



Registration of a Charge

Company name: **IDS DATA SERVICES LIMITED**

Company number: **SC290233**

Received for Electronic Filing: **13/02/2018**



X6ZPXPFC

Details of Charge

Date of creation: **06/02/2018**

Charge code: **SC29 0233 0005**

Persons entitled: **PCP V CAYMAN AIV, L.P.**

Brief description:

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

Certified by: **SQUIRE PATTON BOGGS (UK) LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 290233

Charge code: SC29 0233 0005

The Registrar of Companies for Scotland hereby certifies that a charge dated 6th February 2018 and created by IDS DATA SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th February 2018 .

Given at Companies House, Edinburgh on 14th February 2018

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATE: 6 February 2018

BOND AND FLOATING CHARGE

between

IDS DATA SERVICES LIMITED

and

PCP V CAYMAN AIV, L.P.
as Mezzanine Security Agent

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THIS BOND AND FLOATING CHARGE is delivered on 6 February 2018 and is granted by:

- (1) **IDS DATA SERVICES LIMITED**, a company incorporated in Scotland with company number **SC290233** and having its registered office at C/O Anderson Strathern LLP, 1 Rutland Court, Edinburgh, Scotland, EH3 8EY (the “**Chargor**”);

in favour of
- (2) **PCP V CAYMAN AIV, L.P.**, as trustee for the purpose of, and in accordance with, the Mezzanine Securities Purchase Agreement (defined below) (the “**Mezzanine Security Agent**”) which expression shall include any person for the time being appointed as such trustee.

WHEREAS:

- (A) Pursuant to the Mezzanine Securities Purchase Agreement (defined below) the Purchasers (as defined therein) have, on the terms and conditions contained therein, among other things, purchased the Notes (as defined therein) from the Company.
- (B) It is a requirement under the Mezzanine Securities Purchase Agreement that the Chargor enters into and grants this Charge.

NOW IT IS AGREED as follows:

1. **Definitions and Interpretation**

Definitions

- 1.1 In this Charge, words and expressions shall (unless otherwise expressly defined in this Charge) have the meaning given to them in the Mezzanine Securities Purchase Agreement and in addition in this Charge:

“**Authorisation**”: means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

“**Charged Property**”: means the whole of the property and assets (including uncalled capital) which are or may be from time to time comprised in the property and undertaking of the Chargor.

“**Debenture**”: means the debenture entered into between the Chargor and the Mezzanine Security Agent on or around the date of delivery of this Charge.

“**Default Rate**”: has the meaning given in the Mezzanine Securities Purchase Agreement.

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

“**Intercreditor Deed**”: means the Intercreditor Agreement dated on or about the date thereof between (1) the Senior Noteholders, (2) the Mezzanine Noteholders, (3) the

Investor Junior Noteholders, (4) the Management Noteholders, (5) the Subordinated Noteholders, (as each are defined therein), (6) the Parent and the Company and others as Debtors, (7) The Prudential Insurance Company of America as Senior Security Agent, (8) PCP V Cayman AIV, L.P as Mezzanine Security Agent, and (9) the Management Junior Noteholders.

“Mezzanine Secured Parties”: has the meaning given in the Intercreditor Deed.

“Mezzanine Securities Purchase Agreement”: means the securities purchase agreement dated 24 March 2017 made between, among others, the Original Chargors and certain insurance companies and other financial institutions as Purchasers.

“Planning Acts”: means all legislation from time to time regulating the development, use, safety and control of property including, without limitation, the Town and Country Planning (Scotland) Act 1997, The Planning (Hazardous Substances) (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, The Planning (Consequential Provisions) (Scotland) Act 1997, the Building (Scotland) Act 2003, Planning etc. (Scotland) Act 2006, National Parks (Scotland) Act 2000 and any other instrument, plan, regulation, permission, order or direction made or issued under any such legislation.

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

“Property”: means any heritable or long-leasehold property of the Chargor and any other real estate interest of the Chargor and references to any **“Property”** shall include references to the whole or any part or parts of it.

“Receiver”: means an administrator, receiver or administrative receiver of the whole or any part or parts of the Charged Property.

“Scottish Property Registers”: means the Land Register of Scotland and the General Register of Sasines.

“Secured Liabilities”: means the Mezzanine Liabilities and the Investor Junior Liabilities, in each case as defined in the Intercreditor Deed.

“Security Period”: means the period beginning on the date of this Charge and ending on the date the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding, in each case, as determined by the Mezzanine Security Agent.

“Senior Discharge Date”: has the meaning given to it in the Intercreditor Deed.

“Senior Security Period”: has the meaning given to it in the Intercreditor Deed.

“Spot Rate of Exchange”: means the spot rate at which the Mezzanine Security Agent is able to purchase the currency in which the Secured Liabilities are due with the amount received.

Construction

1.2 Any reference in this Charge to:

1.2.1 the **“Mezzanine Security Agent”**, the **“Chargor”**, or any other person shall be construed so as to include its successors in title, permitted assignees and permitted transferees;

- 1.2.2 “**assets**” includes present and future assets, properties, revenues and rights of every description;
- 1.2.3 “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.4 a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.5 a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- 1.2.6 the “**property**” and/or “**properties**” of any person shall be construed as a reference to the freehold, heritable, commonhold or leasehold properties of that person at the relevant time and to the whole or any part or parts of them;
- 1.2.7 a “**fixed security**” shall include the meaning given to that term in section 486 of the Companies Act 1985, section 70 of the Insolvency Act 1986 and (on and after it coming into force) section 47 of the Bankruptcy and Diligence etc. (Scotland) Act 2007;
- 1.2.8 “**without limitation**” shall include a reference to without prejudice to the generality of the foregoing;
- 1.2.9 “**attachment**” shall include, without limitation, land attachment, interim attachment, money attachment and residual attachment;
- 1.2.10 “**set-off**” includes, without limitation, set-off, offset, compensation, retention and balancing of accounts;
- 1.2.11 “**the security constituted by this Charge**” is the floating charge referred to in, and created by, this Charge;
- 1.2.12 “**amendment**” and “**amend**” includes variation and vary; and
- 1.2.13 a provision of law is a reference to that provision as amended or re-enacted.
- 1.3 Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Charge;
- 1.4 Any reference to the security constituted by this Charge becoming “enforceable” shall mean that the security created under this Charge has become enforceable under Clause 8.1 (*When Security becomes Enforceable*).
- 1.5 The term “continuing” shall be construed in accordance with clause 1.2.3 of the Intercreditor Deed.
- 1.6 Clause and Schedule headings are for ease of reference only.
- 1.7 Any reference in this Charge to a charge over any property or asset shall be construed so as to include:
 - 1.7.1 all rights under any agreement for sale in respect of that property or asset;

- 1.7.2 the benefit of any covenants for title, warrantice and warranties given or entered into by any predecessor in title of the Chargor in respect of that property or asset and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that property or asset;
 - 1.7.3 the proceeds of sale of any part of that property or asset and any other moneys paid or payable in respect of or in connection with that property or asset; and
 - 1.7.4 in respect of any Property, all Premises and all fixtures and fittings (including trade fixtures and fittings and all tenants' fixtures and fittings) from time to time in or on that Property.
- 1.8 Any reference in this Charge to any Finance Document or any other agreement or other document shall be construed as a reference to that Finance Document or that other agreement or document as the same may have been, or may from time to time be, restated, varied, amended, supplemented, substituted, novated or assigned, whether or not as a result of any of the following:
- 1.8.1 there is an increase or decrease in any facility made available under that Finance Document or other agreement or document or an increase or decrease in the period for which any facility is available or in which it is repayable;
 - 1.8.2 any additional, further or substituted facility to or for such facility is provided;
 - 1.8.2 any rate of interest, commission or fees or relevant purpose is changed;
 - 1.8.3 the identity of the parties is changed;
 - 1.8.4 the identity of the providers of any security is changed;
 - 1.8.5 there is an increased or additional liability on the part of any person; or
 - 1.8.6 a new agreement is effectively created or deemed to be created.
- 1.9 Any reference in this Charge to "this Charge" shall be deemed to be a reference to this Charge as a whole and not limited to the particular Clause, Schedule or provision in which the relevant reference appears and to this Charge as amended, varied, novated, assigned, supplemented, extended or restated from time to time and any reference in this Charge to a "Clause" or a "Schedule" is, unless otherwise provided, a reference to a Clause or a Schedule of this Charge.
- 1.10 Where at any time (from time to time) there is any conflict between any term of this Charge and the terms of the Mezzanine Securities Purchase Agreement, then the relevant terms of the Mezzanine Securities Purchase Agreement shall prevail.
- 1.11 Where at any time (from time to time) there is any conflict between any term of this Charge and the terms of the Debenture, then the relevant terms of the Debenture shall prevail.
- 1.12 Where at any time (from time to time) there is any conflict between any term of this Charge and the terms of the Intercreditor Deed, then the relevant terms of the Intercreditor Deed shall prevail.
- 1.13 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.14 Where any provision of this Charge is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision.

- 1.15 Any change in the constitution of the Mezzanine Security Agent or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Charge.
- 1.16 Date of delivery
- 1.16.1 This Charge is intended to take effect from the date of delivery of this Charge by the Chargor.
- 1.16.2 The date of delivery of this Charge by the Chargor is the date of delivery specified at the start of this Charge.
- 1.17 This Charge is a Mezzanine Transaction Security Document.

2. Covenant to Pay and Interest

Undertaking to Pay

- 2.1 The Chargor undertakes to the Mezzanine Security Agent that it shall pay or discharge the Secured Liabilities when they become due for payment in the manner provided for in the Finance Documents or, in the absence of any such express terms, on demand.

Interest

- 2.2 If the Chargor fails to pay any sum on the due date for payment of that sum, the Chargor shall pay interest to the Mezzanine Security Agent on any such sum (before and after any judgment or decree and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the Default Rate.

3. Floating Charge

Creation of Floating Charge

- 3.1. Subject to the terms of the Intercreditor Deed, the Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, grants in favour of the Mezzanine Security Agent a floating charge over the Charged Property.

Qualifying Floating Charge

- 3.2. The provisions of paragraph 14 of schedule B1 to the Insolvency Act 1986 shall apply to the floating charge constituted pursuant to Clause 3.1 (*Creation of Floating Charge*).

4 Negative Pledge and Ranking

Negative Pledge

- 4.1 The Chargor shall not, at any time during the Security Period, create or permit to subsist any security over all or any part of the Charged Property other than as permitted under the Mezzanine Securities Purchase Agreement.

Ranking

- 4.2 Subject to the terms of the Intercreditor Deed, any fixed security granted by the Chargor in favour of the Mezzanine Security Agent (whether before or after this Charge) shall rank in priority to the floating charge constituted by this Charge.

- 4.3 Subject to the terms of the Intercreditor Deed, in the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 4.1 (*Negative Pledge*), this Charge shall rank in priority to that fixed security or floating charge.

5 Perfection of Security

Documents

- 5.1 The Chargor shall promptly, following the Senior Discharge Date, upon the request of the Mezzanine Security Agent, deposit with the Mezzanine Security Agent (unless already held by its solicitors on behalf of and to the Mezzanine Security Agent's order or at the relevant Scottish Property Register for the purpose of registration of the security) on request all deeds, certificates and other documents of title to the extent that they are in the control of the Chargor from time to time relating to the Charged Property and shall promptly, upon the request of the Mezzanine Security Agent from time to time, deliver to the Mezzanine Security Agent all such other documents relating to the Charged Property as the Mezzanine Security Agent may reasonably require.

6 Further Assurance

Further Assurance

- 6.1 In accordance with the terms of the Intercreditor Deed, the Chargor shall promptly do all such acts and execute all such documents (including assignments, assignments, transfers, mortgages, charges, pledges, fixed security, notices, registrations, filings and instructions) as the Mezzanine Security Agent or any Receiver may specify (and in such form as the Mezzanine Security Agent or any Receiver may reasonably require in favour of the Mezzanine Security Agent or its nominee(s)) to:
- 6.1.1 perfect the security constituted or intended to be constituted in respect of the Charged Property (which may include the execution by the Chargor of a mortgage, charge, standard security, pledge, assignment, assignment, other fixed security, or other security over all or any of the assets forming part of, or which are intended to form part of, the Charged Property);
 - 6.1.2 confer on the Mezzanine Security Agent security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the security intended to be constituted by or pursuant to this Charge;
 - 6.1.3 facilitate the exercise of any rights, powers and remedies of the Mezzanine Security Agent or any Receiver or Delegate provided by or pursuant to this Charge or by law;
 - 6.1.4 following an Event of Default which is continuing, facilitate the realisation of the assets which form part of, or are intended to form part of, the Charged Property; and/or
 - 6.1.5 create fixed security over its Charged Property (and any part of it) which is capable of being subject to, or charged by way of, fixed security.

Necessary Action

- 6.2 In accordance with the terms of the Intercreditor Deed, the Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Mezzanine Security Agent by or pursuant to this Charge.

7 Undertakings

General

- 7.1 The undertakings in this Clause 7 (*Undertakings*) remain in force from the date of this Charge for so long as any amount is outstanding under this Charge.

Restriction on Disposals

- 7.2 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, assign, lease, transfer or otherwise dispose of the whole or any part of the Charged Property, other than any disposal of any Charged Property which is subject only to any floating charges (granted by the Chargor in favour of the Mezzanine Security Agent) for full consideration in the ordinary and usual course of the Chargor's business as it is presently conducted or as permitted under the Finance Documents.

Access

- 7.3 The Chargor shall (subject to the terms of any rights of occupation) permit the Mezzanine Security Agent and any other person nominated by it free access at all reasonable times and on reasonable notice to enter upon and/or view the state and condition of the Charged Property in accordance with the terms of the Mezzanine Securities Purchase Agreement (without, in any case, becoming liable to account as heritable creditor in possession or mortgagee in possession).

Insurance

- 7.4 The Chargor shall comply with the undertakings relating to the Insurances pursuant to clause 9 (*Insurances*) of the Debenture.
- 7.5 The Chargor shall not do or cause or permit to be done or, as the case may be, not done, and shall not fail to disclose, any matter or thing which may make any such insurance as is required by Clause 7.4 (*Insurance*) above void or voidable.

Authorisations

- 7.6 The Chargor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect, and supply certified copies to the Mezzanine Security Agent of, any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this Charge and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of this Charge.

Compliance with Laws and Regulations

- 7.7 The Chargor shall comply in all respects with all laws and regulations to which it or any Charged Property may be subject, if failure so to comply would materially impair its ability to perform its obligations under this Charge.

Acquisition of Land

- 7.8 The Chargor shall promptly notify the Mezzanine Security Agent of any acquisition by it of any heritable or leasehold property or of any agreement entered into by it or of which it has the benefit for the acquisition of any such property.

Payment of Outgoings

- 7.9 The Chargor shall punctually pay or cause to be paid (except when contested on reasonable grounds) and shall indemnify the Mezzanine Security Agent and any Receiver or Delegate on demand against all present and future rents, rates, taxes, assessments and outgoings of whatsoever nature imposed upon or payable in respect of the Charged Property or by the owner or occupier of the Charged Property upon the same becoming due and payable or within any applicable grace period. If any of the foregoing shall be paid by the Mezzanine Security Agent or any Receiver or Delegate they shall be reimbursed by the Chargor to the Mezzanine Security Agent or such Receiver or Delegate on demand and shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Mezzanine Security Agent or such Receiver or Delegate until reimbursed (after as well as before any judgment or decree).

Maintenance and Repair

- 7.10 The Chargor shall at all times, to the Mezzanine Security Agent's satisfaction (acting reasonably), repair and keep:

7.10.1 all of its buildings and erections in good and substantial repair and condition; and

7.10.2 all of its fixtures (including trade fixtures and fittings and tenants' fixtures and fittings), plant, machinery, implements and other effects and chattels wherever located in a good state of repair and in good working order and condition and shall, as and when necessary, renew and replace such items when they shall become obsolete, worn out or destroyed with items of similar quality and of equal or greater value,

having regard to the terms of any lease of the Charged Property.

- 7.11 If default shall be made by the Chargor in complying with Clause 7.10 (*Maintenance and Repair*) above then the Mezzanine Security Agent may (but shall not be obliged to) carry out any necessary repairs with power for the Mezzanine Security Agent, its agents and their respective officers, agents and employees to enter upon and/or inspect any Charged Property for that purpose. All moneys expended by the Mezzanine Security Agent in carrying out such acts shall be reimbursed by the Chargor to the Mezzanine Security Agent on demand and until so reimbursed shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Mezzanine Security Agent until reimbursed (after as well as before any judgment or decree).

Alteration to Properties or Use

- 7.12 The Chargor shall not, without the prior written consent of the Mezzanine Security Agent:

7.12.1 sever or unfix or remove any of its fixtures (including trade fixtures and fittings and tenants' fixtures and fittings) (except for the purpose of effecting necessary repairs to any such items or renewing or replacing the same in accordance with Clause 7.10 (*Maintenance and Repair*) above);

7.12.2 carry out or permit to be carried out any material demolition, rebuilding, reconstruction or structural alteration of any of its buildings or erections; or

7.12.3 change or alter the use of any of its properties.

- 7.13 The Chargor shall promptly give notice to the Mezzanine Security Agent in the event of any of its buildings or erections being damaged or destroyed.

Power of Leasing

- 7.14 Other than the leases in place at the time of this Charge, the Chargor shall not during the Security Period, without the prior written consent of the Mezzanine Security Agent (such consent not to be unreasonably withheld or delayed):
- 7.14.1 exercise any statutory or other power of leasing or letting, or accept or agree to accept surrenders or renunciations of any leases, or enter into any agreement for lease or letting, in respect of any of its properties; or
- 7.14.2 create any licence in respect of any of its properties, or let any person into occupation of, or share occupation of, any of its properties or grant any other interest in any of its properties.

Development

- 7.15 Subject to the terms of the Mezzanine Securities Purchase Agreement the Chargor shall not, without the prior written consent of the Mezzanine Security Agent (such consent not to be unreasonably withheld or delayed) make or, insofar as it is able, permit others to make any application for planning permission in respect of any of its properties or carry out or permit to be carried out on any of its properties any “development” (other than the Project) within the meaning of any legislation from time to time regulating the development, use, safety and control of property (including, without limitation, the Planning Acts and any orders or regulations made under such Planning Acts).

Performance of Obligations

- 7.16 The Chargor shall:
- 7.16.1 observe and perform all restrictive and other obligations, burdens, covenants, and stipulations now or at any time affecting any of its properties or the mode of user or the enjoyment of the same and shall not enter into any onerous or restrictive obligations affecting any of its properties;
- 7.16.2 diligently enforce all restrictive and other obligations, burdens, covenants and stipulations benefiting any of its properties and shall not (and shall not agree to) waive, release or vary any of the same; and
- 7.16.3 obtain and maintain for the benefit of its properties and the owner and occupier thereof for the time being all party wall awards or agreements, rights of light agreements, and rights of access and supply of services, over and in respect of any adjoining or neighbouring property which in each case are necessary or expedient for the use, occupation and/or enjoyment of those properties.

Lease Obligations

- 7.17 Without prejudice to the generality of Clause 7.16 (*Performance of Obligations*) above, the Chargor shall:
- 7.17.1 where lessor, observe and perform all obligations, burdens, covenants and stipulations of the lessor, and diligently enforce the performance and observance of the covenants and obligations of the lessee, contained in any lease to which any of its properties may be subject; and

- 7.17.2 where lessee, observe and perform all obligations, burdens, covenants and stipulations of the lessee, and diligently enforce the performance and observance of the covenants and obligations of the lessor, contained in any lease under which any of its properties is held.

Information

- 7.18 The Chargor shall promptly supply to the Mezzanine Security Agent such information as the Mezzanine Security Agent may reasonably require about the Charged Property and its compliance with the terms of this Charge and such further information regarding its financial condition, assets and operations as the Mezzanine Security Agent may request in accordance with the terms of the Mezzanine Securities Purchase Agreement or otherwise. The Chargor shall permit the Mezzanine Security Agent, its representatives, professional advisers and contractors, free access at all reasonable times and on reasonable notice to (a) inspect and take copies and extracts from the books, accounts and records of the Chargor and (b) to view the relevant Charged Property (without becoming liable as mortgagee or heritable creditor in possession).
- 7.19 The Chargor shall promptly notify the Mezzanine Security Agent in writing of any action, claim or demand made by or against it in connection with all or any part of the Charged Property or of any fact, matter or circumstance which may with the passage of time give rise to such an action, claim or demand, together with the Chargor's proposals for settling, liquidating, compounding or contesting the same and shall, subject to the Mezzanine Security Agent's approval (such approval not to be unreasonably withheld or delayed) of such proposals, implement them at its own expense.

Notices Relating to Charged Property

- 7.20 The Chargor shall, within 5 Business Days' of receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority with respect to the whole or any part of the Charged Property:
- 7.20.1 deliver a copy to the Mezzanine Security Agent;
- 7.20.2 inform the Mezzanine Security Agent of the steps taken or proposed to be taken by it to comply with the relevant application, requirement, order or notice; and
- 7.20.3 comply with any reasonable request by the Mezzanine Security Agent to take such action as the Mezzanine Security Agent may believe necessary to preserve or protect the Charged Property or the security constituted or intended to be constituted by this Charge.

Not Jeopardise Security

- 7.21 The Chargor shall not knowingly do or cause or permit to be done anything which might in any way depreciate, jeopardise or otherwise prejudice the value to the Mezzanine Security Agent of the security constituted or intended to be constituted by this Charge, except to the extent expressly permitted by the terms of any Finance Document.

8 Enforcement of Security

When Security Becomes Enforceable

- 8.1 At any time in accordance with the terms of the Intercreditor Deed, and after the occurrence of an Event of Default (which is continuing) or if the Chargor requests the Mezzanine Security Agent to exercise any of its powers under this Charge the security created by or pursuant to this Charge is and shall be immediately enforceable.
- 8.2 At any time after the security constituted by this Charge has become enforceable, the Mezzanine Security Agent may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Charged Property.

Right of Appropriation

- 8.3 To the extent that any of the Charged Property constitutes “**financial collateral**” and this Charge and the obligations of the Chargor under this Charge constitute a “**security financial collateral arrangement**” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226) (the “**Regulations**”)), the Mezzanine Security Agent shall have the right, at any time after the security constituted by this Charge has become enforceable, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral shall be (in the case of cash) the amount standing to the credit of each account of the Chargor, together with any accrued but unpaid interest, at the time the right of appropriation is exercised and (in the case of company shares or equivalent securities, bonds or other tradeable capital markets debt instruments or other tradeable securities) the market price of such securities determined by the Mezzanine Security Agent by reference to a public index or by such other process as the Mezzanine Security Agent may select, including independent valuation. In each case, the parties agree that the manner of valuation provided for in this Clause 8.3 (*Right of Appropriation*) shall constitute a commercially reasonable manner of valuation for the purposes of the Regulations.

Redemption of Prior Security

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

No Liability as mortgagee in possession

- 8.6 Neither the Mezzanine Security Agent nor any Receiver shall be liable to account as a mortgagee or heritable creditor or charge in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Property to which a

mortgagee or mortgagee in possession or heritable creditor or chargee in possession might otherwise be liable.

Effect of moratorium

- 8.7 The Mezzanine Security Agent shall not be entitled to exercise its rights under Clause 8.1 (*When Security Becomes Enforceable*) where the right arises as a result of an Event of Default occurring solely due to any person obtaining or taking steps to obtain a moratorium pursuant to Schedule A1 of the Insolvency Act 1986.

9 Appointment of Receiver and Administrator

Appointment

- 9.1 At any time, in accordance with the terms of the Intercreditor Deed:
- 9.1.1 following the occurrence of an Event of Default which is continuing; or
 - 9.1.2 after the Chargor so requests the Mezzanine Security Agent in writing;
 - 9.1.3 the Mezzanine Security Agent may without prior notice to the Chargor:
 - 9.1.3.1 appoint any one or more persons to be a Receiver of the whole or any part or parts of the Charged Property; and/or
 - 9.1.3.2 appoint one or more persons to be an administrator of the Chargor,
- in each case in accordance with and to the extent permitted by applicable laws.

Removal

- 9.2 At any time, in accordance with the terms of the Intercreditor Deed, the Mezzanine Security Agent may by writing under its hand (or by an application to the court where required by law):
- 9.2.1 remove any Receiver appointed by it; and
 - 9.2.2 appoint, whenever it deems it expedient, any one or more persons to be a new Receiver in the place of or in addition to any Receiver.

Statutory Powers of Appointment

- 9.3 The powers of appointment of a Receiver conferred by this Charge shall be in addition to all statutory and other powers of appointment of the Mezzanine Security Agent by applicable law and such powers shall be and remain exercisable from time to time by the Mezzanine Security Agent in respect of any part or parts of the Charged Property in accordance with the terms of the Intercreditor Deed.

Capacity of Receiver

- 9.4 Each Receiver shall be deemed to be the agent of the Chargor for all purposes. The Chargor alone shall be responsible for a Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him.
- 9.5 The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Mezzanine Security Agent.

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

Remuneration of Receiver

- 9.7 Subject to section 58 of the Insolvency Act 1986, the Mezzanine Security Agent may fix the remuneration of any Receiver appointed by it without any restriction imposed by law or otherwise and the remuneration of the Receiver shall be a debt secured by this Charge, which shall be due and payable immediately upon its being paid by the Mezzanine Security Agent.

10 Powers of Receiver

General

- 10.1 Each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out below in this Clause 10 (*Powers of Receiver*) in addition to those conferred by law.
- 10.2 Without prejudice to the generality of this Clause 10 (*Powers of Receiver*), each Receiver shall have all the rights, powers and discretions of an administrative receiver under Schedule 2 to the Insolvency Act 1986 and (to the extent permitted by law) all the rights, powers and discretions of an administrative receiver under Schedule 1 to the Insolvency Act 1986 whether he falls within the statutory definition of an administrative receiver or not.

Specific Powers

- 10.3 Each Receiver shall have the following powers (and every reference in this Clause 10.3 (*Specific Powers*) to the “**Charged Property**” shall be read as a reference to that part or parts of the Charged Property in respect of which that Receiver was appointed):
- 10.3.1 power to purchase or acquire land and purchase, acquire or grant any interest in or right over land as he thinks fit;
 - 10.3.2 power to take immediate possession of, get in and collect any Charged Property;
 - 10.3.3 power to carry on the business of the Chargor as he thinks fit;
 - 10.3.4 power (but without any obligation to do so) to:
 - (a) make and effect all repairs, alterations, additions and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Charged Property;
 - (b) commence or complete any building operations on any properties of the Chargor;
 - (c) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence; and
 - (d) negotiate for compensation with any authority which may intend to acquire or be in the process of acquiring all or any part of the Charged Property and make objections to any order for the

acquisition of all or any part of the Charged Property and represent the Chargor at any enquiry to be held to consider such objections or otherwise relating to any such acquisition,

in each case as he thinks fit;

- 10.3.5 power to appoint and discharge managers, officers, agents, advisers, accountants, servants, workmen, contractors, surveyors, architects, lawyers and others for the purposes of this Charge upon such terms as to remuneration or otherwise as he thinks fit and power to discharge any such persons appointed by the Chargor (and the costs incurred by any Receiver in carrying out such acts or doing such things shall be reimbursed to that Receiver by the Chargor on demand and until so reimbursed shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Receiver until reimbursed (after as well as before any judgment or decree));
- 10.3.6 power to raise and borrow money either unsecured or (with the prior consent of the Mezzanine Security Agent) on the security of any Charged Property either in priority to the security constituted by this Charge or otherwise and generally on any terms and for whatever purpose he thinks fit;
- 10.3.7 power to sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms as he thinks fit;
- 10.3.8 power to sever and sell separately any fixtures from the property containing them without the consent of the Chargor;
- 10.3.9 power to let any Charged Property for any term and at any rent (with or without a premium) as he thinks fit and power to accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender);
- 10.3.10 power to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Charged Property;
- 10.3.11 power to bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Charged Property or in relation to the Chargor which may seem to him to be expedient;
- 10.3.12 power to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising any Charged Property;
- 10.3.13 power to form a subsidiary of the Chargor and transfer to that subsidiary any Charged Property;
- 10.3.14 power to do all such acts as may seem to him to be necessary or desirable in order to initiate or continue any development of any Charged Property and for these purposes to appoint and to enter into such contracts with such building and engineering contractors or other contractors and professional advisers as he may think fit;

- 10.3.15 power to call any meeting of the members or directors of the Chargor in order to consider such resolutions or other business as he thinks fit;
- 10.3.16 power to exercise in relation to any Charged Property all the powers and rights which he would be capable of exercising if he were the absolute beneficial owner of the same;
- 10.3.17 power to do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Charge; and
- 10.3.18 power to exercise any of the above powers in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor.

Mezzanine Security Agent's Powers

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

11 Discretions and Delegation

Discretion

- 11.1 Any liberty or power which may be exercised or any determination which may be made under this Charge by the Mezzanine Security Agent or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

Delegation

- 11.2 Each of the Mezzanine Security Agent and any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Charge (including the power of attorney).
- 11.3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Mezzanine Security Agent or any Receiver (as the case may be) shall think fit.
- 11.4 Neither the Mezzanine Security Agent nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

12 Power of Attorney

Appointment and Powers

- 12.1 The Chargor, by way of security, irrevocably appoints the Mezzanine Security Agent, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- 12.1.1 carrying out any obligation imposed on the Chargor by this Charge; and/or
- 12.1.2 enabling the Mezzanine Security Agent or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Charge or by law (including the exercise of any right of an owner of the Charged Property).

Ratification

- 12.2 The Chargor shall ratify and confirm whatever any attorney lawfully does or lawfully purports to do pursuant to its appointment under Clause 12.1 (*Appointment and Powers*).
- 12.3 The appointment effected under Clause 12.1 (*Appointment and Powers*) shall take effect immediately but the powers conferred shall only become exercisable after an Event of Default has occurred and is continuing save that such powers shall be exercisable immediately where they are exercised in connection with the transfer of any Charged Property to the Mezzanine Security Agent (or any Receiver or Delegate) in terms of this Charge.

13 Protection of Purchasers

Consideration

- 13.1 The receipt of the Mezzanine Security Agent or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property (including a disposal by a Receiver or Delegate to any subsidiary of the Chargor) or in making any acquisition in the exercise of their respective powers, the Mezzanine Security Agent, every Receiver and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

Protection of Third Parties

- 13.2 No person (including a purchaser) dealing with the Mezzanine Security Agent, any Receiver or any Delegate shall be bound to enquire:
 - 13.2.1 whether the Secured Liabilities have become payable; or
 - 13.2.2 whether any power which the Mezzanine Security Agent or any Receiver or Delegate is purporting to exercise has arisen or become exercisable; or
 - 13.2.3 whether any money remains due under the Finance Documents; or
 - 13.2.4 how any money paid to the Mezzanine Security Agent or to any Receiver or Delegate is to be applied,

or shall be concerned with any propriety, regularity or purpose on the part of the Mezzanine Security Agent or any Receiver or Delegate in such dealings or in the exercise of any such power.

14 Application of Proceeds

Order of Application

- 14.1 All moneys received or recovered by the Mezzanine Security Agent, any Receiver or any Delegate pursuant to this Charge, after the security constituted by this

Charge has become enforceable, shall (subject to the claims of any person having prior rights thereto and to the terms of applicable laws) be applied in such order and manner as set forth in clause 16 (*Application of proceeds*) of the Intercreditor Deed.

- 14.2 Clause 14.1 (*Order of Application*) will override any appropriation made by the Chargor.

New Accounts

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

Currency Indemnity

- 14.5 If any sum (a "**Sum**") owing by the Chargor under this Charge or any order or judgment or decree given or made in relation to this Charge has to be converted from the currency (the "**First Currency**") in which such Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- 14.5.1 making or filing a claim or proof against the Chargor;
- 14.5.2 obtaining an order or judgment or decree in any court or other tribunal;
- 14.5.3 enforcing any order or judgment or decree given or made in relation to this Charge; or
- 14.5.4 applying the Sum in satisfaction of any of the Secured Liabilities,

the Chargor shall indemnify the Mezzanine Security Agent from and against any loss suffered or incurred as a result of any discrepancy between (i) the rate of exchange used for such purpose to convert such Sum from the First Currency into the Second Currency and (ii) the rate or rates of exchange available to the Mezzanine Security Agent at the time of receipt of such Sum.

Currency Conversion

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

15 No Liability

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

- 15.1 If the Mezzanine Security Agent, any Receiver or any Delegate enters into or takes possession of the Charged Property, it or he may, to the extent permitted by law and in accordance with applicable law, at any time relinquish possession.

16 Set-Off

- 16.1 After an Event of Default has occurred and is continuing, the Mezzanine Security Agent may, acting in accordance with the terms of the Intercreditor Deed, set off any matured obligation due from the Chargor under the Finance Documents against any matured obligation owed by the Mezzanine Security Agent (whether in its capacity as trustee or otherwise) to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Mezzanine Security Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

17 Effectiveness of Security

Continuing Security

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

Cumulative Rights

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

Reinstatement

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

Immediate Recourse

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

Appropriations

- 17.6 Until all the Secured Liabilities which may be or become payable by the Chargor under or in connection with this Charge have been irrevocably and unconditionally paid, performed and discharged in full, the Mezzanine Security Agent may, in accordance with the terms of the Intercreditor Deed:

17.6.1 without affecting the liability of the Chargor under this Charge:

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

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

Waiver of Defences

17.7 Neither the obligations of the Chargor under this Charge nor the security constituted by this Charge nor the rights, powers and remedies of the Mezzanine Security Agent provided by or pursuant to this Charge or by law will be affected by an act, omission, matter or thing which, but for this Clause 17.7, would reduce, release or prejudice any of its obligations under this Charge, any of that security or any of those rights, powers and remedies (without limitation and whether or not known to it or the Mezzanine Security Agent) including:

- 17.7.1 any time, waiver or consent granted to, or composition with, any person;
- 17.7.2 the release of any person under the terms of any composition or arrangement with any creditor of any person;
- 17.7.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any 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;
- 17.7.4 any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status of, any person;
- 17.7.5 any variation, amendment, novation, supplement, extension (whether of maturity or otherwise), substitution, restatement (in each case, however fundamental and of whatsoever nature and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in, any facility or the addition of any new facility under any Finance Document or other document or security;
- 17.7.6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document, agreement, account arrangement, transaction, engagement or any other document or security; or

any insolvency or similar proceedings.

18 Certificates and Determinations

18.1 Any certificate or determination by the Mezzanine Security Agent of a rate or an amount under this Charge is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

19 Partial Invalidity

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

20 Remedies and Waivers

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

21 Notices

- 21.1 Any communication to be made under or in connection with this Charge shall be made in accordance with clause 28 (*Notices*) of the Debenture.

22 Assignment

- 22.1 The Mezzanine Security Agent may, in accordance with the terms of the Intercreditor Deed, assign, charge or transfer all or any of its rights under this Charge without the consent of the Chargor. The Mezzanine Security Agent may disclose any information about the Chargor and this Charge as it shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation. The Chargor may not assign, charge, transfer or otherwise dispose of any part of the benefit or burden of this Charge or all or any of its rights under this Charge without prior written consent of the Mezzanine Security Agent.

23 Consent to Registration

- 23.1 The Chargor consents to the registration of this Charge and each certificate referred to in Clause 18 (*Certificates and Determinations*) for preservation and execution.

24 Release of Security

Redemption of security

- 24.1 After the end of the Security Period, or otherwise in accordance with the Mezzanine Securities Purchase Agreement, the Mezzanine Security Agent shall, in accordance with the terms of the Intercreditor Deed and at the request and cost of the Chargor, release, discharge and cancel the security created by or pursuant to this Charge and, if applicable, procure the reassignment, reassignment or retrocession to the Chargor of any property and assets assigned to the Mezzanine Security Agent pursuant to this Charge, in each case subject to Clause 24.2 (*Avoidance of payments*) and without recourse to, or any representation or warranty by, the Mezzanine Security Agent or any of its nominees.

Avoidance of payments

- 24.2 If the Mezzanine Security Agent considers that any amount paid or credited to any Mezzanine Secured Party is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargor under this Charge and the security created by or pursuant to this Charge shall continue and such amount shall not be considered to have been irrevocably paid.

25 Subsequent Security Interests

If the Mezzanine Security Agent (acting in its capacity as trustee or otherwise) or any of the other Mezzanine Secured Parties at any time receives or is deemed to have received notice of any subsequent security affecting all or any part of the Charged Property or any assignment, assignation or transfer of the Charged Property which is prohibited by the terms of this Charge or any other Finance Document, all payments thereafter by or on behalf of the Chargor to the Mezzanine Security Agent (whether in its capacity as trustee or otherwise) or any of the other Mezzanine Secured Parties shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities as at the time when the Mezzanine Security Agent received such notice.

26 Indemnity

The Chargor shall, notwithstanding any release or discharge of all or any part of the security constituted under this Charge, indemnify on a full indemnity basis the Mezzanine Security Agent, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Charge, the exercise or purported exercise of any of the rights and powers conferred on them by this Charge or otherwise relating to the Charged Property.

27 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Charge by the Mezzanine Security Agent or any Receiver may, subject to the terms and conditions of the Intercreditor Deed, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons in so far as applicable under competent law.

28 Delegation

Each of the Mezzanine Security Agent and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Charge (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by the Mezzanine Security Agent or the Receiver itself.

29 No obligations in relation to Charged Property

Subject to the provisions of applicable law, the Mezzanine Security Agent is not obliged to do any of the following in respect of any Charged Property:

- 29.1 perform any obligation of the Chargor;
- 29.2 make any payment;
- 29.3 make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor;
- 29.4 present or file any claim or take any other action to collect or enforce the payment of any amount to which it or the Chargor may be entitled; or
- 29.5 exercise any rights to which it or the Chargor may be entitled.

30 **Protection of third parties**

No person (including a purchaser) dealing with the Mezzanine Security Agent or a Receiver or its or his agents will be concerned to enquire:

- 30.1 whether the Secured Liabilities have become payable;
- 30.2 whether any power which the Mezzanine Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- 30.3 whether any money remains due under the Finance Documents; or
- 30.4 how any money paid to the Mezzanine Security Agent or to that Receiver is to be applied.

31 **Contingencies**

If the Charge is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Mezzanine Security Agent (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account.

32 **Governing Law and Jurisdiction**

Governing law

- 32.1 This Charge and any non-contractual obligations arising out of or in connection with it are governed by the law of Scotland.

Jurisdiction

- 32.2 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Charge (including a dispute relating to the existence, validity or termination of this Charge or any non-contractual obligation arising out of or in connection with this Charge) (a "Dispute").
- 32.3 The parties to this Charge agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly they will not argue to the contrary or take proceedings relating to a Dispute in any other courts.
- 32.4 Clauses 32.2 and 32.3 (*Jurisdiction*) above are for the benefit of the Mezzanine Security Agent only. As a result, the Mezzanine Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Mezzanine Security Agent may take concurrent proceedings in any number of jurisdictions.

Waiver of Immunity

32.5 To the extent that the Chargor may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or decree or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), the Chargor irrevocably agrees not to claim and irrevocably waives such immunity to the fullest extent permitted by the laws of that jurisdiction. **IN WITNESS WHEREOF:** these presents consisting of this and the preceding 23 pages are executed as follows:

THE CHARGOR

SUBSCRIBED (but not delivered until the date of delivery specified at the start of this Charge)
FOR and ON BEHALF OF IDS DATA SERVICES LIMITED


.....
Director – Signature


.....
Director – Print Name

in the presence of:

Witness signature: 

Witness name: Seamus Nicolls

Witness address: 219 Woodborough Rd
Paisley
WS3 4AW

at G2 Anchorage on 2 February 2018
Road, Sutton Coldfield,
B74 2PG