (and any Receiver, attorney or agent appointed by it);
 - 12.1.2 second in paying the remuneration of any Receiver (as agreed between the Receiver and the Secured Creditor);
 - 12.1.3 third in or towards discharge of the Secured Obligations in such order and manner as the Secured Creditor determines; and
 - 12.1.4 finally in paying any surplus to the Chargor or any other person entitled to it.
- 12.2 Neither the Secured Creditor nor any Receiver shall be bound (whether by virtue of Section 24(8) of the Conveyancing and Law of Property Act 1881, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Obligations.
- 12.3 All monies received by the Secured Creditor or a Receiver under this Deed may, at the discretion of the Secured Creditor or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Secured Creditor and the Chargor, and may be held in such account for so long as the Secured Creditor or Receiver thinks fit.
- 13. EXPENSES, LIABILITY AND INDEMNITY
 - 13.1 The Chargor shall, within ten (10) Business Days of demand, pay all costs and expenses (including any stamp duty, registration or other similar taxes and fees and the professional fees, costs and expenses of all Advisers) incurred by the Secured Creditor or by any Receiver in connection with any Finance Document. For the avoidance of doubt, this includes all costs and expenses relating to the enforcement or preservation of the security constituted by the Security Documents or the Charged Assets and to any amendment, waiver, consent or release required in connection with any Finance Document.
 - 13.2 Neither the Secured Creditor nor a Receiver nor any of their Officers will be in any way liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets or any Finance Document.
 - 13.3 The Chargor will, within ten (10) Business Days of demand, indemnify each of the Secured Creditor, any Receiver and their Officers in respect of all costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with:
 - 13.3.1 anything done or omitted in the exercise of the powers conferred on it under any Finance Document;
 - 13.3.2 a claim of any kind (whether relating to the Environment or otherwise) made against it which would not have arisen if the security constituted by the Security Documents had not been granted; or
 - 13.3.3 any breach by the Chargor of any Finance Document.

14. PAYMENTS

- 14.1 All payments by the Chargor under any Finance Document will be made in full, without any set-off or other deduction.
- 14.2 If any Tax or other sum must be deducted from any amount payable by the Chargor under any Finance Document, the Chargor will pay such additional amounts as are necessary to ensure that the recipient receives a net amount equal to the full amount it would have received before such deductions.
- 14.3 All amounts payable by the Chargor under any Finance Document are exclusive of VAT. The Chargor will, in addition, pay any applicable VAT on those amounts.
- 14.4 If any Chargor fails to make a payment to a person under any Finance Document, it will pay Default Interest to that person on the amount concerned from the date it should have made the payment until the date of payment (after, as well as before, judgment).
- 14.5 No payment by the Chargor (whether under a court order or otherwise) will discharge the Obligation of the Chargor unless and until the Secured Creditor has received payment in full in the currency in which the Obligation is denominated. If, on conversion into that currency, the amount of the payment falls short of the amount of the Obligation concerned, the Secured Creditor will have a separate cause of action against the Chargor for the shortfall.
- 14.6 Any certification or determination by the Secured Creditor of an amount payable by the Chargor under this Deed is, in the absence of manifest error, conclusive evidence of that amount.

15. POWER OF ATTORNEY

- 15.1 The Chargor, by way of security, irrevocably appoints each of the Secured Creditor and any Receiver severally to be its attorney:
- 15.1.1 to do anything which the Chargor is obliged to do under any Finance Document; and
- 15.1.2 to exercise any of the Rights conferred on the attorney by any Finance Document.
- 15.2 The Chargor irrevocably and unconditionally hereby ratifies and confirms and agrees that it shall ratify and confirm all things done and all documents executed by any such attorney in the exercise or purported exercise of all or any of its powers.

16. NOTICES

- 16.1 Any notice or demand by the Secured Creditor may be served:
- 16.1.1 personally on the Chargor or (where the Chargor is a body corporate) personally on any director or the secretary of the Chargor or any other officer of the Chargor and, in each such case, such notice or demand shall be deemed served at the time of delivery;
- 16.1.2 by leaving it at the Chargor's principal place of business or to the Chargor's address last known to the Secured Creditor or (where the Chargor is a body corporate) at the registered office of the Chargor and, in each such case, such notice or demand shall be deemed served at the time of delivery; or
- 16.1.3 by post to the Chargor's principal place of business or to the Chargor's address last known to the Secured Creditor or (where the Chargor is a body corporate) to the registered office of the

Chargor and, in each such case, such notice or demand shall be deemed served on the day after posting and, to prove delivery, it shall be sufficient to prove that the envelope containing the notice or demand was properly addressed and posted; and

- 16.1.4 by fax to the Chargor at the Chargor's fax number last known to the Secured Creditor and such notice or demand shall be deemed served at the time of sending and, to prove delivery, it shall be sufficient to prove that the notice or demand was transmitted by fax to the fax number of the Chargor.

- 16.2 The address of the Secured Creditor in Northern Ireland for the service of notices is:

Address: ☐
 Facsimile number: ☐
 Attention: ☐

or to such other address or fax number as the Secured Creditor may, from time to time, advise the Chargor.

- 16.3 Any communication or document (including any notice) to be made or delivered to the Secured Creditor under or in connection with this Deed will be effective only when actually received by the Secured Creditor and then only if it is received in legible form and expressly marked for the attention of the department or officer identified in Clause 16.3 (or any substitute department or officer as the Secured Creditor shall specify for this purpose).

- 16.4 Service by email is not permitted under this Deed.

- 16.5 All communications or documents served under this Deed (including any notice or demand) must be in the English language.

17. FURTHER PROVISIONS

- 17.1 This Deed shall be in addition to, and independent of, every other security or guarantee which the Secured Creditor may hold for any of the Secured Obligations at any time. No prior security held by the Secured Creditor over the whole or any part of the Charged Assets shall merge in the security created by this Deed.

- 17.2 Any release, discharge or settlement between the Chargor and the Secured Creditor shall be deemed conditional on no payment or security received by the Secured Creditor in respect of the Secured Obligations being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- 17.2.1 the Secured Creditor or its nominee may retain this Deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Assets, for such period as the Secured Creditor deems necessary to provide the Secured Creditor with security against any such avoidance, reduction or order for refund; and

- 17.2.2 the Secured Creditor may recover the value or amount of such security or payment from the Chargor subsequently as if such release, discharge or settlement had not occurred.

- 17.3 The Rights and powers of the Secured Creditor conferred by this Deed are cumulative, may be exercised as often as the Secured Creditor considers appropriate, and are in addition to its Rights and powers under the general law.

- 17.4 Any waiver or variation of any right by the Secured Creditor (whether arising under this Deed

or under the general law) shall only be effective if it is in writing and signed by the Secured Creditor and applies only in the circumstances for which it was given, and shall not prevent the Secured Creditor from subsequently relying on the relevant provision.

- 17.5 No act or course of conduct or negotiation by or on behalf of the Secured Creditor shall, in any way, preclude the Secured Creditor from exercising any right or power under this Deed or constitute a suspension or variation of any such right or power.
- 17.6 No delay or failure to exercise any right or power under this Deed shall operate as a waiver.
- 17.7 No single or partial exercise of any right under this Deed shall prevent any other or further exercise of that or any other right.
- 17.8 The provisions of Section 17 (Restriction on consolidation of mortgages) of the Conveyancing and Law of Property Act 1881 shall not apply to this Deed.
- 17.9 Any liberty or power which may be exercised or any determination which may be made hereunder by the Secured Creditor may be exercised or made in the absolute and unfettered discretion of the Secured Creditor which shall not be under any Obligation to give reasons therefor.
- 17.10 The Secured Creditor shall not be under any liability for any loss of any kind which may be occasioned by the exercise or purported exercise of, or any delay or neglect to exercise, any of its Rights under this Deed.
- 17.11 Where there is more than one person acting as the Chargor, the liability of each such person hereunder shall be joint and several and every agreement, undertaking, covenant, representation and warranty on the part of the Chargor shall be construed accordingly and all references to the Chargor herein shall where the context requires or admits be construed as references to any one or more of them. If the whole or any part of this Deed be now or hereafter unenforceable against any person acting as the Chargor for any reason whatsoever or if this Deed is not executed by any person acting as the Chargor or if any person acting as the Chargor is released or if the Secured Creditor decides in its absolute discretion not to pursue all or any of its Rights against any person acting as the Chargor, this Deed shall nevertheless be and remain fully binding upon and enforceable against each of the other persons listed as the Chargor as if it had been made by the Secured Creditor with only such other persons.
- 17.12 The Chargor waives any present or future right of set-off it may have in respect of the Secured Obligations (including sums payable by the Chargor under this Deed).
- 17.13 The Chargor waives any present or future right of appropriation it may have in respect of any amounts payable by it to the Secured Creditor.
- 17.14 The Chargor may not assign, transfer, novate or otherwise Dispose of its Obligations under any of the Finance Documents.
- 17.15 The Secured Creditor may assign, transfer, novate or otherwise dispose of all or any part of its Rights and Obligations under the Finance Documents without restriction and the Chargor hereby irrevocably and unconditionally:
 - 17.15.1 consents to such assignment, transfer, novation or other disposal;
 - 17.15.2 consents to the disclosure by the Secured Creditor to any proposed assignee, transferee, novatee or other purchaser or acquirer of such Rights and Obligations of all financial and other information relating to the Chargor as the Secured Creditor may, from time to time, consider relevant.

- 17.16 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way.
- 17.17 In the exercise of any of the Secured Creditor's Rights under this Deed in respect of or in relation to any Deposit, the Rights of the Secured Creditor shall apply without restriction and notwithstanding that all or part of the Deposit may have been deposited for a fixed or minimum period or be subject to a period of notice, any interest on the Deposit is calculated by reference to a fixed or minimum periods and/or any such fixed or minimum period or period of notice may or may not have been given. The Chargor irrevocably authorises the Secured Creditor at any time which is an Enforcement Time to break or determine such Deposit in whole or in part and/or to renew all or any of such Deposit for such fixed periods as the Secured Creditor may, in its absolute discretion, from time to time think fit.
- 17.18 The provisions of this Deed shall remain enforceable, valid and binding for all purposes notwithstanding any change in the name of the Secured Creditor or its absorption of, or by, or amalgamation or consolidation with, any other company or any change in the constitution of the Secured Creditor, its successors or assigns or the body corporate by which the business of the Secured Creditor may from time to time be carried on and shall be available to such successors, assigns or body corporate carrying on that business for the time being.
18. GOVERNING LAW AND JURISDICTION
- 18.1 This Deed and any non-contractual Obligations arising out of or in connection with it are governed by Northern Irish law.
- 18.2 The courts of Northern Ireland shall, save as provided for in Clause 18.4 below have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual Obligations connected with it (including a dispute regarding the existence, validity or termination of this Deed) (a "Dispute").
- 18.3 The Chargor agrees that the courts of Northern Ireland are the most appropriate and convenient courts to settle Disputes and, accordingly, the Chargor agrees not to argue to the contrary.
- 18.4 Clause 18.2 and Clause 18.3 are for the benefit of the Secured Creditor only. As a result, the Secured Creditor will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Creditor may take concurrent proceedings in any number of jurisdictions.
- 18.5 The Chargor irrevocably consents to any process in any legal action or proceedings arising out of or in connection with this Deed being served on it in accordance with the provisions of this Deed relating to service of notices. Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law.

This DEED has been EXECUTED as a DEED, and it has been delivered on the date stated at the beginning of this Deed.

SCHEDULE 1 - UNDERTAKINGS AND COVENANTS

1. General undertakings

- 1.1 The Chargor will take all steps as are reasonably necessary to preserve the value and marketability of its Charged Assets and the Chargor shall not do, or permit to be done, any act or thing which would or might depreciate, jeopardise or otherwise prejudice the security held by the Secured Creditor or materially diminish the value of the Charged Assets or the effectiveness of the security created by this Deed. In particular, the Chargor shall use its best endeavours to (i) maintain, preserve and renew when necessary all licences, permissions, consents and other Rights required in order to allow the Chargor to have the full use and enjoyment, without restriction, of the Charged Assets, (ii) procure the prompt observance and performance by the counterparty to any agreement or arrangement with the Chargor relating to the Charged Assets and (iii) enforce any Rights and institute, continue or defend any proceedings relating to the Charged Assets which the Secured Creditor may require from time to time.
- 1.2 The Chargor will keep all of its Charged Assets in good repair, working order and condition and permit the Secured Creditor and its representatives to view the state and condition of such Charged Assets upon giving reasonable notice to the Chargor
- 1.3 The Chargor will notify the Secured Creditor as soon as it becomes aware of any matter which might reasonably be expected to have an adverse effect on the Rights of the Secured Creditor under any Finance Document. Those matters include a breach or purported breach of a Contract by any party to it and a claim by any person to an interest in a Charged Asset.
- 1.4 The Chargor shall, on the execution of this Deed or forthwith upon the subsequent acquisition of any material asset deposit with the Secured Creditor and the Secured Creditor shall, for the duration of the Security Period, be entitled to hold all deeds and documents of title relating to the Charged Assets (including, without limitation, any Liquor Licence(s)) which are in the possession or control of the Chargor and (if these are not within the possession and/or control of the Chargor) the Chargor undertakes to obtain possession of all such deeds and documents of title SAVE WHERE the charge holder in respect of a Permitted Security Interest ranks ahead of the Secured Creditor in terms of priority of security and the Secured Creditor has agreed with said charge holder that such deeds and documents of title may be held by the aforementioned charge holder for the duration of the security held by that charge holder.
- 1.5 The Chargor shall:
- (a) at its own cost, if at any time so required by the Secured Creditor, appoint an accountant or firm of accountants nominated by the Secured Creditor to investigate the financial affairs of the Chargor and those of its Subsidiaries or other companies in its group and report to the Secured Creditor;
 - (b) co-operate fully with any accountants so appointed and immediately provide such accountants with all information requested,
- and the Chargor authorises the Secured Creditor to make such appointment as it shall think fit at any time, without further authority from the Chargor. In every such case, the fees and expenses of those accountants shall be paid by the Chargor but, if paid by the Secured Creditor on the Chargor's behalf, those fees and expenses shall be fully reimbursed to the Secured Creditor under Clause 13 (Expenses, liability and indemnity) of this Deed.
- 1.6 The Chargor will provide to the Secured Creditor:
- (a) such information about the Charged Assets;

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- (b) such information about the extent to which it has complied with its Obligations under this Deed; and
 - (c) copies of such documents which create, evidence or relate to its Charged Assets, as the Secured Creditor may from time to time reasonably request.
- 1.7 The Chargor shall not form, promote, acquire or Dispose of any Subsidiary or any interest in any body corporate.
2. Real Property and Leases
- 2.1 The Chargor shall:
- (a) keep all buildings and all fixtures on any Real Property in good and substantial repair and condition;
 - (b) insure, and keep insured, those buildings and fixtures with such insurer and against such risks and in such amounts and otherwise on such terms as the Secured Creditor may require (and, failing such requirement, in accordance with the practice in respect of items of the same type current amongst prudent businessmen from time to time); and
 - (c) comply with the provisions of Paragraph 5 (Insurance) of this Schedule 1 (Undertakings and covenants) in respect of all such policies of insurance.
- 2.2 The Chargor shall not, without the prior written consent of the Secured Creditor:
- (a) pull down or remove the whole or any part of any building forming part of any Real Property; or
 - (b) make any alterations to any such Real Property or sever or remove any of its fixtures; or
 - (c) remove or make any alterations to any of the Chattels belonging to, or in use by, the Chargor on any such Real Property (except to effect necessary repairs or replace them with new or improved models or substitutes); or
 - (d) whenever any of the Chattels are destroyed, damaged or deteriorates, immediately repair, replace and make good the same.
- 2.3 The Chargor shall:
- (a) give full particulars to the Secured Creditor of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (a "Planning Notice") that specifically applies to any Real Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice; and
 - (b) (if the Secured Creditor so requires) immediately, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Secured Creditor in making, such objections or representations in respect of any such Planning Notice as the Secured Creditor may desire.
- 2.4 The Chargor shall:
- (a) observe and perform all covenants, stipulations and conditions to which all Real Property, or the use of it, is or may be subjected and (if the Secured Creditor so requires) produce to the Secured Creditor evidence sufficient to satisfy the Secured Creditor that those covenants,

stipulations and conditions have been observed and performed; and

- (b) (without prejudice to the generality of the foregoing) where Real Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time and perform and observe all the tenant's covenants and conditions.

2.5 The Chargor shall not, without the prior written consent of the Secured Creditor:

- (a) grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Real Property, or exercise the statutory powers of leasing (or agreeing to lease) or of accepting (or agreeing to accept) surrenders under Section 18 of the Conveyancing and Law of Property Act 1881 and Section 3 of the Conveyancing Act 1911; or
- (b) in any other way dispose of, or agree to dispose of, surrender or create any legal or equitable estate or interest in the whole or any part of any Real Property.

2.6 The Chargor shall procure that no person shall be registered under The Land Registration Act (Northern Ireland) 1970 as proprietor of any Real Property without the prior written consent of the Secured Creditor. The Chargor shall be liable for the costs of the Secured Creditor in lodging cautions against the registration of the title to the whole or any part of any Real Property from time to time.

2.7 The Chargor shall not, without the prior written consent of the Secured Creditor, carry out or permit or suffer to be carried out on any Real Property any development as defined in The Planning (Northern Ireland) Order 1991 or change or permit or suffer to be changed the use of any Real Property.

2.8 The Chargor shall:

- (a) properly discharge all duties of care and responsibility placed upon it by Environmental Law;
- (b) observe and perform all the requirements of Environmental Law both in the conduct of its general business and in the management possession or occupation of each Real Property; and
- (c) apply for and obtain all authorisations, necessary to ensure that it does not breach Environmental Law.

2.9 The Chargor shall not, without the prior written consent of the Secured Creditor, enter into any onerous or restrictive Obligations affecting the whole or any part of any Real Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Real Property.

2.10 The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Real Property without the prior written consent of the Secured Creditor.

2.11 The Chargor shall permit the Secured Creditor and any Receiver and any person appointed by either of them to enter on and inspect any Real Property on reasonable prior notice.

2.12 The Chargor shall inform the Secured Creditor promptly of any acquisition by the Chargor of, or contract made by the Chargor to acquire, any Real Property.

2.13 The Chargor shall, promptly when requested by the Secured Creditor deposit with the Secured Creditor the deeds and documents of title relating to any Real Property owned by the Chargor, execute over all or any part thereof such document, instrument or other deed creating a Security Interest (in the preferred form of the Secured Creditor) in respect of any Real Property, such

document, instrument or other deed to be supplemental hereto, subject to the like Rights and powers as are hereby conferred upon the Secured Creditor, and in addition to and not in substitution for the security hereby created.

- 2.14 The Chargor shall, promptly when requested by the Secured Creditor, serve on each tenant, lessee or occupier of any part of the Real Property a notice in such form as is requested by the Secured Creditor (being substantially in the form set out in Schedule 3 (Notice and acknowledgement of charge in respect of a lease)) and use all best endeavours to procure that each such notice is duly acknowledged and returned to the Secured Creditor.

3. Chattels

- 3.1 The Chargor shall (a) maintain the Chattels in good and serviceable condition (except for expected fair wear and tear) and (b) not permit any Chattels to be (i) used or handled, other than by properly qualified and trained persons or (ii) overloaded or used for any purpose for which it is not designed or reasonably suitable.

- 3.2 The Chargor shall promptly pay all Taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Chattels and, on demand, produce evidence of payment to the Secured Creditor.

- 3.3 The Chargor shall (a) give the Secured Creditor such information concerning the location, condition, use and operation of Chattels as the Secured Creditor may require and (b) permit any persons designated by the Secured Creditor to inspect and examine the Chattels and the records relating to the Chattels at all reasonable times.

- 3.4 The Chargor shall (a) at its own expense, procure that the Chattels are covered and kept covered by insurance of a kind satisfactory to the Secured Creditor with insurers approved by the Secured Creditor (such approval not to be unreasonably withheld) for full comprehensive insurance cover, which shall include (but not be limited to) fire, theft and accident, for an amount agreed with the Secured Creditor, (b) maintain insurance for third party liabilities in such amount, and on such terms, as is usual for users of equipment of the same type as the Chattels and (c) comply with the provisions of Paragraph 5 (Insurance) of this Schedule 1 (Undertakings and covenants) in respect of all such policies of insurance.

- 3.5 The Chargor will deposit with the Secured Creditor (or to the order of the Secured Creditor) all title deeds or other documents of title relating to the Chattels together with all policies of insurance relating thereto. The Chargor hereby irrevocably instructs any solicitor or other agent holding any of the foregoing on its behalf to deliver same to the Secured Creditor forthwith upon request, production of a copy of this Deed being sufficient authority of same.

- 3.6 The Chargor shall, unless the Secured Creditor has agreed otherwise in writing, ensure that plaques or other markings are attached to each of the Chattels in a clear and prominent position indicating the Secured Creditor's interest in such Chattels and the Chargor shall not permit any of same to be concealed, altered or removed in any way.

- 3.7 If required to do so by the Secured Creditor, the Chargor will create a further chattels mortgage over any chattel items, plant, machinery or other assets owned by the Chargor at that time, in any form which the Secured Creditor may require.

4. Investments

- 4.1 The Chargor will, on the request of the Secured Creditor, give notice to any counterparty to an investment of the existence of the security constituted by this Deed and use reasonable endeavours to procure that such counterparty acknowledges the Secured Creditor's Rights in respect thereof.

- 4.2 The Chargor will procure that all shares (including, without limitation, the Shares) held by the Chargor are fully paid up at all times and that, in respect of any other Investment, all amounts which may, from time to time, be due or owing by the Chargor in respect of that Investment (or which are required to be paid in order for the Chargor to have unencumbered title to same) are duly paid.
- 4.3 The Chargor will:
- (a) on the date of this Deed deposit with the Secured Creditor all certificates or other documents of title to the Investments and stock transfer forms or other instruments of transfer (as appropriate to the form of Investment in question) for them, executed in blank by the Chargor;
 - (b) if required to do so by the Secured Creditor amend the articles of association of any company in which it has Shares in the manner required by the Secured Creditor (and procure that such company takes, or omits to take, all such other steps as the Secured Creditor may require) in order to enable the Secured Creditor to enforce its Security Interest without restriction and to remove the directors and/or secretary of such company without restriction and, further, to procure that the Secured Creditor is able to enforce its Security Interest in respect of each other Investment without restriction;
 - (c) if required to do so by the Secured Creditor, procure that the directors and the secretary of any company in respect of which the Chargor holds Shares provides the Secured Creditor with an executed letter of resignation in the form set out in Schedule 6 (The Shares) Part A (Form of letter of resignation) to this Deed and a letter of authority in the form set out in Schedule 6 (The Shares) Part B (Form of letter of authority);
 - (d) if required to do so by the Secured Creditor, procure that the Secured Creditor or its nominee becomes registered as the legal owner of any Investment; and
 - (e) if, after the date of this Deed, it acquires or agrees to acquire any Investment it will notify the Secured Creditor as soon as reasonably practicable, will provide it with such information about the acquisition as the Secured Creditor may reasonably require and, if the Secured Creditor so requires, comply with all of the foregoing provisions of this Paragraph 4 (Investments) of this Schedule 1 (Undertakings and covenants) mutatis mutandis in respect of those Investments.
5. Insurance
- 5.1 The Chargor will:
- (a) maintain insurances in relation to its business and the Charged Assets with reputable underwriters or insurance companies of a type, to the extent and in an amount which is usual for companies carrying on similar businesses whose practice it is not to self-insure;
 - (b) punctually pay all premiums and other money payable under its Insurances and comply with their other provisions; and
 - (c) ensure that, at the option of the Secured Creditor, (i) the Secured Creditor's interest is noted on the Insurances, (ii) the Secured Creditor is named as a joint-insured in respect of the Insurances or (iii) the relevant insurer will, from time to time, provide the Secured Creditor with a letter of undertaking relating to the Insurances in form and substance satisfactory to the Secured Creditor.
- 5.2 During an Enforcement Time (and also once any Security Document has been enforced), all Insurance Proceeds will be paid to the Secured Creditor for application in accordance with Clause 12 (Application of proceeds). Otherwise, all Insurance Proceeds will be applied in

reinstatement of the assets concerned.

6. Contracts

6.1 If, at any time, the Chargor has a Right in respect of a Contract, it will, if requested to do so by the Secured Creditor deliver a notice of this Deed to the other parties to the relevant Contract substantially in the form set out in Schedule 4 (Notice and acknowledgement of charge in respect of a Contract) and use its best endeavours to procure that those parties deliver an acknowledgement of the notice to the Secured Creditor substantially in the form set out in that Schedule as soon as reasonably practicable.

6.2 The Chargor will:

- (a) comply with all of its Obligations under each Contract; and
- (b) use its reasonable endeavours to ensure that the Secured Creditor receives the full benefit of each Contract.

6.3 The Chargor will not (in each case without the consent in writing of the Secured Creditor):

- (a) amend, supplement, vary or otherwise agree to alter the terms of, or terminate, any Contract; or
- (b) waive its Rights under a Contract.

6.3 The Chagor shall, at all times, remain liable to the contractual counterparty to each Contract to perform and discharge all of its duties and Obligations in respect thereof as if this Deed had not been executed and, under no circumstances, shall the Secured Creditor become liable to such counterparty in respect of such Contract.

7. Accounts

7.1 If, at any time, the Chargor has a Right in respect of an Account, it will, if requested to do so by the Secured Creditor either, at the discretion of the Secured Creditor, (i) deliver a notice of this Deed to the bank, financial institution or other party holding such Account substantially in the form set out in Schedule 5 (Notice and acknowledgement of charge in respect of an Account) and use its reasonable endeavours to procure that those parties deliver an acknowledgement of the notice to the Secured Creditor substantially in the form set out in that Schedule as soon as reasonably practicable or (ii) use its reasonable endeavours to procure that the bank, financial institution or other party holding such Account executes and enters into an account bank agreement (to be in form and substance satisfactory to the Secured Creditor).

7.2 The Chargor will not, save with the prior written consent of the Secured Creditor, open or maintain any Accounts other than those held with the Secured Creditor.

8. Intellectual Property

8.1 The Chargor will, at any time during an Enforcement Time and on demand in writing by the Secured Creditor, execute and enter into all assignments, transfers or other instruments required to effectively convey to the Secured Creditor or its nominee all of the Rights of the Chargor in and to the Intellectual Property and to enable the Secured Creditor or its nominee to become the legal and/or registered owner of the Intellectual Property.

8.2 The Chargor will, at any time during an Enforcement Time and on demand in writing by the Secured Creditor, deliver to the Secured Creditor or its nominee, all documents of title, source

code or other know how relating to the Intellectual Property.

- 8.3 The Chargor will not abandon, cancel or allow any of the registrations relating to the Intellectual Property to lapse by way of non-payment of renewal or other fees or otherwise howsoever or otherwise fail to do any act required to maintain such registrations in full force and effect.
- 8.4 The Chargor will not grant licences or part with or Dispose of the whole or any part (whether by one or a series of transactions whether or not related) of the Intellectual Property.
- 8.5 The Chargor will not alter the specifications of any registrations relating to the Intellectual Property.
- 8.6 The Chargor will take all reasonable and appropriate actions as are necessary to cease any infringement or unauthorised use by a third party of the Intellectual Property.

9. Debts

- 9.1 The Chargor will promptly collect in all of its Debts and shall, on demand by the Secured Creditor, procure that all monies received pursuant to such Debts are paid into such Account(s) as may be directed by the Secured Creditor.
- 9.2 The Chargor shall not, otherwise than with the consent in writing of the Secured Creditor, factor, discount, assign, charge or otherwise dispose of the Debts.

10. Criminal Damage Compensation

Forthwith upon the occurrence of any event or circumstances giving rise to a claim for compensation under The Criminal Damage (Compensation) (Northern Ireland) Order 1977 in respect of any of the Secured Assets and in each case within any applicable statutory time limits, the Chargor shall institute a claim under the aforesaid Order, serve a copy of the documentation of the claim on the Secured Creditor and take all steps required to make application to obtain payment of the maximum compensation payable under the said Order and either apply all compensation paid thereunder in rebuilding and reinstating the assets the subject thereof making good any deficiency out of the Chargor's own monies or, if the Secured Creditor so requires, assign its Rights under any claim and any monies payable thereunder and pay any such deficiency.

11. Licences

- 11.1 The Chargor will procure that each and every Licence required or desirable to enable the Chargor to carry on its business (or any business which the Chargor may, from time to time, carry on) is obtained by the Chargor and is, at the appropriate time, renewed or reobtained.
- 11.2 Where there is a Liquor Licence attached to the Real Property (or any part thereof) or where such Liquor Licence is required in order to carry on business at the Real Property (or any part thereof), the Chargor covenants with the Secured Creditor that the Chargor will (or will procure that the holder of such Liquor Licence will):
 - (a) keep open or cause to be kept open any part of the Real Property licensed from time to time for the sale of liquor; and
 - (b) at all proper times apply for or cause to be applied for and use its best endeavours to obtain renewals from time to time of the relevant Liquor Licence(s); and

- (c) conduct or cause to be conducted the business as is carried on in the Real Property in a regular and proper manner in every respect so that the Liquor Licence(s) shall not in any way be legally or justly abrogated forfeited or refused; and
- (d) deliver to the Secured Creditor (to be held as security for the Chargor's Obligations under this Deed) each Liquor Licence; and
- (e) not do or suffer to be done anything whatsoever whereby the business carried on in the Real Property or the goodwill thereof might in any way be or be liable to be prejudicially affected; and
- (f) on demand by the Secured Creditor endorse, hand over, assign or transfer the Liquor Licence(s) and any future renewals thereof to the Secured Creditor or the nominee or appointee of the Secured Creditor, which shall include any Receiver and, if so required by the Secured Creditor, will transfer, endorse, handover or assign the Liquor Licence(s) to any purchaser under any sale of the Real Property to which such Liquor Licence is attached; and
- (g) sign any notice and make any application for the transfer or renewal of the Liquor Licences which the Secured Creditor may require; and
- (h) at the Chargor's own expense attend if required before the Courts in person or send an appointed representative; and
- (i) consent to any such transfer, renewal, or assignment and do all other acts necessary for effectually vesting the Liquor Licence(s) in the Secured Creditor or the nominee or appointee of the Secured Creditor, which shall include any Receiver.

12. Management

The Chargor shall carry on all of its trade and business in accordance with the standards of good management from time to time current in such trade or business.

SCHEDULE 2 - CHARGED ASSETS
PART A - SECURED REAL PROPERTY

Description of Secured Real Property
[None at the date of these presents]

Description of any Lease(s) affecting the Secured Real Property
[None at the date of these presents]

Description of any Licence(s) affecting the Secured Real Property
[None at the date of these presents]

Description of any Guarantee(s) in respect of any Lease
[None at the date of these presents]

SCHEDULE 2 - CHARGED ASSETS
PART B - THE CHATTELS
[None at the date of these presents]

SCHEDULE 2 - CHARGED ASSETS
PART C - THE INVESTMENTS
[None at the date of these presents]

SCHEDULE 2 - CHARGED ASSETS
PART D - THE CONTRACTS
[None at the date of these presents]

SCHEDULE 2 - CHARGED ASSETS
PART E - THE ACCOUNTS
[None at the date of these presents]

SCHEDULE 2 - CHARGED ASSETS
PART F - THE INTELLECTUAL PROPERTY
[None at the date of these presents]

SCHEDULE 3 - NOTICE & ACKNOWLEDGMENT OF CHARGE IN RESPECT OF A LEASE

To: [Tenant/Lessee]

Date:

Dear Sirs

[INSERT SHORT DETAILS OF PROPERTY] (the "Property")

1. We refer to the mortgage debenture dated [] (the "Debenture") pursuant to which [Chargor] (the "Chargor") has granted security to [name of Secured Creditor] (the "Secured Creditor") to secure, inter alia, all obligations owed by the Chargor to the Secured Creditor.
2. We give you notice that, under the Debenture the Chargor has charged to the Secured Creditor way of first fixed charge all of the Chargor's rights in the lease dated [] made between the Chargor and you in respect of the Property (the "Lease").
3. The Chargor will remain liable for the obligations of the Chargor in respect of the Lease. The Secured Creditor has no obligations under or in respect of the Lease.
4. The Chargor hereby instructs you to:
 - (a) make all payments due to the Chargor under the Lease to the Chargor's account held with [] with sort code [] and account number [] or, following notice from the Secured Creditor, to the Secured Creditor at such account as it may specify (and your compliance with such instructions will be a good discharge to you for such payments);
 - (b) disclose to the Secured Creditor, without further approval from the Chargor, such information regarding the Lease and your occupation of the Property as the Secured Creditor may from time to time request and to send it copies of all notices issued by you under the Lease.
6. This instruction cannot be varied or terminated without the consent of the Secured Creditor.
7. This notice and the corresponding acknowledgement will be governed by the laws of [Northern Ireland].
8. Please sign the enclosed acknowledgement and return it to the Secured Creditor at [insert address] marked for the attention of [insert name of contact].

for and on behalf of
[Chargor]

ACKNOWLEDGED AND AGREED FOR AND ON BEHALF OF [TENANT/LESSEE]

1. We acknowledge receipt of the notice described above.
2. We have not received notice that any other person has an interest in the Lease.
3. We will comply with the instructions in the notice.
4. We will not exercise any right of set-off against payments owing by us under the Lease.
5. We acknowledge and agree that the Chargor remains solely liable for the performance and discharge of all of its duties and obligations under the Lease and that the Secured Creditor shall not have any obligation or liability to us by virtue of the Debenture nor will the Secured Creditor be obliged to perform or discharge any of the obligations or liabilities of the Chargor under the Lease.
6. The foregoing confirmations are given by us for the benefit of the Secured Creditor and may be relied on as such.

[ATTESTATION CLAUSE FOR COUNTERPARTY]

SCHEDULE 4 - NOTICE & ACKNOWLEDGMENT OF CHARGE IN RESPECT OF A CONTRACT

To: [Counterparty]

Date:

Dear Sirs

[BRIEF DESCRIPTION OF CONTRACT WHICH HAS BEEN CHARGED]

1. We refer to the mortgage debenture dated [] (the "Debenture") pursuant to which [Chargor] (the "Chargor") has granted security to [name of Secured Creditor] (the "Secured Creditor") to secure, inter alia, all obligations owed by the Chargor to the Secured Creditor.
2. We give you notice that, under the Debenture the Chargor has charged to the Secured Creditor by way of first fixed charge all of the Chargor's rights in the [describe contract] dated [] between (1) the Chargor and (2) you relating to [insert details] (the "Agreement").
3. The Chargor will remain liable for the obligations of the Chargor under the Agreement. The Secured Creditor has no obligations under or in respect of the Agreement.
4. The Chargor has agreed with the Secured Creditor that the Chargor will not (i) assign or transfer its interest in the Agreement, (ii) amend, vary, supplement or terminate the Agreement or (iii) waive any of the terms of the Agreement, in each case without the prior consent in writing of the Secured Creditor.
5. The Chargor hereby instructs you to:
 - (a) make all payments due to the Chargor under the Agreement to the Chargor's account held with [] with sort code [] and account number [] or, following notice from the Secured Creditor, to the Secured Creditor at such account as it may specify (and your compliance with such instructions will be a good discharge to you for such payments);
 - (b) disclose to the Secured Creditor, without further approval from the Chargor, such information regarding the Agreement as the Secured Creditor may from time to time request and to send it copies of all notices issued by you under the Agreement.
6. This instruction cannot be varied or terminated without the consent of the Secured Creditor.
7. This notice and the corresponding acknowledgement will be governed by the laws of [Northern Ireland].
8. Please sign the enclosed acknowledgement and return it to the Secured Creditor at [insert address] marked for the attention of [insert name of contact].

for and on behalf of
[Chargor]

ACKNOWLEDGED AND AGREED FOR AND ON BEHALF OF [COUNTERPARTY]

1. We acknowledge receipt of the notice described above.
2. We have not received notice that any other person has an interest in the Agreement.
3. We will comply with the instructions in the notice.
4. We agree that we shall not recognise any assignment or transfer of the Chargor's rights in the Agreement save with the prior consent in writing of the Secured Creditor.
5. We agree that we shall not permit the Chargor to terminate, amend, vary or supplement the terms of the Agreement nor shall we accept any waiver of the Chargor's rights under the Agreement, in each case save with the prior consent in writing of the Chargor.
6. We further agree with the Secured Creditor that we shall not take any action to terminate the Agreement unless we have provided not less than 60 days prior notice in writing (the "Notice Period") to the Secured Creditor setting out our intention to terminate the Agreement on the expiry of the Notice Period and specifying the grounds on which such termination is to be made. In the event that the Secured Creditor or, at the discretion of the Secured Creditor, a substitute nominated by the Secured Creditor (either of the Secured Creditor or the relevant substitute being, for the purposes of this paragraph 6, the "Substitute") undertakes to us in writing on or before the expiry of the Notice Period that it will assume all of the obligations of the Chargor under the Agreement we agree with the Secured Creditor that we shall not so terminate the Agreement.
7. We will not exercise any right of set-off against payments owing by us under the Agreement.
8. We acknowledge and agree that the Chargor remains solely liable for the performance and discharge of all of its duties and obligations under the Agreement and that the Secured Creditor shall not have any obligation or liability to us by virtue of the Debenture nor will the Secured Creditor be obliged to perform or discharge any of the obligations or liabilities of the Chargor under the Agreement.
9. The foregoing confirmations are given by us for the benefit of the Secured Creditor and may be relied on as such.

[ATTESTATION CLAUSE FOR COUNTERPARTY]

SCHEDULE 5 - NOTICE & ACKNOWLEDGMENT OF CHARGE IN RESPECT OF AN ACCOUNT

To: [Counterparty]

Date:

Dear Sirs

[BRIEF DESCRIPTION OF ACCOUNT WHICH HAS BEEN CHARGED]

1. We refer to the mortgage debenture dated [] (the "Debenture") pursuant to which [Chargor] (the "Chargor") has granted security to [name of Secured Creditor] (the "Secured Creditor") to secure, inter alia, all obligations owed by the Chargor to the Secured Creditor.
2. We give you notice that, under the Debenture the Chargor has charged to the Secured Creditor way of first fixed charge all of the Chargor's rights in the account held by the Chargor with [bank branch and address], sort code [insert sort code] and account number [insert account number] (the "Account").
3. The Chargor will remain liable for the obligations of the Chargor in respect of the Account. The Secured Creditor has no obligations under or in respect of the Account.
4. We have agreed with the Secured Creditor not to close the Account or to make any withdrawals from the Account save with the prior consent in writing of the Secured Creditor.
5. We instruct you to:
 - (a) not to permit any withdrawals from the Account save with the prior consent in writing of the Secured Creditor;
 - (b) where requested to do so by the Secured Creditor in writing, to remit to the Secured Creditor to such bank account as the Secured Creditor may notify you all of the proceeds standing to the credit of the Account (including all interest and other amounts accrued in respect thereof) [less only such normal banking charges as apply to the maintenance and operation of that Account and are, as at the date on which funds are to be remitted to the Secured Creditor, then accrued and payable which you may retain for your own account];
 - (c) disclose to the Secured Creditor, without further approval from us, such information regarding the Account as the Secured Creditor may from time to time request and to send it copies of all notices (including statements of account) issued by you under the Account.
6. This instruction cannot be varied or terminated without the consent of the Secured Creditor.
7. This notice and the corresponding acknowledgement will be governed by the laws of [Northern Ireland].
8. Please sign the enclosed acknowledgement and return it to the Secured Creditor at [insert address] marked for the attention of [insert name of contact].

for and on behalf of
[Chargor]

ACKNOWLEDGED AND AGREED FOR AND ON BEHALF OF [ACCOUNT BANK]

1. We acknowledge receipt of the notice described above.
2. We have not received notice that any other person has an interest in the Account.
3. We will comply with the instructions in the notice.
4. We agree that we shall not permit the Chargor to close the account nor shall we permit the Chargor to make withdrawals from the Account, in each case save with the prior consent in writing of the Chargor.
5. We will not exercise any right of set-off towards the monies now or hereafter standing to the credit of the Account.
6. We shall, where requested to do so by the Secured Creditor in writing, remit to the Secured Creditor to such bank account as the Secured Creditor may notify us all of the proceeds standing to the credit of the Account (including all interest and other amounts accrued in respect thereof) [less only such normal banking charges as apply to the maintenance and operation of that Account and are, as at the date on which funds are to be remitted to the Secured Creditor, then accrued and payable which we may retain for your own account].
7. We acknowledge and agree that the Chargor remains solely liable for the performance and discharge of all of its duties and obligations under and in respect of the Account and that the Secured Creditor shall not have any obligation or liability to us by virtue of the Debenture nor will the Secured Creditor be obliged to perform or discharge any of the obligations or liabilities of the Chargor under or in respect of the Account.
8. The foregoing confirmations are given by us for the benefit of the Secured Creditor and may be relied on as such.

[ATTESTATION CLAUSE FOR COUNTERPARTY]

**SCHEDULE 6 - THE SHARES
PART A - FORM OF DIRECTOR'S RESIGNATION LETTER**

[TO THE COMPANY]

Dear Sirs

RESIGNATION AS DIRECTOR

I hereby irrevocably and unconditionally resign as a director of [insert details of company] (company registration number []) (the "Company") and confirm that I have no right to compensation or claims against the Company for loss of office, arrears of pay or otherwise howsoever.

[ATTESTATION CLAUSE FOR DIRECTOR]

**SCHEDULE 6 - THE SHARES
PART B - FORM OF DIRECTOR'S LETTER OF AUTHORITY**

[TO THE SECURED CREDITOR]

Dear Sirs

[COMPANY] (Company number []) (the "Company")

I hereby irrevocably and unconditionally authorise you to date and otherwise deliver on my behalf the director's letter of resignation deposited by me with yourselves pursuant to the debenture dated [] between [Chargor] (the "Chargor") and yourselves pursuant to which the Chargor has created, amongst other things, a charge over the shares held by the Chargor in the Company (the "Debenture") as and when you become entitled to date and complete the same pursuant to the terms of the Debenture.

This letter may be relied on by the Secured Creditor.

[ATTESTATION CLAUSE FOR DIRECTOR]


SCHEDULE 7 – PERMITTED SECURITY INTERESTS

A mortgage/charge dated 14 January 2002 in favour of AIB Group (UK) plc.

EXECUTION PAGE

THE CHARGOR

EXECUTED as a DEED by
McELHINNEY ASSOCIATES (N.I.) LIMITED
(incorporated in Northern Ireland with company number NI041926)
acting by a single director



Director

in the presence of:

Witness signature:



Name:

Revin Downey

Address:

114 Pittwater Road

Derry

BT48 7UR

Occupation:

Solicitor

THE SECURED CREDITOR

GIVEN under the common seal
of ALLIED IRISH BANKS, p.l.c.
and DELIVERED as a DEED

Signature

Print name

Signature

Print name