



Registration of a Charge

Company name: **NORTHWIND 5S LIMITED**

Company number: **SC642659**



X8HNZZZM

Received for Electronic Filing: **06/11/2019**

Details of Charge

Date of creation: **31/10/2019**

Charge code: **SC64 2659 0001**

Persons entitled: **INFLEXION PRIVATE EQUITY LIMITED AS SECURITY AGENT**

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 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:

DAVID PARRY



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 642659

Charge code: SC64 2659 0001

The Registrar of Companies for Scotland hereby certifies that a charge dated 31st October 2019 and created by NORTHWIND 5S LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th November 2019 .

Given at Companies House, Edinburgh on 6th November 2019

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

Dated: 31 October 2019 2019

- (1) **NORTHWIND 5S LIMITED** as Chargor
- (2) **INFLEXION PRIVATE EQUITY LIMITED** as Security Agent
-

Floating Charge

relating to the property of **NORTHWIND 5S LIMITED**

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THIS FLOATING CHARGE with date of delivery 31 October 2018 is made by

- (1) **NORTHWIND 5S LIMITED**, registered in Scotland (registered number SC642659) and having its registered office at George House, 50 George Square, Glasgow, Lanarkshire, Scotland, G2 1EH (the "**Chargor**")

in favour of

- (2) **INFLEXION PRIVATE EQUITY LIMITED** as security trustee for the Secured Parties (the "**Security Agent**")

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Floating Charge each of the following expressions has, except so far as the context otherwise requires, the meaning shown opposite it:

"**Debenture**" means the debenture dated on or about the date of this Floating Charge between, amongst others, the Chargor and the Security Agent as amended, varied, novated, restated or supplemented from time to time.

"**Debt Document**" has the meaning given in Intercreditor Agreement.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

"**Event of Default**" has the meaning given in the Loan Note Documents.

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

"**Intercreditor Agreement**" means an intercreditor deed dated on or about the date of this Floating Charge and entered into between, amongst others, (1) Inflexion Private Equity Limited as Security Agent, (2) the parties named therein as Original Senior Loan Noteholders, (3) the parties named therein as Original A2 Loan Noteholders, (4) the parties named therein as Original B Loan Noteholders and (5) Northwind 5S Limited as Original Debtor.

"**Loan Note Documents**" has the meaning given in the Intercreditor Agreement.

"**Permitted Disposal**" means any sale, lease, licence, transfer or other disposal which is on arm's length terms:

- (a) of trading stock or cash made by the Chargor in the ordinary course of trading;
- (b) of assets (other than shares, businesses, Real Property (as defined in the Debenture) in any jurisdiction (including land whether registered or unregistered in Scotland) or Intellectual Property (as defined in the Debenture)) in exchange for other assets comparable or superior as to type, value and quality (other than an exchange of a non-cash asset for cash);
- (c) of obsolete or redundant vehicles, plant and equipment for cash;
- (d) of assets (other than shares) for cash where the higher of the market value and net consideration receivable (when aggregated with the higher of the market value and net consideration receivable for: (i) any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs and; (ii) any disposals permitted under paragraph (d) of the definition of "Permitted Disposal" in the Debenture) does not exceed £150,000 (or its equivalent) in any Financial Year of the Parent (as defined in the Debenture).

"Receiver" means any person or persons appointed (and any additional person or persons appointed or substituted) as administrative receiver or receiver by the Security Agent under this Floating Charge or otherwise.

"Secured Obligations" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Chargor to the Security Agent and/or the other Secured Parties (or any of them) under or pursuant to any Debt Document (including all monies covenanted to be paid under this Floating Charge).

"Secured Party" has the meaning given in the Intercreditor Agreement.

"Secured Property" means all or any part of the property, assets, undertaking and rights for the time being comprised in or subject to this Floating Charge.

"Security" means any mortgage, charge, lien, pledge, standard security, assignment and/or assignation in security or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect.

"Security Period" means the period beginning on the date of this Floating Charge and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; and
- (b) no Secured Party has any further commitment, obligation or liability under or pursuant to the Debt Documents.

1.2 Construction

1.2.1 Unless a contrary indication appears in this Floating Charge:

- 1.2.1.1 terms defined in the Intercreditor Agreement have the same meaning in this Floating Charge;
- 1.2.1.2 the provisions of clause 1.2 (*Construction*) of the Intercreditor Agreement apply to this Floating Charge as if set out in full in this Floating Charge (except that references to the Intercreditor Agreement shall be construed as references to this Floating Charge) with all necessary amendments;
- 1.2.1.3 all provisions in the Intercreditor Agreement that are stated therein to apply to the Debt Documents apply to this Floating Charge as if set out in full in this Floating Charge; and
- 1.2.1.4 reference to the singular is a reference to the plural and vice versa.

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

- 1.2.2.1 the **"Chargor"**, the **"Secured Parties"** and/or the **"Security Agent"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Debt Documents and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Debt Documents;
- 1.2.2.2 any **"asset"** includes present and future properties, revenues and rights of every description, all proceeds of sale of such asset, all rights under any agreement for the sale, lease or licence of such asset and any monies paid or payable in respect of such asset;

- 1.2.2.3 an "**account**" is a reference to that account as re-designated, renumbered, substituted or replaced from time to time; and
 - 1.2.2.4 a "**Debt Document**" or any other agreement or instrument is a reference to that Debt Document or other agreement or instrument as validly amended, novated, supplemented, extended, restated or replaced from time to time.
 - 1.2.3 Where this Floating Charge includes the words "**including**", "**in particular**" or "**or otherwise**" (or similar words or phrases), the intention is to state examples and not to be exhaustive.
 - 1.2.4 References to any Security "created by this Floating Charge" are to be deemed to include such Security created or intended to be created, constituted, given, made or extended by, under or evidenced by this Floating Charge.
- 1.3 **Third Party Rights**
- 1.3.1 Unless expressly provided in this Floating Charge (including in Clause 1.3.3), a person who is not a party to this Floating Charge has no right under the Contract (Third Party Rights) (Scotland) Act 2017 or otherwise to enforce or to enjoy the benefit of any term of this Floating Charge.
 - 1.3.2 Notwithstanding any term 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.
 - 1.3.3 Any administrator, Delegate, Receiver and any attorney appointed under Clause 6.6 (*Power of Attorney*) may enforce and/or enjoy the benefit of any term of this Floating Charge.
2. **COVENANT TO PAY**
- 2.1 The Chargor as principal debtor and not just as surety, covenants with the Security Agent to pay or discharge the Secured Obligations in the manner provided for in the Debt Documents.
3. **GRANT OF SECURITY**
- 3.1 **Floating Charge**
- The Chargor hereby as a continuing security for the payment or discharge of the Secured Obligations grants in favour of the Security Agent as trustee for each Secured Party a floating charge over all of the property (including uncalled capital) which may from time to time, while this Floating Charge is in force, be comprised in the Chargor's assets and undertaking.
- 3.2 **Qualifying Floating Charge**
- The floating charge created by Clause 3.1 (*Floating Charge*) is a qualifying floating charge for the purpose of paragraph 14 of schedule B1 to the Insolvency Act which shall apply to this Floating Charge.
- 3.3 **Continuing security**
- The Security created by this Floating Charge is continuing security for the payment and discharge of the Secured Obligations. The provisions of this Floating Charge will apply at all times:
- 3.3.1 regardless of the date on which any of the Secured Obligations were incurred;
 - 3.3.2 notwithstanding any intermediate payment or discharge; and

- 3.3.3 in respect of the full amount of the Secured Obligations at the relevant time even if the amount of the Secured Obligations had previously been less than that amount or had been nil at any time.

3.4 **Additional Security**

The Security created by this Floating Charge is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by any Secured Party. No prior security held by any Secured Party over the whole or any of the Secured Property will merge with the Security created by this Floating Charge.

4. **RANKING**

Except as may be otherwise agreed in writing by the Security Agent and subject to sub-section (2) of section 464 of the Companies Act 1985:

- 4.1 the floating charge hereby created shall rank in priority and in preference to:
- 4.1.1 any fixed security (a "**Fixed Security**") within the meaning of section 70(1) of the Insolvency Act which may be created by the Chargor hereafter, other than any such Fixed Security in favour of the Security Agent which shall in all respects rank in priority and in preference to the floating charge hereby created; and
 - 4.1.2 any other floating charge which may be created by the Chargor hereafter other than any other floating charge granted in favour of the Security Agent; and
- 4.2 no Fixed Security, other than any Fixed Security in favour of the Security Agent and no other floating charge shall rank in priority or preference prior to or equally with the floating charge hereby created.

5. **NEGATIVE PLEDGE**

- 5.1 The Chargor shall not do or agree to do any of the following without the prior written consent of the Security Agent:
- 5.1.1 create or permit to subsist any Security on any Secured Property other than as created by this Floating Charge and the Debenture;
 - 5.1.2 sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not and whether voluntarily or involuntarily) the whole or any part of its interest in any Secured Property, except any disposal which is a Permitted Disposal or which is expressly permitted by the Debt Documents; or
 - 5.1.3 (without prejudice to the generality of clause 5.1.2 immediately above):
 - 5.1.3.1 confer on any person any lease or tenancy of any of the Real Property (as defined in the Debenture) in any jurisdiction (including land whether registered or unregistered in Scotland) or accept a surrender of any lease or tenancy (whether independently or under any statutory power);
 - 5.1.3.2 confer on any person any right or licence to occupy any land or buildings forming part of the Real Property (as defined in the Debenture) in any jurisdiction (including land whether registered or unregistered in Scotland); or
 - 5.1.3.3 grant any licence to assign or sub-let any part of the Real Property (as defined in the Debenture) in any jurisdiction (including land whether registered or unregistered in Scotland).

- 5.2 Notwithstanding the terms of Clause 5.1.3 immediately above, the Chargor may grant any right or licence (other than a lease or tenancy) to occupy any land or buildings forming part of the Real Property (as defined in the Debenture) in any jurisdiction (including land whether registered or unregistered in Scotland) provided that (i) such right or licence is entered into on arm's length terms in the ordinary course of trading and (ii) the duration of any such right or licence does not exceed 1 month (save in the case of a right or licence granted to another party in respect of equipment or plant and machinery where no such time limit shall apply).

6. GENERAL UNDERTAKINGS

6.1 Representations

The Chargor represents and warrants to the Security Agent on the date of this Floating Charge as follows:

- 6.1.1 it is a duly incorporated company validly existing under the laws of the jurisdiction of its incorporation;
- 6.1.2 it has the power to own its assets and carry on its business as it is being conducted;
- 6.1.3 it has full power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Floating Charge;
- 6.1.4 this Floating Charge constitutes the legal, valid, binding and enforceable obligations of the Chargor;
- 6.1.5 this Floating Charge creates the Security which it has purported to create and such Security is valid and effective;
- 6.1.6 no provision of any existing Security, trust deed, contract or agreement binding on or affecting the Chargor or the undertaking or assets of the Chargor is contravened by the execution, performance and/or delivery of this Floating Charge or the creation of the Security hereby constituted;
- 6.1.7 all necessary approvals and consents (whether governmental or otherwise) in relation to the entry into, performance, delivery and validity of this Floating Charge and the transactions contemplated by this Floating Charge have been obtained and remain in full force and effect;
- 6.1.8 the Secured Property is, subject to the terms of this Floating Charge, legally and beneficially owned and controlled by the Chargor;
- 6.1.9 it has good and marketable title to the Secured Property;
- 6.1.10 the constitutional documents of the Chargor do not and could not restrict or inhibit any transfer of the Secured Property on creation or enforcement of the Security conferred by this Floating Charge;
- 6.1.11 all agreements, deeds, documents, certificates and similar documents relating to the Chargor's interest in the Secured Property have been provided to the Security Agent;
- 6.1.12 the Secured Property is not subject to any Security, option to purchase (or similar rights), third party rights and/or restrictions other than this Floating Charge and the Debenture; and
- 6.1.13 except in respect of any encumbrances arising from title retention provisions in a supplier's standard conditions of supply of goods acquired in the ordinary and usual course of trading no person, other than the Chargor, the Security Agent

or its nominee, has been nominated to enjoy or exercise any right in respect of any of the Secured Property.

6.2 Maintenance of Secured Property

The Chargor will not:

- 6.2.1 take or permit the taking of any action which prejudices the interests of any Secured Party under any Debt Document; or
- 6.2.2 except where the Security Agent so requires or expressly permits, nominate another person to enjoy or exercise any of its rights in relation to any of its Secured Property.

6.3 Documentation

The Chargor shall, promptly upon written request by the Security Agent at any time, deposit with the Security Agent all documents of title, together with such deeds, certificates and documents as the Security Agent may require, relating to the Secured Property.

6.4 Further assurance

The Chargor shall, at its own expense, promptly take all such actions, including executing all such documents, notices, orders, directions and instructions in such form as the Security Agent may require:

- 6.4.1 to create, perfect, protect and (if necessary) maintain the Security created or intended to be created over any of its assets under this Floating Charge or for the exercise of any rights, powers and remedies of the Secured Parties provided by or under this Floating Charge or by law or regulation; and
- 6.4.2 to facilitate the realisation of the assets which are, or are intended to be, the subject of Security created by this Floating Charge.

6.5 Power to remedy

If the Chargor fails to comply with any of its obligations under this Floating Charge, the Security Agent may (at the Chargor's expense) take such action as is necessary to protect the Secured Property against the consequences of the Chargor's non-compliance and to ensure compliance with such obligations. The Security Agent is not obliged to perform any obligation of the Chargor or to take any action which it may be entitled to take under this Floating Charge.

6.6 Power of attorney

- 6.6.1 As security for the performance of its obligations under this Floating Charge, the Chargor irrevocably appoints the Security Agent, each Receiver and each Delegate to be its attorney, with full power of substitution to take any action which the Chargor is obliged to take under this Floating Charge.
- 6.6.2 The attorney may, in the Chargor's name and on its behalf and at its expense, do anything which the Chargor is obliged to do under the Debt Documents to which it is a party but has failed to do, or which the Security Agent, Receiver or Delegate may in their absolute discretion consider appropriate in connection with the exercise of any of their rights, powers, authorities or discretions in relation to the Secured Property or under or otherwise for the purposes of the Debt Documents or any law or regulation.
- 6.6.3 The Chargor ratifies and confirms anything done by any attorney in accordance with this Clause 6.6. The Chargor agrees to indemnify the attorney against all actions, claims, demands and proceedings taken or made against it and all costs, damages, expenses, liabilities and losses, incurred by the attorney as a result of

or in connection with anything lawfully done by it under or in connection with this power of attorney.

7. ENFORCEMENT

7.1 When Security enforceable

The Security created by this Floating Charge shall become immediately enforceable upon the occurrence of an Event of Default which is continuing (unless there has been a request from the Chargor to the Security Agent for the appointment of a Receiver, in which case it will be exercisable at any time following the making of such request).

7.2 Enforcement powers

At any time (a) when the Security created by this Floating Charge is enforceable or (b) following a request by any Chargor, the Security Agent may, without further notice:

- 7.2.1 sell, appropriate, realise or transfer, including to itself or to any other person, all or any part of the Secured Property;
- 7.2.2 appoint one or more persons to be a Receiver of all or any part of the Secured Property;
- 7.2.3 appoint an administrator of the Chargor;
- 7.2.4 exercise any of the powers, authorities and discretions conferred on mortgagees, administrators or receivers, under the Insolvency Act, any other legislation or regulation or under this Floating Charge; and
- 7.2.5 take such further action as it sees fit to enforce all or any part of the Security created by this Floating Charge.

7.3 Appointment of receivers

- 7.3.1 At any time after this Floating Charge shall have become enforceable in accordance with Clause 7.1 above, the Security Agent shall be entitled, without further notice to the Chargor, by instrument in writing to appoint any person or persons to be a Receiver or Receivers of the Secured Property and/or an administrator of the Chargor.
- 7.3.2 Without prejudice to Clause 7.3.1, if at any time the Receiver or an administrator shall be removed from office as such by the court or shall otherwise cease to act as Receiver or administrator the Security Agent shall be entitled to appoint another person or persons to be the Receiver or administrator in his or their place and the Security Agent may apply to the court for an order removing the Receiver or administrator.
- 7.3.3 The Receiver shall be the agent of the Chargor and the Chargor alone shall be responsible for his acts and defaults and liable on any contracts or engagements made or entered into or adopted by him and in no circumstances whatsoever shall any Secured Party be in any way responsible for or incur any liability in connection with his contracts, engagements, acts, omissions, misconduct, negligence or default and if a liquidator of the Chargor shall be appointed, the Receiver shall act as principal and not as agent for the Security Agent.
- 7.3.4 Where more than one Receiver is appointed they will have power to act separately (unless the appointment by the Security Agent specifies to the contrary).
- 7.3.5 Subject to section 58 of the Insolvency Act, the Security Agent may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another person as Receiver in its place.

7.4 Powers

- 7.4.1 An administrator shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act, all the powers conferred on Receivers under the Insolvency Act.
- 7.4.2 The Receiver shall have and be entitled to exercise all the powers conferred on receivers and/or administrative receivers by the Insolvency Act (and in addition to and without limiting such powers an administrator and/or the Receiver shall have power to purchase or acquire any land and purchase, acquire or grant any interest in or right over land, to borrow any monies and secure the payment of any monies in priority to the Chargor's obligations and liabilities hereunder, to carry on or authorise or concur in the carrying on of the Chargor's business and undertaking or any part thereof and to manage and conduct the same without being responsible for any loss or damage) and (without limiting the foregoing) an administrator and/or the Receiver shall also have the following powers:
- 7.4.2.1 to promote or procure the formation of any new company or corporation;
 - 7.4.2.2 to subscribe for or acquire for cash any share capital of such new company or corporation in the Chargor's name or on the Chargor's behalf in the name of any nominee for the Chargor;
 - 7.4.2.3 to sell, feu, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or deal with interests in or realise the Secured Property to any such new company or corporation and accept as consideration or part of the consideration therefor in the Chargor's name or in the name of any nominee for the Chargor any shares or further shares in any such company or corporation or allow the payment of the whole or any part of such consideration to remain deferred or outstanding by way of loan or debt or credit;
 - 7.4.2.4 to sell, assign, transfer or otherwise dispose of or realise on the Chargor's behalf any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
 - 7.4.2.5 to convene any extraordinary meeting of the Chargor;
 - 7.4.2.6 to purchase or acquire any property on the Chargor's behalf;
 - 7.4.2.7 to make any arrangement or compromise which the Security Agent, an administrator or the Receiver may think fit;
 - 7.4.2.8 to sever any fixtures (including trade and tenants fixtures) from the property of which they form part;
 - 7.4.2.9 to exercise all powers rights and/or obligations under any contract or agreement forming part of the Secured Property including, without limitation, all voting and other rights attaching to stocks, shares and other securities owned by the Chargor;
 - 7.4.2.10 to exercise all powers conferred by the Insolvency Act on administrators, receivers and/or administrative receivers (or equivalent officer) appointed in England and Wales in respect of any of the Secured Property which is situated in England and Wales; and
 - 7.4.2.11 to do all such other acts or things which he or they may consider to be necessary or desirable for realising the Secured Property or conducive to any of the powers or authorities conferred on the Receiver under or by virtue of this Floating Charge and to exercise

in relation to the Secured Property all powers and authorities which he or they would be capable of exercising if he or they were the absolute owner of such property.

7.5 Remuneration

The Chargor shall be solely responsible for the remuneration, fees, costs, charges and expenses of the Receiver and of any administrator, and no Secured Party shall at any time have any liability or responsibility therefor.

7.6 Redemption of prior Security

Where there is any Security created over any of the Secured Property which ranks in priority to the Security created by this Floating Charge and:

7.6.1 the Security created by this Floating Charge becomes enforceable; and

7.6.2 the holder of such other Security takes any steps to enforce that Security,

the Security Agent or any Receiver or administrator may, at its sole discretion and at the cost and expense of the Chargor redeem, take a transfer of and repay the indebtedness secured by such other Security. All amounts paid by the Security Agent or a Receiver or administrator under this Clause 7.6 will form part of the Secured Obligations.

7.7 Appropriation of payments

Any appropriation by the Security Agent or a Receiver under this Floating Charge will override any appropriation by the Chargor.

7.8 Financial collateral

7.8.1 To the extent that any of the assets charged under this Floating Charge constitute "financial collateral" and this Floating Charge constitutes a "financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "**FC Regulations**")) the Security Agent will have the right after such Security has become enforceable, but only whilst it remains enforceable, to appropriate all or any part of that financial collateral in such manner as it sees fit in or towards the satisfaction of the Secured Obligations.

7.8.2 Where any financial collateral is appropriated, its value shall be:

7.8.2.1 in the case of cash, its face value at the time of the appropriation;

7.8.2.2 if the financial collateral is listed or traded on a recognised exchange, the value at which it could have been sold on that exchange at the time of appropriation; and

7.8.2.3 in any other case, the amount determined by the Security Agent by such process as it may select, including independent valuation,

and the Chargor agrees that the method of valuation provided for in this Clause 7.8 is commercially reasonable for the purposes of the FC Regulations.

8. APPLICATION OF PROCEEDS

8.1 Order of priority

All amounts received by the Security Agent or a Receiver or a Delegate in connection with the enforcement of the Security created under this Floating Charge will be applied, to the extent permitted by applicable law, (notwithstanding any purported appropriation by the Chargor) in accordance with and subject to the terms of the Intercreditor Agreement.

8.2 New accounts

If at any time:

- 8.2.1 the Chargor's obligations cease to be continuing obligations for any reason; or
- 8.2.2 a Secured Party receives or is deemed to have received notice of subsequent Security over any of the Secured Property

then each Secured Party may open a new account with the Chargor. If a Secured Party does not open a new account, it will be treated as having done so at the time when the Chargor's obligations cease to be continuing obligations or, as the case may be, the relevant notice of subsequent Security was received and as from that time all payments made by or on behalf of the Chargor to that Secured Party will be credited or be treated as having been credited to the relevant new account and not as having been applied in discharge of the Secured Obligations.

8.3 Release of Secured Property

Upon the expiry of the Security Period (but not otherwise), the Security Agent shall, at the request and cost of the Chargor, execute such documents and take such steps as may be necessary to release the Secured Property from the Security created by this Floating Charge.

9. PROTECTION OF THIRD PARTIES

- 9.1 No buyer from, or other person dealing with the Security Agent or a Receiver or a Delegate will be concerned to enquire whether:

- 9.1.1 any money remains due under the Debt Documents;
- 9.1.2 any power which the Security Agent or any Receiver or any Delegate is purporting to exercise has arisen or become exercisable; or
- 9.1.3 the Security Agent or any Receiver or any Delegate is validly appointed and acting within its powers in accordance with this Floating Charge.

- 9.2 The receipt of the Security Agent, any Receiver or any Delegate will be an absolute and conclusive discharge to a purchaser of any of the Secured Property who will have no obligation to enquire how any monies are applied.

10. PROTECTION OF SECURED PARTIES

10.1 No liability as creditor in possession

No Secured Party will be liable to account to the Chargor as creditor in possession by reason of entering into possession of any of the Secured Property, or for any cost, loss or liability on realisation, nor for any default or omission for which a creditor in possession might be liable.

10.2 Further advances

The Security created by this Floating Charge is intended to secure any further advances which any Secured Party is obliged to make under the Debt Documents.

10.3 Discretion of the Secured Parties

Each Secured Party is entitled to exercise its rights, powers and discretions under this Floating Charge in accordance with the terms of the Debt Documents and the Chargor has no right to control or restrict any Secured Party's exercise of any of its rights, powers or discretions under this Floating Charge.

11. SAVING PROVISIONS

11.1 Reinstatement

If, at any time, there has been a release, settlement or discharge (whether in whole or in part) of the Chargor's obligations under this Floating Charge and, as a consequence of any insolvency (or analogous) proceedings or for any other reason:

- 11.1.1 any payment made to any person in respect of any of the Secured Obligations is required to be repaid; and
- 11.1.2 any Security (or other right) held by any Secured Party in respect of any of the Secured Obligations (whether under this Floating Charge or otherwise) is declared void, is set aside or is otherwise affected,

then the Chargor's obligations under this Floating Charge will continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and (as applicable) the relevant obligation or Security (or other right) had not been so affected; and accordingly (but without limiting the Secured Parties' other rights under this Floating Charge) the Security Agent will be entitled to recover from the Chargor the value which the Security Agent has placed upon such Security (or other right) or the amount of any such payment as if such release, settlement or discharge had not occurred.

11.2 Avoidable payments

If the Security Agent considers that any amount paid by or on behalf of the Chargor in respect of the Secured Obligations is capable of being avoided, set aside or ordered to be refunded or reduced for any reason, then for the purposes of this Floating Charge such amount will not be considered to have been irrevocably paid.

11.3 Waiver of defences

The obligations of the Chargor under this Floating Charge and the Security created under this Floating Charge will not be affected by any act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this Floating Charge or the Security created under this Floating Charge (without limitation and whether or not known to it or any Secured Party) including:

- 11.3.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 11.3.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor or any other person;
- 11.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 11.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 11.3.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Debt 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 Debt Document or other document or security;

11.3.6 any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security; or

11.3.7 any insolvency, liquidation, administration or similar proceedings.

11.4 Chargor Intent

Without prejudice to the generality of Clause 11.3 (*Waiver of defences*), the Chargor expressly confirms that it intends that the Security created under this Floating Charge shall extend from time to time to any (however fundamental) variation, increase, restatement, supplement, replacement, extension or addition of or to any of the Debt Documents and/or any facility or amount made available under any of the Debt Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

11.5 Immediate recourse

The Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Floating Charge. This waiver applies irrespective of any law or any provision of a Debt Document to the contrary.

11.6 Appropriations

Until all amounts which may be or become payable by the Chargor under or in connection with the Debt Documents have been unconditionally and irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may:

11.6.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and

11.6.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Floating Charge.

11.7 Deferral of the Chargor's rights

11.7.1 Until all amounts which may be or become payable by the Chargor under or in connection with the Debt Documents have been unconditionally and irrevocably paid in full and unless the Security Agent otherwise directs, the Chargor cannot exercise any rights which it may have by reason of performance by it of its obligations under the Debt Documents or by reason of any amount being payable, or liability arising, under the Debt Documents to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, the Debt Documents by any Secured Party.

11.7.2 If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Chargor under or in connection with the Debt Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 8.1 (*Order of Priority*).

12. **CHANGES TO THE PARTIES**

12.1 **No assignation by the Chargor**

The Chargor may not assign, transfer, novate or otherwise deal with any of its rights or obligations under, or interests in, this Floating Charge.

12.2 **Assignation by Security Agent**

The Security Agent may assign, transfer, novate or otherwise deal with any of its rights or obligations under, or interests in, this Floating Charge in accordance with the terms of the Intercreditor Agreement.

13. **CERTIFICATES**

For all purposes, including any legal proceedings, a certificate signed by one of the Security Agent's officers as to the amount of the Secured Obligations (or any part thereof) shall, in the absence of manifest error, be conclusive evidence thereof against the Chargor.

14. **EXECUTION, COUNTERPARTS AND DELIVERY**

14.1 This Floating Charge may be executed in any number of counterparts and by each of the parties on separate counterparts.

14.2 Where executed in counterparts:

14.2.1 this Floating Charge will not take effect until each of the counterparts has been delivered in accordance with the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the "**Counterparts Act**");

14.2.2 each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered;

14.2.3 the date of delivery may be inserted on the first page of this Floating Charge in the blank provided for the delivery date; and

14.2.4 the parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Floating Charge.

15. **GOVERNING LAW**

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

16. **JURISDICTION**

16.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Floating Charge (including a dispute regarding the existence, validity or termination of this Floating Charge) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**").

16.2 The parties to this Floating Charge agree that the courts of Scotland are the most appropriate and convenient courts to settle any Dispute and accordingly no party to this Floating Charge will argue to the contrary.

16.3 This Clause 16 is for the benefit of the Secured Parties only. As a result, no Secured Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF this Floating Charge comprising these presents and the preceding 13 pages are executed in counterpart as follows:-

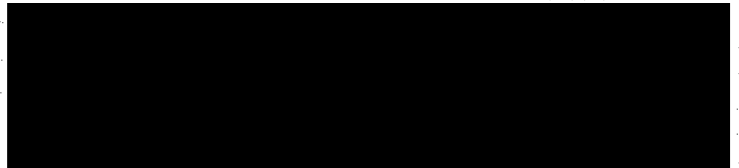
Chargor

SIGNED for and on behalf of
NORTHWIND 55 LIMITED

place of signing GLASGOW

on 31 October 2019

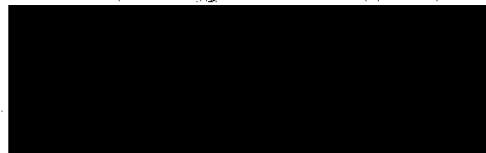
by BARRY McDERMOTT
(Print Full Name)
one of its Directors



In the presence of:

GREGG BARR

Name



Globe House 50 GARRA Square, Glasgow G2 1GN

Address

Freelance Director

Occupation

Security Agent

SIGNED for and on behalf of
INFLEXION PRIVATE EQUITY LIMITED

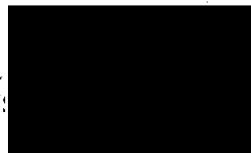
place of signing GLASGOW

on 31 October 2019

by MATTHEW MCKINLAY

(Print Full Name)

Its authorised signatory



In the presence of:

Thomas Howell

Name



Eversheds Solicitors Bridgewater Place, Leeds LS11 5DR

Address

Solicitor

Occupation

