



**Registration of a Charge**

Company name: **CURRENT HEALTH LIMITED**

Company number: **SC481544**



X921Q314

Received for Electronic Filing: **01/04/2020**

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**Details of Charge**

Date of creation: **30/03/2020**

Charge code: **SC48 1544 0002**

Persons entitled: **SILICON VALLEY BANK**

Brief description: **N/A**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**HANNAH WARD**



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

Company number: 481544

Charge code: SC48 1544 0002

The Registrar of Companies for Scotland hereby certifies that a charge dated 30th March 2020 and created by CURRENT HEALTH LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st April 2020 .

Given at Companies House, Edinburgh on 1st April 2020

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

**FLOATING CHARGE**

**by**

**CURRENT HEALTH LIMITED**

**In favour of**

**SILICON VALLEY BANK**

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**MACROBERTS**  
**LLP**

## **Floating Charge**

by

- (1) **CURRENT HEALTH LIMITED**, a private limited company registered in Scotland (registered number SC481544) and having its registered office at 125 Princes Street, Edinburgh, EH2 4AD (hereinafter called the "**Chargor**");

In favour of

- (2) **SILICON VALLEY BANK**, a California corporation, with its principal place of business at 3003 Tasman Drive, Santa Clara, California 95054, USA and with its United Kingdom branch located at Alphabeta, 14-18 Finsbury Square, London EC2A 1BR (the "**Bank**").

### **IT IS AGREED as follows:**

#### **1. DEFINITIONS AND INTERPRETATION**

##### **1.1 Definitions**

In this Floating Charge, unless the context otherwise requires:

**"Administrator"** means any person appointed as an administrator pursuant to paragraph 14 of Schedule B1 to the Insolvency Act;

**"Business Day"** means any day that is not a Saturday, Sunday or a day on which the Bank is closed for general business in London or the State of California;

**"Charged Assets"** means the whole of the property (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of the Chargor.

**"Default Rate"** means 3% per annum above the highest rate of interest applicable to any of the Secured Obligations.

**"Fixed Security"** shall have the meaning given to it in section 486 of the Companies Act 1985;

**"Floating Charge"** means this floating charge.

**"Insolvency Act"** means the Insolvency Act 1986.

**"Loan Agreement"** means the working capital and term loan agreement dated on or about the date of this Floating Charge between Current Health Inc., the Bank, and the Chargor.

**"Loan Documents"** is defined in the Loan Agreement.

**"Obligor"** has the meaning given to that term in the Loan Agreement.

**"Party"** means a party to this Floating Charge.

**"Permitted Security Interests"** is defined in the Loan Agreement.

**"Receiver"** includes any person or persons appointed (and any additional person or persons appointed or substituted) as receiver by the Bank under this Floating Charge and shall include joint Receivers.

**"Secured Obligations"** means all present and future monies, obligations and liabilities of each Obligor to the Bank under or in connection with the Loan Documents and all other present and future liabilities of each Obligor to the Bank, in each case whether actual or contingent, and whether owed or incurred alone or jointly and/or severally with another and as principal or as surety or in any other capacity or of any nature.

**"Security Period"** means the period commencing on the date of this Floating Charge and ending on the date upon which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full.

## 1.2 Terms defined in the Loan Agreement

Words or expressions defined in the Loan Agreement shall unless otherwise defined in this Floating Charge or unless the context otherwise requires, have the same meaning when used in this Floating Charge. In the event of any conflict between the terms of this Floating Charge and the terms of the Loan Agreement, this Floating Charge will prevail.

## 1.3 Interpretation

Unless a contrary indication appears, any reference in this Floating Charge to:

- (a) **"assets"** includes present and future properties, revenues and rights of every description
- (b) the Bank, the Chargor, an Obligor or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (c) the **"Charged Assets"** or the **"Secured Obligations"** includes a reference to any part of them or it;
- (d) Clause and Schedule headings are for ease of reference only;
- (e) this **"Floating Charge"**, each **"Loan Document"**, the **"Loan Agreement"** or any other agreement or instrument is a reference to this Floating Charge, each Loan Document or that other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced and includes any change in the purpose of, any extension of or any increase in, any facility under that Loan Document or other agreement or instrument;
- (f) the masculine gender includes the feminine and neuter genders and the singular includes the plural and vice versa;
- (g) 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);
- (h) a provision of law is a reference to that provision as amended or re-enacted;
- (i) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
- (j) **"security"** means a mortgage, standard security, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

## 1.4 Security Document

This Floating Charge is designated as a Security Document for the purposes of (and as defined in) the Loan Agreement.

## **2. PAYMENT OF SECURED OBLIGATIONS**

### **2.1 Undertaking to pay**

The Chargor undertakes to the Bank that it will pay and discharge to the Bank the Secured Obligations on the due date and in the currency specified and otherwise in all respects in the manner provided in the Loan Agreement and in this Floating Charge.

## **3. FLOATING CHARGE**

### **3.1 Floating Charge**

As continuing security for the payment or discharge of the Secured Obligations until the Security Period has ended, the Chargor hereby grants in favour of the Bank a floating charge over the Charged Assets.

### **3.2 Priority**

- (a) The floating charge created by Clause 3.1 above shall rank in priority to (i) any Fixed Security (other than any Fixed Security granted by the Chargor in favour of the Bank which shall rank in priority to the floating charge created by Clause 3.1) and (ii) any other floating charge, except for the floating charge granted by the Chargor pursuant to the Debenture which shall rank *pari passu* with the floating charge created by Clause 3.1.
- (b) The Chargor shall not, without the prior written consent of the Bank or unless permitted in terms of the Loan Agreement, create or permit to exist any Fixed Security or floating charge over all or any part of the Charged Assets except for any Fixed Security granted by the Chargor in favour of the Bank and the Debenture.
- (c) In the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in clause 3.2(b) or with the consent of Bank under clause 3.2(b) but with no written agreement of the Bank as to the ranking of the charges, this Floating Charge shall rank in priority to that Fixed Security or floating charge.

### **3.3 Qualifying Floating Charge**

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by Clause 3.1 (*Floating charge*) so that the floating charge created by Clause 3.1 (*Floating charge*) shall be a "qualifying floating charge" for the purposes of that paragraph.

### **3.4 Continuing Security**

The security from time to time created by or pursuant to this Floating Charge shall:

- (a) be in addition to and independent of every bill, note, guarantee, or other security which the Bank may at any time hold for the Secured Obligations and no prior or other security held by the Bank over the Charged Assets shall merge in the security created by or pursuant to this Floating Charge; and
- (b) remain in full force and effect as a continuing security until the end of the Security Period.

### **3.5 Contracts or documents**

If the rights of the Chargor under any contract or document cannot be secured without the consent of a party to that contract or document:

- (a) the Chargor must promptly notify the Bank;

- (b) the security created by this Floating Charge will include all amounts which the Chargor may receive or has received under that contract or document but, to the extent that contract or document cannot be secured, will exclude the contract or document itself; and
- (c) the Chargor must use reasonable endeavours to obtain the consent of the relevant person to that contract or document being secured under this Floating Charge.

#### **4. RESTRICTIONS ON DEALINGS**

##### **4.1 Negative Pledge**

The Chargor shall not at any time without the prior written consent of the Bank (and to the intent that any purported dealing in contravention of this Clause 4.1 (*Negative pledge*) shall be void and of no effect):

- (a) create, or purport to create, extend or permit to subsist any security over any of its undertaking or assets whether in any such case ranking in priority to or *pari passu* with or after the security created by the Chargor under this Floating Charge or any other security of the Bank created pursuant to this Floating Charge other than the Permitted Security Interests; or
- (b) sell, transfer, lease, lend or otherwise dispose of whether by means of one or a number of transactions related or not and whether at one time or over a period of time, the whole or any part of the Charged Assets or enter into an agreement for sale, transfer, lease, loan or other disposal of the whole or any such part of the Charged Assets other than:
  - (i) as permitted by the Loan Agreement; or
  - (ii) a sale, transfer, lease or other disposal on arm's length terms in the ordinary course of trading of the Chargor of any Charged Assets.

#### **5. PERFECTION OF THE BANK'S SECURITY**

##### **5.1 Further Assurance**

- (a) The Chargor shall from time to time during the Security Period, whenever reasonably requested by the Bank and at the Chargor's cost, execute in favour of the Bank, or as it may direct, charges or securities as in each such case the Bank shall reasonably stipulate over the Chargor's estate or interest in any property or assets of whatever nature or tenure and wherever situate and forming part of the Charged Assets for perfecting the security intended to be created by this Floating Charge and for facilitating the realisation of the Charged Assets created or intended to be created under this Floating Charge.
- (b) Without prejudice to the generality of paragraph (a) above, such documents, charges or securities shall be in such form as shall be prepared in reasonable terms on behalf of the Bank and may contain provisions such as those contained in this Floating Charge or provisions to similar effect and/or such other provisions of whatever kind as the Bank shall reasonably consider requisite for the improvement or perfection of the security created or intended to be created by or pursuant to this Floating Charge.

##### **5.2 Deposit of documents**

The Chargor shall promptly upon the execution of this Floating Charge (or upon becoming possessed of them at any time after the date of this Floating Charge) deposit with the Bank all deeds, certificates and other documents constituting or evidencing title to the Charged Assets, all certificates of registration or constituting or evidencing the Chargor's interest from time to



time in the Charged Assets and such other documents relating to the Collateral as the Bank may from time to time require.

### **5.3 Affixing of notices**

The Chargor shall during the Security Period, whenever reasonably requested by the Bank and at the Chargor's cost, affix to such items of the Charged Assets or register, endorse or cause to be registered or endorsed on such documents as are referred to in Clause 5.2 (*Deposit of documents*) as the Bank shall in each case stipulate, labels, signs or memoranda in such form as the Bank shall reasonably require referring or drawing attention to the security created by or pursuant to this Floating Charge.

## **6. INSURANCE**

### **6.1 Required Cover**

The Chargor shall at all times during the Security Period comply with Clause 17.3 (*Insurance*) of the Loan Agreement and, in particular, with all covenants, undertakings and conditions as to insurance of the Charged Assets including as required by the terms of any lease, agreement for lease or tenancy granted by the Chargor or to which any of the Charged Assets is for the time being subject or under which the Chargor derives its estate or interest in such Charged Assets and, subject to that and so far as this Clause 6.1 (*Insurance*) is not inconsistent with the terms of any such lease, agreement for lease or tenancy, the Chargor shall at all such times:

- (a) procure that there are maintained such insurances as are normally maintained by prudent persons carrying on similar businesses to the Chargor and which may be reasonably required by the Bank including, without limitation, insurance against liability to third parties arising out of the ownership or occupation of the Charged Assets or its state or condition;
- (b) duly and punctually pay all premiums and other moneys payable under all such insurances and, as soon as reasonably practicable following written request by the Bank, produce to the Bank the premium receipts or other evidence of the payment of premiums;
- (c) if required by the Bank, deposit or procure to be deposited all policies and other contracts of insurance relating to the Charged Assets with the Bank or produce the same to the Bank for inspection;
- (d) unless the Bank otherwise agrees in writing, procure that the policies of insurance of the Charged Assets are endorsed with notice of the Bank's interest and provide for payment of any claim to be made directly to the Bank;
- (e) unless otherwise approved in writing by the Bank, every such policy shall contain (i) a standard creditor protection clause providing that such insurance shall not be vitiated or avoided as against a mortgagee in the event or as a result of any misrepresentation, act or neglect or failure to make disclosure on the part of the insured party or in any circumstances beyond the control of the insured party and (ii) terms providing that it shall not be invalidated so far as the Bank is concerned by failure to pay any premium due or otherwise cancelled without the insurers first giving to the Bank not less than 20 days written notice; and
- (f) if any part of the Charged Assets are held by the Chargor under a lease or subject to prior security permitted by this Floating Charge, this Clause 6 (*Insurance*) shall apply to the extent compatible with the terms of the relevant lease or prior security.

## **6.2 Bank's right to insure**

If the Chargor fails to comply with Clause 6.1 (*Required cover*) after the Bank has required the Chargor to do so in writing the Bank may, but is not obliged to, insure and keep insured the Charged Assets either in its own name or in its name and that of the Chargor jointly or in the name of the Chargor with an endorsement of the Bank's interest save that the Bank shall not be entitled under this Clause 6.2 (*Bank's right to insure*) to insure against loss of profits. The monies expended by the Bank on so effecting or renewing any such insurance shall be reimbursed by the Chargor to the Bank on demand and until so reimbursed shall carry interest from the date of payment to the date of reimbursement at the Default Rate.

## **6.3 Trust**

All claims and monies received or receivable under any such insurance as mentioned above shall be held by the Chargor in trust for the Bank and shall be applied by the Chargor in repaying or reducing the Secured Obligations, or if the Bank shall so require, in repairing, replacing, restoring or rebuilding the assets damaged or destroyed.

## **6.4 No avoidance of insurance**

The Chargor shall not do any act or commit any default by which any policy of insurance may become void or voidable

## **6.5 Payment of proceeds**

The Chargor shall not do any act or commit any default by which the Bank or the Chargor (as the case may be) may be prevented from receiving all monies payable under any policy of insurance relating to the Charged Assets and shall ensure that all sums at any time payable under any of such policies of insurance of the Charged Assets shall be paid to the Bank or as the Bank shall direct.

# **7. UNDERTAKINGS BY THE CHARGOR**

The Chargor shall at all times during the Security Period comply with the undertakings contained in this Clause 7 (*Undertakings by the Chargor*).

## **7.1 Information**

The Chargor shall provide the Bank, its employees, professional advisers and agents with all such information respecting the Chargor's business and affairs as the Bank may reasonably from time to time require subject always to the Bank adhering to its duty of confidentiality (including, without limitation, pursuant to Clause 29 (*Confidentiality*) of the Loan Agreement) in respect of such information.

## **7.2 Pay Outgoings**

The Chargor shall punctually pay or cause to be paid all rents, rates, taxes, duties, assessments and other outgoings payable in respect of the Charged Assets.

## **7.3 Indemnity against outgoings**

The Chargor shall indemnify the Bank (and as a separate undertaking any Receiver or administrator appointed by it) against all existing and future rents, taxes, duties, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever (whether imposed by deed or statute or otherwise and whether in the nature of capital or revenue and even though of a wholly novel character) which now or at any time during the Security Period are payable in respect of the Charged Assets. If any such sums as are referred to in this Clause 7.3 (*Indemnity against outgoings*) shall be paid by the Bank (or any such Receiver or administrator) the same shall be repaid by the Chargor on demand with interest from the time or respective times of the same having been paid at the Default Rate.

#### **7.4 Comply with statutory provisions**

The Chargor shall comply or cause compliance in all respects with all laws and regulations (whether domestic or foreign) for the time being in force and requirements of any competent authority relating to the Charged Assets and in particular (but without limitation) shall observe and perform or cause to be observed and performed all planning laws, permissions, agreements and conditions to which the Charged Assets is subject, and before the Chargor serves any discretionary notices the Chargor will obtain the Bank's consent.

#### **7.5 VAT**

The Chargor shall not without the prior written consent of the Bank exercise any option to waive exemption from VAT in relation to the Charged Assets and shall give to the Bank on demand all such details of the Chargor's registration for VAT purposes as the Bank shall require.

#### **7.6 Supply details of notices received**

The Chargor shall give full particulars to the Bank of any notice or order or proposal for a notice or order made, given or issued to the Chargor under or by virtue of any statute including (without limitation) planning laws, within fourteen days of receipt of such notice, order or proposal by the Chargor and, if so required by the Bank, shall produce such notice, order or proposal to the Bank or its agents and also as soon as practicable take all reasonable and necessary steps to comply with any such notice, order or proposal or (if required to do so by the Bank) to join with the Bank at the cost of the Chargor in making such representation or appeals as the Bank may deem fit in respect of any such notice, order or proposal and (without limitation) at all times during the Security Period to give to the Bank or its agents such information as they shall reasonably require as to all matters relating to the Charged Assets.

#### **7.7 Notify material matters**

The Chargor shall notify the Bank of any matters materially affecting the value, enforceability or collectability of the Charged Assets and of all material disputes, counterclaims, returns and rejections by or of customers of the Chargor.

#### **7.8 Not to jeopardise the Charged Assets**

The Chargor shall not do or cause or permit to be done anything which may depreciate, jeopardise or otherwise prejudice the value to the Bank of the Charged Assets.

#### **7.9 COMI**

The Chargor shall maintain its "centre of main interests" as defined in, and for the purposes of, Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) ("Recast Insolvency Regulation"), in the United Kingdom and the Chargor has no "establishment" (as that term is defined in Article 2(10) of the Recast Insolvency Regulation) in any other jurisdiction.

### **8. ENFORCEMENT**

The security created by this Floating Charge shall, for all purposes, become immediately enforceable upon the Bank demanding the payment or discharge of all or any part of the Secured Obligations.

### **9. APPOINTMENT OF RECEIVER OR ADMINISTRATOR**

#### **9.1 Appointment and Removal**

Without prejudice to the provisions of the Insolvency Act, at any time after having been requested to do so by the Chargor in writing or upon the Security created by this Floating Charge becoming enforceable in accordance with Clause 8 (*Enforcement*) or at any time thereafter, the Bank may by instrument in writing, without prior notice to the Chargor:

- 9.1.1 (subject to section 72A of the Insolvency Act) appoint one or more persons to be a Receiver of the whole or any part of the Charged Assets;
- 9.1.2 remove (so far as it is lawfully able) any Receiver so appointed;
- 9.1.3 appoint another person(s) as an additional or replacement Receiver(s); and
- 9.1.4 appoint one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B1 to the Insolvency Act.

Nothing in this Clause 9.1 shall restrict the exercise by the Bank of any one or more of the rights of the Bank under Schedule B1 to the Insolvency Act and the rules thereunder or at common law.

## **9.2 Receiver as agent of the Chargor**

A Receiver shall be the agent of the Chargor and, except as otherwise required by the Insolvency Act, the Chargor shall be solely responsible for his acts and defaults and liable on any contract or engagements made or entered into or adopted by him.

## **9.3 Powers of Administrator or Receiver**

An Administrator shall have all the rights, the statutory powers and discretions conferred on an administrator under the Insolvency Act. A Receiver shall have (and be entitled to exercise in such manner and on such terms as he may in his absolute discretion think fit) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Floating Charge):

- 9.3.1 all of the powers of a receiver set out in Schedule 2 to the Insolvency Act;
- 9.3.2 power to sell (whether by public auction or private contract or otherwise) all or any of the Charged Assets on any terms and for any consideration (including without limitation for deferred consideration or a consideration payable wholly or partly in instalments or consisting in whole or in part of shares or securities of any other company or of any other non-cash asset);
- 9.3.3 power to grant any lease or tenancy or right of or affecting the Charged Assets for any term or terms of years at any or no rent and with or without any premium and accept the surrender of any lease or tenancy or right and give a valid receipt for any premium payable on any such grant or surrender and to amend or vary any lease, licence agreement or other arrangement in any way relating to or affecting the Charged Assets;
- 9.3.4 power to grant options to sell, lease, licence or dispose of the Charged Assets;
- 9.3.5 power to enter on or otherwise take possession of the Charged Assets to repair, convert, manufacture, process, decorate, alter, renew, improve, add to or develop or to complete any development or building which may be unfinished and to settle, compound, compromise or submit to arbitration any accounts or claims arising out of the commencement, carrying on or completion of any such development or building;
- 9.3.6 power to redeem any mortgage, charge or other encumbrance on, over or affecting the Charged Assets or any part of it;
- 9.3.7 power to repair, renew or improve plant, machinery, implements, furniture, equipment and other effects of the Chargor in or on the Charged Assets;
- 9.3.8 power to settle or compromise or submit to arbitration any claim or claims on or against the Charged Assets or claim or dispute arising out of the Charged Assets;
- 9.3.9 power to disclaim, abandon or disregard all or any of the outstanding contracts of the Chargor and to allow time for payment by or to the Chargor of any debts either with or without security;

- 9.3.10 power to exercise all powers, rights and/or obligations under any contract or agreement forming part of the Charged Assets including, without limitation, all voting and other rights attaching to stocks, shares and other securities owned by the Chargor;
- 9.3.11 power to convene an extraordinary general meeting of the Chargor;
- 9.3.12 power to exercise all powers conferred by the Insolvency Act on receivers appointed in England and Wales in respect of any of the Charged Assets located in England and Wales;
- 9.3.13 power to manage and carry on or concur in managing or carrying on upon the Charged Assets any type of trade or business and to enter and perform such contracts and arrangements and incur any obligations in relation thereto;
- 9.3.14 power to make or exercise an election pursuant to paragraphs 2 and 3 of Schedule 10 to the Value Added Tax Act 1994 in relation to the Charged Assets or exercise any option or right of election available to the Chargor or the Bank or the Receiver that the supplies made in respect of any lease or tenancy of any part of the Charged Assets shall be supplies chargeable or taxable for value added tax purposes at the standard or other applicable rate provided always that neither the Bank nor the Receiver shall be liable for any loss suffered by the Chargor as a result and to execute all documents, and perform such acts or things as a result and to execute all documents, and perform such acts or things as maybe necessary to permit any disposal of the Charged Assets to be zero-rated for the purposes of value added tax;
- 9.3.15 power to exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Asset; and
- 9.3.16 power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Floating Charge or upon receivers by the statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargor; the preservation, improvement, collection and/or realisation of Charged Assets; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).

#### **9.4 Discretions**

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

#### **9.5 Powers may be restricted**

The powers granted to a Receiver pursuant to this Floating Charge may be restricted by the instrument (signed by the Bank) appointing him but they shall not be restricted by any winding-up or dissolution of the Chargor.

#### **9.6 Several Power**

Where more than one Receiver is appointed, each Receiver has the power to act severally unless the Bank specifies otherwise in the appointment of such Receiver.

#### **9.7 Powers Exercisable by the Bank**

- 9.7.1 The Bank may exercise all powers granted to a Receiver by this Floating Charge, whether as attorney of the Chargor or otherwise.
- 9.7.2 The powers of an Administrator and a Receiver set out above are in addition to, and without prejudice to, all statutory and other powers of the Bank and so that, without

limitation, such powers are and remain exercisable by the Bank in respect of that part of the Charged Assets in respect of which no appointment of an Administrator or a Receiver by the Bank is from time to time subsisting.

#### **9.8 Protection of the Bank and Receiver**

Neither the Bank nor any Receiver or Administrator shall be liable to the Chargor in respect of any loss or damage which arises out of the exercise, the attempted exercise or the failure to exercise any of their respective powers or for any other loss of any nature whatsoever, except in the case of gross negligence or wilful default.

### **10. OTHER MATTERS RELATING TO ENFORCEMENT**

#### **10.1 Consideration on disposal**

- (a) In making any sale or other disposal of any of the Charged Assets in the exercise of their respective powers the Receiver or the Bank may accept, by way of consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including without limitation consideration fluctuating according to or dependent upon profit or turnover and consideration the amount of which is to be determined by a third party.
- (b) Any such consideration may be receivable in a lump sum or by instalments and upon receipt by the Receiver shall automatically be and become charged with the payment of the Secured Obligations.
- (c) Any contract for any such sale or other disposal by the Receiver or the Bank may contain conditions excluding or restricting the personal liability of the Receiver or the Bank.
- (d) Plant, machinery and other fixtures may be severed and sold in the exercise of their respective powers by the Receiver or the Bank separately from the premises to which they are attached without any consent being obtained from the Chargor.

#### **10.2 Application of proceeds**

All monies received by the Bank or any Receiver or administrator appointed under this Floating Charge shall (subject to the rights and claims of any person having a security ranking in priority to the security created by or pursuant to this Floating Charge, or as otherwise required by law) be applied in the following order:

- (a) in the payment of or provision for all costs, charges and expenses incurred and payments made by the Bank and in the payment of all costs, charges and expenses of and incidental to the Receiver's or (as the case may be) administrator's appointment and the payment of his remuneration;
- (b) in the payment and discharge of any liabilities incurred by the Receiver or administrator on the Chargor's behalf in the exercise of any of the powers of the Receiver or administrator;
- (c) in or towards payment of any debts or claims which are by statute payable in preference to the Secured Obligations but only to the extent to which such debts or claims have such preference;
- (d) in or towards the satisfaction of the Secured Obligations,

and any surplus shall be paid to the Chargor or other person entitled to it.

#### **10.3 Right of appropriation**

To the extent that the Charged Assets constitute "financial collateral" and this Floating Charge and the obligations of the Chargor under it 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 No. 3226) or (where the context admits) equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements), the Bank and each Receiver shall have the right at any time after this Floating Charge has become enforceable to appropriate all or any part of such financial collateral in or towards satisfaction of the Secured Obligations. For the purposes of this Clause 10.3 (*Right of appropriation*) the value of the financial collateral appropriated shall be such amount as the Bank or the Receiver determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

#### **10.4 No liability as creditor in possession**

The Bank shall not, nor shall any Receiver, by reason of it or such Receiver entering into possession of the Charged Assets be liable to account as creditor in possession or be liable for any loss on realisation or for any default or omission which a creditor in possession might be liable except for its gross negligence or wilful misconduct.

### **11. EXPENSES**

#### **11.1 Expenses of preservation and enforcement**

All costs, charges and expenses incurred and all payments made by the Bank or any Receiver or administrator appointed under this Floating Charge in the preservation of any rights under this Floating Charge or in the lawful exercise of the rights or powers conferred by this Floating Charge or by law or in the enforcement of any guarantee in respect of the Secured Obligations, whether or not occasioned by any act, neglect or default of the Chargor, shall carry interest (both before and after judgment) at the Default Rate from the date incurred until the date the same are unconditionally and irrevocably paid and discharged in full.

#### **11.2 Interest**

The amount of such costs, charges, expenses and payments and interest referred to in Clause 11.1 (*Expenses of preservation and enforcement*) and all remuneration payable under this Floating Charge shall be payable by the Chargor on demand. All such costs, charges, expenses and payments shall be paid and charged as between the Bank and the Chargor on the basis of a full indemnity and not on the basis of party and party or any other kind of taxation.

#### **11.3 Indemnity**

The Bank and every Receiver, administrator, attorney, manager, agent or other person appointed by the Bank under this Floating Charge shall be entitled to be indemnified out of the Charged Assets in respect of all liabilities and expenses properly incurred by them in the execution or purported execution of any of the powers, authorities or discretions vested in them pursuant to this Floating Charge and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets and the Bank and any such Receiver or administrator may retain and pay all sums in respect of the same out of any monies received under the powers conferred by this Floating Charge.

#### **11.4 Stamp duties**

The Chargor shall pay and, immediately on demand, indemnify the Bank against any liability it incurs in respect of any stamp, registration and similar tax or duty which is or becomes payable in connection with the entry into, performance or enforcement of this Floating Charge.

## **12. POWER OF ATTORNEY**

### **12.1 Appointment and power**

The Chargor irrevocably appoints:

- (a) the Bank;
- (b) each and every person whom the Bank shall from time to time nominate in writing under the hand of any officer of the Bank;
- (c) each and any Receiver for the time being holding office as such; and
- (d) each and any administrator appointed by the Bank and for the time being holding office as such,

jointly and also severally its attorney and attorneys for it and in the name of the Chargor and otherwise on its behalf and as its act and deed to sign, seal, execute, deliver, perfect and do all deeds, instruments, acts and things which are required (or which the Bank or any such Receiver or administrator shall reasonably consider requisite) for carrying out any obligation imposed on the Chargor by or pursuant to this Floating Charge or the Loan Agreement (including but not limited to the obligations of the Chargor under Clause 5.1 (*Further assurance*)), for carrying any sale, lease or other dealing by the Bank or such Receiver or administrator into effect, for conveying or transferring any legal estate or other interest in land or other property or asset, for getting in the Collateral, to endorse the Chargor's name on cheques and other forms of payment or security, to sign the Chargor's name on any invoice or bill of lading or draft and generally for enabling the Bank and the Receiver or administrator to exercise the respective powers conferred on them by or pursuant to this Floating Charge or by law provided that the power conferred by this Clause 12.1 (*Appointment and powers*) shall be immediately exercisable at any time after the security constituted by this Floating Charge has become enforceable and not before.

### **12.2 Delegation**

The Bank shall have full power to delegate the power conferred on it by Clause 12.1 (*Appointment and powers*), but no such delegation shall preclude the subsequent exercise of such power by the Bank itself or preclude the Bank from making a subsequent delegation to some other person; and any such delegation may be revoked by the Bank at any time.

### **12.3 Ratification**

The Chargor shall ratify and confirm all transactions entered into by the Bank or such Receiver or administrator or delegate of the Bank in the exercise or purported exercise of their respective powers and all transactions entered into, documents executed and things done by any of them by virtue of the power of attorney given by Clause 12.1 (*Appointment and powers*).

### **12.4 Expenses**

All money properly and reasonably expended by any such attorney shall be deemed to be expenses incurred by the Bank under this Floating Charge.

## **13. PROTECTION OF PURCHASERS**

No purchaser or other person dealing with the Bank or its delegate or any Receiver or administrator appointed under this Floating Charge shall be bound to see or inquire whether the right of the Bank or such Receiver or administrator to exercise any of its or his powers has arisen or become exercisable or be concerned with notice to the contrary, or be concerned to see whether any such delegation by the Bank shall have lapsed for any reason or been revoked.



**14. SUBSEQUENT CHARGES**

If the Bank receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent security or other interest affecting any part of the Charged Assets and/or the proceeds of sale of any part of the Charged Assets, the Bank may open a new account for the Chargor. If the Bank 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 notice. As from that time all payments made to the Bank will be credited or be treated as having been credited to the new account and will not operate to reduce any amount for which this Floating Charge is security.

**15. REDEMPTION OF PRIOR SECURITY**

The Bank may, at any time after the security created by this Floating Charge has become enforceable, redeem any prior security against the Charged Assets or procure the transfer of such prior security to itself and may settle and pass the accounts of the prior security holder. Any accounts so settled and passed shall be conclusive and binding on the Chargor. All principal monies, interest, costs, charges and expenses of, and incidental to, such redemption and transfer shall be paid by the Chargor to the Bank on demand.

**16. SET-OFF****16.1 Consolidation of accounts**

In addition to any general lien or similar right which it may be entitled to exercise at any time under any contract or arrangement with the Chargor or by operation of law, the Bank shall have the right at any time after this Floating Charge has become enforceable without notice to the Chargor to combine or consolidate all or any of the Chargor's then existing accounts opened pursuant to this Floating Charge or otherwise with the Bank with any liabilities of the Chargor to the Bank and to set off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities of the Chargor to the Bank on any other such account or in any other respect. The liabilities referred to in this Clause 16.1 (*Consolidation of accounts*) may be actual, contingent, primary, collateral, several or joint liabilities, and the accounts, sums and liabilities referred to in this Clause may be denominated in any currency.

**16.2 Set-off**

In addition to any right which it may be entitled to exercise at any time under any contract or arrangement with the Chargor or by operation of law, after this Floating Charge has become enforceable the Bank may set off any Secured Obligations due and payable by the Chargor against any obligation (whether or not matured) owed by the Bank to the Chargor regardless of the place of payment or currency of either obligation. If the obligations are in different currencies, the Bank may convert any obligation in the manner provided in Clause 18 (*Currency*).

**17. PAYMENTS****17.1 Manner of payment**

All payments to be made by the Chargor under this Floating Charge shall be made in the same currency in which the relevant Secured Obligations are expressed to be payable.

**17.2 Appropriation of payments**

The Bank shall have an absolute and unfettered right to appropriate any payments received from the Chargor to such indebtedness of the Chargor under the Loan Documents as the Bank may determine, to the exclusion of any right on the part of the Chargor to make an appropriation in respect of such payments.

**18. CURRENCY****18.1 Currency indemnity**

If any sum due from the Chargor under this Floating Charge (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (a) making or filing a claim or proof against the Chargor; or
- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Chargor shall as an independent obligation, within three Business Days of demand, indemnify the Bank against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (ii) the rate or rates of exchange available to the Bank at the time of its receipt of that Sum.

**18.2 Waiver**

The Chargor waives any right it may have in any jurisdiction to pay any amount under this Floating Charge in a currency other than that in which it is expressed to be payable.

**19. SUSPENSE ACCOUNT**

For so long as any of the Secured Obligations are outstanding, all monies received, recovered or realised by the Bank under this Floating Charge (including the proceeds of any conversion of currency) may in the discretion of the Bank be credited to an interest bearing suspense or impersonal account and may be held in such account for so long as the Bank may think fit.

**20. THE BANK'S REMEDIES****20.1 Effect of release**

Any receipt, release or discharge of the security provided by, or of any liability arising under, this Floating Charge shall not release or discharge the Chargor from any liability to the Bank for the same or any other liability which may exist independently of this Floating Charge.

**20.2 Arrangements with third parties**

The Bank may in its discretion grant time or other indulgence, or make any other arrangement, variation or release with, any person or persons not party to this Floating Charge (whether or not such person or persons are jointly liable with the Chargor) in respect of any of the Secured Obligations or of any other security for, or guarantee in respect of, the Secured Obligations, without prejudice either to the security created by or pursuant to this Floating Charge or to the liability of the Chargor for the Secured Obligations or the exercise by the Bank of any rights, remedies and privileges conferred upon it by this Floating Charge.

**20.3 Rights cumulative**

The rights, powers and remedies provided in this Floating Charge are cumulative and are not, nor are they to be construed as, exclusive of any rights, powers or remedies provided by law, or under any other document or agreement.

**20.4 Waiver**

No failure by the Bank to exercise, or delay in exercising, any right or remedy provided by this Floating Charge or by law, shall operate as a waiver of such right or remedy, nor shall any single or partial waiver of any right or remedy preclude any further or other exercise of that right or remedy or the exercise of any other such right or remedy.

**20.5 Costs**

All the costs, charges and expenses of the Bank reasonably and properly incurred in relation to the negotiation, preparation, printing, execution, registration and perfection of this Floating Charge shall be reimbursed by the Chargor to the Bank within five Business Days of demand on a full indemnity basis and unless so paid shall carry interest from the date incurred to the date of reimbursement at the Default Rate.

**20.6 Insolvency relation back**

- (a) Any settlement or discharge between the Bank and the Chargor shall be conditional upon no security of, or payment to, the Bank (whether by the Chargor or otherwise) being avoided or reduced or required to be paid away by virtue of any requirement (whether or not having the force of law) or enactment, whether relating to bankruptcy, insolvency, liquidation, administration or otherwise, at any time in force or by virtue of any obligation to give effect to any preference or priority and the Bank shall be entitled to recover the value or amount of any such security or payment from the Chargor as if such settlement or discharge had not occurred.
- (b) If the Bank reasonably considers that an amount paid by the Chargor (or any other person) to the Bank under any contract or agreement giving rise to, concerning or securing the Secured Obligations is capable of being avoided or set aside on the winding-up or administration of the Chargor or such other person or otherwise then that amount shall not be considered to have been irrevocably paid for the purposes of this Floating Charge.

**21. PROVISIONS SEVERABLE**

Every provision contained in this Floating Charge shall be severable and distinct from every other provision and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining such provisions shall not in any way be affected.

**22. THE BANK'S DISCRETION**

Subject to any provision expressly to the contrary and subject to any duty imposed by general law, any power which may be exercised or any determination which may be made under this Floating Charge by the Bank may be exercised or made in the absolute and unfettered discretion of the Bank.

**23. CERTIFICATES**

Any certification or determination by the Bank of a rate or amount under this Floating Charge is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**24. ASSIGNATION**

- (a) The Bank shall be entitled at any time to assign all or any of its rights and benefits under this Floating Charge to any person to whom the rights and benefits of the Bank under the Loan Agreement are assigned or transferred in accordance with its terms and this Floating Charge shall remain in full force and effect after, and shall continue to secure the Secured Obligations after and resulting from, any such assignation or transfer.
- (b) The Chargor shall enter into any documents specified by the Bank to be necessary to give effect to any assignation or transfer contemplated by paragraph (a) of this Clause 24 (*Assignment*).
- (c) The Bank may disclose such information about the Chargor and the assets as the Bank thinks fit to a potential assignee or transferee of all or any part of its rights under this Floating Charge, or to any person who may otherwise enter into contractual relations with the Bank in relation to any of the Secured Obligations, or to any person

to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation, or to any person at any time after the security created by this Floating Charge has become enforceable or the disclosure is in connection with the protection or enforcement of the Bank's rights under this Floating Charge.

- (d) The Chargor may not assign or transfer all or any part of its rights and/or obligations under this Floating Charge.

## **25. RELEASE**

Upon the expiry of the Security Period (but not otherwise), the Bank will, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Assets from the security created by this Floating Charge.

## **26. THIRD PARTY RIGHTS**

Unless expressly provided to the contrary in this Floating Charge, a person who is not a party to this Floating Charge has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or enjoy the benefit of any term of this Floating Charge. Notwithstanding any provision of this Floating Charge, the consent of any person who is not a party to this Floating Charge is not required to rescind or vary this Floating Charge at any time.

## **27. NOTICES**

Any notice or other communication to be made under or in connection with this Floating Charge or by applicable law shall be made as provided in the Loan Agreement.

## **28. GOVERNING LAW**

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

## **29. ENFORCEMENT**

### **29.1 Jurisdiction of Scottish Courts**

- (a) The Scottish courts have exclusive jurisdiction to settle any dispute arising out of or in connection with this Floating Charge (including a dispute relating to the existence, validity or termination of this Floating Charge or any non-contractual obligation arising out of or in connection with this Floating Charge) (a "Dispute").
- (b) The Parties agree that the Scottish courts are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

- (c) This Clause 29 (*Enforcement*) is for the benefit of the Bank only. As a result, the Bank is not prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

### 30. CONSENT TO REGISTRATION

The Chargor consents to registration hereof for preservation and execution: IN WITNESS WHEREOF these presents consisting of this and the preceding sixteen pages are executed as follows:-

**SUBSCRIBED** for and on behalf of  
**CURRENT HEALTH LIMITED**

at Edinburgh

on 25 March 2020 and 26 March 2020

By

Christopher McCann

.....  
Print full name

DocuSigned by:



.....  
Director

By

Stewart Whiting

.....  
Print full name

DocuSigned by:



.....  
Director

Date of Delivery: 30 March 2020