



Registration of a Charge

Company name: **KENNET EQUIPMENT LEASING LIMITED**

Company number: **02569928**



X8ZRGFRK

Received for Electronic Filing: **28/02/2020**

Details of Charge

Date of creation: **28/02/2020**

Charge code: **0256 9928 0013**

Persons entitled: **COMMERZBANK AG, LONDON BRANCH**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) .

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.**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2569928

Charge code: 0256 9928 0013

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th February 2020 and created by KENNET EQUIPMENT LEASING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th February 2020 .

Given at Companies House, Cardiff on 2nd March 2020

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



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Dated 28 February 2020

KENNET EQUIPMENT LEASING LIMITED

as Borrower

and

KENNET FUNDING LIMITED

as Purchaser

and

COMMERZBANK AG, LONDON BRANCH

as Lender

BORROWER'S SECURITY AGREEMENT

CREATING A FIXED CHARGE

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Norton Rose Fulbright LLP

Sign & Dated 28/02/2020

 **NORTON ROSE FULBRIGHT**

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THIS DEED is made on 28 February 2020

PARTIES:

- (1) **KENNET EQUIPMENT LEASING LIMITED**, a company incorporated in England and Wales with company number 02569928, whose registered office is at Kennet House, Temple Court, Temple Way, Coleshill, B46 1HH (the "**Borrower**");
- (2) **KENNET FUNDING LIMITED**, a company incorporated in England and Wales with company number 09341877 and whose registered office is at Kennet House, Temple Court, Temple Way, Coleshill, B46 1HH (the "**Purchaser**"); and
- (3) **COMMERZBANK AG**, acting through its London Branch at 30 Gresham Street, London EC2V 7PG (the "**Lender**").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Facility Agreement shall, unless otherwise defined in this Deed, have the same meaning when used in this Deed and in addition:

"**Adjusted Group**" means the Parent and each Group Company.

"**Affiliate**" means, in relation to a person, any subsidiary or holding company of that person or any other subsidiary of that holding company.

"**Ancillary Rights**" means in relation to each Purchased Receivable as the context requires:

- (a) the right to demand, sue for, recover, receive and give receipts for all amounts due (whether or not from the relevant Customer) under, relating to or in connection with the Eligible Lease from which such Purchased Receivable derives (including any proceeds of enforcement in respect of an Eligible Lease received by the Borrower or its agents);
- (b) the benefit of all covenants and undertakings from the relevant Customer and from any guarantor under, relating to or in connection with the Eligible Lease from which such Purchased Receivable derives (including, without limitation, the proceeds of the liquidation of a Customer's property following that Customer's default under the relevant Eligible Lease);
- (c) the benefit of all causes of action against the relevant Customer under, relating to or in connection with, the Eligible Lease from which such Purchased Receivable derives;
- (d) the proceeds of any and all insurance claims received by the Borrower in respect of Equipment;

- (e) the proceeds of any payment plan arrangement entered into by the Borrower with a Customer in respect of any Eligible Lease from which such Purchased Receivable derives;
- (f) in respect of Defaulted Receivables, the proceeds of sale of Equipment by the Borrower following repossession or return of such Equipment;
- (g) in respect of Defaulted Receivables, the proceeds of re-leasing Equipment following repossession thereof by the Borrower (to the extent such Equipment is not sold); and
- (h) the benefit of any other rights, title, interests, powers or benefits of the Borrower in relation to the Eligible Lease from which such Purchased Receivable derives,

provided that the term "Ancillary Rights" shall exclude the Excluded Rights.

"Annual Fees" means any sums representing fees and expenses charged by the Servicer to a Customer in respect of collection activities, including annual servicing fees and arrears and recovery fees but excluding Documentation Fees.

"Arrears" means (i) in the case of a direct debit paying lessee, it is more than 10 days in arrears in respect of any rental instalment and the balance in arrears is more than 0.5 times the relevant instalment and (ii) in the case of an invoice paying lessee, it is more than 30 days in arrears in respect of any rental instalment and the balance in arrears is more than 0.5 times the relevant instalment.

"Back-up Servicer" means Virtual Lease Services Limited with company number 03864839 and whose registered office is at Wigglesworth House, 69 Southwark Bridge Road, London, SE1 9HH.

"Back-up Servicing Agreement" means, together, (a) the servicer review and standby agreement between the Back-up Servicer, the Purchaser and the Lender dated 31 July 2015 (and as amended and restated on or about the date of this Deed) and (b) the portfolio management services agreement between the Back-up Servicer and the Purchaser dated 31 July 2015 (and as amended and restated on or about the date of this Deed), pursuant to which (amongst other things) the Back-up Servicer is required to service the Lease Portfolio in the event that the Lease Portfolio Servicing Agreement is terminated for any reason whatsoever.

"Borrower Collection Account" means the account in the name of the Borrower held on trust for the Purchaser at the Deposit Bank (sort code [REDACTED]) with account number [REDACTED] or such other account in the name of the Borrower held on trust for the Purchaser with an Acceptable Bank as shall be designated as the "Borrower Collection Account" from time to time in accordance with clause 12.13(d) of the Facility Agreement.

"Costs and Expenses" means costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any Taxes thereon, except for any Taxes on income, profits or gains and any recoverable VAT.

"Customer" means a customer of the Borrower who has entered into one or more Eligible Leases.

"Default Lease" means a lease which would otherwise be an Eligible Lease but where the lessee is in Arrears with respect to any payment due under that lease on the earliest of:

- (a) the 91st day after such payment became due; and
- (b) the date on which the Servicer or the Back-up Servicer (as applicable) determines in accordance with the Borrower's written credit and collection standards that such Arrears are incapable of being paid in full.

"Delegate" means a delegate or sub-delegate appointed pursuant to clause 17.2 (*Discretion and delegation*).

"Deposit Bank" means Barclays Bank plc.

"Derived Assets" means any shares, stock or other assets which accrue or are offered, issued, paid or distributed at any time (by way of bonus, rights issue, redemption, reduction, conversion, exchange, substitution, consolidation, subdivision, preference, warrant, option, purchase, dividend or otherwise) in respect of any Investments.

"Disposal" means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of Security.

"Dissolution" means an event or circumstance as described in clauses 14.13 and 14.14 (*Insolvency Procedures*) of the Facility Agreement.

"Documentation Fees" means any sums representing fees and expenses charged by the Servicer to a Customer in respect of producing the standard lease documentation.

"Eligible Lease" means a lease in respect of which the related Purchased Receivables and Ancillary Rights have been sold to the Purchaser and which satisfied each of the eligible lease criteria set out in the Facility Agreement on the date on which such Purchased Receivables and Ancillary Rights were acquired by the Purchaser, provided always that if:

- (a) such lease becomes and continues to be a Default Lease;
- (b) such lease becomes the subject of any restructuring (excluding a permitted Payment Holiday or a restructuring solely for non-credit related administrative purposes) or value adjustment or write-off;
- (c) the relevant lessee becomes a member of the Adjusted Group or an Affiliate of a member of the Adjusted Group;
- (d) the Purchased Receivables and the Ancillary Rights in respect of such lease have been the subject of a Disposal made by the Purchaser; and/or
- (e) such lease has expired,

then, in any such case, such lease shall cease to be an Eligible Lease for the purposes of the Finance Documents.

"Enforcement Event" means:

- (a) the delivery by the Lender of an Acceleration Notice; or
- (b) the occurrence of an Event of Default pursuant to clause 14.3 or clause 14.4(c) of the Facility Agreement.

"Equipment" means any business equipment, commercial vehicles, information technology and telecoms, assets and systems, plant and machinery and cars, in each case which is used for business purposes by a Customer and in which the Borrower may have an interest from time to time, together with all Related Rights.

"Excluded Rights" means:

- (a) any sums representing insurance premiums payable by the Customer in respect of the Equipment;
- (b) without limitation, the right of ownership of the Equipment and the right to proceeds received from a Customer's exercise of an option to purchase Equipment pursuant to an Eligible Lease which is a hire purchase agreement;
- (c) any sums representing maintenance charges payable by the Customer in respect of the Equipment;
- (d) any Annual Fees and Documentation Fees; and
- (e) any rights in respect of Secondary Rental Payments,

provided that upon the earlier of (a) the delivery of a Servicer Termination Notice and (b) the occurrence of an Enforcement Event which is continuing, the sums referred to in paragraphs (a), (c) and (d) above will cease to be Excluded Rights.

"Facility Agreement" means the loan facility agreement (in an initial amount of up to £40,000,000) dated 17 February 2020 made between the Borrower (as borrower), the Parent (as guarantor) and the Lender (as lender).

"Finance Documents" means:

- (a) the Facility Agreement;
- (b) the Variable Funding Notes Deed and the Variable Funding Notes;
- (c) the Subordinated Variable Funding Notes Deed and the Subordinated Variable Funding Notes;

- (d) the Servicing Agreements;
- (e) this Deed and the Purchaser's Security Agreement;
- (f) the Receivables Purchase Agreement; and
- (i) any other documents designated as such by the Lender and the Borrower at any time.

"Group" means the Borrower and its subsidiaries.

"Group Company" means a member of the Group.

"Investments" means all of the issued share capital in the Purchaser described in Schedule 2 (*Description of Shares*) and includes the Borrower's rights in or in respect of and claims relating to Investments (and whether or not on a fungible basis), including any rights or claims against any trustee, nominee, depositary, intermediary, fiduciary, custodian or clearance or settlement system and all Related Rights.

"Lease Portfolio" means any leases in respect of which the Purchaser has acquired Purchased Receivables and Ancillary Rights from the Borrower pursuant to the Receivables Purchase Agreement (excluding any lease which has expired or where the related Purchased Receivables and Ancillary Rights have been the subject of a Disposal by the Purchaser).

"Lease Portfolio Proceeds Account" means the account in the name of the Purchaser at the Deposit Bank (sort code [REDACTED]) with account number [REDACTED].

"Lease Portfolio Servicing Agreement" means the agreement between the Borrower and the Purchaser originally dated 31 July 2015 (and as amended and restated on or about the date of this Deed) pursuant to which the Borrower is required to service the Lease Portfolio.

"LPA 1925" means the Law of Property Act 1925.

"Parent" means STAR Asset Finance Limited, a company incorporated in Guernsey with registered number 58708 and whose registered office is at Western Suite, Ground Floor, Mill Court, La Charroterie, St Peter Port, Guernsey, GY1 1EJ.

"Purchased Receivable" means each Receivable which has been acquired by the Purchaser pursuant to the Receivables Purchase Agreement (excluding any Receivable under or in connection with an Eligible Lease that has expired or where the related Receivable has been repurchased by the Borrower pursuant to the Receivables Purchase Agreement).

"Purchaser's Security Agreement" means the security agreement dated on or around the date of this Deed and entered into by the Purchaser and the Lender.

"Receivable" means any and all claims and rights of the Borrower against a Customer under or in connection with any Eligible Lease originated by the Borrower or an eligible originator and transferred

to the Borrower (including all principal payments, interest, amounts in respect of VAT, and fees and expenses, in each case due from the Customer under the terms of the Eligible Lease) but excluding, for the avoidance of doubt, any Excluded Rights.

"Receivables Purchase Agreement" means the agreement originally dated 31 July 2015 (and as amended and restated on or about the date of this Deed) between the Purchaser and the Borrower in respect of the sale to the Purchaser of Receivables and Ancillary Rights derived from Eligible Leases.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Security Assets.

"Related Rights" means in relation to any asset:

- (a) the proceeds of sale or other disposal of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all other assets and rights at any time receivable or distributable in respect of, or in exchange for, that asset;
- (d) the benefit of all rights in respect of or appurtenant to that asset (including, the benefit of all claims, distributions, covenants for title, warranties, guarantees, indemnities and security interests); and
- (e) any moneys and proceeds paid or payable in respect of that asset,

and (to the extent not included in paragraphs (a) to (e) above), in relation to Investments, includes all Derived Assets and all cash dividends, interest and other sums paid or payable in respect of any Investments.

"Relevant Contract" means:

- (a) each Variable Funding Note;
- (b) the Variable Funding Notes Deed;
- (c) each Subordinated Variable Funding Note;
- (d) the Subordinated Variable Funding Notes Deed;
- (e) the Lease Portfolio Servicing Agreement; or
- (f) the Receivables Purchase Agreement.

"Secondary Rental Payments" means Customer instalments that continue to be made after the end of the specified minimum term of the Eligible Lease due to the Customer continuing to require the Equipment.

"Secured Obligations" means all present and future obligations and liabilities of the Borrower (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) which are, or are expressed to be, or may become, due, owing or payable to the Lender under or in connection with any of the Finance Documents (as such documents may be varied, amended, waived, released, novated, supplemented, extended, restated or replaced from time to time, in each case, however fundamentally), together with all costs, charges and expenses incurred by the Lender which are, or are expressed to be, or may become due, owing or payable by the Borrower under or in connection with any Finance Document.

"Security" means the security interests constituted or expressed to be constituted in favour of the Lender by or pursuant to this Deed.

"Security Assets" means all the assets which from time to time are the subject of the Security.

"Security Rights" means all Rights of the Lender or any Receiver or Delegate provided by or pursuant to this Deed or by law in respect of the subject matter of this Deed.

"Servicer" means the Borrower acting in its capacity as **"Servicer"** under the Lease Portfolio Servicing Agreement.

"Servicer Termination Notice" means a notice to the Servicer from the Purchaser or the Lender delivered in accordance with the terms of the Lease Portfolio Servicing Agreement.

"Servicing Agreements" means the Lease Portfolio Servicing Agreement and the Back-up Servicing Agreement.

"Subordinated Variable Funding Note" means any subordinated variable funding note issued by the Purchaser to the Borrower pursuant to the Subordinated Variable Funding Notes Deed.

"Subordinated Variable Funding Notes Deed" means the subordinated variable funding notes deed dated on or about the date of this Deed made between the Borrower, the Purchaser and the Parent.

"SVFN Noteholder" means the person in whose name the Subordinated Variable Funding Notes are registered in the relevant register in accordance with the Subordinated Variable Funding Notes Deed.

"Trust Deposit" means all credit balances now or at any time in future on the Borrower Collection Account (excluding amounts relating to Excluded Rights), all debts from time to time represented by such credit balances and all other Rights (excluding Rights that relate to Excluded Rights) of the Borrower accruing or arising in relation to the Borrower Collection Account;

"Trust Property" has the meaning given to that term in clause 4.1(a).

"Variable Funding Note" means any variable funding note issued by the Purchaser to the Borrower pursuant to the Variable Funding Notes Deed.

"Variable Funding Notes Deed" means the variable funding notes deed dated on or about the date of this Deed between the Borrower, the Purchaser and the Parent.

"VFN Noteholder" means the person in whose name the Variable Funding Notes are registered in the relevant register in accordance with the Variable Funding Notes Deed.

1.2 Construction of Particular Terms

Unless a contrary intention appears, in this Deed the provisions of clause 1.2 (*Interpretation*) of the Facility Agreement shall apply as if set out in full in this Deed, save that references to the Facility Agreement shall be construed as references to this Deed and:

- (a) **"assets"** includes properties, revenues and Rights of every kind, present, future and contingent and whether tangible or intangible;
- (b) **"authorisation"** or **"consent"** shall be construed as including any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;
- (c) a **"company"** includes any company, corporation or other body corporate, wherever and however incorporated or established;
- (d) **"this Deed"** or any other agreement or instrument is a reference to this Deed or other agreement or instrument as it may have been amended, supplemented, replaced or novated from time to time and includes a reference to any document which amends, supplements, replaces, novates or is entered into, made or given pursuant to or in accordance with any of the terms of this Deed or, as the case may be, the relevant deed, agreement or instrument;
- (e) **"law"** includes any present or future common or customary law, principles of equity and any constitution, decree, judgment, decision, legislation, statute, order, ordinance, bye-law or other legislative measure in any jurisdiction or any present or future official directive, request, rule, code of practice, treaty or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of a person to whom the directive, request, rule, code of practice, treaty or requirement is intended to apply) of any governmental, intergovernmental or supranational body, or regulatory, self-regulatory or other authority or organisation;
- (f) a **"person"** includes any person, firm, company, government, state or agency of a state, any local or municipal authority, trust or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;

- (g) "qualified person" means a person who, under the Insolvency Act 1986, is qualified to act as a receiver of the property of any company with respect to which he is appointed or an administrative receiver of any such company; and
- (h) "security" includes any mortgage, charge, pledge, lien, security assignment, hypothecation or trust arrangement for the purpose of providing security and any other encumbrance or security interest of any kind having the effect of securing any obligation of any person (including the deposit of moneys or property with a person with the intention of affording such person a Right of lien, set-off, combination or counter-claim) and any other agreement or any other type of arrangement having a similar effect and "security interest" shall be construed accordingly.

1.3 Interpretation of this Deed

- (a) Unless a contrary indication appears, a reference to any party or person shall be construed as including its and any subsequent successors in title, permitted transferees and permitted assigns, in each case in accordance with their respective interests.
- (b) The terms "include", "includes" and "including" shall be construed without limitation.
- (c) Clause and Schedule headings are for ease of reference only and shall be ignored in construing this Deed.
- (d) Unless a contrary indication appears, references to any provision of any law are to be construed as referring to that provision as it may have been, or may from time to time be, amended or re enacted, and as referring to all bye laws, instruments, orders, decrees, ordinances and regulations for the time being made under or deriving validity from that provision.
- (e) A Default, an Event of Default or an Enforcement Event is "continuing" if it has not been remedied or waived.

1.4 Third Party Rights

- (a) Save as otherwise provided in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a party is not required to rescind or vary this Deed at any time.
- (c) Any Receiver or Delegate may, subject to this clause 1.4 and the Contracts (Rights of Third Parties) Act 1999, rely on any clause of this Deed which expressly confers rights on it.

2. PAYMENT OF SECURED OBLIGATIONS

2.1 Covenant to Pay

The Borrower shall, to the extent of the proceeds of any enforcement of the Security granted by this Deed, pay, perform and discharge the Secured Obligations in accordance with the Finance Documents or, as the case may be, this Deed.

2.2 Interest on Demand

If the Borrower fails to pay any sum payable by it pursuant to this Deed on its due date, interest shall accrue on the overdue amount from the due date until the date of actual payment (both before and after judgment) calculated on a daily basis at the rate determined in accordance with clauses 16.22 – 16.26 (inclusive) (*Interest for late payment*) of the Facility Agreement.

2.3 Proportionate payment

Each sum appropriated by the Lender in accordance with the Finance Documents in or towards payment of a particular part of the Secured Obligations shall to the extent of that appropriation discharge the Borrower's and the Purchaser's obligations *pro tanto* in respect of that part of the Secured Obligations to the Lender.

3. FIXED CHARGE AND ASSIGNMENTS

3.1 Fixed Charge

As continuing security for the full and punctual payment, performance and discharge of the Secured Obligations, with full title guarantee and free of any security interest, the Borrower charges all its Right, title and interest from time to time in and to each of the following assets in favour of the Lender:

- (a) the Investments by way of first fixed charge; and
- (b) the Equipment by way of first equitable mortgage.

3.2 Floating Charge

If, and to the extent that, the charge created over the Investments by clause 3.1 above is deemed to not constitute a fixed charge, then that charge shall take effect as a first floating charge.

3.3 Assignments

As continuing security for the full and punctual payment, performance and discharge of the Secured Obligations, with full title guarantee and free of any security interest, the Borrower assigns absolutely all its Right, title and interest from time to time in and to each Relevant Contract in favour of the Lender. The Purchaser hereby confirms that this clause puts it on notice of such aforementioned assignments.

4. DECLARATION OF TRUSTS

4.1 Constitution of trust

- (a) The Borrower hereby acknowledges, declares and agrees that it holds and shall hold:
 - (i) all of its Rights, title, powers and interests in and to the Borrower Collection Account (other than any Right, title, powers and interest relating to Excluded Rights);
 - (ii) all Trust Deposits; and
 - (iii) all of its Rights and powers against the Deposit Bank in relation thereto,(collectively the "**Trust Property**") upon trust for the Purchaser absolutely.
- (b) The Borrower hereby declares that all Trust Property from time to time paid, transferred, assigned or purported to be paid, transferred or assigned to it shall be held upon trust for the Purchaser absolutely.
- (c) The Borrower hereby acknowledges, declares and agrees that the Borrower Collection Account must be operated in accordance with the terms of the Facility Agreement and that no withdrawals will be made therefrom unless in accordance with the terms of the Facility Agreement.
- (d) The Purchaser hereby acknowledges, declares and agrees that it must hold upon trust for and as soon as reasonably practicable pay or transfer to the Borrower any amounts received by it that relate to Excluded Rights.

4.2 Transfer of Trust Property

- (a) The Borrower hereby acknowledges and consents to the Trust Property being paid into the Lease Portfolio Proceeds Account and being applied for the benefit of the Purchaser in accordance with the terms of, and in the manner provided in, the Facility Agreement and subject to certain security interests under the Purchaser's Security Agreement.
- (b) The Borrower shall not at any time set off or transfer any of the Trust Property in or towards satisfaction of any liabilities of the Purchaser to the Borrower or of any liabilities of the Borrower to the Purchaser or give any instruction to the Deposit Bank in relation thereto.

5. REPRESENTATION

5.1 Representation

The Borrower represents to the Lender that on the date of this Deed it has not created any security interest over all or any part of the Security Assets or the Trust Property (other than pursuant to this Agreement and other than any lien arising in the ordinary course of trading by operation of law).

6. GENERAL UNDERTAKINGS

6.1 Negative Pledge

Save as permitted in the Finance Documents, the Borrower shall not create or permit to subsist any security interest over all or any part of the Security Assets, other than any lien arising in the ordinary course of trading by operation of law.

6.2 No Disposal

The Borrower shall not (and the Borrower shall ensure that no other member of the Group will) enter into a single transaction or series of transactions (whether related or not) and whether voluntary or involuntary to sell, transfer, assign, lease, licence or otherwise dispose of any interest in a Security Asset other than to sell, transfer, lease or licence Equipment to a Customer in accordance with the terms of the relevant Eligible Lease or otherwise pursuant to this Deed.

6.3 Preservation of Security Assets

- (a) The Borrower shall not take or permit any action which is reasonably likely to materially adversely affect the value or otherwise depreciate, impair or prejudice any Security Asset or the Security Rights.
- (b) The Borrower shall punctually pay, as they become due, all debts and liabilities which by law would have priority over all or any part of the Secured Obligations.

6.4 Information

The Borrower shall promptly notify the Lender of any litigation, arbitration or administrative proceedings taking place where there is a reasonable likelihood of an outcome which might materially adversely affect the value or otherwise depreciate, impair or prejudice the Security Assets (taken as a whole) or the Security Rights.

7. RELEVANT CONTRACTS

7.1 Perfection

The Borrower shall deliver to the Lender on the date of this deed (and, if any change occurs thereafter, on the date of such change), details of each Relevant Contract, including the date and counterparties.

7.2 Undertakings

(a) The Borrower shall not:

- (i) amend, supplement, vary or waive any provision of any Relevant Contract (which for the purpose of this paragraph excludes each Subordinated Variable Funding Note and the Subordinated Variable Funding Notes Deed) (or agree to do so);
- (ii) exercise any right to rescind, cancel or terminate a Relevant Contract;
- (iii) release any counterparty from its obligations under a Relevant Contract;
- (iv) waive any breach by any counterparty or consent to any act or omission or otherwise exercise any discretion under any Relevant Contract; or
- (v) novate, transfer or assign any of its rights under any Relevant Contract (which for the purpose of this paragraph excludes each Subordinated Variable Funding Note and the Subordinated Variable Funding Notes Deed) (save as provided pursuant to this Deed),

in each case, if such action in paragraphs (i) to (v) (inclusive) above is reasonably likely to materially adversely prejudice the interests of the Lender under this Deed, except:

- (A) as permitted under the Facility Agreement; or
- (B) with the consent of the Lender (such consent not to be unreasonably withheld).

(b) The Borrower shall not:

- (i) amend, supplement, vary or waive any provision of a Subordinated Variable Funding Note or the Subordinated Variable Funding Notes Deed; or
- (ii) novate, transfer or assign any of its rights under a Subordinated Variable Funding Note or the Subordinated Variable Funding Notes Deed,

in each case, without the consent of the Lender (such consent not to be unreasonably withheld).

(c) The Borrower will provide to the Lender:

- (i) as soon as practicable upon receipt, copies of all notices which it may from time to time receive from any counterparty to any Relevant Contract; and

- (ii) on the date of this Deed:
 - (A) the certificate representing each Subordinated Variable Funding Note;
 - (B) a completed instrument of transfer in respect of each Subordinated Variable Funding Note, in the form provided in Schedule 6, to the Lender and signed by the SVFN Noteholder but undated;
 - (C) the certificate representing each Variable Funding Note; and
 - (D) a completed instrument of transfer in respect of each Variable Funding Note, in the form provided in Schedule 7, to the Lender and signed by the VFN Noteholder but undated;
- (d) Immediately after the execution of this Deed the Borrower shall give notice in or substantially in the form of Part 1 of Schedule 8 (*Form of Notice of Trust and Charge over Account*), duly completed, to the Deposit Bank, and shall use reasonable efforts to procure that the Deposit Bank promptly acknowledges that notice in writing to the Lender in or substantially in the form of Part 2 of Schedule 8 (*Form of Acknowledgement of Trust and Charge over Account*).
- (e) The Borrower confirms that it has been put on notice of the assignments described in clause 3.2 of the Purchaser's Security Agreement.

8. INVESTMENTS

8.1 Perfection

The Borrower shall, on the date of this Deed in relation to the Investments:

- (a) deliver to the Lender or to such agent or custodian as it may specify:
 - (i) undated transfers of the Investments duly executed by the Borrower in the form set out in Schedule 3 to this Deed together with all other documents the Lender may require to enable, after the occurrence of an Enforcement Event, the Lender (or its nominee) or any purchaser to be registered as the owner of, or otherwise to obtain legal title to such Investments;
 - (ii) all share certificates, documents of title and other documentary evidence of ownership, if any, representing the Investments;
 - (iii) a certified copy of the register of the members of the Purchaser;
 - (iv) executed but undated letters of resignation and release from each of the directors, alternate directors and officers of the Purchaser appointed by the Borrower in the form set out in Part I of Schedule 4 to this Deed;

- (v) letters of authority from each of the directors, alternate directors and officers of the Purchaser appointed by the Borrower in the form set out in Part II of Schedule 4 to this Deed; and
 - (vi) an irrevocable proxy in respect of the Investments executed by the Borrower in the form set forth in Schedule 5 to enable the Lender to exercise its rights in accordance with clause 8.2(c).
- (b) procure that details of the security created under this Deed are noted on the relevant register of members and/or any nominee or custodian holding any shares in the Purchaser is notified of the existence of such security; and
 - (c) terminate, with immediate effect, any third party rights in respect of the Investments or any of them granted pursuant to sections 145 or 146 of the Companies Act 2006.

8.2 Voting

- (a) Prior to the occurrence of an Enforcement Event, the Borrower shall exercise all voting rights in relation to the Investments, provided that the exercise of such rights:
 - (i) is not inconsistent with the terms of any Finance Document and this Deed;
 - (ii) does not adversely affect the validity or enforceability of any Finance Documents or this Deed; and
 - (iii) does not constitute a Default.
- (b) The Borrower's rights under paragraph (a) above may at any time be terminated by the Lender if it is of the opinion (acting reasonably) that such termination is necessary to preserve the value of the Investments.
- (c) Upon or at any time after the occurrence of an Enforcement Event, for the sole purpose of preserving the value of or realising the relevant Investments, the Lender or its nominee shall be entitled to (i) vote or cause to be voted any and all of the Investments and (ii) give or cause to be given consents, waivers and ratifications in respect of the Investments, in such manner and on such terms as the Lender or its nominee may think fit.

8.3 Future Investments

In relation to Investments acquired after the date of this Deed (including comprised in any Derived Assets), the Borrower shall promptly notify the Lender and comply with each of the obligations set out in clause 8.1 within two Business Days of the date of acquisition of such Investments or otherwise as required by the Lender.

8.4 Undertakings

- (a) The Borrower shall:
 - (i) promptly pay any amounts which may be due or become due in respect of the Investments;
 - (ii) forward copies of all notices, documents and other communications received by it or its nominee in connection with the Investments to the Lender promptly upon receipt; and
 - (iii) notify any subsequent chargee or person acquiring any interest whatsoever in the Investments of the existence of the Security.
- (b) The Borrower irrevocably and unconditionally undertakes to procure, on or after the occurrence of an Enforcement Event, that any and all transfers of the Investments to the Lender or its nominee submitted to the Purchaser or the Borrower by the Lender or its nominee is registered in the Purchaser's register of members.

8.5 Role of Lender or nominee

The Borrower shall at all times remain liable to observe and perform all of the other conditions and obligations relating to the Investments. The Lender shall not be required to perform or fulfil any such conditions or obligations.

8.6 Default

If the Borrower defaults on any payment which may be due or become due in respect of the Investments, the Lender may make such payment on behalf of the Borrower, and the Borrower shall reimburse the Lender on demand together with interest from the date of payment by the Lender until reimbursement at the rate specified in and calculated in accordance with clause 2.2.

9. EQUIPMENT

9.1 Notice of charge

The Borrower shall, if required by the Lender, place and maintain on each item of Equipment which is subject to a first equitable mortgage under this Deed, in a conspicuous place, an identification plaque containing the following notice in the following terms (which shall not be concealed, altered or removed):

"NOTICE OF CHARGE

This machine and all additions and ancillary equipment are subject to a first equitable mortgage in favour of Commerzbank AG, London Branch".

10. FURTHER ASSURANCE

10.1 General

The Borrower shall (at its own cost), promptly take all action necessary or desirable to:

- (a) ensure that the Security is and remains valid, legally binding and enforceable;
- (b) perfect, preserve or protect the Security and its priority following the occurrence of an Enforcement Event; and/or
- (c) facilitate the exercise of any and all of the Security Rights and the realisation of the Security Assets,

including the execution of all such transfers, charges, assignments and other documents, the giving of all such notices, orders, instructions and directions and the making of all such registrations and filings as the Lender or any Receiver or Delegate may reasonably consider necessary from time to time.

10.2 Implied Covenants for Title

The obligations of the Borrower under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.

11. POWER OF ATTORNEY

11.1 Appointment

The Borrower appoints as its attorney, irrevocably (within the meaning of section 4 of the Powers of Attorney Act 1971) and by way of security for the performance of its obligations under this Deed, the Lender and any person nominated in writing by the Lender, severally (with full powers of substitution and delegation), on its behalf and in its name or otherwise and as its act and deed, upon the occurrence of an Enforcement Event and in such manner as the attorney may think fit:

- (a) to take any action which it is obliged to take under this Deed but has not taken; and
- (b) to take any action required to enable the Lender to exercise all or any of the Security Rights,

and the taking of action by the attorney or attorneys shall (as between the attorney and any third party) be conclusive evidence to any third party of its Right to take such action.

11.2 Ratification

The Borrower undertakes to ratify and confirm everything that any attorney does or purports to do in the exercise or purported exercise of the power of attorney in clause 11.1 (*Appointment*).

12. EFFECTIVENESS OF SECURITY

12.1 Continuing Security

- (a) The Security shall remain in full force and effect as continuing security for the Secured Obligations unless and until discharged by the Lender in accordance with clause 13 (*Release of Security*).
- (b) No part of the Security will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

12.2 Additional Security

The Security and the Security Rights shall be cumulative, in addition to and independent of every other security which the Lender may at any time hold for the Secured Obligations or any other Rights provided by law. No prior security held by the Lender over the whole or any part of the Security Assets shall merge into the Security.

12.3 No Prejudice

Without prejudice to any other provision of this Deed, none of the Security, its priority, the Security Rights nor the liability of the Borrower or any other person for the Secured Obligations shall be prejudiced, reduced, released or otherwise adversely affected by any act, omission, fact or any other thing which but for this clause 12.3 would or may do so, including:

- (a) any time, waiver or consent granted, or any other indulgence or concession granted to the Borrower or any other person;
- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor;
- (c) the taking, holding, variation, compromise, exchange, renewal, realisation or release by any person of any Rights under or in connection with any security, guarantee, indemnity or any other document including any arrangement or compromise entered into by the Lender with the Borrower or any other person;
- (d) the refusal or failure to take up, hold, perfect or enforce by any person any Rights under or in connection with any security, guarantee, indemnity or other document (including any failure to comply with any formality or other requirement or any failure to realise the full value of any security);
- (e) the existence of any claim, set-off or other Right which the Borrower or any other person may have at any time against the Lender or any other person;
- (f) the making or absence of any demand for payment or discharge of any Secured Obligations;

- (g) any amalgamation, merger or reconstruction that may be effected by the Lender with any other person, including any reconstruction by the Lender involving the formation of a new Borrower and the transfer of all or any of its assets to that Borrower, or any sale or transfer of the whole or any part of the undertaking and assets of the Lender to any other person;
- (h) any incapacity, lack of power, authority or legal personality of or Dissolution or change in the members or status of the Borrower or any other person;
- (i) any variation, amendment, waiver, release, novation, supplement, extension or restatement or replacement of any Finance Document, or any other security, guarantee, indemnity or other document, in each case however fundamental and of whatsoever nature;
- (j) any change in the identity of the Lender; or
- (k) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other security, guarantee, indemnity or other document.

12.4 Details of Security Assets

The fact that no or incomplete details of any Security Asset are provided in this Deed shall not affect the validity or enforceability of the Security.

12.5 Immediate recourse

The Borrower waives any Right it may have of first requiring the Lender to proceed against or enforce any other Rights or security or claim payment from any person before claiming from the Borrower under this Deed. The waiver applies irrespective of any law or any provision of this Deed to the contrary.

12.6 Deferral of Rights

- (a) Until such time as the Security has been released in accordance with clause 13 (*Release of Security*), the Borrower will not exercise any Rights which it may have by reason of performance by it of its obligations under this Deed without the prior consent of the Lender:
 - (i) to claim, rank, prove or vote as a creditor of any other party to any of the Finance Documents; or
 - (ii) to receive, claim or have the benefit of any payment, guarantee, indemnity, contribution or security from or on account of any such party (in whole or in part or whether by way of subrogation or otherwise); and/or
 - (iii) of set-off, combination or counter-claim as against any such party.

- (b) The Borrower shall hold on trust for, and immediately pay or transfer to, the Lender an amount equal to any payment or benefit received by it contrary to clauses 12.6(a)(i) or (ii) above.
- (c) If the Borrower exercises any Right of set-off, combination or counter-claim, it will immediately pay or transfer to the Lender an amount equal to the amount set-off, combined or counter-claimed.
- (d) The Lender shall apply all amounts received pursuant to clauses 12.6(b) and (c) above in accordance with clause 18 (*Application of Moneys*).

12.7 New Account

At any time after:

- (a) the Lender (acting in its capacity as lender or otherwise) receives or is deemed to have received notice of any subsequent security interest affecting all or any part of the Security Assets or any assignment or transfer of the Security Assets which is prohibited by the terms of this Deed or the Facility Agreement; or
- (b) the commencement of the Dissolution of the Borrower,

all payments by or on behalf of the Borrower to the Lender (whether in its capacity as lender or otherwise) shall be treated as having been credited to a new account of the Borrower and not, upon the occurrence of any of the circumstances specified in paragraphs (a) or (b) above, as having been applied in reduction of the Secured Obligations.

12.8 Further Advances

The Security is intended to secure further advances. Subject to the terms of the Facility Agreement, the Lender shall perform its obligations under the Facility Agreement (including any obligation to make available further advances).

12.9 Insolvency Act 2000

Notwithstanding the other provisions of this Deed, the obtaining of a moratorium, or anything done with a view to obtaining a moratorium, in relation to a voluntary arrangement under the Insolvency Act 1986 for the Borrower, will not, by itself:

- (a) cause any floating charge granted by the Borrower under this Deed to crystallise;
- (b) cause restrictions in this Deed or the Finance Documents which would not otherwise apply to be imposed on the disposal of property by the Borrower; nor
- (c) be a ground for the appointment of a Receiver of the Borrower.

13. RELEASE OF SECURITY

13.1 Release of Security Assets

If the Lender is satisfied that:

- (a) all Secured Obligations have been unconditionally and irrevocably paid or discharged in full and that the Lender does not have any further liability or obligation to advance any funds under any Finance Document;
- (b) security or a guarantee for the Secured Obligations, in either case, acceptable to the Lender, has been provided in substitution for this Deed; or
- (c) the Borrower is unconditionally entitled pursuant to any provision of the Finance Documents to have any Security Asset released from the Security,

then, subject to clause 13.3 (*Reinstatement*), the Lender shall, at the request and cost of the Borrower, take all necessary action, using the agreed form in the Schedule 1 (*Deed of Release*) to release the Security Assets (or, in the case of paragraph (c) above, the relevant Security Assets), from the Security.

13.2 Permitted disposals

Notwithstanding clause 13.1 (*Release of Security Assets*) in the event of a disposal of any Security Asset permitted pursuant to this Deed or any other Finance Document the Lender must promptly, at the request and cost of the Borrower, take whatever action is reasonably necessary to release and discharge such item of Equipment to which such Purchased Receivable relates or such other Security Asset from this Security.

13.3 Reinstatement

If the Lender reasonably considers, on the basis of independent legal advice, that any payment to, or security or guarantee provided to it is capable of being avoided, reduced or invalidated by virtue of applicable law the liability of the Borrower under this Deed and the Security shall continue as if such amounts had not been paid or as if any such security or guarantee had not been provided.

14. ENFORCEMENT

14.1 Timing of Enforcement

The Security shall be enforceable immediately upon and at any time after the occurrence of an Enforcement Event which is continuing at the time such enforcement action is taken.

14.2 Enforcement Rights

Upon or after the Security becoming enforceable the Lender may, without notice to the Borrower or prior authorisation from any court enforce all or any part of that Security and exercise all or any of the powers, authorities and discretions conferred by the Finance Documents or otherwise by law on mortgagees, chargees and Receivers (whether or not it has appointed a Receiver), in each case at the times, in the manner and on the terms it thinks fit.

14.3 Security enforceable – Relevant Contracts

Upon or after the Security becoming enforceable:

- (a) the Lender may exercise any of the Borrower's Rights under a Relevant Contract; and
- (b) the Borrower shall hold all moneys received under any Relevant Contract on trust for the Lender pending payment to the Lender for application in accordance with clause 18 (*Application of Moneys*).

14.4 Security enforceable – Investments

Upon or after the Security becoming enforceable:

- (a) the Lender may exercise (or refrain from exercising) any voting rights in respect of the Investments;
- (b) the Borrower shall hold all dividends, interest and other moneys arising from the Investments on trust for the Lender pending payment to the Lender for application in accordance with clause 18 (*Application of moneys*);
- (c) the Borrower shall transfer the Investments into the name of such nominee(s) of the Lender as it shall require; and
- (d) the Borrower shall exercise (or refrain from exercising) any other rights conferred on or exercisable by the legal or beneficial owner of the Investments in such manner and on such terms as the Lender may think fit.

14.5 Financial Collateral Regulations

- (a) To the extent that any of the Security Assets, this Deed and the Rights and obligations of the parties under this Deed constitute a "security financial collateral arrangement" (as defined in and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226) (the "**Regulations**")), at any time on or after the Security becoming enforceable, the Lender shall have the benefit of all of the Rights of a collateral taker conferred upon it by the Regulations, including the Right to appropriate all or any part of the financial collateral (as defined in the Regulations) in or towards discharge of the Secured Obligations.

- (b) The parties agree that the value of the financial collateral (as defined in the Regulations) so appropriated shall be, in the case of any financial collateral other than cash (as defined in the Regulations), the market value of such financial collateral determined (after appropriation) by the Lender, acting reasonably, by reference to a public index or by such other process as the Lender may select, which may be independent valuation.

The parties agree that the method of valuation set out in this clause 14.5(b) is a commercially reasonable method of valuation for the purposes of the Regulations.

14.6 Set-off

Following the occurrence of an Event of Default which is continuing, the Lender may (but shall not be obliged to) set off against any obligation of the Borrower due and payable by it to or for the account of the Lender under this Deed, any moneys held by the Lender for the account of the Borrower at any office of the Lender anywhere and in any currency, whether or not matured. If any such obligation is unliquidated or unascertained, the Lender may set off in an amount estimated by it in good faith to be the amount of that obligation. The Lender may effect such currency exchanges as are appropriate to implement the set-off and any usual charges and all applicable Taxes in relation to such currency exchanges shall be subject to the indemnity in clause 22(b).

15. EXTENSION AND VARIATION OF POWERS CONFERRED BY LAW

15.1 Extension of Powers

Notwithstanding any other provisions of this Deed, the powers conferred by section 101 of the LPA 1925 as varied and extended by this Deed shall be deemed to arise (and the Secured Obligations shall be deemed due and payable for that purpose) immediately on execution of this Deed. Section 109(1) of the LPA 1925 shall not apply to this Deed.

15.2 Restrictions

The restrictions contained in sections 93 and 103 of the LPA 1925 shall not apply to this Deed or to the exercise by the Lender or any Receiver or Delegate of its Right to consolidate all or any of the Security with any other security in existence at any time or to its power of sale.

15.3 Power of Leasing

- (a) The statutory powers of leasing conferred by sections 99 and 100 of the LPA 1925 may be exercised by the Lender or any Receiver or Delegate at any time on or after the Security becomes enforceable. The Lender and any Receiver or Delegate may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with any restrictions imposed by sections 99 and 100 of the LPA 1925.

- (b) For the purposes of sections 99 and 100 of the LPA 1925, the expression "mortgagor" shall include any encumbrancer deriving title under the original mortgagor and section 99(18) of the LPA 1925 and section 100(12) of the LPA 1925 shall not apply.

16. APPOINTMENT OF RECEIVERS

16.1 Appointment

At any time:

- (a) on or after any of the Security becoming enforceable (whether or not the Lender shall have taken possession of the Security Assets); or
- (b) at the written request of the Borrower,

the Lender may, without notice to the Borrower, appoint one or more qualified persons to be Receiver or Receivers. If the Lender appoints more than one person as Receiver, the Lender may give the relevant persons power to exercise all or any of the powers conferred on Receivers individually as well as jointly and to the exclusion of the other or others of them.

16.2 Scope of appointment

Any Receiver may be appointed as Receiver of either all the Security Assets or of such part of the Security Assets as may be specified in the appointment. In the latter case, the Rights conferred by clause 16.4 (*Powers of Receivers*) shall take effect as though every reference in that clause to "Rights" were a reference to Rights in respect of the specified part of the Security Assets.

16.3 Removal

The Lender may, by deed or by instrument in writing signed by any officer or other person authorised for such purpose by it (so far as it is lawfully able and subject to any requirement of the court in the case of an administrative receiver), remove any Receiver appointed by it and may, whenever it deems expedient, appoint any one or more other qualified persons in place of or to act jointly with any other Receiver.

16.4 Powers of Receivers

Any Receiver appointed under this Deed will (subject to any contrary provision specified in his appointment but notwithstanding the Dissolution of the Borrower) have:

- (a) all the Rights conferred by the LPA 1925 on mortgagors and on mortgagees in possession and on any receiver appointed under the LPA 1925;
- (b) all the Rights of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 as in force at the date of this Deed (whether or not in force at the date of exercise) and all Rights of an administrative receiver as may be added to Schedule 1

of the Insolvency Act 1986 after the date of this Deed, in either case, whether or not the Receiver is an administrative receiver;

- (c) the Right to manage, use and apply all or any of the Security Assets and to exercise (or permit the Borrower or its nominee to exercise) all other Rights of an absolute beneficial owner of the Security Assets;
- (d) the Right to dispose of or otherwise realise all or any part of the Security Assets in any manner whatsoever;
- (e) the Right to redeem or transfer to the Lender any prior security interest over the Security Assets;
- (f) all the Rights expressed to be conferred upon the Lender in this Deed; and
- (g) the Right to do all lawful things which in the opinion of the Receiver are incidental or conducive to any of the functions, powers, authorities or discretions conferred on or vested in him, the exercise of the Security Rights or bringing into his hands any assets forming part of, or which when got in would form part of, the Security Assets.

16.5 Agent

Any Receiver shall for all purposes be the agent of the Borrower and therefore deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA 1925. The Borrower shall be solely responsible for his contracts, engagements, acts, omissions, defaults and losses and for all liabilities incurred by him and for the payment of his remuneration. No Receiver shall at any time act as, or be deemed to be, agent of the Lender.

16.6 Remuneration

Subject to section 36 of the Insolvency Act 1986, the Lender may from time to time fix the remuneration of any Receiver appointed by it (without being limited to the maximum rate specified in section 109(6) of the LPA 1925) and may direct payment of such remuneration out of moneys accruing to him as Receiver, but the Borrower alone shall be liable for the payment of such remuneration and for all other costs, charges and expenses of the Receiver.

17. DISCRETION AND DELEGATION

17.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Lender or any Receiver may, subject to the terms and conditions of the Facility Agreement, be exercised or made from time to time in its absolute and unfettered discretion without any obligation to give reasons.

17.2 Delegation

- (a) Each of the Lender and any Receiver may at any time delegate all or any of the Rights conferred on it by this Deed.
- (b) The delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions as the Lender may think fit.
- (c) Such delegation shall not preclude either the subsequent exercise of such power, authority or discretion by the Lender or the Receiver itself or any subsequent delegation or revocation.
- (d) Under no circumstances shall the Lender nor any Receiver or Delegate nor any officer, agent or employee of any of them be liable to the Borrower or any other person as a result of or in connection with any act, default, omission or misconduct on the part of any Delegate.

18. APPLICATION OF MONEYS

All moneys arising from the exercise of the powers of enforcement under this Deed shall (except as may be otherwise required by applicable law) be held by the Lender and any Receiver and (subject to clause 19 (*Suspense Account*)), be applied in accordance with clauses 15.8 and 15.10 (as applicable) of the Facility Agreement and section 109(8) of the LPA 1925 shall be deemed varied and extended in such respect.

19. SUSPENSE ACCOUNT

The Lender may place and retain on a suspense account, for as long as it considers fit, any moneys received, recovered or realised under or in connection with this Deed to the extent of the Secured Obligations, without any obligation on the part of the Lender to apply such moneys in or towards the discharge of such Secured Obligations.

20. PROTECTION OF THIRD PARTIES

20.1 Consideration

The receipt of the Lender or any Receiver or Delegate shall be conclusive discharge to a purchaser and any sale or disposal of any of the Security Assets or any acquisition by the Lender or any Receiver or Delegate shall be for such consideration, and made in such manner and on such terms as it thinks fit.

20.2 Protection of Purchasers

- (a) No purchaser or other person dealing with the Lender, any Receiver or any Delegate shall be bound to inquire whether the Right of the Lender or such Receiver or Delegate to exercise any of its powers has arisen or become exercisable or be

concerned with any propriety or regularity on the part of the Lender or such Receiver or Delegate in such dealings.

- (b) All the protections given to purchasers from a mortgagee by sections 104 and 107 of the LPA 1925, and to persons dealing with a receiver in section 42(3) of the Insolvency Act 1986, shall apply equally to any person purchasing from or dealing with the Lender any Receiver or any Delegate.

21. NO LIABILITY

Neither the Lender nor any Receiver or Delegate nor any officer, agent or employee of any of them will in any circumstances (whether by reason of taking possession of the Security Assets or for any other reason whatsoever):

- (a) be liable to account to the Borrower or any other person for anything except the Lender's own actual receipts; or
- (b) be liable to the Borrower or any other person as a result of or in connection with:
 - (i) taking any action permitted by this Deed;
 - (ii) any neglect, default or omission in relation to the Security Assets; or
 - (iii) taking possession of or realising all or any part of the Security Assets,

except in each case, to the extent directly caused by fraud or wilful default or negligence on its part.

22. COSTS AND EXPENSES

- (a) The Borrower shall indemnify the Lender and every Receiver, Delegate or other person appointed by the Lender under this Deed (each an "**Indemnified Party**") within five Business Days of demand against all Costs and Expenses reasonably expended, paid, incurred or debited on account by any Indemnified Party in connection with:
 - (i) enforcing, protecting, preserving or realising, or attempting to enforce, protect, preserve or realise, the Rights vested in any Indemnified Party by this Deed or by law; and
 - (ii) any default by the Borrower in the performance of any of the obligations expressed to be assumed by it under the Finance Documents.
- (b) The Lender may indemnify itself out of the Security Assets in respect of, and pay and retain all sums necessary to give effect to the indemnity in this clause 22 and shall have a lien on the Security Assets and the proceeds of enforcement of the Security Assets for all moneys payable to it.

23. CERTIFICATES AND DETERMINATIONS

For all purposes, including any legal proceedings, a determination by the Lender or a copy of a certificate signed by an officer of the Lender, of the amount of any indebtedness comprised in the Secured Obligations for the time being or at any time shall, in the absence of manifest or proven error, be prima facie evidence against the Borrower as to such amount.

24. ASSIGNMENT

24.1 Assignment by the Lender

The Lender may at any time, without the consent of the Borrower, assign or transfer any of its Rights and obligations under this Deed to any person to whom its Rights and obligations under the Facility Agreement may be assigned or transferred. Upon such assignment and transfer taking effect, the replacement Lender shall be and be deemed to be acting as agent and trustee for the Borrower (as well as for itself) for the purposes of this Deed in place of the previous Lender.

24.2 Assignment by the Borrower

The Borrower shall not assign or transfer, or attempt to assign or transfer, any of its Rights or obligations under this Deed.

25. AMENDMENTS

This Deed may not be amended, modified or waived in any respect, without the prior written consent of the Lender and the Borrower given with express reference to this clause 25.

26. NOTICES

26.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be in writing. It must be addressed to the recipient and, unless otherwise stated, may be made by fax, email or letter.

26.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Deed for any communication or document to be made or delivered under or in connection with this Deed is that identified below or any substitute address, fax number or department or officer as the party may notify to the other parties by notice:

Kennet Equipment Leasing Limited

Address: Kennet House
Temple Court
Temple Way

Coleshill
B46 1HH

Email: Sean.Devoy@kennetleasing.co.uk
Fax: 01675 469210
Attention: Sean Devoy

Commerzbank AG, London Branch

Address: 30 Gresham Street, London EC2V 7PH
Email: FK-CMAS-SFTTransactionSupport@commerzbank.com
Attention: AF Transaction Management

with a copy to:

Address: 25, rue Edward Steichen, L-2540 Luxembourg
Email: loanadminlon@commerzbank.com
Attention: Piotr Matusiak, Anna Matusiak, Barbara Kupis

26.3 Notification of Contact Details

Promptly upon changing its contact details, a Party shall notify the other Parties.

27. REMEDIES AND WAIVERS

No failure to exercise, nor any delay or omission in exercising, on the part of the Lender, any Right provided by law or under this Deed shall impair, affect or operate as a waiver of that or any other Right or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any Right shall prevent any further or other exercise or the exercise of any other Right. The Rights provided in this Deed are cumulative and not exclusive of any Rights provided by law.

28. PARTIAL INVALIDITY

- (a) If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither:
 - (i) the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction or any other jurisdiction; nor
 - (ii) the legality, validity or enforceability of such provision under the law of any other jurisdiction,

will in any way be affected or impaired.

- (b) The parties shall enter into good faith negotiations, but without any liability whatsoever in the event of no agreement being reached, to replace any illegal, invalid or unenforceable provision with a view to obtaining the same commercial effect as this Deed would have had if such provision had been legal, valid and enforceable.

29. TRUSTS

If any trust intended to arise pursuant to any provision of this Deed fails or for any reason (including the laws of any jurisdiction in which any assets, moneys, payments or distributions may be situated) cannot be given effect to, the Borrower will pay to the Lender for application in accordance with clause 18 (*Application of Moneys*) an amount equal to the amount (or the value of the relevant assets) intended to be so held on trust for the Lender.

30. EXECUTION AS A DEED

Each of the parties intends this Deed to be a deed and confirms that it is executed and delivered as a deed, notwithstanding the fact that any one or more of the parties may only execute it under hand.

31. COUNTERPARTS

This Deed may be executed in any number of counterparts, and by the parties to this Deed on separate counterparts, but will not be effective until each such party has executed at least one counterpart. Each counterpart shall constitute an original of this Deed, but all the counterparts will together constitute one and the same instrument.

32. JURISDICTION

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) or any non-contractual obligation arising out of or in connection with this Deed (a "**Dispute**").
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (c) This clause 32 is for the benefit of only the Lender. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

33. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with this Deed are governed by and are to be construed in accordance with English law. Except as otherwise agreed in the Facility Agreement, any matter, claim or dispute arising out of or in connection with this Deed,

whether contractual or non-contractual, is to be governed by and determined in accordance with English law.

IN WITNESS of which this document has been signed on behalf of the Lender and executed as a deed by each of the Borrower and the Purchaser and is delivered on the date stated at the beginning of this Deed.

**SCHEDULE 1
DEED OF RELEASE**

THIS DEED OF RELEASE is made on []

PARTIES:

- (1) **KENNET EQUIPMENT LEASING LIMITED**, a company incorporated in England and Wales with company number 02569928, whose registered office is at Kennet House, Temple Court, Temple Way, Coleshill, B46 1HH (the "**Borrower**"); and
- (2) **COMMERZBANK AG, LONDON BRANCH** (the "**Lender**").

BACKGROUND

- (A) The Borrower, the Lender and others, entered into a Security Agreement Creating A Fixed Charge dated [●] (the "**Borrower Security Agreement**") pursuant to which the Borrower granted Security (as defined in the Borrower Security Agreement) in favour of the Lender.
- (B) Pursuant to clause 13 (*Release of Security*) of the Borrower Security Agreement, the Borrower has requested that the Lender release [*specify Security Asset* (the "**Released Property**")] [all of the Security Assets] from the Security and the Lender has agreed to do so on the terms and conditions of this Deed.

IT IS AGREED as follows:

1. INTERPRETATION

- (a) Terms defined in the Borrower Security Agreement shall, unless otherwise defined in this Deed, have the same meaning in this Deed.
- (b) The provisions of clause 1.2 (*Construction of Particular Terms*) and clause 1.3 (*Interpretation of this Deed*) of the Borrower Security Agreement apply to this Deed as though they were set out in full in this Deed.

2. RELEASE

- (a) The Lender releases and re-assigns the Security over the [Released Property] [Security Assets], subject to clause 13 (*Release of Security*) of the Borrower Security Agreement.
- (b) This release and re-assignment shall not discharge the Borrower from any outstanding liabilities to the Lender or from any other security.

3. FURTHER ASSURANCE

The Lender will do all things and execute all documents which are reasonably necessary and within its control to give effect to this Deed and the release and re-assignment of the [Released Property] [Security Assets] from the Security.

4. EXECUTION AS A DEED

Each of the parties intends this Deed to be a deed and confirms that it is executed and delivered as a deed, notwithstanding the fact that any one or more of the parties may only execute it under hand.

5. COUNTERPARTS

This Deed may be executed in any number of counterparts, and by the parties to this Deed on separate counterparts, but will not be effective until each such party has executed at least one counterpart. Each counterpart shall constitute an original of this Deed, but all the counterparts will together constitute one and the same instrument.

6. GOVERNING LAW

This Deed is governed by and is to be construed in accordance with English law.

IN WITNESS of which this document has been executed as a deed by each of the Lender and the Borrower and is delivered on the date stated at the beginning of this Deed.

The Lender

EXECUTED as a DEED)
by **COMMERZBANK AG, LONDON BRANCH**)
acting by)

who, in accordance with the laws of the)
territory in which **Commerzbank AG** is) (Authorised signatory)
incorporated is acting under the authority of)
Commerzbank AG.)

The Borrower

EXECUTED as a DEED
by **KENNET EQUIPMENT LEASING LIMITED**

acting by a director in the presence of:
Director

Witness's signature:

Name (print):

Occupation:

Address:

.....

SCHEDULE 2
DESCRIPTION OF SHARES

Company Name:	Kennet Funding Limited
Class of Shares:	Ordinary
Currency:	GBP
Total number of Shares:	1
Total aggregate nominal value of Shares:	1 GBP

SCHEDULE 3
FORM OF SHARE TRANSFER CERTIFICATE

Share Transfer Certificate
Kennet Funding Limited (the "Company")

We, Kennet Equipment Leasing Limited, for good and valuable consideration received by us from Commerzbank AG, London Branch do hereby:

- (a) transfer to _____ (the "**Transferee**") 1 fully paid up share (the "**Share**") standing in our name in the register of the Company to hold unto the Transferee, his executors, administrators and assigns; and
- (b) consent that our name remains on the register of the Company until such time as the Company enters the Transferee's name in the register of the Company.

Signed by **KENNET EQUIPMENT LEASING LIMITED**

on the _____ day of _____, 20____

acting by a director in the presence of:
 Director

Witness's signature:

Name (print):

Occupation:

Address:

.....

**SCHEDULE 4
FORM OF RESIGNATION LETTER**

**Part I
Form of Resignation Letter**

To: The Board of Directors
Kennet Funding Limited

Dear Sirs,

I hereby resign my position as [Director][Secretary] of Kennet Funding Limited, such resignation to take effect from the date of this letter and confirm that I have no right to compensation or claims against Kennet Funding Limited for loss of office, arrears or pay or otherwise howsoever.

Dated this day of , 20

Yours faithfully,

.....

Name:

Title:

Part II

Letter of Authorisation

[Date]

To: Commerzbank AG, London Branch (the "**Lender**") (and its successors and assigns)

From: Name: [•]
Position: [Director] [Secretary]

Dear Sirs,

Re: Security Deed between the Lender, Kennet Equipment Leasing Limited and Kennet Funding Limited dated 2020 (the "**Borrower Security Agreement**")

I refer to my executed but undated letter of resignation as [Director] [Secretary] of Kennet Funding Limited provided in accordance with the Borrower Security Agreement. I hereby unconditionally and irrevocably authorise you and your successors and assignees at any time on or after the occurrence of an Enforcement Event (as defined in the Borrower Security Agreement) to date, use and otherwise put into full effect the undated letter of resignation delivered by me to you pursuant to the Borrower Security Agreement.

Yours faithfully,

.....

**SCHEDULE 5
FORM OF PROXY**

Irrevocable Appointment Of Proxy

Re: Security Deed between the Lender, Kennet Equipment Leasing Limited and Kennet Funding Limited dated 2020 (the "**Borrower Security Agreement**")

We, Kennet Equipment Leasing Limited, hereby unconditionally and irrevocably appoint Commerzbank AG, London Branch or its nominee (the "**Lender**");

- (a) as our attorney and proxy to vote at meetings of the shareholders of Kennet Funding Limited (the "**Purchaser**"); and
- (b) as our duly authorised attorney and representative to sign resolutions in writing of the shareholders of the Purchaser,

upon or at any time after the occurrence of an Enforcement Event (as defined in the Borrower Security Agreement) in respect of any existing or further shares in the Purchaser which may have been or may from time to time be issued and/or registered in our name.

This power and proxy is irrevocable by reason of being coupled with the interest of the Lender as chargee of the aforesaid shares.

Dated:

KENNET EQUIPMENT LEASING LIMITED

acting by a director in the presence of:
Director

Witness's signature:

Name (print):

Occupation:

Address:

.....

SCHEDULE 6
FORM OF SUBORDINATED VARIABLE FUNDING NOTE INSTRUMENT OF TRANSFER

Subordinated Variable Funding Certificate
Kennet Funding Limited (the "Company")

We, Kennet Equipment Leasing Limited, for good and valuable consideration received by us from Commerzbank AG, London Branch do hereby:

- (a) transfer to _____ (the "**Transferee**") the Subordinated Variable Funding Notes standing in our name in the Subordinated Variable Funding Notes Register of the Company to hold unto the Transferee, his executors, administrators and assigns; and
- (b) consent that our name remains on the Subordinated Variable Funding Notes Register of the Company until such time as the Company enters the Transferee's name in the Subordinated Variable Funding Notes Register of the Company.

Signed by **KENNET EQUIPMENT LEASING LIMITED**

on the day of , 20

acting by a director in the presence of:

.....
 Director

Witness's signature:

.....

Name (print):

.....

Occupation:

.....

Address:

.....

.....

Signed by [TRANSFeree]

on the day of , 20

Name:

Title:

Name:

Title:

SCHEDULE 7
FORM OF VARIABLE FUNDING NOTE INSTRUMENT OF TRANSFER

Variable Funding Certificate
Kennet Funding Limited (the "Company")

We, Kennet Equipment Leasing Limited, for good and valuable consideration received by us from Commerzbank AG, London Branch do hereby:

- (a) transfer to _____ (the "**Transferee**") the Variable Funding Notes standing in our name in the Variable Funding Notes Register of the Company to hold unto the Transferee, his executors, administrators and assigns; and
- (b) consent that our name remains on the Variable Funding Notes Register of the Company until such time as the Company enters the Transferee's name in the Variable Funding Notes Register of the Company.

Signed by **KENNET EQUIPMENT LEASING LIMITED**

on the _____ day of _____, 20____

acting by a director in the presence of:
 Director

Witness's signature:

Name (print):

Occupation:

Address:

.....

Signed by [TRANSFeree]

on the day of , 20

Name:

Title:

Name:

Title:

SCHEDULE 8
FORM OF NOTICE AND ACKNOWLEDGEMENT OF TRUST AND CHARGE OVER ACCOUNT

Part 1

Form of notice of trust and charge over account

From: **Kennet Equipment Leasing Limited**

Kennet House, Temple Court, Temple Way, Coleshill, Warwickshire, B46 1HH, UK
 (the "**Borrower**")

Kennet Funding Limited

Kennet House, Temple Court, Temple Way, Coleshill, Warwickshire, B46 1HH, UK
 (the "**Purchaser**")

To: **[Deposit Bank]**
[Address]

[Date]

Dear Sirs,

Notice of trust and charge over account

We refer to our [describe account e.g. "interest-bearing sterling deposit"] account (number [] designated "[insert account name]") with you (the "**Account**").

Capitalised terms used but not otherwise defined herein have the meaning ascribed to them in the Facility Agreement dated around the date hereof between the Borrower and the Lender, a copy of which has been provided to the Deposit Bank.

The Borrower hereby gives notice that pursuant to the Borrower's Security Agreement, it has acknowledged, declared and agreed to hold (i) all of its Rights, title, powers and interests in and to the Account (other than any Right, title, powers and interest relating to Excluded Rights), (ii) all credit balances now or at any time in the future on the Account (excluding amounts relating to Excluded Rights), all debts from time to time represented by such credit balances and all other Rights (excluding Rights that relate to Excluded Rights) of itself accruing or arising in relation to the Account and (iii) all of its Rights and powers against the Deposit Bank in relation thereto, upon trust for Kennet Funding Limited (the "**Purchaser**") absolutely.

The Purchaser hereby gives notice that pursuant to the Purchaser's Security Agreement, it has, with full title guarantee and free of any security interest, charged in favour of Commerzbank AG, London Branch (the "**Lender**") by way of first fixed charge all its Right, title and interest from time to time (i) in the Account and in all credit balances now or at any time in the future on the Account (excluding amounts relating to Excluded Rights) and (ii) in all debts from time to time represented by such credit balances and all other Rights (excluding Rights that relate to Excluded Rights) of the Borrower accruing or arising in relation to the Account.

We hereby instruct and authorise you as follows (notwithstanding any previous instructions to the contrary):

- (a) to disclose to the Lender any information relating to the Account required by it from time to time; and
- (b) to operate the Account in accordance with the provisions of clauses 11.6(a) and 12.13(c) of the Facility Agreement and to hold all amounts standing to the credit of the Account from time to time to the order of the Purchaser and, following receipt of notice from the Lender that an Enforcement Event (as defined in the Purchaser's Security Agreement) has occurred, the Lender.

The instructions and authorisations which are contained in this notice shall remain in full force and effect until the Lender gives you notice in writing revoking them.

You may comply with the instructions in this notice without any further permission from us and without any enquiry by you as to the justification for or validity of any request, notice or instruction. In the event of any conflict between communications received from us and from the Lender, you shall treat the communication from the Lender as prevailing over the communication from us.

This notice is governed by English law.

Please acknowledge receipt of this notice and confirm your agreement to it, by executing and returning an original copy of the form of acknowledgement of trust and charge over account attached to this notice to the Lender at 30 Gresham Street, London, EC2V 7PG, UK with a copy to each of us.

Yours faithfully,

.....
For and on behalf of
Kennet Equipment Leasing Limited

.....
For and on behalf of
Kennet Funding Limited

c.c. Lender

Part 2**Form of acknowledgement of trust and charge over account***[LETTERHEAD OF ACCOUNT BANK]*

To: Commerzbank AG, London Branch
 30 Gresham Street, London, EC2V 7PG, UK
 (the "Lender")

[Date]

Dear Sirs,

Acknowledgement of notice of trust and charge over account

We acknowledge receipt of a notice dated [] (the "Notice") (a copy of which is attached to this acknowledgement). Words and expressions defined in the Notice shall have the same meanings in this acknowledgement.

At the request of the Borrower and the Purchaser, we confirm that:

- (a) we accept the instructions and authorisations in the Notice and undertake to act in accordance with its terms;
- (b) we shall not release payments or permit withdrawals from the Account save for in accordance with the terms of the Notice or otherwise as specified in writing by the Lender;
- (c) other than a notice of charge from the Borrower and the Purchaser dated 31 July 2015, we have not received notice of any previous assignment, charge, trust, claim or other third party interest or action affecting the Account and if we receive any such notice, we shall immediately notify the Lender;
- (d) we have not claimed or exercised any rights of counter-claim, set-off or combination of accounts or other equities in respect of the Account, no such rights or equities have arisen in our favour and we shall not assert or seek to exercise any such rights or equities in the future without the prior written consent of the Lender;
- (e) we will not amend or vary any rights attaching to the Account without the prior consent of the Lender; and
- (f) we have received a copy of the Facility Agreement.

Our acknowledgement of the Notice is subject to the following conditions:

- (i) we shall not be bound to enquire whether the right of any person (including, but not limited to, the Lender) to withdraw any monies from the Accounts has, as a matter of fact, arisen or (A) be concerned with the propriety or regularity of the exercise of that right or (B) be responsible

for the application of any monies received by such person (including, but not limited to, the Lender);

- (ii) we shall have no liability for having acted on instructions from any person (including, but not limited to, the Lender) from whom we are authorised to accept instructions pursuant to the Notice and which on their face appear to be genuine, and which comply with the latest bank mandate held by us or relevant electronic banking system procedures in the case of an electronic instruction;
- (iii) we shall be entitled to provide any party that is authorised from time to time to give us instructions pursuant to the Notice with access to our internet platform to enable that party to provide electronic instructions, carry out authorised transfers between the Accounts and, in the case of Kennet Equipment Leasing Limited, withdraw amounts constituting Excluded Rights to the extent permitted pursuant to the terms of the Facility Agreement.

This acknowledgement is governed by English law.

Yours faithfully,

.....
For and on behalf of
[Deposit Bank]

The Borrower

Executed as a deed by KENNET)
 EQUIPMENT LEASING LIMITED acting by a)
 director, / ~~its attorney~~, STEPHEN SWIFT)
 as ~~attorney~~ for ~~KENNET EQUIPMENT~~)
 LEASING LIMITED in the presence of:)

Witness's signature:

Name:

Occupation:

Address:

The Purchaser

Executed as a deed by KENNET FUNDING)
 LIMITED acting by a director, / ~~its attorney~~,)
STEPHEN SWIFT as ~~attorney~~ for)
~~KENNET FUNDING LIMITED~~ in the)
 presence of:)

Witness's signature:

Name:

Occupation:

Address:

The Lender

COMMERZBANK AG, LONDON BRANCH

By:

A black rectangular box redacting a signature.

Authorised signatory

A black rectangular box redacting a signature.

Authorised signatory