



**Registration of a Charge**

Company name: **05107560 LIMITED**

Company number: **05107560**



X82814JN

Received for Electronic Filing: **28/03/2019**

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**Details of Charge**

Date of creation: **15/03/2019**

Charge code: **0510 7560 0002**

Persons entitled: **JOHN DERRICK GREEN (AS SECURITY TRUSTEE)**

Brief description: **NO SPECIFIC LAND, SHIP, AIRCRAFT OR INTELLECTUAL PROPERTY HAS BEEN CHARGED. FOR FULL DETAILS OF THE CHARGES, PLEASE REFER TO THE CHARGING DOCUMENT DIRECTLY.**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC**

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

Certified by:

**DANIEL JOHNSON**



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

Company number: 5107560

Charge code: 0510 7560 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th March 2019 and created by 05107560 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th March 2019 .

Given at Companies House, Cardiff on 29th March 2019

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED

15 March

2019

(1) THE COMPANIES LISTED IN SCHEDULE 1  
as Original Chargors

in favour of

(2) JOHN DERRICK GREEN  
as Security Trustee

**COMPOSITE GUARANTEE  
AND DEBENTURE**

*This Composite Guarantee and Debenture is subject to the terms of the Senior Intercreditor Agreement (as defined herein)*

I CERTIFY THAT, SAVE FOR MATERIAL REDACTED  
PURSUANT TO S.859G OF THE COMPANIES ACT 2006,  
THIS IS TRUE, COMPLETE AND CORRECT COPY  
OF THE ORIGINAL DOCUMENT  
DATE 28/3/2019  
SIGNED [Signature]  
DLA PIPER UK LLP

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THIS COMPOSITE GUARANTEE AND DEBENTURE is made on 15 March 2019

**BETWEEN:**

- (1) **THE COMPANIES**, whose names, registered numbers and registered offices are set out in schedule 1 (*Original Chargors*) (the "**Original Chargors**"); in favour of
- (2) **JOHN DERRICK GREEN**, of [REDACTED] as security trustee for and on behalf of the Security Beneficiaries (as defined below and in such capacity, the "**Security Trustee**").

**IT IS AGREED:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

- (a) terms defined in, or construed for the purposes of, the Junior Intercreditor Agreement (as defined below) have the same meanings when used in this Deed (unless the same are otherwise defined in this Deed); and

- (b) at all times the following terms have the following meanings:

"**Accession Deed**" means an accession deed substantially in the form set out in schedule 4 (*Form of Accession Deed*);

"**Account Bank**" means any bank or other financial institution with which any account is maintained from time to time;

"**Act**" means the Law of Property Act 1925;

"**Acquisition Agreement**" means the share sale and purchase agreement dated on or around the same date as this Deed and entered into by, *inter alia*, (1) the Parent and (2) the Original Investors in relation to the sale of the entire issued share capital of Pierce Group Limited (company number 09047081);

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

"**Assigned Assets**" means the Security Assets expressed to be assigned pursuant to clause 6 (*Security Assignments*);

"**Bank Documents**" means the "*Senior Finance Documents*" as such term is defined in the Senior Intercreditor Agreement;

"**Charged Investments**" means the Charged Securities and all present and future Related Rights accruing to all or any of the Charged Securities;

**"Charged Securities"** means:

- (a) the Shares; and
- (b) all other stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or "investments" (as defined in part II of schedule II to the Financial Services and Markets Act 2000 as in force at the date of this Deed) now or in future owned (legally or beneficially) by a Chargor, held by a nominee, trustee, fiduciary or clearance system on its behalf or in which such Chargor has an interest at any time;

**"Chargors"** means:

- (a) the Original Chargors; and
- (b) any other company or other entity which accedes to this Deed pursuant to an Accession Deed;

**"Debenture Security"** means the Security created or evidenced by or pursuant to this Deed or any Accession Deed;

**"Default Rate"** means the rate of interest determined in accordance with clause 3.3 of each of the Consideration Loan Note Instruments;

**"Delegate"** means any delegate, sub-delegate, agent, attorney or co-trustee appointed by the Security Trustee or by a Receiver;

**"Disposal"** means a sale, lease, licence, transfer, loan or other disposal of any asset, undertaking or business (whether by voluntary or involuntary single transaction or series of transactions);

**"Event of Default"** has the meaning given to the term "*Acceleration Event*" in the Junior Intercreditor Agreement;

**"Guarantee"** means the guarantee and indemnity contained in clause 2 (*Guarantee and Indemnity*) as extended by schedule 2 (*The Guarantee*);

**"Insurances"** means all policies of insurance (and all cover notes) which are at any time held by, or written in favour of, a Chargor or in which a Chargor from time to time has an interest;

**"Intellectual Property"** means all legal and/or equitable interests (including, without limitation, the benefit of all licences in any part of the world) of the Chargors in or relating to:

- (a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests (which may now or in the future subsist and whether presently belonging to it or that may be acquired by or belong to it in the future), whether registered or unregistered; and
- (b) the benefit of all applications, rights, agreements and licenses now or in the future entered into or enjoyed by it relating to the use or exploitation of such assets of each Chargor (which may now or in the future subsist) in any part of the world,

**"Junior Intercreditor Agreement"** means the junior intercreditor agreement dated on or around the date of this Deed between, *inter alia*, (1) the Parent, (2) the Original Chargors (as Original Debtors), (3) the persons listed in part 1 of schedule 2 thereto (as Original Series A

Noteholders), (4) the persons listed in part 2 of schedule 2 thereto (as Original Series B Noteholders), (5) the person listed in part 3 of schedule 2 thereto (as Original Shareholder) and (6) the Security Trustee;

**"Material Equipment"** means any computers, vehicles, office equipment and other equipment which is acquired with a purchase price in excess of £50,000;

**"Party"** means a party to this Deed;

**"Permitted Disposal"** means:

- (a) Disposals of stock-in-trade in the ordinary course of business;
- (b) provided no Event of Default has occurred and is continuing, Disposals of assets from one Chargor to another Chargor; and
- (c) Disposals which the Security Trustee has at any time in writing agreed shall be a Permitted Disposal;

**"Permitted Encumbrance"** means:

- (a) a lien or right of set off arising in the ordinary course of business solely by operation of law;
- (b) a Security which the Security Trustee has at any time in writing agreed shall be a Permitted Encumbrance;
- (c) Security arising under the Bank Documents;
- (d) Security arising under the Consideration Loan Note Documents;
- (e) any Security arising solely as a result of a title retention clause in a supply agreement entered into by any Chargor in the ordinary course of business; and
- (f) any other *"Permitted Encumbrance"* (as such term is defined in the Acquisition Agreement);

**"Planning Acts"** means:

- (a) the Town and Country Planning Act 1990;
- (b) the Planning (Listed Buildings and Conservation Areas) Act 1990;
- (c) the Planning (Hazardous Substances) Act 1990;
- (d) the Planning (Consequential Provisions) Act 1990;
- (e) the Planning and Compensation Act 1991;
- (f) any regulations made pursuant to any of the foregoing; and
- (g) any other legislation of a similar nature;



**"Real Property"** means all estates and interests in freehold, leasehold and other immovable property (wherever situated) now or in future belonging to any Chargor, or in which any Chargor has an interest at any time, together with:

- (a) all buildings and fixtures (including trade fixtures) and fixed plant and machinery at any time thereon;
- (b) all easements, rights and agreements in respect thereof; and
- (c) the benefit of all covenants given in respect thereof;

**"Receivables"** means all present and future book debts and other debts, rentals, royalties, fees, VAT and monetary claims and all other amounts at any time recoverable or receivable by, or due or owing to, any Chargor (whether actual or contingent and whether arising under contract or in any other manner whatsoever) together with:

- (a) the benefit of all rights, guarantees, Security and remedies relating to any of the foregoing (including, without limitation, negotiable instruments, indemnities, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights); and
- (b) all proceeds of any of the foregoing;

**"Receiver"** means a receiver, or receiver and manager or administrative receiver of the whole or any part of the Security Assets appointed by the Security Trustee under this Deed;

**"Related Rights"** means, in relation to any Charged Security:

- (a) all dividends, distributions and other income paid or payable on the relevant Charged Security or on any asset referred to in paragraph (b) of this definition; and
- (b) all rights, monies or property accruing or offered at any time in relation to such Charged Security whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

**"Relevant Contract"** means the:

- (a) the Acquisition Agreement;
- (b) each agreement specified in a schedule to any Accession Deed as a "*Relevant Contract*"; and
- (c) each agreement designated as a "*Relevant Contract*" by the Security Trustee from time to time,

together with each other agreement supplementing or amending or novating or replacing the same;

**"Secured Obligations"** means all present and future obligations and liabilities of each Chargor (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever and whether originally incurred by that Chargor or by some other person) to the Security Trustee (whether for its own account or as trustee for the Security Beneficiaries) and/or the other Security Beneficiaries (or any of them) under or pursuant to any Consideration Loan Note Document (including all monies covenanted to be paid under this Deed) including any liability in respect of any future Consideration Loan Notes issued under any Consideration Loan Note Document;

**"Security"** means any mortgage, pledge, lien, charge, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security;

**"Security Assets"** means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to this Deed;

**"Security Beneficiaries"** has the meaning given to that term in the Security Trust Deed;

**"Security Period"** means the period beginning on the date of this Deed and ending on the date on which:

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

**"Security Trust Deed"** means the security trust deed dated on or around the date of this Deed and made between (1) the Security Beneficiaries and (2) the Security Trustee;

**"Senior Discharge Date"** has the meaning given to that term in the Senior Intercreditor Agreement;

**"Senior Intercreditor Deed"** means the intercreditor deed entered into on or around the date of this Deed between, *inter alios* (1) the Parent, (2) the Original Chargers, (3) the Security Trustee and (4) National Westminster Bank plc;

**"Shares"** means all of the shares listed at schedule 3 (*Details Of Shares*) and all of the shares in the capital of any other limited liability company incorporated in England and Wales, in each case held by, to the order or on behalf of any Chargor from time to time; and

**"Short Leasehold Property"** means a leasehold property held by a Chargor now or in the future under a lease granted at a rack rate which has an unexpired term of 15 years or less at the date of this Deed (or in the case of future acquired leasehold property, at the date of acquisition of such property by the relevant Chargor) and has no capital value.

## **1.2 Interpretation**

- (a) Unless a contrary indication appears in this Deed:
  - (i) references to a **"Chargor"** or the **"Security Trustee"** or any other **"Security Beneficiary"** or any other person shall, where relevant, be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) **"this Deed"**, the **"Consideration Loan Note Instruments"**, any **"Consideration Loan Note Document"** or any other agreement or instrument is a reference to this Deed, the Consideration Loan Note Instruments, that other Consideration Loan Note Document or such other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of any Chargor or provides for further advances);

- (iii) references to "**Secured Obligations**" includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting any member of the Group; and
  - (iv) reference to an Event of Default being "**continuing**" means that it has not been remedied to the satisfaction of the Security Trustee or expressly waived in writing by the Security Trustee.
- (b) Each undertaking of any Chargor (other than a payment obligation) contained in this Deed:
- (i) must be complied with at all times during the Security Period; and
  - (ii) is given by such Chargor for the benefit of the Security Trustee and each other Security Beneficiary.
- (c) If the Security Trustee reasonably considers that an amount paid by any Chargor to a Security Beneficiary under a Consideration Loan Note Document is capable of being avoided or otherwise set aside on the liquidation or administration of such Chargor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (d) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

### **1.3 Joint and several**

The liabilities and obligations of each Chargor under this Deed shall be joint and several. Each Chargor agrees to be bound by this Deed notwithstanding that any other Chargor which was intended to sign or be bound by this Deed did not so sign or is not bound by this Deed.

### **1.4 Disposition of property**

The terms of the other Consideration Loan Note Documents and of any side letters between any of the parties to them in relation to any Consideration Loan Note Document are incorporated in this Deed to the extent required to ensure that any disposition of the Real Property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

### **1.5 Trust**

All Security and dispositions made or created, and all obligations and undertakings contained, in this Deed to, in favour of or for the benefit of the Security Trustee are made, created and entered into in favour of the Security Trustee as trustee for the Security Beneficiaries from time to time on the terms of the Security Trust Deed. The perpetuity period for the trusts in this Deed is 80 years.

### **1.6 Intercreditor Agreements**

If there is any conflict or inconsistency between any provision of this Deed and any provision of the Junior Intercreditor Agreement or any Senior Intercreditor Agreement, the provision of the Junior Intercreditor Agreement or the Senior Intercreditor Agreement shall prevail. In the event that there is a conflict between the provisions of the Junior Intercreditor Agreement and any Senior Intercreditor Agreement, the provision of the Senior Intercreditor Agreement shall prevail.

## **1.7 Third party rights**

- (b) Unless expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 ("**Third Parties Rights Act**") to enforce or to enjoy the benefit of any term of this Deed.
- (c) 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.
- (d) Any Receiver, Delegate or any other person may, subject to this clause 1.7 and the Third Parties Rights Act, rely on any clause of this Deed which expressly confers rights on it.

## **2. GUARANTEE AND INDEMNITY**

### **2.1 Guarantee and indemnity**

Each Chargor irrevocably and unconditionally jointly and severally:

- (a) guarantees to the Security Trustee punctual performance by each Chargor (including the Company) of all that Chargor's obligations under the Consideration Loan Note Documents;
- (b) undertakes with the Security Trustee that whenever another Chargor does not pay any amount when due under or in connection with any Consideration Loan Note Document, that Chargor shall immediately on demand pay that amount as if it were the principal obligor; and
- (c) agrees with the Security Trustee that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Security Trustee immediately on demand against any costs, loss or liability it incurs as a result of a Chargor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under any Consideration Loan Note Document on the date when it would have been due. The amount payable by a Chargor under this indemnity will not exceed the amount it would have had to pay under this Deed if the amount claimed had been recoverable on the basis of a guarantee.

### **2.2 Extension of guarantee**

The guarantee set out in this clause 2 is given subject to and with the benefit of the provisions set out in schedule 2 (*The Guarantee*).

## **3. COVENANT TO PAY**

### **3.1 Covenant to pay**

- (a) Each Chargor, as principal obligor and not merely as surety, covenants in favour of the Security Trustee that it will pay and discharge the Secured Obligations from time to time when they fall due.
- (b) Every payment by a Chargor of a Secured Obligation which is made to or for the benefit of a Security Beneficiary to which that Secured Obligation is due and payable in accordance with the Consideration Loan Note Document under which such sum is payable to that Security Beneficiary, shall operate in satisfaction to the same extent of the covenant contained in clause 3.1(a).

### **3.2 Default interest**

- (a) Any amount which is not paid under this Deed when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the rate and in the manner agreed in the Consideration Loan Note Document under which such amount is payable and, in the absence of such agreement, at the Default Rate from time to time.
- (b) Default interest will accrue from day to day on a year of 365 days and will be compounded on each Interest Payment Date.

## **4. GRANT OF SECURITY**

### **4.1 Nature of security**

All Security and dispositions created or made by or pursuant to this Deed are created or made:

- (a) in favour of the Security Trustee as trustee for the Security Beneficiaries and the Security Trustee shall hold the benefit of this Deed on trust for the Security Beneficiaries;
- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994;
- (c) as continuing security for payment of the Secured Obligations; and
- (d) in addition to and shall neither be merged with nor in any way exclude or prejudice or be affected by any other security or other right which the Security Trustee and/or any other Security Beneficiary may now or after the date of this Deed hold for any of the Secured Obligations, and this security, subject to its terms, may be enforced against each Chargor without first having recourse to any other rights of the Security Trustee or any other Security Beneficiary.

### **4.2 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to any floating charge created by or pursuant to this Deed and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act 1986.

## **5. FIXED SECURITY**

Each Chargor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by the Chargor, or in which it from time to time has an interest:

- (a) by way of legal mortgage all Real Property (other than any Short Leasehold Property) (if any) at the date of this Deed vested in, or charged to, such Chargor;
- (b) by way of fixed charge:
  - (i) all other Real Property (other than any Short Leasehold Property) and all interests in Real Property (not charged by clause 5(a));
  - (ii) all licences to enter upon or use land and the benefit of all other agreements relating to land;

- (iii) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of or derived from that land; and
  - (iv) the proceeds of sale of all Real Property (other than any Short Leasehold Property);
- (c) by way of fixed charge all plant and machinery (not charged by clauses 5(a) or 5(b)) and the benefit of all contracts, licences and warranties relating to the same which do not contain any restrictions on charging;
- (d) by way of fixed charge:
  - (i) all Material Equipment (not charged by clause 5(c)); and
  - (ii) the benefit of all contracts, licences and warranties relating to the same, other than any which are for the time being part of any Chargor's stock in trade or work in progress or which require the consent of any third party before they can be charged;
- (e) by way of fixed charge all of its rights, title and interest from time to time in and to the Charged Investments together with all rights which such Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Charged Investments;
- (f) by way of fixed charge all accounts of such Chargor with any bank, financial institution or other person at any time and all monies at any time standing to the credit of such accounts, in each case together with all interest from time to time accrued or accruing on such monies, any investment made out of such monies or account and all rights to repayment of any of the foregoing;
- (g) to the extent they are capable of being charged, by way of fixed charge all Intellectual Property;
- (h) by way of fixed charge all rights and interests of such Chargor in, and claims under, the Insurances and all proceeds thereof;
- (i) by way of fixed charge (to the extent not otherwise charged or assigned in this Deed):
  - (i) the benefit of all licences, consents, agreements and Authorisations held or used in connection with the business of such Chargor or the use of any of its assets; and
  - (ii) any letter of credit issued in favour of such Chargor and all bills of exchange and other negotiable instruments held by it;
- (j) by way of fixed charge all of the goodwill and uncalled capital of such Chargor; and
- (k) by way of fixed charge all Receivables.

## 6. SECURITY ASSIGNMENTS

- (a) Immediately following the Senior Discharge Date, each Chargor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption and to the

required consent of any third party being obtained) to the Security Trustee all of its present and future right, title and interest in and to:

- (i) the Relevant Contracts, all rights and remedies in connection with the Relevant Contracts and all proceeds and claims arising from them;
  - (ii) all accounts of such Chargor set out in clause 5(f) and all of its rights, claims, title and interest from time to time in and to each such account;
  - (iii) all Insurances including each present and future key-man policy and all claims under the Insurances and all proceeds of the Insurances; and
  - (iv) its Intellectual Property;
  - (v) all other Receivables (not assigned under clauses 5(a) or 5(b)); and
  - (vi) any letter of credit issued in favour of such Chargor and all bills of exchange and other negotiable instruments held by it.
- (b) To the extent that any Assigned Asset described in clause 6(a)(iii) is not assignable, the assignment which that clause purports to effect shall operate as an assignment of all present and future rights and claims of such Chargor to any proceeds of such Insurances
- (c) Immediately upon request by the Security Trustee, at any time following the Senior Discharge Date and provided that at such time an Event of Default has occurred and is continuing, each Chargor shall:
- (i) in respect of each of its Insurances, deliver a duly completed notice of assignment to the provider of each such Insurance and shall use its reasonable endeavours to procure that each such person executes and delivers to the Security Trustee an acknowledgement; and
  - (ii) in respect of its accounts deliver a duly completed notice to the Account Bank and use its reasonable endeavours to procure that the Account Bank executes and delivers to the Security Trustee an acknowledgement,

in each case, in such form as the Security Trustee shall agree.

- (d) Immediately upon request by the Security Trustee, at any time following the Senior Discharge Date, each Chargor will, in respect of each Relevant Contract to which it is a party, deliver a duly completed notice of assignment to each other party to that Relevant Contract, and use its reasonable endeavours to procure that each such party executes and delivers to the Security Trustee an acknowledgement, in each case, in such form as the Security Trustee shall agree.
- (e) The Security Trustee is not obliged to take any steps necessary to preserve any Assigned Asset, to enforce any term of a Relevant Contract against any person or to make any enquiries as to the nature or sufficiency of any payment received by it pursuant to this Deed.

## **7. FLOATING CHARGE**

Each Chargor with full title guarantee, charges and agrees to charge to the Security Trustee as continuous security for the payment and discharge of all Secured Obligations, by way of floating charge all of its present and future:

- (a) assets and undertaking (wherever located) not otherwise effectively charged by way of fixed mortgage or charged pursuant to clause 5 (*Fixed security*), 6 (*Security Assignments*) or any other provision of this Deed; and
- (b) (whether or not effectively so charged or assigned) heritable property and all other property and assets in Scotland.

## **8. CONVERSION OF FLOATING CHARGE**

### **8.1 Conversion by notice**

The Security Trustee may, by written notice to a Chargor, convert the floating charge created under this Deed with immediate effect into a fixed charge as regards all or any of the assets of such Chargor specified in the notice if:

- (a) an Event of Default has occurred and is continuing;
- (b) the Security Trustee reasonably considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or
- (c) the Security Trustee reasonably considers that it is necessary in order to protect the priority of the security.

### **8.2 Small companies**

The floating charge created under this Deed by any Chargor shall not convert into a fixed charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of such Chargor.

### **8.3 Automatic conversion**

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically and instantly convert into a fixed charge (without the necessity of notice):

- (a) in relation to any Security Asset which is subject to a floating charge if:
  - (i) such Chargor creates (or resolves, attempts or purports to create or take any steps to create) any Security (other than a Permitted Encumbrance) on or over the relevant Security Asset without the prior written consent of the Security Trustee; or
  - (ii) any third party levies or attempts to levy any distress, execution, attachment or other legal process against any such Security Asset; and
- (b) over all Security Assets of a Chargor which are subject to a floating charge if:
  - (i) any person levies or attempts to levy any distress, execution or other process against any of the Security Assets which would constitute an Event of Default;



- (ii) a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of any Chargor or an administrator is appointed to any Chargor; or
- (iii) any person (who is entitled to do so) gives notice of its intention to appoint an administrator to any Chargor or files such a notice with the court.

#### **8.4 Partial conversion**

The giving of a notice by the Security Trustee pursuant to clause 8.1 (*Conversion by notice*) in relation to any class of assets of any Chargor shall not be construed as a waiver or abandonment of the rights of the Security Trustee to serve similar notices in respect of any other class of assets or of any other right of the Security Trustee and/or the other Security Beneficiaries.

### **9. CONTINUING SECURITY**

#### **9.1 Continuing security**

The Debenture Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

#### **9.2 Additional and separate security**

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Security Trustee and/or any other Security Beneficiary may at any time hold for any Secured Obligation.

#### **9.3 Right to enforce**

This Deed may be enforced against each or any Chargor without the Security Trustee and/or any other Security Beneficiary first having recourse to any other right, remedy, guarantee or Security held by or available to it or any of them.

### **10. LIABILITY OF THE CHARGOR RELATING TO SECURITY ASSETS**

Notwithstanding anything contained in this Deed or implied to the contrary, each Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. The Security Trustee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

### **11. REPRESENTATIONS**

#### **11.1 General**

Each Chargor makes the representations and warranties set out in this clause 11 to the Security Trustee and to each other Security Beneficiary on the date of this Deed (or, in the case of a Chargor which has acceded to this Deed, the date of its accession pursuant to the relevant Accession Deed).

## **11.2 No Security Interests**

No Security exists over all or any of the present or future Security Assets of such Chargor other than as created by this Deed or which is a Permitted Encumbrance.

## **11.3 Ranking**

Other than pursuant to the terms of the Senior Intercreditor Agreement and the Bank Documents, the Debenture Security has or will have first ranking priority and is not subject to any prior ranking or *pari passu* ranking Security.

## **11.4 Ownership of Security Assets**

Each Chargor is (unless otherwise notified to the Security Trustee) the sole legal and beneficial owner of all the Security Assets and such Security Assets are free from any Security other than as created by this Deed or the Bank Documents or otherwise permitted by the Bank Documents.

## **11.5 Real Property**

There are no proceedings, pending or threatened relating to any Real Property which is beneficially owned by each Original Chargor at the date of this Deed which, if adversely determined, will or is reasonably likely to have a Material Adverse Effect.

## **11.6 Time when representations made**

- (a) All the representations and warranties in this clause 11 are made by each Original Chargor on the date of this Deed and are also deemed to be made by each Chargor:
  - (i) on each date upon which a Certificate is issued;
  - (ii) on each Interest Payment Date; and
  - (iii) (in the case of a company or other entity that accedes to this Deed pursuant to an Accession Deed) on the day on which it becomes a Chargor.
- (b) Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

## **12. UNDERTAKINGS BY THE CHARGORS**

### **12.1 Negative pledge and Disposals**

No Chargor shall do or agree to do any of the following without the prior written consent of the Security Trustee:

- (a) create or permit to subsist any Security on any Security Asset other than as created by a Permitted Encumbrance; or
- (b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not and whether voluntarily or involuntarily) or create any legal or equitable estate or other right or interest in or over the whole or any part of its interest in any Security Asset except for a Permitted Disposal.

## **12.2 Security Assets generally**

Each Chargor shall:

- (a) pay all rates, rents, and other outgoings owed by it in respect of the Security Assets;
- (b) comply with:
  - (i) all obligations in relation to the Security Assets under any present or future regulation or requirement of any competent authority or any Authorisation; and
  - (ii) all covenants and obligations affecting any Security Asset (or its manner of use);
- (c) provide the Security Trustee with all information which it may reasonably request in relation to the Security Assets; and
- (d) not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any Security Asset (or make any omission which has such an effect).

## **12.3 Insurance**

- (a) Each Chargor shall at all times maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business.
- (b) If at any time any Chargor defaults in:
  - (i) effecting or keeping up the insurances required under clause 12.3(a) above; or
  - (ii) producing any insurance policy or receipt to the Security Trustee on demand,the Security Trustee may (without prejudice to its rights under clause 13 (*Power to remedy*)) take out or renew such policies of insurance in any sum which the Security Trustee may reasonably think expedient. All monies which are expended by the Security Trustee in doing so shall be deemed to be properly paid by the Security Trustee and shall be reimbursed by such Chargor on demand.
- (c) Each Chargor shall notify the Security Trustee if any claim arises or may be made under the Insurances.
- (d) Each Chargor shall diligently pursue its rights under the Insurances.
- (e) In relation to the proceeds of Insurances, all claims and monies received or receivable under any Insurance shall be applied by the relevant Chargor in replacing, repairing or reinstating the relevant asset or, after the occurrence of an Event of Default which is continuing, in permanent reduction of the Secured Obligations in accordance with the Senior Intercreditor Agreement.

## **12.4 Rights in respect of Charged Investments**

Until an Event of Default occurs, each Chargor shall be entitled to:

- (a) receive and retain all dividends, distributions and other monies paid on or derived from its Charged Securities; and
- (b) exercise all voting and other rights and powers attaching to its Charged Securities, provided that it must not do so in a manner which:
  - (i) has the effect of changing the terms of such Charged Securities (or any class of them) or of any Related Rights; or
  - (ii) which is prejudicial to the interests of the Security Trustee and/or the other Security Beneficiaries.

### **13. POWER TO REMEDY**

#### **13.1 Power to remedy**

If at any time a Chargor does not comply with any of its obligations under this Deed, the Security Trustee (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The relevant Chargor irrevocably authorises the Security Trustee and its employees and agents by way of security to do all such things (including entering the property of such Chargor) which are necessary or desirable to rectify that default.

#### **13.2 Mortgagee in possession**

The exercise of the powers of the Security Trustee under this clause 13 shall not render it or any other Security Beneficiary liable as a mortgagee in possession.

#### **13.3 Monies expended**

The relevant Chargor shall pay to the Security Trustee on demand any monies which are expended by the Security Trustee in exercising its powers under this clause 13, together with interest at the Default Rate from the date on which those monies were expended by the Security Trustee (both before and after judgment) and otherwise in accordance with clause 3.2 (*Default interest*).

### **14. WHEN SECURITY BECOMES ENFORCEABLE**

#### **14.1 When enforceable**

This Debenture Security shall become immediately enforceable upon the occurrence of an Event of Default and shall remain so for so long as such Event of Default is continuing.

#### **14.2 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Event of Default and for so long as such Event of Default is continuing.

#### **14.3 Enforcement**

After this Debenture Security has become enforceable, the Security Trustee may in its absolute discretion enforce all or any part of the Debenture Security in such manner as it sees fit.

## **15. ENFORCEMENT OF SECURITY**

### **15.1 General**

For the purposes of all rights and powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to the Debenture Security.

### **15.2 Powers of leasing**

The statutory powers of leasing conferred on the Security Trustee are extended so as to authorise the Security Trustee to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Trustee may think fit and without the need to comply with section 99 or 100 of the Act.

### **15.3 Powers of Security Trustee**

- (a) At any time after the Debenture Security becomes enforceable (or if so requested by any Chargor by written notice at any time), the Security Trustee may without further notice (unless required by law):
  - (i) appoint any person (or persons) to be a receiver, receiver and manager or administrative receiver of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
  - (ii) appoint or apply for the appointment of any person who is appropriately qualified as administrator of a Chargor; and/or
  - (iii) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or
  - (iv) exercise (in the name of any Chargor and without any further consent or authority of such Chargor) any voting rights and any powers or rights which may be exercised by any person(s) in whose name any Charged Investment is registered or who is the holder of any of them.
- (b) The Security Trustee is not entitled to appoint a Receiver in respect of any Security Assets which are subject to a charge which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of such Chargor.

### **15.4 Redemption of prior mortgages**

At any time after the Debenture Security has become enforceable, the Security Trustee may:

- (a) redeem any prior Security against any Security Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of the holder of any prior Security and any accounts so settled and passed shall be conclusive and binding on each Chargor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the relevant Chargor to the Security Trustee on demand.

#### **15.5 Privileges**

- (a) Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.
- (b) To the extent that the Security Assets constitute "*financial collateral*" and this Deed and the obligations of the Chargors under this Deed constitute a "*security financial collateral arrangement*" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) each Receiver and the Security Trustee shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (c) For the purpose of clause 15.5(b) above, the value of the financial collateral appropriated shall be such amount as the Receiver or Security Trustee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing or by reference to a public index selected by it.

#### **15.6 No liability**

- (a) Neither the Security Trustee, any other Security Beneficiary nor any Receiver shall be liable (A) in respect of all or any part of the Security Assets or (B) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 15.6(a), neither the Security Trustee, any other Security Beneficiary nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

#### **15.7 Protection of third parties**

No person (including a purchaser) dealing with the Security Trustee or any Receiver or Delegate will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Security Trustee or the Receiver is purporting to exercise has become exercisable;
- (c) whether any money remains due under any Consideration Loan Note Document; or
- (d) how any money paid to the Security Trustee or to the Receiver is to be applied.

## **16. RECEIVER**

### **16.1 Removal and replacement**

The Security Trustee may from time to time remove any Receiver appointed by it (subject, in the case of an administrative receivership, to section 45 of the Insolvency Act 1986) and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### **16.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

### **16.3 Remuneration**

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Security Trustee (or, failing such agreement, to be fixed by the Security Trustee).

### **16.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Security Trustee in relation to the Secured Obligations shall be capable of being applied by the Security Trustee in discharge of the Secured Obligations.

### **16.5 Agent of Chargors**

Any Receiver shall be the agent of the Chargor in respect of which it is appointed. Such Chargor shall (subject to the Companies Act 1985 or the Companies Act 2006, as applicable, and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. No Security Beneficiary shall incur any liability (either to such Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

## **17. POWERS OF RECEIVER**

### **17.1 General powers**

Any Receiver shall have:

- (a) all the powers which are conferred on the Security Trustee by clause 15.3 (*Powers of Security Trustee*);
- (b) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (c) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (d) all powers which are conferred by any other law conferring power on receivers.

## 17.2 Additional powers

In addition to the powers referred to in clause 17.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- (b) to manage the Security Assets and the business of any Chargor as he thinks fit;
- (c) to redeem any Security and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act and without limitation:
  - (i) fixtures may be severed and sold separately from the Real Property containing them, without the consent of any Chargor;
  - (ii) the consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party); and
  - (iii) any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which any Chargor was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land);
- (f) to carry out any sale, lease or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of the relevant Chargor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, such Chargor;
- (g) to take any such proceedings (in the name of any of the relevant Chargors or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);
- (h) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (i) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as the Security Trustee shall direct);
- (j) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm);



- (k) to form one or more Subsidiaries of any Chargor, and to transfer to any such Subsidiary all or any part of the Security Assets;
- (l) to operate any rent review clause in respect of any Real Property in respect of which he was appointed (or any part thereof) and to apply for any new or extended lease; and
- (m) to:
  - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
  - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
  - (iii) use the name of any Chargor for any of the above purposes.

## **18. APPLICATION OF PROCEEDS AND JUNIOR INTERCREDITOR AGREEMENT**

### **18.1 Application**

Subject to the terms of the Senior Intercreditor Agreement, all monies held or received by the Security Trustee or any Receiver after the Debenture Security has become enforceable shall be applied in accordance with and subject to the Junior Intercreditor Agreement.

### **18.2 Contingencies**

If the Debenture Security is enforced at a time when no amounts are due under the Consideration Loan Note Documents (but at a time when amounts may become so due), the Security Trustee or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account.

### **18.3 Appropriation and suspense account**

- (a) Subject to clause 18.1 (*Application*), the Security Trustee shall apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations in any order or manner which it may determine.
- (b) Any such appropriation shall override any appropriation by any Chargor.
- (c) All monies received, recovered or realised by the Security Trustee under or in connection with this Deed may at the discretion of the Security Trustee be credited to a separate interest-bearing suspense account for so long as the Security Trustee determines (with interest accruing thereon at such rate (if any) as the Security Trustee may determine) without the Security Trustee having any obligation to apply such monies and interest or any part of it in or towards the discharge of any of the Secured Obligations.

## **19. SET-OFF**

### **19.1 Set-off rights**

- (a) The Security Trustee and each other Security Beneficiary may at any time after this Deed has become enforceable (but shall not be obliged to) set off any obligation

which is due and payable by any Chargor and unpaid (whether under the Consideration Loan Note Documents or which has been assigned to the Security Trustee or such other Security Beneficiary by any other Chargor) against any obligation (whether or not matured) owed by the Security Trustee or such other Security Beneficiary to such Chargor, regardless of the place of payment, booking branch or currency of either obligation.

- (b) At any time after the Debenture Security has become enforceable (and in addition to its rights under clause 19.1(a)), the Security Trustee and each other Security Beneficiary may (but shall not be obliged to) set-off any contingent liability owed by a Chargor under any Consideration Loan Note Document against any obligation (whether or not matured) owed by the Security Trustee or such other Security Beneficiary to such Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- (c) If the obligations are in different currencies, the Security Trustee or such other Security Beneficiary may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (d) If either obligation is unliquidated or unascertained, the Security Trustee or such other Security Beneficiary may set off in an amount estimated by it in good faith to be the amount of that obligation.

## **19.2 Time deposits**

Without prejudice to clause 19.1 (*Set-off*), if any time deposit matures on any account which any Chargor has with the Security Trustee or any other Security Beneficiary at a time within the Security Period when:

- (a) this Debenture Security has become enforceable; and
- (b) no Secured Obligation is due and payable,

such time deposit shall automatically be renewed for such further maturity as the Security Trustee or such other Security Beneficiary in its absolute discretion considers appropriate unless the Security Trustee or such other Security Beneficiary otherwise agrees in writing.

## **20. DELEGATION**

Each of the Security Trustee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by them under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **21. FURTHER ASSURANCES**

### **21.1 Further action**

Each Chargor shall, at its own expense, immediately do all acts and execute all documents as the Security Trustee or a Receiver may reasonably specify (and in such form as the Security Trustee or a Receiver may reasonably require) for:

- (a) perfecting the Security intended to be created by this Deed or any other Consideration Loan Note Document; and
  - (b) facilitating the realisation of any Security Asset;
  - (c) facilitating the exercise of any rights, powers and remedies exercisable by the Security Trustee, any other Security Beneficiary or any Receiver or any Delegate in respect of any Security Asset or provided by or pursuant to the Consideration Loan Note Documents or by law; or
  - (d) creating and perfecting Security in favour of the Security Trustee or the Security Beneficiaries over any property and assets of such Chargor located in any jurisdiction outside England and Wales equivalent or similar to the Security intended to be created by or pursuant to this Deed or any other Consideration Loan Note Document,
- and this includes:

- (i) the re-execution of this Deed or such Consideration Loan Note Document;
- (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment, assignation or assurance of any property, whether to the Security Trustee or to its nominee; and
- (iii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Trustee may think expedient (acting reasonably).

## **21.2 Consideration Loan Note Documents**

Each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Trustee or the Security Beneficiaries by or pursuant to the Consideration Loan Note Documents.

## **21.3 Specific security**

Without prejudice to the generality of clause 21.1 (*Further action*), each Chargor will immediately upon request by the Security Trustee (acting reasonably) execute any document contemplated by that clause over any Security Asset which is subject to or intended to be subject to any fixed security under this Deed (including any fixed security arising or intended to arise pursuant to clause 8 (*Conversion of floating charge*)).

## **22. POWER OF ATTORNEY**

Each Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any Delegate to be its attorney to take any action which such Chargor is obliged to take under this Deed, including under clause 21 (*Further assurances*), and which such Chargor has failed to take. Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

## **23. CURRENCY CONVERSION**

All monies received or held by the Security Trustee or any Receiver under this Deed may be converted from their existing currency into such other currency as the Security Trustee or the

Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the spot rate of exchange of the Bank of England. Each Chargor shall indemnify the Security Trustee against all costs, charges and expenses incurred in relation to such conversion. Neither the Security Trustee nor any Receiver shall have any liability to any Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

## **24. CHANGES TO THE PARTIES**

### **24.1 Charging Companies**

No Chargor may assign any of its rights or obligations under this Deed.

### **24.2 Security Trustee**

The Security Trustee may assign or transfer all or any part of its rights under this Deed pursuant to the resignation or removal of the Security Trustee in accordance with the Security Trust Deed. The Chargor shall, immediately upon being requested to do so by the Security Trustee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

### **24.3 Accession Deed**

Each Chargor:

- (a) consents to new Subsidiaries of the Company becoming Chargors as contemplated by the Consideration Loan Note Documents; and
- (b) irrevocably authorises the Company to agree to, and execute as a deed, any duly completed Accession Deed as agent and attorney for and on behalf of such Chargor.

## **25. MISCELLANEOUS**

### **25.1 New accounts**

- (a) If the Security Trustee or any other Security Beneficiary receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security (other than a Permitted Encumbrance) affecting any Security Asset and/or the proceeds of sale of any Security Asset or any guarantee under the Consideration Loan Note Documents ceases to continue in force and/or the proceeds of sale of any Security Asset, it may open a new account or accounts for any Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice.
- (b) As from that time all payments made to the Security Trustee or such other Security Beneficiary will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

### **25.2 Memorandum and articles**

Each Chargor certifies that the Debenture Security does not contravene any of the provisions of the memorandum or articles of association of such Chargor.

### 25.3 Land Registry

- (a) Each Chargor shall apply to the Chief Land Registrar (and consents to such an application being made by or on behalf of the Security Trustee) for a restriction in the following terms to be entered on the Register of Title relating to any property registered at the Land Registry (or any unregistered land subject to first registration) (other than any Short leasehold Property) and against which this Deed may be noted:

*"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ ♦ ] 200[ ♦ ] in favour of [ ♦ ] referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its secretary or conveyancer [or specify appropriate details]."*

- (b) Each Chargor shall promptly make all applications to and filings with Land Registry which are necessary or desirable under the Land Registration Rules 2003 to protect the Debenture Security.

### 25.4 Protective clauses

Each Chargor is deemed to be a principal debtor in relation to this Deed. The obligations of each Chargor under, and the security intended to be created by, this Deed shall not be impaired by any forbearance, neglect, indulgence, extension or time, release, surrender or loss of securities, dealing, amendment or arrangement by any Security Beneficiary which would otherwise have reduced, released or prejudiced this Debenture Security or any surety liability of a Chargor (whether or not known to it or to any Security Beneficiary).

### 26. NOTICES

- (a) Clause 18 (*Notices*) of the Consideration Loan Note Instrument is incorporated into this Deed as if fully set out in this Deed.
- (b) The address and fax numbers of each Party for all communications or documents given under or in connection with this Deed are those identified with its name in the execution pages to this Deed or subsequently notified from time to time by the relevant Party for the purposes of this Deed.

### 27. CALCULATIONS AND CERTIFICATES

Any certificate of or determination by a Security Beneficiary or the Security Trustee specifying the amount of any Secured Obligation due from the Chargors (including details of any relevant calculation thereof) is in the absence of manifest ", conclusive evidence against the Chargors of the matters to which it relates.

### 28. PARTIAL INVALIDITY

- 28.1 All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 28.2 The Security created by or pursuant to this Deed shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to any Chargor or any other person, or the Security Trustee (whether in its

capacity as trustee or otherwise) or any of the other Secured Parties or by any variation of the terms of the trust upon which the Security Trustee holds the Security or by any other thing which might otherwise prejudice that Security.

**29. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of the Security Trustee (or any other Security Beneficiary), any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

**30. AMENDMENTS AND WAIVERS**

Any provision of this Deed may be amended only if the Security Trustee and the Chargors so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Security Trustee so agrees in writing. A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

**31. COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Deed.

**32. RELEASE**

**32.1 Release**

Upon the expiry of the Security Period (but not otherwise) the Security Trustee shall, at the request and cost of the Chargors, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Security.

**32.2 Reinstatement**

Where any discharge (whether in respect of the obligations of any Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation or otherwise (without limitation), the liability of the Chargors under this Deed shall continue as if the discharge or arrangement had not occurred. The Security Trustee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

**33. GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law.

**IN WITNESS** of which this Deed has been duly executed by each Original Chargor as a deed and duly executed by the Security Trustee and has been delivered on the first date specified on page 1 of this Deed by each Original Chargor.

### SCHEDULE 1: ORIGINAL CHARGORS

Name	Jurisdiction of incorporation	Registered Number	Address
1KSW Limited	England and Wales	11781379	3 Carr Farm Close, Rawtenstall, Rossendale, Lancashire BB4 6HB
Pierce Group Limited	England and Wales	09047081	Mentor House, Ainsworth Street, Blackburn BB1 6AY
Pierce C.A. Limited	England and Wales	04360541	Mentor House, Ainsworth Street, Blackburn BB1 6AY
Pierce Corporate Finance Ltd	England and Wales	05969217	Mentor House, Ainsworth Street, Blackburn BB1 6AY
Pierce Forensic Limited	England and Wales	05969229	Mentor House, Ainsworth Street, Blackburn BB1 6AY
05107560 Limited	England and Wales	05107560	Mentor House, Ainsworth Street, Blackburn BB1 6AY

## **SCHEDULE 2: THE GUARANTEE**

### **1. Continuing guarantee**

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Chargor under the Consideration Loan Note Documents, regardless of any intermediate payment or discharge in whole or in part.

### **2. Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of any Chargor or any security for those obligations or otherwise) made by the Security Trustee in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### **3. Waiver of defences**

The obligations of each Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this Deed, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to the Security Trustee) including:

- (a) any time, waiver or consent granted to, or composition with, any Chargor or other person;
- (b) the release of any other Chargor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Chargor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Consideration Loan Note Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Consideration Loan Note Document or any other document or security; or
- (g) any insolvency, administration or similar proceedings.

### **4. Guarantor Intent**

Without prejudice to the generality of clause 3 (*Waiver of defences*), each Chargor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Consideration Loan Note Documents and/or any facility or amount made available under any of the Consideration



Loan Note Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities, refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

**5. Immediate recourse**

Each Chargor waives any right it may have of first requiring the Security Trustee to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Consideration Loan Note Document to the contrary.

**6. Appropriations**

Until all amounts which may be or become payable by the Chargors under or in connection with the Consideration Loan Note Documents have been irrevocably paid in full, the Security Trustee (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other monies, security or rights held or received by the Security Trustee (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from any Chargor or on account of any Chargor's liability under this Deed.

**7. Deferral of Guarantors' rights**

Until all amounts which may be or become payable by the Chargors under or in connection with the Consideration Loan Note Documents have been irrevocably paid in full and unless the Security Trustee otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Consideration Loan Note Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified by a Chargor;
- (b) to claim any contribution from any other guarantor of any Chargor's obligations under the Consideration Loan Note Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Trustee under the Consideration Loan Note Documents or of any other guarantee or security taken pursuant to, or in connection with, the Consideration Loan Note Documents by the Security Trustee;
- (d) to bring legal or other proceedings for an order requiring any member of the Group to make any payment, or perform any obligation, in respect of which any Chargor has given a guarantee, undertaking or indemnity under clause 2.1 (*Guarantee and indemnity*);
- (e) to exercise any right of set-off against any member of the Group; and/or

- (f) to claim or prove as a creditor of any member of the Group in competition with the Security Trustee.

If a Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Security Trustee by any member of the Group under or in connection with the Consideration Loan Note Documents to be repaid in full on trust for the Security Trustee and shall promptly pay or transfer the same to the Security Trustee.

**8. Additional security**

This guarantee is in addition to, and is not in any way prejudiced by, any other guarantee or security at the date of this guarantee or subsequently held by the Security Trustee.

### SCHEDULE 3: DETAILS OF SHARES<sup>1</sup>

Chargor	Name of Company in which Shares are held	Class of Shares	Number of Shares held	Issued Share Capital
1KSW Limited	Pierce Group Limited	A Founder	35,500	36,009
1KSW Limited	Pierce Group Limited	B Ordinary	500	36,009
1KSW Limited	Pierce Group Limited	C Ordinary	500	36,009
1KSW Limited	Pierce Group Limited	D Ordinary	4	36,009
Pierce Group Limited	Pierce C.A. Limited	Ordinary	645,000	645,000
Pierce Group Limited	Pierce Corporate Finance Limited	Ordinary	100	100
Pierce Group Limited	Pierce Forensic Limited	Ordinary	100	100
Pierce Group Limited	05107560 Limited	Ordinary	1	1

<sup>1</sup> DLA Internal Note: DLA (Corporate) to confirm shareholdings.

#### SCHEDULE 4: FORM OF ACCESSION DEED

THIS ACCESSION DEED is made on

201[◆]

BETWEEN

- (1) EACH COMPANY LISTED IN SCHEDULE 1 (each an "Acceding Company");
- (2) [◆] [(the "[◆]"); and
- (3) [◆] (as Security Trustee for the Security Beneficiaries (as defined below)) (the "Security Trustee").

#### BACKGROUND

This Accession Deed is supplemental to a debenture dated [◆] 201[◆] and made between (1) the Chargors named in it and (2) the Security Trustee (the "Debenture").

#### IT IS AGREED:

##### 1. DEFINITIONS AND INTERPRETATION

###### (a) Definitions

Terms defined in, or construed for the purposes of, the Debenture have the same meanings when used in this Accession Deed including the recital to this Accession Deed (unless otherwise defined in this Accession Deed).

###### (b) Construction

Clause 1.2 (*Interpretation*) of the Debenture applies with any necessary changes to this Accession Deed as if it were set out in full in this Accession Deed.

##### 2. ACCESSION OF THE ACCEDING COMPANY

###### (a) Accession

[The/Each] Acceding Company:

- (i) unconditionally and irrevocably undertakes to and agrees with the Security Trustee to observe and be bound by the Debenture; and
- (ii) creates and grants [at the date of this Deed] the charges, mortgages, assignments and other security which are stated to be created or granted by the Debenture,

as if it had been an original party to the Debenture as one of the Chargors.

###### (b) Covenant to pay

Without prejudice to the generality of clause 2(a) (*Accession*), [the/each] Acceding Company (jointly and severally with the other Chargors [and each other Acceding Company]), covenants in the terms set out in clause 3 (*Covenant to pay*) of the Debenture.

(c) **Charge and assignment**

Without prejudice to the generality of clause 2(a) (*Accession*), [the/each] Acceding Company with full title guarantee, charges and assigns (and agrees to charge and assign) to the Security Trustee for the payment and discharge of the Secured Obligations, all its right, title and interest in and to the property, assets and undertaking owned by it or in which it has an interest, on the terms set out in clauses 4 (*Grant of security*), 5 (*Fixed security*) and 7 (*Floating charge*) of the Debenture including (without limiting the generality of the foregoing):

- (i) by way of legal mortgage all the freehold and leasehold Real Property (other than any Short Leasehold Property) (if any) vested in or charged to the Acceding Company (including, without limitation, the property specified [against its name] in part 1 of schedule 2 (*Details of Security Assets owned by Acceding Company*) (if any));
- (ii) by way of fixed charge:
  - (A) all the Charged Securities; together with
  - (B) all Related Rights from time to time accruing to them;
- (iii) by way of fixed charge each of its accounts with any bank or financial institution at any time and all monies at any time standing to the credit of such accounts;
- (iv) by way of fixed charge all Intellectual Property; and
- (v) by way of fixed charge the Insurances, all claims under the Insurances and all proceeds of the Insurances.

(d) **Representations**

[The/Each] Acceding Company makes the representations and warranties required pursuant to clause 11.6(a)(iii) to the Debenture.

(e) **[Consent]**

Pursuant to clause 24.3 (*Accession Deed*) of the Debenture, the Company:

- (i) consents to the accession of [the/each] Acceding Company to the Debenture on the terms of this Accession Deed; and
- (ii) agrees that the Debenture shall, after the date of this Accession Deed, be read and construed as if [the/each] Acceding Company had been named in the Debenture as a Chargor.]

**3. CONSTRUCTION OF DEBENTURE**

This Accession Deed shall be read as one with the Debenture so that all references in the Debenture to "*this Deed*" and similar expressions shall include references to this Accession Deed.

**4. THIRD PARTY RIGHTS**

A person who is not a party to this Accession Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Accession Deed.

**5. NOTICE DETAILS**

Notice details for [the/each] Acceding Company are those identified with its name below.

**6. COUNTERPARTS**

This Accession Deed may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Accession Deed.

**7. GOVERNING LAW**

This Accession Deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law.

**IN WITNESS** of which this Accession Deed has been duly executed by [the/each] Acceding Company [and [◆ ] as a deed and duly executed by the Security Trustee and has been delivered on the first date specified on page 1 of this Accession Deed][by [the/each] Acceding Company and the Parent].

## SCHEDULE 1 TO THE ACCESSION DEED

### The Acceding Companies

Company name	Registered number	Registered office
[♦ ]	[♦ ]	[♦ ]
[♦ ]	[♦ ]	[♦ ]
[♦ ]	[♦ ]	[♦ ]
[♦ ]	[♦ ]	[♦ ]

## SCHEDULE 2 TO THE ACCESSION DEED

Details of Security Assets owned by the [Acceding Company/Acceding Companies]

### [Part 1 - Real Property]

Registered land				
[Acceding Company]	Address	Administrative Area		Title number
[◆ ]	[◆ ]	[◆ ]		[◆ ]
Unregistered land				
[Acceding Company]	Address	Document describing the Real Property		
		Date	Document	Parties
[◆ ]	[◆ ]	[◆ 20◆]	[◆ ]	[◆ ]

### [Part 2 - Charged Securities]

[Acceding Company]	Name of company in which shares are held	Class of shares held	Number of shares held	Issued share capital
[◆ ]	[◆ ]	[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]	[◆ ]	[◆ ]

### [Part 3 - Accounts]

Accounts			
Account Holder	Account Number	Account Bank	Account bank branch address and sort code
[◆ ]	[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]	[◆ ]



**[Part 4 - Intellectual Property]**

<b>Part 4A - Trade marks</b>				
<b>Proprietor/ADP number</b>	<b>TM number</b>	<b>Jurisdiction/apparent status</b>	<b>Classes</b>	<b>Mark text</b>
[◆ ]	[◆ ]	[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]	[◆ ]	[◆ ]

<b>Part 4B - Patents</b>		
<b>Proprietor/ADP number</b>	<b>Patent number</b>	<b>Description</b>
[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]

**[Part 5 - Material Contracts]**

<b>[Acceding Company]</b>	<b>Date of Relevant Contract</b>	<b>Parties</b>	<b>Details of Relevant Contract</b>
[◆ ]	[◆ 20◆]	[◆ ]	[◆ ]
[◆ ]	[◆ 20◆]	[◆ ]	[◆ ]

**[Part 6 - Insurances]**

<b>[Acceding Company]</b>	<b>Insurer</b>	<b>Policy number</b>
[◆ ]	[◆ ]	[◆ ]
[◆ ]	[◆ ]	[◆ ]

**EXECUTION PAGES OF THE ACCESSION DEED**

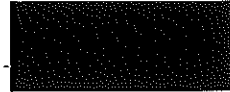
*[insert execution provisions and notice details for the Acceding Companies]*

EXECUTION PAGES

THE ORIGINAL CHARGORS

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **1KSW** )  
**LIMITED** acting by a director in the presence )  
of: )

Signature




Name (block capitals)

**JAMES KING**

Director

Witness signature



Witness name  
(block capitals)

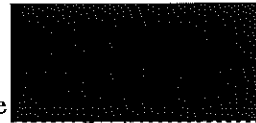
Witness address

Joshua Crawley  
Solicitor

Squire Patton Boggs (UK) LLP  
No 1 Spinningfields  
1 Hardman Square  
Manchester  
M3 3EB

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **PIERCE** )  
**GROUP LIMITED** acting by a director in the )  
presence of: )

Signature



Name (block capitals)

**JOHN GORDON**

Director

Witness signature



Witness name  
(block capitals)

Witness address

Joshua Crawley  
Solicitor

Squire Patton Boggs (UK) LLP  
No 1 Spinningfields  
1 Hardman Square  
Manchester  
M3 3EB

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **PIERCE** )  
**C.A. LIMITED** acting by a director in the )  
presence of: )

Signature



Name (block capitals)

John Green  
Director

Witness signature



Witness name  
(block capitals)

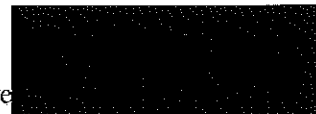
Joshua Crawley  
Solicitor

Witness address

Squire Patton Boggs (UK) LLP  
No 1 Spinningfields  
1 Hardman Square  
Manchester  
M3 3EB

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **PIERCE** )  
**CORPORATE FINANCE LTD** acting by a )  
director in the presence of: )

Signature



Name (block capitals)

John Green  
Director

Witness signature



Witness name  
(block capitals)

Joshua Crawley  
Solicitor

Witness address

Squire Patton Boggs (UK) LLP  
No 1 Spinningfields  
1 Hardman Square  
Manchester  
M3 3EB

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **PIERCE** )  
**FORENSIC LIMITED** acting by a director in )  
the presence of: )

Signature



Name (block capitals)

JOHN GREEN  
Director

Witness signature



Witness name  
(block capitals)

-----

Witness address

Joshua Crawley  
Solicitor  
-----  
Squire Patton Boggs (UK) LLP  
No 1 Spinningfields  
-----  
1 Hardman Square  
-----  
Manchester  
-----  
M3 3EB

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **05107560** )  
**LIMITED** acting by a director in the presence )  
of: )


Signature



Name (block capitals)

JOHN GREEN  
Director

Witness signature



Witness name  
(block capitals)

-----

Witness address

Joshua Crawley  
Solicitor  
-----  
Squire Patton Boggs (UK) LLP  
No.1 Spinningfields  
-----  
1 Hardman Square  
-----  
Manchester  
-----  
M3 3EB

**THE SECURITY TRUSTEE**

Executed as a deed, but not delivered until the )  
first date specified on page 1, by **JOHN** )  
**DERRICK GREEN** in the presence of a )  
witness:

Signature

Name (block capitals)

**JOHN GREEN**

Witness signature

Witness name  
(block capitals)

**Joshua Crawley**  
**Solicitor**

Witness address

**Squire Patton Boggs (UK) LLP**  
**No 1 Spinningfields**  
**1 Hardman Square**  
**Manchester**  
**M3 3EB**