

MR01

Particulars of a charge

127011 / 13

A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument. Use form MR0

For further information, please
refer to our guidance at
...

This form **must be delivered to the Registrar for registration** within
21 days beginning with the day after the date of creation of the charge.
If delivered outside of the 21 days it will be rejected unless it is accompanied by a
court order extending the time for delivery.

☒ You **must** enclose a certified copy of the instrument with this form. It will be
scanned and placed on the public record.



A12 *A38FOAER* 22/05/2014 #359
COMPANIES HOUSE

THURSDAY

1 Company details

Company number 0 2 5 6 6 2 4 8

Company name in full James Tobias Limited ✓

For official use
02906

→ **Filing in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 20 05 2014 ✓

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name Altitude One LP ✓

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MR01
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4	Description Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security	Continuation page Please use a continuation page if you need to enter more details
Description	<p>The chargor with full title guarantee charges to the chargee by way of fixed charge</p> <ul style="list-style-type: none"> - all Properties (as defined in the debenture) acquired by the chargor in the future, - all present and future interests of the chargor not effectively mortgaged or charged under the preceding, in, or over, freehold or leasehold property, - all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property (as defined in the debenture), - all licences, consents and authorisations (statutory or otherwise) held or required in connection with the chargor's business or the use of any Secured Asset (as defined in the debenture), and all rights in connection with them, - all its present and future goodwill, <p>The chargor with full title guarantee charges to the chargee, by way of first floating charge, all the undertaking, property, assets and rights of the chargor at any time not effectively mortgaged, charged or assigned pursuant to the provisions attaching to the fixed charge</p>	
5	Fixed charge or fixed security Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
6	Floating charge Is the instrument expressed to contain a floating charge? Please tick the appropriate box <input checked="" type="checkbox"/> Yes Continue <input type="checkbox"/> No Go to Section 7 Is the floating charge expressed to cover all the property and undertaking of the company? <input checked="" type="checkbox"/> Yes	
7	Negative Pledge Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

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Particulars of a charge

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Trustee statement ^①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

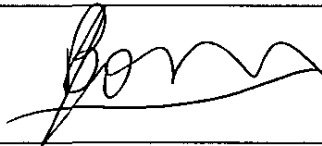
Signature

Please sign the form here

Signature

Signature

X



X

✓

This form must be signed by a person with an interest in the charge

MR01-

Particulars of a charge



Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name **Hermione Coutts**

Company name **Clarke Willmott LLP**

Address **1 Georges Square**

Bath Street

Post town **Bristol**

County/Region

Postcode **B S 1 6 B A**

Country

DX

Telephone **0845 209 1334**



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper

Make cheques or postal orders payable to 'Companies House'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2566248

Charge code: 0256 6248 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th May 2014 and created by JAMES TOBIAS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd May 2014

2

Given at Companies House, Cardiff on 28th May 2014



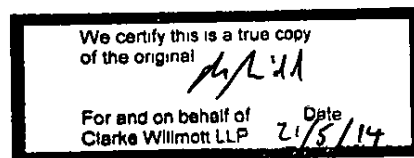
Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 20 May 2014

- (1) JAMES TOBIAS LIMITED
- (2) ALTITUDE ONE LP



DEBENTURE

Payments in respect of, changes to, transfer or assignment of, enforcement of and the provisions of, this Debenture are subject to the terms of the Intercreditor Deed (as defined herein).

***clarke
willmott**

www.clarkewillmott.com

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THIS DEED is dated

20 May

2014

BETWEEN

- (1) **JAMES TOBIAS LIMITED** incorporated and registered in England and Wales with company number 02566248 whose registered office is at 2 Oldfield Road, Bocam Park, Bridgend CF35 5LJ (the 'Chargor')
- (2) **ALTITUDE ONE LP**, a limited partnership registered in England and Wales with number LP014069 having its registered office at Kenneth Dibben House, Enterprise Road, Southampton Science Park, Southampton, SO16 7NS (the 'Investor')

BACKGROUND:-

- (A) The Investor has agreed, pursuant to the Investor Loan Agreement, to lend the sum of £1,425,000 to the Borrower on the basis that the Borrower's obligations to repay the Investor Loan will be secured by this deed
- (B) Under this deed and at the request of the Borrower, the Chargor, which became or becomes a wholly owned subsidiary of the Borrower on the date hereof, provides security to the Investor for the Investor Loan

AGREED TERMS:-

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply in this deed

Administrator	an administrator appointed to manage the affairs, business and property of the Chargor pursuant to clause 10.6
Bank	means National Westminster Bank Plc (company number 929027) (including its successors and assigns)
Book Debts	all present and future book and other debts, and monetary claims due or owing to the Chargor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Chargor in relation to any of them
Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business
Borrower	JTL (Holdings) Limited, a company registered in England under number 08956195
Delegate	any person appointed by the Investor or any Receiver pursuant to clause 15 and any person appointed as attorney of the Investor, Receiver or Delegate
Equipment	all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Chargor, including any part of it and all spare parts, replacements, modifications and additions
Event of Default	Each of the events or circumstances set out in this definition

of 'Event of Default' is an Event of Default

- (a) the Borrower fails to pay the Investor Loan or any part thereof when due under the Investor Loan Agreement, unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three Business Days of its due date
- (b) the Borrower or the Chargor stop or suspends payment of any of their debts, or are unable to, or admit their inability to, pay their debts as they fall due
- (c) the value of the Borrower's assets is less than its liabilities (taking into account contingent and prospective liabilities)
- (d) the value of the Chargor's assets is less than its liabilities (taking into account contingent and prospective liabilities)
- (e) a moratorium is declared in respect of any indebtedness of the Borrower or the Chargor
- (f) any action, proceedings, procedure or step is taken
 - (i) for the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Borrower or the Chargor, or
 - (ii) by the Borrower or the Chargor for composition, compromise, assignment or arrangement of their debts with any of their creditors, or
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or the Chargor or any of their assets, or
 - (iv) the enforcement of any security over any assets of the Borrower or the Chargor
- (g) the Borrower or the Chargor commence negotiations, or enter into any composition, compromise, assignment or arrangement, with one or more of their creditors with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties)
- (h) a distress, attachment, execution, expropriation,

sequestration or another analagous legal process is levied, enforced or sued out on, or against, the assets of the Borrower or the Chargor and is not discharged or stayed within 30 days

- (i) any material provision of this agreement is or becomes, for any reason, invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect
- (j) the Chargor or the Borrower suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a substantial part of its business

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

Financial Collateral Regulations the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*)

Insurance Policy each contract and policy of insurance effected or maintained by the Chargor from time to time in respect of its assets or business (including, without limitation, any insurances relating to the Properties or the Equipment)

Intellectual Property the Chargor's present and future patents, trade marks, service marks, trade names, designs, copyrights, inventions, topographical or similar rights, confidential information and know-how and any interest in any of these rights, whether or not registered, including all applications and rights to apply for registration and all fees, royalties and other rights derived from, or incidental to, these rights.

Intercreditor Deed means the Intercreditor Deed dated on or around the date of this deed between JTL (Holdings) Limited (Company No 08956195), James Tobias Limited (company number 02566248), RBS Invoice Finance Limited (company number 662221), Harran Holdings Limited (company number 3446705), National Westminster Bank plc (company number 929027) and others, as it may be varied, supplemented or adhered to from time to time

Investments all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Chargor, including any

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments, and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or

otherwise

Investor Loan	the amounts outstanding under the Investor Loan Agreement
Investor Loan Agreement	the JTL (Holdings) Limited 9% Secured Loan Note Instrument 2019/2020 of the Borrower in the agreed form dated with the same date as this Deed
LPA 1925	Law of Property Act 1925
Permitted Security	the Senior Security, the RBSIF Security, and the Vendor Security, in each case as defined in the Intercreditor Deed
Properties	all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Chargor, or in which the Chargor holds an interest, and Property means any of them
Receiver	a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Investor under clause 13
Related Rights	means in relation to shares or any other securities, all dividends and interest paid or payable in relation thereto and all shares, securities, rights, moneys or property accruing or offered at any time in relation to such shares or other securities by way of redemption, substitution, exchange, bonus or preference, pursuant to option rights or otherwise any proceeds thereof, all rights to demand the same, and the debts represented thereby
Rights	any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise
Secured Assets	all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed
Secured Liabilities	all present and future obligations and liabilities owed by either the Borrower or the Chargor to the Investor, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Investor Loan or this deed together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities
Security Financial Collateral Arrangement	shall have the meaning given to that expression in the Financial Collateral Regulations
Security	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect
Security Period	the period starting on the date of this deed and ending on the date on which the Investor is satisfied that all the Secured Liabilities have been unconditionally and

irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding

1 2 Interpretation

In this deed.

- 1 2 1 clause, Schedule and paragraph headings shall not affect the interpretation of this deed,
- 1 2 2 a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees,
- 1 2 3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular,
- 1 2 4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,
- 1 2 5 a reference to a party shall include that party's successors, permitted assigns and permitted transferees,
- 1 2 6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time,
- 1 2 7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision,
- 1 2 8 a reference to **writing** or **written** includes fax but not e-mail,
- 1 2 9 an obligation on a party not to do something includes an obligation not to allow that thing to be done,
- 1 2 10 a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time,
- 1 2 11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule,
- 1 2 12 any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms,
- 1 2 13 a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly),
- 1 2 14 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description,
- 1 2 15 a reference to an **authorisation** includes an approval, authorisation, consent,

exemption, filing, licence, notarisation, registration and resolution,

- 1 2 16 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it,
- 1 2 17 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and
- 1 2 18 Reference in any clause to the provision thereof being "subject to the terms of the Intercreditor Deed" or "other than as permitted under the Intercreditor Deed " or "subject always to clause 28 (intercreditor deed)" or anything similar thereto shall not in any way limit the application of clause 28 (Intercreditor Deed) which shall apply to all relevant provisions of this deed

1 3 **Clawback**

If the Investor considers that an amount paid by the Borrower or the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

1.4 **Nature of security over real property**

A reference in this deed to a charge or mortgage of or over any Property includes

- 1 4 1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time,
- 1 4 2 the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property,
- 1 4 3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of that Property, and any monies paid or payable in respect of those covenants, and
- 1 4 4 all rights under any licence, agreement for sale or agreement for lease in respect of that Property

1 5 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Investor Loan Agreement and of any side letters between any parties in relation to the Investor Loan Agreement are incorporated into this deed

1 6 **Perpetuity period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009)

1 7 **Schedules**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules

2. **Covenant to pay**

Subject always to clause 28 (intercreditor deed), the Chargor shall, on demand, pay to the Investor and discharge the Secured Liabilities when they become due

3. Grant of security

3 1 Fixed charges

Subject always to clause 28 (intercreditor deed), as a continuing security for the payment and discharge by the Borrower of the Secured Liabilities, the Chargor with full title guarantee charges to the Investor by way of fixed charge

- 3 1 1 all Properties acquired by the Chargor in the future,
- 3 1 2 all present and future interests of the Chargor not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property,
- 3 1 3 all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property,
- 3 1 4 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Chargor's business or the use of any Secured Asset, and all rights in connection with them,
- 3 1 5 all its present and future goodwill,
- 3 1 6 all its uncalled capital,
- 3 1 7 all the Equipment,
- 3 1 8 all the Intellectual Property,
- 3 1 9 all the Book Debts,
- 3 1 10 all the Investments,
- 3 1 11 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person, and
- 3 1 12 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy

3 2 Floating charge

Subject always to clause 28 (intercreditor deed), as a continuing security for the payment and discharge by the Borrower of the Secured Liabilities, the Chargor with full title guarantee charges to the Investor, by way of first floating charge, all the undertaking, property, assets and rights of the Chargor at any time not effectively mortgaged, charged or assigned pursuant to clause 3 1

3 3 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3 2

3 4 Automatic crystallisation of floating charge

The floating charge created by clause 3 2 shall automatically and immediately (without notice) be converted into a fixed charge over the assets subject to that floating charge if

3 4 1 the Chargor

3 4 1 1 creates, or attempts to create, without the prior written consent of the Investor, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Investor Loan Agreement or the Intercreditor Deed), or

3 4 1 2 disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised) other than as permitted under the Intercreditor Deed;

3 4 2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets other than as permitted under the Intercreditor Deed, or

3 4 3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor

3 5 Crystallisation of floating charge by notice

Subject always to clause 28 (intercreditor deed), the Investor may, in its sole discretion, at any time and by written notice to the Chargor, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by the Investor in that notice

3 6 Assets acquired after any floating charge has crystallised

Any asset acquired by the Chargor after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Investor confirms otherwise to the Chargor in writing) be charged to the Investor by way of fixed charge

3 7 Voting and income rights in relation to Investments

Until there is an Event of Default and this security is enforced, the Chargor shall be entitled to exercise such voting and Related Rights as the holder of the Investments in such manner as it may wish

4. Liability of the Chargor and Investor's protections

4 1 Liability not discharged

The Chargor's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by

4 1 1 any intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities,

4 1 2 any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Investor may now or after the date of this deed have from or against the Borrower, the Chargor or any other person in connection with the Secured Liabilities,

4 1 3 any act or omission by the Investor or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Borrower, the Chargor or any other person,

4 1 4 any termination, amendment, variation, novation or supplement of or to any of the

Secured Liabilities,

- 4 1 5 any grant of time, indulgence, waiver or concession to the Borrower, the Chargor or any other person,
- 4 1 6 any insolvency, bankruptcy, liquidation, administration, winding up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Borrower, the Chargor or any other person,
- 4 1 7 any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Borrower, the Chargor or any other person in connection with the Secured Liabilities,
- 4 1 8 any claim or enforcement of payment from the Borrower, the Chargor or any other person, or
- 4 1 9 any other act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor or by anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Chargor or otherwise reduce or extinguish its liability under this deed

4 2 Immediate recourse

Subject always to clause 28 (intercreditor deed), the Chargor waives any right it may have to require the Investor

- 4 2 1 to take any action or obtain judgment in any court against the Borrower or any other person;
- 4 2 2 to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Borrower or any other person, or
- 4 2 3 to make demand, enforce or seek to enforce any claim, right or remedy against the Borrower or any other person,

before taking steps to enforce any of its rights or remedies under this deed

4 3 Non-competition

The Chargor warrants to the Investor that it has not taken or received, and shall not take, exercise or receive the benefit of any Rights from or against the Borrower, its liquidator, an administrator, co-guarantor or any other person in connection with any liability of, or payment by, the Chargor under this deed but

- 4 3 1 if any of the Rights is taken, exercised or received by the Chargor, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Chargor on trust for the Investor for application in or towards the discharge of the Secured Liabilities under this deed, and
- 4 3 2 on demand by the Investor, the Chargor shall promptly transfer, assign or pay to the Investor all Rights and all monies from time to time held on trust by the Chargor under this clause 4 3

5. Representations and warranties

5 1 Representations and warranties

The Chargor makes the representations and warranties set out in this clause 5 to the Investor

5 2 Ownership of Secured Assets

The Chargor is the legal and beneficial owner of the Secured Assets

5 3 No Security

The Secured Assets are free from any Security other than the Security created by this deed and the Permitted Security

5 4 No adverse claims

The Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them (other than under the Permitted Security)

5 5 No adverse covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets

5 6 No breach of laws

There is no breach of any law or regulation that materially and adversely affects the Secured Assets

5.7 No interference in enjoyment

No facility necessary for the enjoyment and use of the Secured Assets is subject to terms entitling any person to terminate or curtail its use

5 8 No overriding interests

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Property other than under the Intercreditor Deed and the Permitted Security

5 9 Avoidance of security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise

5 10 No prohibitions or breaches

There is no prohibition on assignment in any Insurance Policy and the entry into this deed by the Chargor does not, and will not, constitute a breach of any Insurance Policy, or any other agreement or instrument binding on the Chargor or its assets

5 11 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargor (subject to the terms of clause 28 (Intercreditor Deed)), and is and will continue to be effective security over all and every part of the Secured Assets in accordance with its terms

5 12 Times for making representations and warranties

The representations and warranties set out in clause 5.2 to clause 5 11 are made by the Chargor on the date of this deed and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition

5 13 Due incorporation

The Chargor

5 13 1 is a duly incorporated limited liability company validly existing under the law of England and Wales; and

5 13 2. has the power to own its assets and carry on its business as it is being conducted

5 14 Powers

The Chargor has the power and authority to execute, deliver and perform its obligations under this deed and the transactions contemplated by it. No limit on its powers will be exceeded as a result of the entry into of this deed

5 15 Non-contravention

The execution, delivery and performance of the obligations in, and transactions contemplated by, this deed do not and will not contravene or conflict with

5 15 1 the Chargor's constitutional documents,

5 15 2 any agreement or instrument binding on the Chargor or its assets, or

5 15 3 any law or regulation or judicial or official order applicable to it

5 16 Authorisations

The Chargor has taken all necessary action and obtained all required or desirable consents to enable it to execute, deliver and perform its obligations under this deed. Any such authorisations are in full force and effect

6. General covenants

6 1 Negative pledge and disposal restrictions

Subject to the terms of clause 28 (Intercreditor Deed), the Chargor shall not at any time, except with the prior written consent of the Investor

6 1 1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or any Permitted Security,

6 1 2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge), or

6 1 3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party

6 2 Preservation of Secured Assets

The Chargor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Investor, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed

6 3 Compliance with laws and regulations

6 3 1 The Chargor shall not, without the Investor's prior written consent, use or permit the Secured Assets to be used in any way contrary to law

6 3 2 The Chargor shall

6 3 2 1 comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of it or any part of them,

6 3 2 2 obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset, and

6 3 2 3 promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Secured Assets

6 4 Enforcement of rights

The Chargor shall use its best endeavours to

6 4 1 procure the prompt observance and performance of the covenants and other obligations imposed on the Chargor's counterparties (including each insurer in respect of an Insurance Policy), and

6 4 2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Investor may require from time to time

6 5 Notice of misrepresentation and breaches

The Chargor shall, promptly on becoming aware of any of the same, give the Investor notice in writing of

6 5 1 any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated, and

6 5 2 any breach of any covenant set out in this deed

6 6 Title documents

If the Bank provides its prior written consent to do so, the Chargor shall, as so required by the Investor, deposit with the Investor and the Investor shall, for the duration of this deed be entitled to hold

6 6 1 all deeds and documents of title relating to the Secured Assets that are in the possession or control of the Chargor (and if these are not within the possession or control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title),

6 6 2 all Insurance Policies and any other insurance policies relating to any of the Secured Assets that the Chargor is entitled to possess, and

6 6 3 all deeds and documents of title (if any) relating to the Book Debts as the Investor may specify from time to time

6 7 Insurance

6 7 1 The Chargor shall insure and keep insured the Secured Assets against

- 6 7 1 1 loss or damage by fire or terrorist acts,
- 6 7 1 2 other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Chargor, and
- 6 7 1 3 any other risk, perils and contingencies as the Investor may reasonably require

Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Investor, and must be for not less than the replacement value of the Secured Assets

- 6 7 2 The Chargor shall, if requested by the Investor, produce to the Investor the policy, certificate or cover note relating to the insurance required by clause 6 7 1

6 8 Insurance premiums

The Chargor shall promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 6 7 1 and do all other things necessary to keep that policy in full force and effect

6 9. No invalidation of Insurance

The Chargor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it in accordance with clause 6 7 1

6 10 Information

The Chargor shall

- 6 10 1 give the Investor such information concerning the location, condition, use and operation of the Secured Assets as the Investor may require, and
- 6 10 2 permit any persons designated by the Investor and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice

6 11 Payment of outgoings

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Investor

6 12 Change of business

No substantial change shall be made to the general nature of the Chargor's business as carried out at the date of this deed

7. Property covenants

7 1 Maintenance

The Chargor shall keep all buildings and all fixtures on each Property in good and substantial repair and condition

7 2 Preservation of Property, fixtures and Equipment

The Chargor shall not, without the prior written consent of the Investor.

- 7 2 1 pull down or remove the whole, or any part of, any building forming part of any Property or permit the same to occur;
- 7 2 2 make or permit any material alterations to any Property, or sever or remove, or permit to be severed or removed, any of its fixtures, or
- 7 2 3. remove or make any material alterations to any of the Equipment belonging to, or in use by, the Chargor on any Property (except to effect necessary repairs or replace them with new or improved models or substitutes)

7 3 Conduct of business on Properties

The Chargor shall carry on its trade and business on those parts (if any) of the Properties as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business

7 4 Planning Information

The Chargor shall

- 7 4 1 give full particulars to the Investor of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority (**Planning Notice**) that specifically applies to any Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice, and
- 7 4 2 (if the Investor so requires) immediately, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Investor in making, any objections or representations in respect of that Planning Notice that the Investor may desire

7 5 Compliance with covenants and payment of rent

The Chargor shall

- 7 5 1 observe and perform all covenants, stipulations and conditions to which each Property, or the use of it, is or may be subjected, and (if the Investor so requires) produce evidence sufficient to satisfy the Investor that those covenants, stipulations and conditions have been observed and performed,
- 7 5 2 diligently enforce all covenants, stipulations and conditions benefiting each Property and shall not (and shall not agree to) waive release or vary any of the same, and
- 7 5 3 (without prejudice to the generality of the foregoing) where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions

7 6 Payment of rent and outgoings

The Chargor shall

- 7 6 1 where a Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and
- 7 6 2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Property or on its occupier

7 7 Maintenance of Interests In Properties

The Chargor shall not, without the prior written consent of the Investor

- 7 7 1 grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Property, or exercise, or agree to exercise, the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the Law of Property Act 1925, or
- 7 7 2 in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Property

7 8 Development restrictions

The Chargor shall not, without the prior written consent of the Investor

- 7 8 1 make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Property, or
- 7 8 2 carry out, or permit, or suffer to be carried out on any Property any development as defined in the Town and Country Planning Act 1990 and the Planning Act 2008, or change or permit or suffer to be changed the use of any Property

7 9 No restrictive obligations

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

7 10 Proprietary rights

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

7 11 Inspection

The Chargor shall permit the Investor, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice

7 12 Property information

The Chargor shall inform the Investor promptly of any acquisition by the Chargor of, or contract made by the Chargor to acquire, any freehold, leasehold or other interest in any property

8. Equipment covenants

8 1 Maintenance of Equipment

The Chargor shall

- 8 1 1 maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules,
- 8 1 2 at its own expense, renew and replace any parts of the Equipment when they

become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value, and

8 1 3 not permit any Equipment to be

8 1 3 1 used or handled other than by properly qualified and trained persons, or

8 1 3 2 overloaded or used for any purpose for which it is not designed or reasonably suitable

8 2 Payment of Equipment taxes

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Equipment and, on demand, produce evidence of such payment to the Investor

9. Intellectual Property Covenant

9 1 Maintenance of Intellectual Property

The Chargor shall not permit any Intellectual Property to be abandoned, cancelled or to lapse

10. Powers of the Investor

10 1 Power to remedy

10.1 1 The Investor shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Chargor of any of its obligations contained in this deed

10 1 2 The Chargor irrevocably authorises the Investor and its agents to do all things that are necessary or desirable for that purpose

10 1.3. Any monies expended by the Investor in remedying a breach by the Chargor of its obligations contained in this deed shall be reimbursed by the Chargor to the Investor on a full indemnity basis and shall carry interest in accordance with clause 17 1

10 2 Exercise of rights

Subject to the terms of clause 28 (Intercreditor Deed), the rights of the Investor under clause 10 1 are without prejudice to any other rights of the Investor under this deed. The exercise of any rights of the Investor under this deed shall not make the Investor liable to account as a mortgagee in possession

10 3 Power to dispose of chattels

10 3 1 At any time after the security constituted by this deed has become enforceable, the Investor or any Receiver may, as agent for the Chargor, dispose of any chattels or produce found on any Property

10 3 2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 10 3 1, the Chargor shall indemnify the Investor and any Receiver against any liability arising from any disposal made under clause 10 3 1

10 4 Investor has Receiver's powers

Subject to the terms of clause 28 (Intercreditor Deed), to the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security

constituted by this deed has become enforceable, be exercised by the Investor in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver

10 5 Indulgence

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

10 6 Appointment of an Administrator

10 6 1 Subject always to clause 28 (intercreditor deed), the Investor may, without notice to the Chargor, appoint any one or more persons to be an Administrator of the Chargor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable

10 6 2 Any appointment under this clause 10 6 shall

10 6 2 1 be in writing signed by a duly authorised signatory of the Investor, and

10 6 2 2 take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986

10 6 3 Subject always to clause 28 (intercreditor deed), the Investor may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 10 6 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified

11. When security becomes enforceable

11 1 Security becomes enforceable on Event of Default

Subject always to clause 28 (intercreditor deed), the security constituted by this deed shall be immediately enforceable if an Event of Default occurs

11 2 Discretion

Subject always to clause 28 (intercreditor deed), after the security constituted by this deed has become enforceable, the Investor may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets

12. Enforcement of security

12 1 Enforcement powers

12 1 1 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Investor and a Borrower from the Investor, arise on and be exercisable at any time after the execution of this deed, but the Investor shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 11 1

12 1 2 Section 103 of the LPA 1925 does not apply to the security constituted by this deed

12.2 Extension of statutory powers of leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Investor and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Chargor, to

- 12.2.1 grant a lease or agreement to lease,
- 12.2.2 accept surrenders of leases, or
- 12.2.3 grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Chargor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Investor or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925

12.3 Access on enforcement

- 12.3.1 At any time after the Investor has demanded payment of the Secured Liabilities, subject always to clause 28 (intercreditor deed), the Chargor defaults in the performance of its obligations under this deed or the Investor Loan Agreement, the Chargor will allow the Investor or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Investor or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Chargor for, or by any reason of, that entry
- 12.3.2 At all times, the Chargor must use its best endeavours to allow the Investor or its Receiver access to any premises for the purpose of clause 12.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same

12.4 Prior Security

At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Investor may

- 12.4.1 redeem that or any other prior Security,
- 12.4.2 procure the transfer of that Security to it, and
- 12.4.3 settle and pass any account of the holder of any prior Security

- 12.5 Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor. All monies paid by the Investor to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Investor, be due from the Chargor to the Investor on current account and shall bear interest at the default rate of interest specified in the Investor Loan Agreement and be secured as part of the Secured Liabilities

12.6 Protection of third parties

Subject to the terms of the Intercreditor Deed, no purchaser, mortgagee or other person dealing with the Investor, any Receiver or Delegate shall be concerned to enquire

- 12 6 1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged,
- 12 6 2 whether any power the Investor, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable, or
- 12 6 3 how any money paid to the Investor, any Receiver or any Delegate is to be applied

12 7 Privileges

Each Receiver and the Investor is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers

12 8 No liability as mortgagee in possession

Neither the Investor, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such

12 9 Conclusive discharge to purchasers

The receipt of the Investor or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Investor, every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit

12 10 Right of appropriation

12 10 1 To the extent that

12 10 1 1 the Secured Assets constitute Financial Collateral, and

12 10 1 2 this deed and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement,

Subject always to clause 28 (intercreditor deed), the Investor shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Investor may, in its absolute discretion, determine

12 10 2 The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by any other method that the Investor may select (including independent valuation).

12 10 3 The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations

13. Receiver

13 1 Appointment

Subject always to clause 28 (intercreditor deed), at any time after the security constituted by this deed has become enforceable, or at the request of the Chargor, the Investor may, without further notice, appoint by way of deed, or otherwise in writing, any one or more

persons to be a Receiver of all or any part of the Secured Assets

13 2 Removal

The Investor may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated

13 3 Remuneration

The Investor may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, which shall be due and payable immediately on its being paid by the Investor

13 4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Investor under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise

13 5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Investor despite any prior appointment in respect of all or any part of the Secured Assets

13 6 Agent of the Chargor

Any Receiver appointed by the Investor under this deed shall be the agent of the Chargor and the Chargor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Investor

14. Powers of Receiver

14 1 General

14 1 1 Any Receiver appointed by the Investor under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 14 2 to clause 14 23

14 1 2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver

14 1 3 Any exercise by a Receiver of any of the powers given by clause 14 may be on behalf of the Chargor, the directors of the Chargor (in the case of the power contained in clause 14 16) or himself

14 2 Repair and develop Properties

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of

the same

14 3 Surrender leases

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit

14 4 Employ personnel and advisors

A Receiver may provide services and employ, or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit A Receiver may discharge any such person or any such person appointed by the Chargor

14 5 Make VAT elections

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit

14 6 Remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Investor may prescribe or agree with him

14 7 Realise Secured Assets

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights

14 8 Manage or reconstruct the Chargor's business

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Chargor

14 9 Dispose of Secured Assets

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold

14 10 Sever fixtures and fittings

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Chargor

14 11 Sell Book Debts

Subject always to clause 28 (intercreditor deed), a Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit

14 12 Valid receipts

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets

14 13. Make settlements

A Receiver may make any arrangement, settlement or compromise between the Chargor and any other person that he may think expedient

14 14 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as he thinks fit

14 15 Improve the Equipment

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient

14 16 Make calls on Chargor members

A Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Chargor on its directors in respect of calls authorised to be made by them

14 17 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 17, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this deed

14 18 Powers under the LPA 1925

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986

14 19 Borrow

A Receiver may, for any of the purposes authorised by this clause 14, raise money by borrowing from the Investor (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Investor consents, terms under which that security ranks in priority to this deed)

14 20 Redeem prior Security

Subject to the terms of the Intercreditor Deed, a Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver

14 21 Delegation

A Receiver may delegate his powers in accordance with this deed

14 22 Absolute beneficial owner

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets

14 23 Incidental powers

A Receiver may do any other acts and things

14 23 1 that he may consider desirable or necessary for realising any of the Secured Assets,

14 23 2 that he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law, or

14 23 3 that he lawfully may or can do as agent for the Chargor

15. Delegation

15 1 Delegation

The Investor or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 19 1)

15 2 Terms

The Investor and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit

15 3 Liability

Neither the Investor nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate

16. Application of proceeds

16 1 Order of application of proceeds

All monies received by the Investor, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied as set out in the Intercreditor Deed

16 2 Appropriation

Subject always to clause 28 (intercreditor deed), neither the Investor, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities

16 3 Suspense account

All monies received by the Investor, a Receiver or a Delegate under this deed

16 3 1 may, at the discretion of the Investor, Receiver or Delegate, be credited to any suspense or securities realised account,

16 3 2 shall bear interest, if any, at the rate agreed in writing between the Investor and the Chargor, and

16 3 3 may be held in that account for so long as the Investor, Receiver or Delegate

thinks fit

17. Costs and indemnity

17 1 Costs

Subject always to clause 28 (intercreditor deed), the Chargor shall, promptly on demand, pay to, or reimburse, the Investor and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Investor, any Receiver or any Delegate in connection with

17 1 1 this deed or the Secured Assets,

17 1 2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Investor's, a Receiver's or a Delegate's rights under this deed, or

17 1 3 taking proceedings for, or recovering, any of the Secured Liabilities

17 2 Indemnity

The Chargor shall indemnify the Investor, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with

17 2 1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets,

17 2 2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed, or

17 2 3 any default or delay by the Chargor in performing any of its obligations under this deed

Any past or present employee or agent may enforce the terms of this clause 17 2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

18. Further assurance

18 1 Further assurance

The Chargor shall, at its own expense, take whatever action the Investor or any Receiver may reasonably require for

18 1 1 creating, perfecting or protecting the security intended to be created by this deed,

18 1 2 facilitating the realisation of any Secured Asset, or

18 1 3 facilitating the exercise of any right, power, authority or discretion exercisable by the Investor or any Receiver in respect of any Secured Asset,

including, without limitation (if the Investor or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Investor or to its nominee) and the giving of any notice, order or direction and the making of any registration

19. Power of attorney

19 1 Appointment of attorneys

The powers arising under this clause shall only be exercisable if expressly permitted by the terms of the Intercreditor Deed. By way of security, the Chargor irrevocably appoints the Investor, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that

19 1 1 the Chargor is required to execute and do under this deed, or

19 1 2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Investor, any Receiver or any Delegate

19 2 Ratification of acts of attorneys

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 19 1

20. Release

Subject to clause 26 3, on the expiry of the Security Period (but not otherwise), the Investor shall, at the request and cost of the Chargor, take whatever action is necessary to.

20 1 1 release the Secured Assets from the security constituted by this deed, and

20 1 2 reassign the Secured Assets to the Chargor

21. Assignment and transfer

21.1 Assignment by Investor

21 1 1 No assignment, transfer or the like may be made by the Investor of its rights, benefits or obligations under this deed (or any interest therein) without the prior written consent of the Bank and, in any case, unless the person to whom the rights, benefits or obligations are transferred is, or becomes, a party to the Intercreditor Deed

21 2 Assignment by Chargor

The Chargor may not assign any of its rights, or transfer any of its rights or obligations, under this deed

22. Amendments, waivers and consents

22 1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative) and otherwise on the terms of and as permitted by the Intercreditor Deed as a subordinated creditor

22 2 Waivers and consents

22 2 1 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party

giving it from subsequently relying on the relevant provision

22 2 2 A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Investor shall be effective unless it is in writing.

22 3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

23. Severance

23 1 Severance

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

24. Counterparts

24 1 Counterparts

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

25. Third party rights

25 1 Third party rights

Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

25 2 The Bank shall be entitled to enforce the benefits of clause 21 1 1 and clause 28 of this agreement and the parties will take all steps required by the Bank such that the Bank can obtain the benefit of those rights.

26. Further provisions

26 1 Independent security

This deed shall be in addition to, and independent of, any other security or guarantee that the Investor may hold for any of the Secured Liabilities at any time. No prior security held by the Investor over the whole or any part of the Secured Assets shall merge in the security created by this deed.

26 2 Continuing security

This deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or

thing, unless and until the Investor discharges this deed in writing

26 3 Discharge conditional

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

26 3 1 the Investor or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Investor deems necessary to provide the Investor with security against any such avoidance, reduction or order for refund, and

26 3 2 the Investor may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred

26 4 Consolidation

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed

27. Notices

27 1 Delivery

Any notice or other communication required to be given to a party under or in connection with this deed shall be

27 1 1 in writing,

27 1 2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax, and

27 1 3 sent to a party at the address specified at the start of this deed or to any other address or fax number as is notified in writing by one party to the other from time to time

27 2 Receipt by Chargor

Any notice or other communication that the Investor gives to the Chargor shall be deemed to have been received

27 2 1 if delivered by hand, at the time it is left at the relevant address,

27 2 2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting, and

27 2 3 if sent by fax, when received in legible form

A notice or other communication given as described in clause 27 2 1 or clause 27 2 3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day

27 3 Receipt by Investor

Any notice or other communication given to the Investor shall be deemed to have been

received only on actual receipt

27 4 Service of proceedings

This clause 27 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution

27 5 No notice by e-mail

A notice or other communication given under or in connection with this deed is not valid if sent by e-mail

27 6 The Investor and the Chargor shall promptly provide the Bank with a copy of all notices served under this deed in the manner provided for serving notice under the Intercreditor Deed

28. Intercreditor Deed

28.1. Notwithstanding any other provision of this deed, payments under this deed may only be made or agreed to be made by the Chargor if expressly permitted by the terms of the Intercreditor Deed. In addition, the provisions of this deed shall be subject to the terms and conditions set out in the Intercreditor Deed, including without limitation, changes may only be made by any party to the provisions of this deed, and/or waivers (whether conditional or unconditional) provided under it, and/or any Enforcement Action (as defined in the Intercreditor Deed) taken, to the extent permitted by the Intercreditor Deed and/or with the prior written consent of the Bank. In the event of any conflict between this deed and the Intercreditor Deed, the terms of the Intercreditor Deed shall prevail.

29. Governing law and jurisdiction

29 1 Governing law

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

29 2 Jurisdiction

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Investor to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction

29 3 Other service

The Chargor irrevocably consents to any process in any legal action or proceedings under clause 29 2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it

EXECUTED and DELIVERED as a
DEED by
JAMES TOBIAS LIMITED
acting byPHILIP JONES.....
a director in the presence of.

Signature of witness

Name of witness ROBERT RIDD

Address of witness

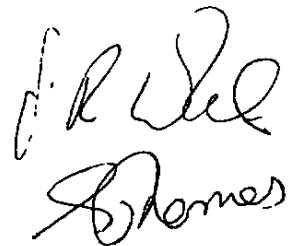
Clarke Willmott LLP
Solicitors
1 Georges Square
Bath Street
Bristol BS1 6BA

EXECUTED and DELIVERED as a
DEED by
ALTITUDE ONE LP
acting by SIR WHITE.....
its general partner in the presence
of.

Signature of witness

Name of witness

Address of witness



SIMON PAUL THOMAS

Clarke Willmott LLP
Solicitors
1 Georges Square
Bath Street
Bristol BS1 6BA

SOLICITOR