



Registration of a Charge

Company Name: **BENMORE DEVELOPMENTS (N.I.) LIMITED**

Company Number: **NI028681**



XCXXMWDU

Received for filing in Electronic Format on the: **01/03/2024**

Details of Charge

Date of creation: **26/02/2024**

Charge code: **NI02 8681 0050**

Persons entitled: **APEX CORPORATE TRUSTEES (UK) LIMITED (AS SECURITY AGENT)**

Brief description:

Contains fixed 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.**

Certified by: **PINSENT MASONS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI28681

Charge code: NI02 8681 0050

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 26th February 2024 and created by BENMORE DEVELOPMENTS (N.I.) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st March 2024 .

Given at Companies House, Belfast on 3rd March 2024

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 26 February 2024

- (1) BENMORE DEVELOPMENTS (N.I.) LIMITED
- (2) APEX CORPORATE TRUSTEES (UK) LIMITED

CHARGE OVER SHARES



Pinsent Masons

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THIS DEED is made on

26 February 2024

BETWEEN:-

- (1) **BENMORE DEVELOPMENTS (N.I.) LIMITED** (registered number NI028681) whose registered office is at Unit 1 Ground Floor Adelaide Exchange, 24-26 Adelaide Street, Belfast, BT2 8GD (the "Chargor"); and
- (2) **APEX CORPORATE TRUSTEES (UK) LIMITED** (registered number 00239726) whose registered office is at 6th Floor, 125 London Wall, London, EC2Y 5AS as agent and trustee for itself and each of the Secured Parties (the "Security Agent").

IT IS AGREED as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:-

"1881 Act"	means the Conveyancing and Law of Property Act 1881
"1911 Act"	means the Conveyancing Act 1911
"Business Day"	means a day (other than a Saturday or a Sunday) on which banks are open for business in London and Belfast
"Charge"	means all or any of the Security created, or which may at any time be created, by or pursuant to this Deed
"Conveyancing Acts 1881 to 1911"	means together:- <ol style="list-style-type: none">(a) the 1881 Act(b) the Conveyancing Act 1882(c) the Conveyancing Act 1892 and(d) the 1911 Act
"Delegate"	means a delegate or sub-delegate appointed pursuant to Clause 9.4 (<i>Delegation</i>)
"Derived Assets"	means all Shares, rights or other property of a capital nature which accrue or are offered, issued or paid at any time (by way of bonus, rights, redemption, conversion, exchange, substitution, consolidation, subdivision, preference, warrant, option, purchase or otherwise) in respect of:- <ol style="list-style-type: none">(a) the Original Shares or(b) any Further Shares or(c) any Shares, rights or other property previously accruing, offered, issued or paid as mentioned in this definition
"Dissolution"	means of a person includes the bankruptcy, insolvency, liquidation, amalgamation, reconstruction, reorganisation, administration, administrative or other receivership, or dissolution of that person,

	and any equivalent or analogous proceeding by whatever name known and in whatever jurisdiction, and any step taken (including, but without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing
"Dividends"	means all dividends, interest and other income paid or payable in respect of the Original Shares, any Further Shares or any Derived Assets
"Event of Default"	has the meaning given to that term in Clause 1.1 (<i>Definitions</i>) of the Facilities Agreement
"Facilities Agreement"	means the facilities agreement originally dated 10 December 2019 and made between (1) KH (Balmoral) Developments Limited and KH (Balmoral) Ltd (as Borrowers), (2) CBRE Indirect Investment Services Limited (as Arranger), (3) GFS Corporate Director II Limited (as Original Lender), (4) BCMGlobal (UK) Limited (as Agent) and (5) the Security Agent as amended and restated on or around the date of this Deed and as amended, varied, supplemented, extended or replaced from time to time
"Finance Documents"	has the meaning given to such term in the Facilities Agreement
"Further Shares"	means all Shares (other than the Original Shares and any Shares comprised in any Derived Assets) which the Chargor and the Security Agent may at any time agree shall be subject to the Charge
"Original Shares"	means the Shares listed in the Schedule
"Proceedings"	means any proceeding, suit or action arising out of or in connection with this Deed
"Receiver"	has the meaning given to such term in the Facilities Agreement
"Regulations"	means the Financial Collateral Arrangements (No2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements
"Rights"	means rights, benefits, powers, privileges, authorities, discretions and remedies (in each case, of any nature whatsoever)
"Secured Assets"	means the Original Shares, any Further Shares, any Derived Assets and any Dividends
"Secured Parties"	has the meaning given to such term in the Facilities Agreement
"Secured Liabilities"	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document
"Security"	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Shares"	means stocks, shares and other securities of any kind

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facilities Agreement shall have the same meanings in this Deed.

1.3 Interpretation

The principles of interpretation set out in Clause 1.2 to 1.4 of the Facilities Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a "Finance Document" or any other agreement or instrument is a reference to that "Finance Document" or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument.

1.4 Statutes and headings

In this Deed:-

- 1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Deed.

1.5 Clauses and Schedules

In this Deed references to "**Clauses**" are to the clauses or sub-clauses of this Deed, references to the "**Schedule**" is to the Schedule to this Deed. The Schedule shall be treated as an integral part of this Deed and references to this Deed shall include the Schedule.

1.6 Acknowledgement

- 1.6.1 The Chargor acknowledges that the Security Agent enters into this Deed for itself and as trustee for the Secured Parties who shall be entitled to the full benefit of this Deed. The perpetuity period for the trusts constituted by this Deed shall be 80 years. The provisions of the Facilities Agreement with respect to the rights, duties and the resignation of the Security Agent shall apply to the Security Agent as if set out in this Deed.
- 1.6.2 The Security Agent executed this Deed as Security Agent in the exercise of the rights, powers and authority conferred and vested in it under the Facilities Agreement and any other Finance Document for and on behalf of the Secured Parties from who it acts. It will exercise its powers, rights, duties and authority under this Deed in the manner provided for in the Facilities Agreement and, in so acting, the Security Agent shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Facilities Agreement and the other Finance Documents.
- 1.6.3 In acting under and in accordance with this Deed, the Security Agent is entitled to seek instructions from the Secured Parties in accordance with the Facilities Agreement and at any time and where it acts or refrains from acting in accordance with the instructions from the Secured Parties entitled to give the Security Agent instructions, the Security Agent shall not incur any liability to any person for so acting or refraining from acting.

2. COVENANT TO PAY

The Chargor covenants with the Security Agent to pay and discharge all Secured Liabilities at the time or times when, and in the currency or currencies in which, the same are expressed to be payable under the Finance Documents or, as the case may be, this Deed.

3. CHARGE

3.1.1 The Chargor, as continuing security for the payment and discharge of all Secured Liabilities, as beneficial owner, charges all its Rights, title and interest in and to the Secured Assets by way of first fixed charge in favour of the Security Agent.

3.1.2 Notwithstanding anything to the contrary herein contained, the Finance Parties' recourse to the Chargor in respect of the obligations of the Borrower to the Finance Parties shall be limited to the Secured Assets and the Security Agent shall not otherwise have recourse to or take or pursue any judicial or other steps or proceedings or exercise any other right of remedy that it may have against the Chargor for the discharge and repayment of the obligations of the Borrower.

4. COVENANT TO DEPOSIT AND FURTHER ASSURANCES

4.1 Original Shares and Further Shares

The Chargor shall, on the date of this Deed in the case of the Original Shares, and within two Business Days of each occasion on which the Security Agent and the Chargor agree that any Shares shall become Further Shares, deposit with the Security Agent:-

4.1.1 all share certificates, documents of title and other documentary evidence of ownership in relation to such Shares; and

4.1.2 transfers of such Shares duly executed by the Chargor or its nominee with the name of the transferee left blank or, if the Security Agent so requires, duly executed by the Chargor or its nominee in favour of the Security Agent (or the Security Agent's nominee), and such other documents as the Security Agent may require to enable the Security Agent (or the Security Agent's nominee) or, after the occurrence of an Event of Default, any purchaser to be registered as the owner of, or otherwise to obtain legal title to, such Shares.

4.2 Derived Assets

The Chargor shall, within two Business Days of the accrual, offer, issue or payment of any Derived Assets, deliver or pay to the Security Agent or procure the delivery or payment to the Security Agent of:-

4.2.1 all such Derived Assets or the share certificates, renounceable certificates, letters of allotment, documents of title and other documentary evidence of ownership in relation to them; and

4.2.2 transfers of any Shares comprised in such Derived Assets duly executed by the Chargor or its nominee with the name of the transferee left blank or, if the Security Agent so requires, duly executed by the Chargor or its nominee in favour of the Security Agent (or the Security Agent's nominee), and such other documents as the Security Agent may require to enable the Security Agent (or the Security Agent's nominee) or, after the occurrence of an Event of Default, any purchaser to be registered as the owner of, or otherwise to obtain legal title to, the Shares comprised in such Derived Assets.

4.3 Further Assurances

In addition to and without prejudice to anything else contained in this Deed, the Chargor shall, at its own cost, promptly execute and do all such deeds, instruments, transfers, renunciations, proxies,

notices, documents, assurances, acts and things in such form as the Security Agent may from time to time require:-

- 4.3.1 for perfecting, preserving or protecting the Charge or the priority of the Charge; and
- 4.3.2 once the Security created by this Deed has become enforceable, for facilitating the realisation of the Secured Assets or the exercise of any Rights vested in the Security Agent or any Receiver by this Deed or by law.

5. REPRESENTATIONS AND UNDERTAKINGS

5.1 General Representations

The Chargor represents and warrants to the Security Agent that:-

- 5.1.1 it is the sole beneficial owner of the Secured Assets;
- 5.1.2 no Security (other than the Charge and a floating charge over all of the assets of the Chargor contained in the Octopus Debenture) exists on, over or with respect to any of the Secured Assets;
- 5.1.3 it has not sold, transferred, lent, assigned, parted with its interest in, disposed of, granted any option in respect of or otherwise dealt with any of its Rights, title and interest in and to the Secured Assets, or agreed to do any of the foregoing (otherwise than pursuant to this Deed);
- 5.1.4 the Original Shares, any Further Shares and any Shares comprised in any Derived Assets are fully paid and there are no moneys or liabilities outstanding in respect of any of the Secured Assets;
- 5.1.5 the Original Shares, any Further Shares and any Shares comprised in any Derived Assets have been duly authorised and validly issued and are free from any restrictions on transfer or rights of pre-emption;
- 5.1.6 it has the power to enter into, and perform and comply with its obligations under, this Deed, and to create the Charge;
- 5.1.7 all actions, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order to:-
 - (a) enable it lawfully to enter into, and perform and comply with its obligations under, this Deed;
 - (b) ensure that those obligations are valid, legal, binding and enforceable;
 - (c) permit the creation of the Charge and ensure that (subject to all necessary registrations thereof being made) the Charge is a valid, legal, binding and enforceable first fixed charge over the Secured Assets ranking in priority to the interests of any liquidator, administrator or creditor of the Chargor, and
 - (d) make this Deed admissible in evidence in the courts of Northern Ireland,have been taken, fulfilled and done;
- 5.1.8 the obligations of the Chargor under this Deed and (subject to all necessary registrations thereof being made) the Charge are and will be until fully discharged valid, legal, binding and enforceable and the Charge constitutes a first fixed charge over the Secured Assets ranking in priority to the interests of any liquidator, administrator or creditor of the Chargor; and

- 5.1.9 each of the above representations and warranties will be correct and complied with in all respects at all times during the continuance of the Charge as if repeated then by reference to the then existing circumstances.

5.2 General Undertakings

The Chargor shall:-

- 5.2.1 not create, attempt to create or permit to subsist any Security (other than the Charge and a floating charge over all of the assets of the Chargor contained in the Octopus Debenture) on, over or with respect to any of the Secured Assets other than as permitted pursuant to the Finance Documents;
- 5.2.2 not sell, transfer, lend, assign, part with its interest in, dispose of, grant any option in respect of or otherwise deal with any of its Rights, title and interest in and to the Secured Assets, or agree to do any of the foregoing (otherwise than pursuant to this Deed);
- 5.2.3 not take or omit to take any action which it knows (or ought reasonably to know) that such act or omission could adversely affect or diminish the value of any of the Secured Assets;
- 5.2.4 ensure that there are no moneys or liabilities outstanding in respect of any of the Secured Assets;
- 5.2.5 ensure that the Original Shares, any Further Shares and any Shares comprised in any Derived Assets are free from any restriction on transfer or rights of pre-emption;
- 5.2.6 take all action within its power to procure, maintain in effect and comply with all the terms and conditions of all approvals, authorisations, consents and registrations necessary or appropriate for anything provided for on its part in this Deed;
- 5.2.7 ensure that the Charge will at all times be a legally valid and binding first fixed charge over the Secured Assets ranking in priority to the interests of any liquidator, administrator or creditor of the Chargor;
- 5.2.8 without prejudice to Clause 5.2.4 (*General Undertakings*), punctually pay all valid calls, subscription moneys and other moneys payable on or in respect of any of the Secured Assets and indemnify and keep indemnified the Security Agent and its nominees against any cost, liabilities or expenses which it or they may suffer or incur as a result of any failure by the Chargor to pay the same;
- 5.2.9 deliver to the Security Agent a copy of every circular, notice, report or set of accounts received by the Chargor in respect of or in connection with any of the Secured Assets forthwith upon receipt by the Chargor of such document, but only to the extent that such circular, notice, report or set of accounts related to the value of the Secured Assets;
- 5.2.10 promptly deliver to the Security Agent all such information concerning the Secured Assets as the Security Agent may reasonably request from time to time; and
- 5.2.11 not nominate another person to enjoy or exercise all or any specified rights of the Chargor in relation to the Secured Assets as contemplated by the Companies Act 2006 or otherwise.

6. ENFORCEMENT OF SECURITY

6.1 Chargor's rights before enforcement

Until the Charge has become enforceable, the Chargor shall be entitled to:-

- 6.1.1 receive and retain free from the Charge any Dividends paid to it as permitted under the terms of the Facilities Agreement; and

- 6.1.2 exercise and control the exercise of all voting and other Rights relating to the Secured Assets.

6.2 Charge shall become enforceable

The Charge shall be enforceable upon and at any time after the occurrence of an Event of Default which is continuing. At any time after the Security created by this Deed has become enforceable, the Security Agent may (without prejudice to any other rights and remedies and without notice to the Chargor) do all or any of the following:-

- 6.2.1 exercise the power of sale under section 19 of the 1881 Act and section 4 of the 1911 Act together with all other powers and rights conferred on mortgagees by the 1881 Act and the 1911 Act, as varied and extended by this Deed without the restrictions contained in section 20 or 24(1) of the 1881 Act;
- 6.2.2 to the extent that any Secured Asset constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as defined in the Regulations, appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Liabilities (including transferring the title in and to it to the Security Agent insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18), the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or, in any other case, such amount as the Security Agent shall determine in a commercially reasonable manner; and
- 6.2.3 subject to Clause 6.6.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Secured Assets.

6.3 Section 19 of the 1881 Act and section 4 of the 1911 Act

The powers conferred by section 19 of the 1881 Act and section 4 of the 1911 Act, as varied and extended by this Deed, shall be deemed to have arisen on the execution of this Deed.

6.4 Sections 17, 20 and 24(1) of the 1881 Act

Sections 17, 20 and 24(1) of the 1881 Act shall not apply to this Deed.

6.5 Extension of the 1881 Act and the 1911 Act

The provisions of this Deed shall take effect as and by way of variation and extension to the provisions of sections 19 and 21 to 24 inclusive of the 1881 Act as amended by the 1911 Act and the provisions of those sections and the powers thereby conferred on a mortgagee or Receiver as so varied and extended shall apply to and be exercisable by any Receiver so far as applicable.

6.6 Receivers

6.6.1 Method of Appointment or removal

Every appointment or removal of a Receiver, any Delegate or any other person by the Security Agent under this Deed shall be in writing under the hand of any officer or manager of the Security Agent (subject to any requirement for a court order in the case of the removal of an administrative receiver).

6.6.2 Removal

The Security Agent may (subject to the application of article 55 of the Insolvency (Northern Ireland) Order 1989) remove any person from office in relation to all or any part of the Secured Assets of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Secured

Assets) appoint a further or other Receiver or Receivers over all or any part of such Secured Assets.

6.6.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

- (a) of the Security Agent under this Deed;
- (b) conferred by the 1881 Act and the 1911 Act on mortgagees in possession and on receivers appointed under the 1881 Act (in each case as extended by this Deed);
- (c) in relation to, and to the extent applicable to, the Secured Assets or any of them, of an administrative receiver set out in schedule 1 to the Insolvency (Northern Ireland) Order 1989, whether or not the Receiver is an administrative receiver;
- (d) in relation to any Secured Assets, which he would have if he were its only beneficial owner; and
- (e) to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

6.6.4 Receiver as agent

The Receiver shall be the agent of the Chargor (and the Chargor shall be solely liable for the Receiver's acts, defaults, remuneration, losses and liabilities) unless and until the Chargor goes into liquidation, from which time the Receiver shall act as principal and shall not become the agent of the Security Agent.

6.6.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

6.6.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Security Agent and the maximum rate specified in section 24(6) of the 1881 Act shall not apply.

7. DEALINGS WITH SECURED ASSETS ON ENFORCEMENT

7.1 Rights of Security Agent

At any time after the Charge has become enforceable, the Security Agent or any Receiver shall have the right, without any notice to, or consent of, the Chargor:-

7.1.1 Possession

To take possession of, collect and get in the Secured Assets, and in particular to take any steps necessary to vest all or any of the Secured Assets in the name of the Security Agent, the Receiver or its nominee (including completing any transfers of any Shares comprised in the Secured Assets) and to receive and retain any Dividends.

7.1.2 Sell

To sell, exchange, convert into money or otherwise dispose of or realise the Secured Assets (whether by public offer or private contract) to any person and for such consideration (whether comprising cash, debentures or other obligations, Shares or other valuable consideration of any kind) and on such terms (whether payable or deliverable in a lump sum or by instalments) as it may think fit, and for this purpose to complete any transfers of the Secured Assets.

7.1.3 Voting Rights

For the purpose of preserving the value of the Charge, or realising the same, to exercise or direct the exercise of all voting and other Rights relating to the Secured Assets in such manner as it may think fit.

7.1.4 Claims

To settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands relating in any way to the Secured Assets.

7.1.5 Legal actions

To bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Secured Assets.

7.1.6 Other Rights

To do all such other acts and things it may consider necessary or expedient for the realisation of the Secured Assets or incidental to the exercise of any of the Rights conferred on it under or in connection with this Deed or the Conveyancing Acts 1881 to 1911 and to concur in the doing of anything which it has the Right to do and to do any such thing jointly with any other person.

7.2 Obligations of Chargor

After the Charge has become enforceable:-

7.2.1 all Dividends shall be paid to and retained by the Security Agent (or the Receiver if one has been appointed), and any such moneys which may be received by the Chargor shall, pending such payment, be segregated from any other property of the Chargor and held in trust for the Security Agent (or the Receiver if one has been appointed); and

7.2.2 the Chargor shall procure that all voting and other Rights relating to the Secured Assets are exercised in accordance with such instructions (if any) as may from time to time be given to the Chargor by the Security Agent (or the Receiver if one has been appointed), and the Chargor shall deliver to the Security Agent (or the Receiver if one has been appointed) such forms of proxy or other appropriate forms of authorisation to enable the Security Agent (or the Receiver if one has been appointed) to exercise such voting and other Rights.

8. 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 and applied in the following order of priority (but without prejudice to the right of the Security Agent to recover any shortfall from the Chargor):-

8.1 in satisfaction of all costs, charges and expenses incurred, and payments made, by the Security Agent as agent for the Secured Parties and/or as trustee in relation to the Security Documents or by any Receiver (including, without limitation, legal expenses);

- 8.2 in or towards the payment or discharge of such of the Secured Liabilities in such order as the Security Agent in its absolute discretion may from time to time determine; and
- 8.3 after all the Secured Liabilities have been paid or discharged in full, in payment of any surplus to the Chargor or other person entitled to it,

and section 24(8) of the 1881 Act shall not apply to this Deed.

9. GENERAL RIGHTS OF THE SECURITY AGENT AND RECEIVER

9.1 Redemption of Security

The Security Agent (or the Receiver if one has been appointed) may at any time redeem any Security over the Secured Assets having priority to the Charge or procure the transfer thereof to the Security Agent and may settle the accounts of encumbrancers. Any accounts so settled shall be conclusive and binding on the Chargor. The Chargor shall on demand pay to the Security Agent (or the Receiver if one has been appointed) all principal moneys, interest, costs, charges, losses, liabilities and expenses of and incidental to any such redemption or transfer.

9.2 Suspense Account

The Security Agent may, for as long as any of the Secured Liabilities for which any other person may be liable as principal debtor or as co-surety with the Chargor have not been paid or discharged in full, at its sole discretion, 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 such Secured Liabilities without any obligation on the part of the Security Agent to apply the same in or towards the discharge of such Secured Liabilities.

9.3 New Account

At any time following:-

- 9.3.1 the Security Agent receiving notice (either actual or constructive) of any subsequent Security affecting the Secured Assets; or
- 9.3.2 the Dissolution of the Chargor,

the Security Agent may open a new account in the name of the Chargor (whether or not it permits any existing account to continue).

If the Security Agent does not open such a new account, it shall nevertheless be treated as if it had done so at the time when the notice was received or was deemed to have been received or, as the case may be, the Dissolution commenced. Thereafter, all payments made by the Chargor to the Security Agent or received by the Security Agent for the account of the Chargor shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Deed at the time when the Security Agent received or was deemed to have received such notice or, as the case may be, the Dissolution commenced.

9.4 Delegation

The Security Agent (or the Receiver if one has been appointed) may delegate in any manner to any person any of the Rights which are for the time being exercisable by the Security Agent (or the Receiver if one has been appointed) under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Security Agent may think fit.

9.5 Set-off by the Security Agent

In addition to any general lien, right to combine accounts, right to set-off or other right which it may at any time have the Security Agent and each Secured Party may at any time, without notice to the

Chargor and without prejudice to any of the Security Agent's and each Secured Party's other Rights, combine or consolidate all or any accounts which it then has in relation to the Chargor (in whatever name) and any Secured Liabilities owed by the Chargor to the Security Agent or that Secured Party and/or set off any Secured Liabilities which are due and unpaid against any obligation (whether or not matured) owed by the Security Agent to the Chargor, regardless of the place of payment or booking branch, and for that purpose the Security Agent may convert one currency into another at the rate of exchange determined by the Security Agent in its absolute discretion to be prevailing at the date of set-off.

10. LIABILITY OF SECURITY AGENT, DELEGATES AND NOMINEES

10.1 Possession

If the Security Agent or any Delegate shall take possession of the Secured Assets, it may at any time relinquish such possession.

10.2 No Liability

None of the Security Agent, the other Secured Parties, any Receiver or any of their respective officers, employees or delegates shall in any circumstances (whether by reason of taking possession of the Secured Assets or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever):-

10.2.1 be liable to account to the Chargor or any other person for anything except their own actual receipts; or

10.2.2 be liable to the Chargor or any other person for any costs, charges, losses, damages, liabilities or expenses arising from any realisation of the Secured Assets or from any exercise or non-exercise of any Right conferred upon it in relation to the Secured Assets or from any act, default, omission or misconduct by them, their officers, employees or agents in relation to the Secured Assets.

10.3 Delegate's and Nominee's Liability

All the provisions of Clause 10.2 (*No Liability*) shall apply, mutatis mutandis, in respect of the liability of any Delegate or nominee of the Security Agent, the other Secured Parties, any Receiver or any of their respective officers, employees or agents.

10.4 Indemnity

The Security Agent (or the Receiver if one has been appointed) and every Delegate, attorney, manager, agent or other person appointed by the Security Agent hereunder shall be entitled to be indemnified out of the Secured Assets in respect of all liabilities and expenses incurred by any of them in the execution or purported execution of any of its Rights and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in anyway relating to the Secured Assets, and the Security Agent (or the Receiver if one has been appointed) and any such Delegate, attorney, manager, agent or other person appointed by the Security Agent (or the Receiver if one has been appointed) hereunder may retain and pay all sums in respect of the same out of any moneys received.

10.5 Security Agent to forward notices to Secured Parties

The Security Agent shall send to all the Secured Parties a copy of all notices received by it under this Deed.

11. PROTECTION OF THIRD PARTIES

No person dealing with the Security Agent, any Receiver or any Delegate shall be concerned to enquire whether any event has happened upon which any of the Rights conferred under or in

connection with this Deed or any relevant legislation are or may be exercisable, whether any consents, regulations, restrictions or directions relating to such Rights have been obtained or complied with or otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such Rights or as to the application of any money borrowed or raised or other proceeds of enforcement. All the protections to purchasers contained in any relevant legislation for the time being in force shall apply to any person purchasing from or dealing with the Security Agent, any Receiver or any Delegate.

12. PRESERVATION OF SECURITY

12.1 Continuing Security

The Charge shall be a continuing security for the Secured Liabilities and shall not be satisfied, discharged or affected by any intermediate payment or settlement of account (whether or not any Secured Liabilities remain outstanding thereafter) or any other matter or thing whatsoever.

12.2 Other Security

The Charge shall be in addition to and shall not be prejudiced by any other Security or any guarantee or indemnity or other document which the Security Agent may at any time hold for the payment of the Secured Liabilities.

12.3 Waiver of Defences

Without prejudice to Clauses 12.1 (*Continuing Security*) and 12.2 (*Other Security*), neither the Charge nor the liability of the Chargor for the Secured Liabilities shall be prejudiced or affected by:-

- 12.3.1 any variation or amendment of, or waiver or release granted under or in connection with, any other Security or any guarantee or indemnity or other document; or
- 12.3.2 time being given, or any other indulgence or concession being granted, by the Security Agent to the Chargor or any other person; or
- 12.3.3 the taking, holding, failure to take or hold, varying, realisation, non-enforcement, non-perfection or release by the Security Agent or any other person of any other Security, or any guarantee or indemnity or other document; or
- 12.3.4 the Dissolution of the Chargor or any other person; or
- 12.3.5 any change in the constitution of the Chargor; or
- 12.3.6 any amalgamation, merger or reconstruction that may be effected by the Security Agent with any other person or any sale or transfer of the whole or any part of the undertaking, property and assets of the Security Agent to any other person; or
- 12.3.7 the existence of any claim, set-off or other right which the Chargor may have at any time against the Security Agent or any other person; or
- 12.3.8 the making or absence of any demand for payment of any Secured Liability on the Chargor or any other person, whether by the Security Agent or any other person; or
- 12.3.9 any arrangement or compromise entered into by the Security Agent with the Chargor or any other person; or
- 12.3.10 any other thing done or omitted or neglected to be done by the Security Agent or any other person or any other dealing, fact, matter or thing which, but for this provision, might operate to prejudice or affect the liability of the Chargor for the Secured Liabilities.

13. RELEASE OF SECURED ASSETS

13.1 Release of Secured Assets

If:-

13.1.1 all Secured Liabilities have been paid or discharged in full; or

13.1.2 Security or a guarantee for the Secured Liabilities, in each case acceptable to the Security Agent, has been provided in substitution for this Deed,

then, subject to Clause 13.2 (*Retention of Deed*), the Security Agent shall at the request and cost of the Chargor execute such deeds and do all such acts and things as may be necessary to release the Secured Assets from the Charge.

13.2 Retention of Deed

If the Chargor requests the Security Agent to release the Secured Assets from the Charge following any payment or discharge made or Security or guarantee given in relation to the Secured Liabilities by a person other than the Chargor (a "**Relevant Transaction**"), the Security Agent shall be entitled to retain this Deed (and all stock and share certificates, transfers, documents of title and other documentary evidence of ownership in relation to the Secured Assets deposited with the Security Agent pursuant to this Deed) and shall not be obliged to release the Secured Assets from the Charge until the expiry of the Retention Period in relation to that Relevant Transaction. If at any time before the expiry of that Retention Period the Dissolution of such other person shall have commenced, the Security Agent may continue to retain this Deed (and all such stock and share certificates, transfers, documents of title and documentary evidence) and shall not be obliged to release the Secured Assets from the Charge for such further period as the Security Agent may determine.

13.3 Retention Period

For the purpose of Clause 13.2 (*Retention of Deed*) "**Retention Period**" means, in relation to any Relevant Transaction, the period which commences on the date when that Relevant Transaction was made or given, and which ends on the date falling one month after the expiration of the maximum period within which that Relevant Transaction can be avoided, reduced or invalidated by virtue of any applicable law or for any other reason whatsoever.

14. POWER OF ATTORNEY

14.1 Appointment

14.1.1 The Chargor hereby appoints, irrevocably and by way of security, (i) the Security Agent (whether or not a Receiver has been appointed), (ii) any delegate of the Security Agent, (iii) (as a separate appointment) each Receiver, and (iv) any person nominated in writing by the Security Agent as attorney of the Chargor severally to be the attorney of the Chargor (with full powers of substitution and delegation), on its behalf and in its name or otherwise, in such manner as the attorney may think fit (a) where an Event of Default is continuing or (b) where no Event of Default is continuing, but the Chargor has failed to take such steps as to execute, deliver, perfect all deeds, instruments and/or other documents or do or cause to be done all acts and things requested of it by the Security Agent within 10 Business Days of being so requested to take such action:-

- (a) to do anything which the Chargor is or may be obliged to do (but has not done) under this Deed including, but without limitation, to complete and execute any transfer of Shares; and
- (b) generally to exercise all or any of the Rights conferred on the Security Agent in relation to the Secured Assets or under or in connection with this Deed or any relevant legislation.

14.1.2 The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 14. If the Security Agent takes any action under Clause 14.1.1(b) above, it shall notify the Chargor of this.

14.2 Ratification

The Chargor covenants to ratify and confirm whatever any attorney shall do or purport to do in the exercise or purported exercise of the power of attorney in Clause 14.1 (*Appointment*).

15. CURRENCY INDEMNITY

15.1 Currency Indemnity

If, under any applicable law, whether pursuant to a judgment against the Chargor or the Dissolution of the Chargor or for any other reason, any payment under or in connection with this Deed is made or falls to be satisfied in a currency (the "**Other Currency**") other than the currency in which the relevant payment is expressed to be payable (the "**Required Currency**"), then, to the extent that the payment actually received by the Security Agent (when converted into the Required Currency at the rate of exchange on the date of payment or, if it is not practicable for the Security Agent to make the conversion on that date, at the rate of exchange as soon afterwards as it is practicable for the Security Agent to do so or, in the case of a Dissolution, at the rate of exchange on the latest date permitted by applicable law for the determination of liabilities in such Dissolution) falls short of the amount expressed to be due or payable under or in connection with this Deed, the Chargor shall, as an original and independent obligation under this Deed, indemnify and hold the Security Agent harmless against the amount of such shortfall.

15.2 Rate of Exchange

For the purpose of Clause 15.1 (*Currency Indemnity*) "**rate of exchange**" means the rate at which the Security Agent is able on the relevant date to purchase the Required Currency with the Other Currency and shall take into account any commission, premium and other costs of exchange and taxes payable in connection with such purchase.

16. CERTIFICATE TO BE CONCLUSIVE EVIDENCE

For all purposes, including any Proceedings, a copy of a certificate signed by an officer of the Security Agent as to the amount of any indebtedness comprised in the Secured Liabilities for the time being shall, in the absence of manifest error, be conclusive evidence against the Chargor as to the amount thereof.

17. COSTS AND EXPENSES

17.1 The Chargor shall indemnify the Security Agent, the other Secured Parties and any Receiver on demand:-

17.1.1 against all properly incurred costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any taxes thereon expended, paid, incurred or debited on account by the Security Agent, the other Secured Parties and any Receiver in relation to this Deed, and/or any other document referred to in this Deed, including, without prejudice to the generality of the foregoing:-

- (a) in connection with the negotiation, preparation, execution, stamping, filing, registration and perfection of this Deed; and
- (b) in connection with the granting of any waiver or consent sought by the Chargor or in connection with any variation, amendment, extension or modification of, or supplement to, this Deed.

17.1.2 against all costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any taxes thereon expended, paid, incurred or debited on account by the Security Agent, the other Secured Parties and any Receiver in relation to this Deed, and/or any other document referred to in this Deed, including, without prejudice to the generality of the foregoing:-

- (a) in enforcing, protecting, preserving or realising, or attempting to enforce, protect, preserve or realise, the Security Agent's Rights under this Deed; and
- (b) in connection with or contemplation of any Proceedings or the recovery or attempted recovery of any Secured Liabilities.

18. STAMP DUTY

The Chargor shall pay promptly, and in any event before any penalty becomes payable, all stamp, documentary and similar taxes, if any, payable in connection with the entry into, performance, enforcement or admissibility in evidence of this Deed or any other document referred to in this Deed, and shall indemnify the Security Agent against any liability with respect to, or resulting from any delay in paying or omission to pay, any such tax.

19. COMMUNICATIONS

19.1 Communications to be in Writing

Any communication given or made under or in connection with the matters contemplated by this Deed shall be in writing.

19.2 Deemed Delivery

Any such communication shall be addressed as provided in Clause 19.3 (*Parties' Details*) and, if so addressed, shall be deemed to have been duly given or made as follows:-

- 19.2.1 if sent by personal delivery, upon delivery at the address of the relevant party;
- 19.2.2 if sent by first class post, two Business Days after the date of posting;
- 19.2.3 if sent by email, upon receipt by the relevant party,

provided that if, in accordance with the above provisions, any such communication would otherwise be deemed to be given or made outside working hours, such communication shall be deemed to be given or made at the start of the next period of working hours.

19.3 Parties' Details

The relevant details of each party for the purposes of this Deed, subject to Clause 0 (*Change of Details*), are:-

Party	Addressee	Address	Email Address
Chargor	Kevin McKay	Unit 1 Ground Floor Adelaide Exchange, 24-26 Adelaide Street, Belfast, Antrim, Northern Ireland, BT2 8GD	kevin@benmoregroup.com

Security Agent	Manager, Corporate Trusts	6th Floor, 125 London Wall, London, EC2Y 5AS	corporatetrusts@apexgroup.com
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19.4 Change of Details

Either party may notify the other party at any time of a change to its details for the purposes of Clause 19.3 (*Parties' details*) provided that such notification shall only be effective on:-

- 19.4.1 the date specified in the notification as the date on which the change is to take place; or
- 19.4.2 if no date is specified or the date specified is less than 10 Business Days after the date on which notice is given, the date falling 10 Business Days after notice of any such change has been given.

20. RIGHTS AND WAIVERS

20.1 Delay

No delay or omission on the part of the Security Agent in exercising any Right provided by law or under this Deed shall impair such Right or operate as a waiver thereof or of any other Right.

20.2 Single or Partial Exercise

The single or partial exercise by the Security Agent of any Right provided by law or under this Deed shall not preclude any other or further exercise thereof or the exercise of any other Right.

20.3 Rights to be Cumulative

The Rights provided in this Deed are cumulative with, and not exclusive of, any Rights provided by law.

21. INVALIDITY

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:-

- 21.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Deed; nor
 - 21.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Deed,
- shall be affected or impaired.

22. ASSIGNMENT BY SECURITY AGENT

The Security Agent may at any time, without the consent of the Chargor, assign or transfer the whole or, as the case may be, any part of the Security Agent's Rights under this Deed to any person to whom the whole or any part of any of the Security Agent's rights under the Facilities Agreement shall be assigned or transferred.

22.1 Contracts (Rights of Third Parties) Act 1999

- 22.1.1 Each Secured Party, any Receiver and their respective officers, employees and agents may enforce any term of this Deed which purports to confer a benefit on that person, but no other person who is not a party to this Deed has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

22.1.2 Notwithstanding any term of any Finance Document, the parties to this Deed and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of any person who is not a party to this Deed.

22.2 Counterparts

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

23. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the laws of Northern Ireland.

24. ENFORCEMENT

24.1 Jurisdiction of the Courts of Northern Ireland

24.1.1 The courts of Northern Ireland 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**").

24.1.2 The parties to this Deed agree that the courts of Northern Ireland are the most appropriate and convenient courts to settle Disputes and accordingly no such party will argue to the contrary.

24.1.3 This Clause 24.1.3 (*Jurisdiction of the Courts of Northern Ireland*) is for the benefit of the Security Agent and the other Secured Parties only. As a result, neither the Security Agent nor any other Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent and the other Secured Parties may take concurrent proceedings in any number of jurisdictions.

EXECUTED AND DELIVERED AS A DEED by the Chargor and the Security Agent on the date set out at the beginning of this Deed.

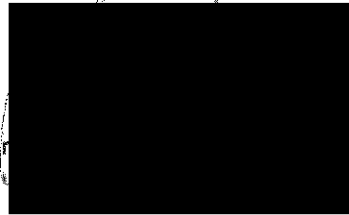
SCHEDULE

Name of Company	Shares	No. of Shares	Nominal Value	Registered Holder
KH (Balmoral) Ltd (registered number NI671741)	Ordinary	18	£18.00	Benmore Developments (N.I.) Limited (registered number NI028681)

SIGNATURE PAGE

THE CHARGOR

EXECUTED (but not delivered until the date hereof))
as a Deed by)
BENMORE DEVELOPMENTS (N.I.) LIMITED)
acting by)
..... *Kern McKay* Dir
a director



in the presence of:



Signature of witness

.....
Name of Witness

.....
Address

.....
Occupation

Avril McCammon Solicitor
McKees
The Linenhall
32/38 Linenhall Street
Belfast, BT2 8BG

THE SECURITY AGENT

SIGNED by)
a duly authorised officer for and on behalf)
APEX CORPORATE TRUSTEES (UK) LIMITED)

Authorised signatory

in the presence of:

.....
Signature of Witness

.....
Signature of Witness

.....
Name of Witness

.....
Address

.....
Occupation

DATED 26 FEBRUARY 2024

- (1) BENMORE DEVELOPMENTS (N.I.) LIMITED
- (2) APEX CORPORATE TRUSTEES (UK) LIMITED

CHARGE OVER SHARES



Pinsent Masons

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THIS DEED is made on 26 FEBRUARY 2024

BETWEEN:-

- (1) **BENMORE DEVELOPMENTS (N.I.) LIMITED** (registered number NI028681) whose registered office is at Unit 1 Ground Floor Adelaide Exchange, 24-26 Adelaide Street, Belfast, BT2 8GD (the "Chargor"); and
- (2) **APEX CORPORATE TRUSTEES (UK) LIMITED** (registered number 00239726) whose registered office is at 6th Floor, 125 London Wall, London, EC2Y 5AS as agent and trustee for itself and each of the Secured Parties (the "Security Agent").

IT IS AGREED as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:-

"1881 Act"	means the Conveyancing and Law of Property Act 1881
"1911 Act"	means the Conveyancing Act 1911
"Business Day"	means a day (other than a Saturday or a Sunday) on which banks are open for business in London and Belfast
"Charge"	means all or any of the Security created, or which may at any time be created, by or pursuant to this Deed
"Conveyancing Acts 1881 to 1911"	means together:- <ol style="list-style-type: none">(a) the 1881 Act(b) the Conveyancing Act 1882(c) the Conveyancing Act 1892 and(d) the 1911 Act
"Delegate"	means a delegate or sub-delegate appointed pursuant to Clause 9.4 (<i>Delegation</i>)
"Derived Assets"	means all Shares, rights or other property of a capital nature which accrue or are offered, issued or paid at any time (by way of bonus, rights, redemption, conversion, exchange, substitution, consolidation, subdivision, preference, warrant, option, purchase or otherwise) in respect of:- <ol style="list-style-type: none">(a) the Original Shares or(b) any Further Shares or(c) any Shares, rights or other property previously accruing, offered, issued or paid as mentioned in this definition
"Dissolution"	means of a person includes the bankruptcy, insolvency, liquidation, amalgamation, reconstruction, reorganisation, administration, administrative or other receivership, or dissolution of that person,

and any equivalent or analogous proceeding by whatever name known and in whatever jurisdiction, and any step taken (including, but without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing

"Dividends"	means all dividends, interest and other income paid or payable in respect of the Original Shares, any Further Shares or any Derived Assets
"Event of Default"	has the meaning given to that term in Clause 1.1 (<i>Definitions</i>) of the Facilities Agreement
"Facilities Agreement"	means the facilities agreement originally dated 10 December 2019 and made between (1) KH (Balmoral) Developments Limited and KH (Balmoral) Ltd (as Borrowers), (2) CBRE Indirect Investment Services Limited (as Arranger), (3) GFS Corporate Director II Limited (as Original Lender), (4) BCMGlobal (UK) Limited (as Agent) and (5) the Security Agent as amended and restated on or around the date of this Deed and as amended, varied, supplemented, extended or replaced from time to time
"Finance Documents"	has the meaning given to such term in the Facilities Agreement
"Further Shares"	means all Shares (other than the Original Shares and any Shares comprised in any Derived Assets) which the Chargor and the Security Agent may at any time agree shall be subject to the Charge
"Original Shares"	means the Shares listed in the Schedule
"Proceedings"	means any proceeding, suit or action arising out of or in connection with this Deed
"Receiver"	has the meaning given to such term in the Facilities Agreement
"Regulations"	means the Financial Collateral Arrangements (No2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements
"Rights"	means rights, benefits, powers, privileges, authorities, discretions and remedies (in each case, of any nature whatsoever)
"Secured Assets"	means the Original Shares, any Further Shares, any Derived Assets and any Dividends
"Secured Parties"	has the meaning given to such term in the Facilities Agreement
"Secured Liabilities"	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document
"Security"	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Shares"	means stocks, shares and other securities of any kind

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facilities Agreement shall have the same meanings in this Deed.

1.3 Interpretation

The principles of interpretation set out in Clause 1.2 to 1.4 of the Facilities Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a "Finance Document" or any other agreement or instrument is a reference to that "Finance Document" or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument.

1.4 Statutes and headings

In this Deed:-

- 1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Deed.

1.5 Clauses and Schedules

In this Deed references to "**Clauses**" are to the clauses or sub-clauses of this Deed, references to the "**Schedule**" is to the Schedule to this Deed. The Schedule shall be treated as an integral part of this Deed and references to this Deed shall include the Schedule.

1.6 Acknowledgement

- 1.6.1 The Chargor acknowledges that the Security Agent enters into this Deed for itself and as trustee for the Secured Parties who shall be entitled to the full benefit of this Deed. The perpetuity period for the trusts constituted by this Deed shall be 80 years. The provisions of the Facilities Agreement with respect to the rights, duties and the resignation of the Security Agent shall apply to the Security Agent as if set out in this Deed.
- 1.6.2 The Security Agent executed this Deed as Security Agent in the exercise of the rights, powers and authority conferred and vested in it under the Facilities Agreement and any other Finance Document for and on behalf of the Secured Parties from who it acts. It will exercise its powers, rights, duties and authority under this Deed in the manner provided for in the Facilities Agreement and, in so acting, the Security Agent shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Facilities Agreement and the other Finance Documents.
- 1.6.3 In acting under and in accordance with this Deed, the Security Agent is entitled to seek instructions from the Secured Parties in accordance with the Facilities Agreement and at any time and where it acts or refrains from acting in accordance with the instructions from the Secured Parties entitled to give the Security Agent instructions, the Security Agent shall not incur any liability to any person for so acting or refraining from acting.

2. COVENANT TO PAY

The Chargor covenants with the Security Agent to pay and discharge all Secured Liabilities at the time or times when, and in the currency or currencies in which, the same are expressed to be payable under the Finance Documents or, as the case may be, this Deed.

3. CHARGE

3.1.1 The Chargor, as continuing security for the payment and discharge of all Secured Liabilities, as beneficial owner, charges all its Rights, title and interest in and to the Secured Assets by way of first fixed charge in favour of the Security Agent.

3.1.2 Notwithstanding anything to the contrary herein contained, the Finance Parties' recourse to the Chargor in respect of the obligations of the Borrower to the Finance Parties shall be limited to the Secured Assets and the Security Agent shall not otherwise have recourse to or take or pursue any judicial or other steps or proceedings or exercise any other right of remedy that it may have against the Chargor for the discharge and repayment of the obligations of the Borrower.

4. COVENANT TO DEPOSIT AND FURTHER ASSURANCES

4.1 Original Shares and Further Shares

The Chargor shall, on the date of this Deed in the case of the Original Shares, and within two Business Days of each occasion on which the Security Agent and the Chargor agree that any Shares shall become Further Shares, deposit with the Security Agent:-

4.1.1 all share certificates, documents of title and other documentary evidence of ownership in relation to such Shares; and

4.1.2 transfers of such Shares duly executed by the Chargor or its nominee with the name of the transferee left blank or, if the Security Agent so requires, duly executed by the Chargor or its nominee in favour of the Security Agent (or the Security Agent's nominee), and such other documents as the Security Agent may require to enable the Security Agent (or the Security Agent's nominee) or, after the occurrence of an Event of Default, any purchaser to be registered as the owner of, or otherwise to obtain legal title to, such Shares.

4.2 Derived Assets

The Chargor shall, within two Business Days of the accrual, offer, issue or payment of any Derived Assets, deliver or pay to the Security Agent or procure the delivery or payment to the Security Agent of:-

4.2.1 all such Derived Assets or the share certificates, renounceable certificates, letters of allotment, documents of title and other documentary evidence of ownership in relation to them; and

4.2.2 transfers of any Shares comprised in such Derived Assets duly executed by the Chargor or its nominee with the name of the transferee left blank or, if the Security Agent so requires, duly executed by the Chargor or its nominee in favour of the Security Agent (or the Security Agent's nominee), and such other documents as the Security Agent may require to enable the Security Agent (or the Security Agent's nominee) or, after the occurrence of an Event of Default, any purchaser to be registered as the owner of, or otherwise to obtain legal title to, the Shares comprised in such Derived Assets.

4.3 Further Assurances

In addition to and without prejudice to anything else contained in this Deed, the Chargor shall, at its own cost, promptly execute and do all such deeds, instruments, transfers, renunciations, proxies,

notices, documents, assurances, acts and things in such form as the Security Agent may from time to time require:-

- 4.3.1 for perfecting, preserving or protecting the Charge or the priority of the Charge; and
- 4.3.2 once the Security created by this Deed has become enforceable, for facilitating the realisation of the Secured Assets or the exercise of any Rights vested in the Security Agent or any Receiver by this Deed or by law.

5. REPRESENTATIONS AND UNDERTAKINGS

5.1 General Representations

The Chargor represents and warrants to the Security Agent that:-

- 5.1.1 it is the sole beneficial owner of the Secured Assets;
- 5.1.2 no Security (other than the Charge and a floating charge over all of the assets of the Chargor contained in the Octopus Debenture) exists on, over or with respect to any of the Secured Assets;
- 5.1.3 it has not sold, transferred, lent, assigned, parted with its interest in, disposed of, granted any option in respect of or otherwise dealt with any of its Rights, title and interest in and to the Secured Assets, or agreed to do any of the foregoing (otherwise than pursuant to this Deed);
- 5.1.4 the Original Shares, any Further Shares and any Shares comprised in any Derived Assets are fully paid and there are no moneys or liabilities outstanding in respect of any of the Secured Assets;
- 5.1.5 the Original Shares, any Further Shares and any Shares comprised in any Derived Assets have been duly authorised and validly issued and are free from any restrictions on transfer or rights of pre-emption;
- 5.1.6 it has the power to enter into, and perform and comply with its obligations under, this Deed, and to create the Charge;
- 5.1.7 all actions, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order to:-
 - (a) enable it lawfully to enter into, and perform and comply with its obligations under, this Deed;
 - (b) ensure that those obligations are valid, legal, binding and enforceable;
 - (c) permit the creation of the Charge and ensure that (subject to all necessary registrations thereof being made) the Charge is a valid, legal, binding and enforceable first fixed charge over the Secured Assets ranking in priority to the interests of any liquidator, administrator or creditor of the Chargor, and
 - (d) make this Deed admissible in evidence in the courts of Northern Ireland,have been taken, fulfilled and done;
- 5.1.8 the obligations of the Chargor under this Deed and (subject to all necessary registrations thereof being made) the Charge are and will be until fully discharged valid, legal, binding and enforceable and the Charge constitutes a first fixed charge over the Secured Assets ranking in priority to the interests of any liquidator, administrator or creditor of the Chargor; and

- 5.1.9 each of the above representations and warranties will be correct and complied with in all respects at all times during the continuance of the Charge as if repeated then by reference to the then existing circumstances.

5.2 General Undertakings

The Chargor shall:-

- 5.2.1 not create, attempt to create or permit to subsist any Security (other than the Charge and a floating charge over all of the assets of the Chargor contained in the Octopus Debenture) on, over or with respect to any of the Secured Assets other than as permitted pursuant to the Finance Documents;
- 5.2.2 not sell, transfer, lend, assign, part with its interest in, dispose of, grant any option in respect of or otherwise deal with any of its Rights, title and interest in and to the Secured Assets, or agree to do any of the foregoing (otherwise than pursuant to this Deed);
- 5.2.3 not take or omit to take any action which it knows (or ought reasonably to know) that such act or omission could adversely affect or diminish the value of any of the Secured Assets;
- 5.2.4 ensure that there are no moneys or liabilities outstanding in respect of any of the Secured Assets;
- 5.2.5 ensure that the Original Shares, any Further Shares and any Shares comprised in any Derived Assets are free from any restriction on transfer or rights of pre-emption;
- 5.2.6 take all action within its power to procure, maintain in effect and comply with all the terms and conditions of all approvals, authorisations, consents and registrations necessary or appropriate for anything provided for on its part in this Deed;
- 5.2.7 ensure that the Charge will at all times be a legally valid and binding first fixed charge over the Secured Assets ranking in priority to the interests of any liquidator, administrator or creditor of the Chargor;
- 5.2.8 without prejudice to Clause 5.2.4 (*General Undertakings*), punctually pay all valid calls, subscription moneys and other moneys payable on or in respect of any of the Secured Assets and indemnify and keep indemnified the Security Agent and its nominees against any cost, liabilities or expenses which it or they may suffer or incur as a result of any failure by the Chargor to pay the same;
- 5.2.9 deliver to the Security Agent a copy of every circular, notice, report or set of accounts received by the Chargor in respect of or in connection with any of the Secured Assets forthwith upon receipt by the Chargor of such document, but only to the extent that such circular, notice, report or set of accounts related to the value of the Secured Assets;
- 5.2.10 promptly deliver to the Security Agent all such information concerning the Secured Assets as the Security Agent may reasonably request from time to time; and
- 5.2.11 not nominate another person to enjoy or exercise all or any specified rights of the Chargor in relation to the Secured Assets as contemplated by the Companies Act 2006 or otherwise.

6. ENFORCEMENT OF SECURITY

6.1 Chargor's rights before enforcement

Until the Charge has become enforceable, the Chargor shall be entitled to:-

- 6.1.1 receive and retain free from the Charge any Dividends paid to it as permitted under the terms of the Facilities Agreement; and

- 6.1.2 exercise and control the exercise of all voting and other Rights relating to the Secured Assets.

6.2 Charge shall become enforceable

The Charge shall be enforceable upon and at any time after the occurrence of an Event of Default which is continuing. At any time after the Security created by this Deed has become enforceable, the Security Agent may (without prejudice to any other rights and remedies and without notice to the Chargor) do all or any of the following:-

- 6.2.1 exercise the power of sale under section 19 of the 1881 Act and section 4 of the 1911 Act together with all other powers and rights conferred on mortgagees by the 1881 Act and the 1911 Act, as varied and extended by this Deed without the restrictions contained in section 20 or 24(1) of the 1881 Act;
- 6.2.2 to the extent that any Secured Asset constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as defined in the Regulations, appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Liabilities (including transferring the title in and to it to the Security Agent insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18), the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or, in any other case, such amount as the Security Agent shall determine in a commercially reasonable manner; and
- 6.2.3 subject to Clause 6.6.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Secured Assets.

6.3 Section 19 of the 1881 Act and section 4 of the 1911 Act

The powers conferred by section 19 of the 1881 Act and section 4 of the 1911 Act, as varied and extended by this Deed, shall be deemed to have arisen on the execution of this Deed.

6.4 Sections 17, 20 and 24(1) of the 1881 Act

Sections 17, 20 and 24(1) of the 1881 Act shall not apply to this Deed.

6.5 Extension of the 1881 Act and the 1911 Act

The provisions of this Deed shall take effect as and by way of variation and extension to the provisions of sections 19 and 21 to 24 inclusive of the 1881 Act as amended by the 1911 Act and the provisions of those sections and the powers thereby conferred on a mortgagee or Receiver as so varied and extended shall apply to and be exercisable by any Receiver so far as applicable.

6.6 Receivers

6.6.1 Method of Appointment or removal

Every appointment or removal of a Receiver, any Delegate or any other person by the Security Agent under this Deed shall be in writing under the hand of any officer or manager of the Security Agent (subject to any requirement for a court order in the case of the removal of an administrative receiver).

6.6.2 Removal

The Security Agent may (subject to the application of article 55 of the Insolvency (Northern Ireland) Order 1989) remove any person from office in relation to all or any part of the Secured Assets of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Secured

Assets) appoint a further or other Receiver or Receivers over all or any part of such Secured Assets.

6.6.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

- (a) of the Security Agent under this Deed;
- (b) conferred by the 1881 Act and the 1911 Act on mortgagees in possession and on receivers appointed under the 1881 Act (in each case as extended by this Deed);
- (c) in relation to, and to the extent applicable to, the Secured Assets or any of them, of an administrative receiver set out in schedule 1 to the Insolvency (Northern Ireland) Order 1989, whether or not the Receiver is an administrative receiver;
- (d) in relation to any Secured Assets, which he would have if he were its only beneficial owner; and
- (e) to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

6.6.4 Receiver as agent

The Receiver shall be the agent of the Chargor (and the Chargor shall be solely liable for the Receiver's acts, defaults, remuneration, losses and liabilities) unless and until the Chargor goes into liquidation, from which time the Receiver shall act as principal and shall not become the agent of the Security Agent.

6.6.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

6.6.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Security Agent and the maximum rate specified in section 24(6) of the 1881 Act shall not apply.

7. DEALINGS WITH SECURED ASSETS ON ENFORCEMENT

7.1 Rights of Security Agent

At any time after the Charge has become enforceable, the Security Agent or any Receiver shall have the right, without any notice to, or consent of, the Chargor:-

7.1.1 Possession

To take possession of, collect and get in the Secured Assets, and in particular to take any steps necessary to vest all or any of the Secured Assets in the name of the Security Agent, the Receiver or its nominee (including completing any transfers of any Shares comprised in the Secured Assets) and to receive and retain any Dividends.

7.1.2 Sell

To sell, exchange, convert into money or otherwise dispose of or realise the Secured Assets (whether by public offer or private contract) to any person and for such consideration (whether comprising cash, debentures or other obligations, Shares or other valuable consideration of any kind) and on such terms (whether payable or deliverable in a lump sum or by instalments) as it may think fit, and for this purpose to complete any transfers of the Secured Assets.

7.1.3 Voting Rights

For the purpose of preserving the value of the Charge, or realising the same, to exercise or direct the exercise of all voting and other Rights relating to the Secured Assets in such manner as it may think fit.

7.1.4 Claims

To settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands relating in any way to the Secured Assets.

7.1.5 Legal actions

To bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Secured Assets.

7.1.6 Other Rights

To do all such other acts and things it may consider necessary or expedient for the realisation of the Secured Assets or incidental to the exercise of any of the Rights conferred on it under or in connection with this Deed or the Conveyancing Acts 1881 to 1911 and to concur in the doing of anything which it has the Right to do and to do any such thing jointly with any other person.

7.2 Obligations of Chargor

After the Charge has become enforceable:-

7.2.1 all Dividends shall be paid to and retained by the Security Agent (or the Receiver if one has been appointed), and any such moneys which may be received by the Chargor shall, pending such payment, be segregated from any other property of the Chargor and held in trust for the Security Agent (or the Receiver if one has been appointed); and

7.2.2 the Chargor shall procure that all voting and other Rights relating to the Secured Assets are exercised in accordance with such instructions (if any) as may from time to time be given to the Chargor by the Security Agent (or the Receiver if one has been appointed), and the Chargor shall deliver to the Security Agent (or the Receiver if one has been appointed) such forms of proxy or other appropriate forms of authorisation to enable the Security Agent (or the Receiver if one has been appointed) to exercise such voting and other Rights.

8. 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 and applied in the following order of priority (but without prejudice to the right of the Security Agent to recover any shortfall from the Chargor):-

8.1 in satisfaction of all costs, charges and expenses incurred, and payments made, by the Security Agent as agent for the Secured Parties and/or as trustee in relation to the Security Documents or by any Receiver (including, without limitation, legal expenses);

- 8.2 in or towards the payment or discharge of such of the Secured Liabilities in such order as the Security Agent in its absolute discretion may from time to time determine; and
- 8.3 after all the Secured Liabilities have been paid or discharged in full, in payment of any surplus to the Chargor or other person entitled to it,

and section 24(8) of the 1881 Act shall not apply to this Deed.

9. GENERAL RIGHTS OF THE SECURITY AGENT AND RECEIVER

9.1 Redemption of Security

The Security Agent (or the Receiver if one has been appointed) may at any time redeem any Security over the Secured Assets having priority to the Charge or procure the transfer thereof to the Security Agent and may settle the accounts of encumbrancers. Any accounts so settled shall be conclusive and binding on the Chargor. The Chargor shall on demand pay to the Security Agent (or the Receiver if one has been appointed) all principal moneys, interest, costs, charges, losses, liabilities and expenses of and incidental to any such redemption or transfer.

9.2 Suspense Account

The Security Agent may, for as long as any of the Secured Liabilities for which any other person may be liable as principal debtor or as co-surety with the Chargor have not been paid or discharged in full, at its sole discretion, 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 such Secured Liabilities without any obligation on the part of the Security Agent to apply the same in or towards the discharge of such Secured Liabilities.

9.3 New Account

At any time following:-

9.3.1 the Security Agent receiving notice (either actual or constructive) of any subsequent Security affecting the Secured Assets; or

9.3.2 the Dissolution of the Chargor,

the Security Agent may open a new account in the name of the Chargor (whether or not it permits any existing account to continue).

If the Security Agent does not open such a new account, it shall nevertheless be treated as if it had done so at the time when the notice was received or was deemed to have been received or, as the case may be, the Dissolution commenced. Thereafter, all payments made by the Chargor to the Security Agent or received by the Security Agent for the account of the Chargor shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Deed at the time when the Security Agent received or was deemed to have received such notice or, as the case may be, the Dissolution commenced.

9.4 Delegation

The Security Agent (or the Receiver if one has been appointed) may delegate in any manner to any person any of the Rights which are for the time being exercisable by the Security Agent (or the Receiver if one has been appointed) under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Security Agent may think fit.

9.5 Set-off by the Security Agent

In addition to any general lien, right to combine accounts, right to set-off or other right which it may at any time have the Security Agent and each Secured Party may at any time, without notice to the

Chargor and without prejudice to any of the Security Agent's and each Secured Party's other Rights, combine or consolidate all or any accounts which it then has in relation to the Chargor (in whatever name) and any Secured Liabilities owed by the Chargor to the Security Agent or that Secured Party and/or set off any Secured Liabilities which are due and unpaid against any obligation (whether or not matured) owed by the Security Agent to the Chargor, regardless of the place of payment or booking branch, and for that purpose the Security Agent may convert one currency into another at the rate of exchange determined by the Security Agent in its absolute discretion to be prevailing at the date of set-off.

10. LIABILITY OF SECURITY AGENT, DELEGATES AND NOMINEES

10.1 Possession

If the Security Agent or any Delegate shall take possession of the Secured Assets, it may at any time relinquish such possession.

10.2 No Liability

None of the Security Agent, the other Secured Parties, any Receiver or any of their respective officers, employees or delegates shall in any circumstances (whether by reason of taking possession of the Secured Assets or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever):-

10.2.1 be liable to account to the Chargor or any other person for anything except their own actual receipts; or

10.2.2 be liable to the Chargor or any other person for any costs, charges, losses, damages, liabilities or expenses arising from any realisation of the Secured Assets or from any exercise or non-exercise of any Right conferred upon it in relation to the Secured Assets or from any act, default, omission or misconduct by them, their officers, employees or agents in relation to the Secured Assets.

10.3 Delegate's and Nominee's Liability

All the provisions of Clause 10.2 (*No Liability*) shall apply, mutatis mutandis, in respect of the liability of any Delegate or nominee of the Security Agent, the other Secured Parties, any Receiver or any of their respective officers, employees or agents.

10.4 Indemnity

The Security Agent (or the Receiver if one has been appointed) and every Delegate, attorney, manager, agent or other person appointed by the Security Agent hereunder shall be entitled to be indemnified out of the Secured Assets in respect of all liabilities and expenses incurred by any of them in the execution or purported execution of any of its Rights and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in anyway relating to the Secured Assets, and the Security Agent (or the Receiver if one has been appointed) and any such Delegate, attorney, manager, agent or other person appointed by the Security Agent (or the Receiver if one has been appointed) hereunder may retain and pay all sums in respect of the same out of any moneys received.

10.5 Security Agent to forward notices to Secured Parties

The Security Agent shall send to all the Secured Parties a copy of all notices received by it under this Deed.

11. PROTECTION OF THIRD PARTIES

No person dealing with the Security Agent, any Receiver or any Delegate shall be concerned to enquire whether any event has happened upon which any of the Rights conferred under or in

connection with this Deed or any relevant legislation are or may be exercisable, whether any consents, regulations, restrictions or directions relating to such Rights have been obtained or complied with or otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such Rights or as to the application of any money borrowed or raised or other proceeds of enforcement. All the protections to purchasers contained in any relevant legislation for the time being in force shall apply to any person purchasing from or dealing with the Security Agent, any Receiver or any Delegate.

12. PRESERVATION OF SECURITY

12.1 Continuing Security

The Charge shall be a continuing security for the Secured Liabilities and shall not be satisfied, discharged or affected by any intermediate payment or settlement of account (whether or not any Secured Liabilities remain outstanding thereafter) or any other matter or thing whatsoever.

12.2 Other Security

The Charge shall be in addition to and shall not be prejudiced by any other Security or any guarantee or indemnity or other document which the Security Agent may at any time hold for the payment of the Secured Liabilities.

12.3 Waiver of Defences

Without prejudice to Clauses 12.1 (*Continuing Security*) and 12.2 (*Other Security*), neither the Charge nor the liability of the Chargor for the Secured Liabilities shall be prejudiced or affected by:-

- 12.3.1 any variation or amendment of, or waiver or release granted under or in connection with, any other Security or any guarantee or indemnity or other document; or
- 12.3.2 time being given, or any other indulgence or concession being granted, by the Security Agent to the Chargor or any other person; or
- 12.3.3 the taking, holding, failure to take or hold, varying, realisation, non-enforcement, non-perfection or release by the Security Agent or any other person of any other Security, or any guarantee or indemnity or other document; or
- 12.3.4 the Dissolution of the Chargor or any other person; or
- 12.3.5 any change in the constitution of the Chargor; or
- 12.3.6 any amalgamation, merger or reconstruction that may be effected by the Security Agent with any other person or any sale or transfer of the whole or any part of the undertaking, property and assets of the Security Agent to any other person; or
- 12.3.7 the existence of any claim, set-off or other right which the Chargor may have at any time against the Security Agent or any other person; or
- 12.3.8 the making or absence of any demand for payment of any Secured Liability on the Chargor or any other person, whether by the Security Agent or any other person; or
- 12.3.9 any arrangement or compromise entered into by the Security Agent with the Chargor or any other person; or
- 12.3.10 any other thing done or omitted or neglected to be done by the Security Agent or any other person or any other dealing, fact, matter or thing which, but for this provision, might operate to prejudice or affect the liability of the Chargor for the Secured Liabilities.

13. RELEASE OF SECURED ASSETS

13.1 Release of Secured Assets

If:-

13.1.1 all Secured Liabilities have been paid or discharged in full; or

13.1.2 Security or a guarantee for the Secured Liabilities, in each case acceptable to the Security Agent, has been provided in substitution for this Deed,

then, subject to Clause 13.2 (*Retention of Deed*), the Security Agent shall at the request and cost of the Chargor execute such deeds and do all such acts and things as may be necessary to release the Secured Assets from the Charge.

13.2 Retention of Deed

If the Chargor requests the Security Agent to release the Secured Assets from the Charge following any payment or discharge made or Security or guarantee given in relation to the Secured Liabilities by a person other than the Chargor (a "**Relevant Transaction**"), the Security Agent shall be entitled to retain this Deed (and all stock and share certificates, transfers, documents of title and other documentary evidence of ownership in relation to the Secured Assets deposited with the Security Agent pursuant to this Deed) and shall not be obliged to release the Secured Assets from the Charge until the expiry of the Retention Period in relation to that Relevant Transaction. If at any time before the expiry of that Retention Period the Dissolution of such other person shall have commenced, the Security Agent may continue to retain this Deed (and all such stock and share certificates, transfers, documents of title and documentary evidence) and shall not be obliged to release the Secured Assets from the Charge for such further period as the Security Agent may determine.

13.3 Retention Period

For the purpose of Clause 13.2 (*Retention of Deed*) "**Retention Period**" means, in relation to any Relevant Transaction, the period which commences on the date when that Relevant Transaction was made or given, and which ends on the date falling one month after the expiration of the maximum period within which that Relevant Transaction can be avoided, reduced or invalidated by virtue of any applicable law or for any other reason whatsoever.

14. POWER OF ATTORNEY

14.1 Appointment

14.1.1 The Chargor hereby appoints, irrevocably and by way of security, (i) the Security Agent (whether or not a Receiver has been appointed), (ii) any delegate of the Security Agent, (iii) (as a separate appointment) each Receiver, and (iv) any person nominated in writing by the Security Agent as attorney of the Chargor severally to be the attorney of the Chargor (with full powers of substitution and delegation), on its behalf and in its name or otherwise, in such manner as the attorney may think fit (a) where an Event of Default is continuing or (b) where no Event of Default is continuing, but the Chargor has failed to take such steps as to execute, deliver, perfect all deeds, instruments and/or other documents or do or cause to be done all acts and things requested of it by the Security Agent within 10 Business Days of being so requested to take such action:-

(a) to do anything which the Chargor is or may be obliged to do (but has not done) under this Deed including, but without limitation, to complete and execute any transfer of Shares; and

(b) generally to exercise all or any of the Rights conferred on the Security Agent in relation to the Secured Assets or under or in connection with this Deed or any relevant legislation.

14.1.2 The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 14. If the Security Agent takes any action under Clause 14.1.1(b) above, it shall notify the Chargor of this.

14.2 Ratification

The Chargor covenants to ratify and confirm whatever any attorney shall do or purport to do in the exercise or purported exercise of the power of attorney in Clause 14.1 (*Appointment*).

15. CURRENCY INDEMNITY

15.1 Currency Indemnity

If, under any applicable law, whether pursuant to a judgment against the Chargor or the Dissolution of the Chargor or for any other reason, any payment under or in connection with this Deed is made or falls to be satisfied in a currency (the "**Other Currency**") other than the currency in which the relevant payment is expressed to be payable (the "**Required Currency**"), then, to the extent that the payment actually received by the Security Agent (when converted into the Required Currency at the rate of exchange on the date of payment or, if it is not practicable for the Security Agent to make the conversion on that date, at the rate of exchange as soon afterwards as it is practicable for the Security Agent to do so or, in the case of a Dissolution, at the rate of exchange on the latest date permitted by applicable law for the determination of liabilities in such Dissolution) falls short of the amount expressed to be due or payable under or in connection with this Deed, the Chargor shall, as an original and independent obligation under this Deed, indemnify and hold the Security Agent harmless against the amount of such shortfall.

15.2 Rate of Exchange

For the purpose of Clause 15.1 (*Currency Indemnity*) "**rate of exchange**" means the rate at which the Security Agent is able on the relevant date to purchase the Required Currency with the Other Currency and shall take into account any commission, premium and other costs of exchange and taxes payable in connection with such purchase.

16. CERTIFICATE TO BE CONCLUSIVE EVIDENCE

For all purposes, including any Proceedings, a copy of a certificate signed by an officer of the Security Agent as to the amount of any indebtedness comprised in the Secured Liabilities for the time being shall, in the absence of manifest error, be conclusive evidence against the Chargor as to the amount thereof.

17. COSTS AND EXPENSES

17.1 The Chargor shall indemnify the Security Agent, the other Secured Parties and any Receiver on demand:-

17.1.1 against all properly incurred costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any taxes thereon expended, paid, incurred or debited on account by the Security Agent, the other Secured Parties and any Receiver in relation to this Deed, and/or any other document referred to in this Deed, including, without prejudice to the generality of the foregoing:-

- (a) in connection with the negotiation, preparation, execution, stamping, filing, registration and perfection of this Deed; and
- (b) in connection with the granting of any waiver or consent sought by the Chargor or in connection with any variation, amendment, extension or modification of, or supplement to, this Deed.

17.1.2 against all costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any taxes thereon expended, paid, incurred or debited on account by the Security Agent, the other Secured Parties and any Receiver in relation to this Deed, and/or any other document referred to in this Deed, including, without prejudice to the generality of the foregoing:-

- (a) in enforcing, protecting, preserving or realising, or attempting to enforce, protect, preserve or realise, the Security Agent's Rights under this Deed; and
- (b) in connection with or contemplation of any Proceedings or the recovery or attempted recovery of any Secured Liabilities.

18. STAMP DUTY

The Chargor shall pay promptly, and in any event before any penalty becomes payable, all stamp, documentary and similar taxes, if any, payable in connection with the entry into, performance, enforcement or admissibility in evidence of this Deed or any other document referred to in this Deed, and shall indemnify the Security Agent against any liability with respect to, or resulting from any delay in paying or omission to pay, any such tax.

19. COMMUNICATIONS

19.1 Communications to be in Writing

Any communication given or made under or in connection with the matters contemplated by this Deed shall be in writing.

19.2 Deemed Delivery

Any such communication shall be addressed as provided in Clause 19.3 (*Parties' Details*) and, if so addressed, shall be deemed to have been duly given or made as follows:-

- 19.2.1 if sent by personal delivery, upon delivery at the address of the relevant party;
- 19.2.2 if sent by first class post, two Business Days after the date of posting;
- 19.2.3 if sent by email, upon receipt by the relevant party,

provided that if, in accordance with the above provisions, any such communication would otherwise be deemed to be given or made outside working hours, such communication shall be deemed to be given or made at the start of the next period of working hours.

19.3 Parties' Details

The relevant details of each party for the purposes of this Deed, subject to Clause 0 (*Change of Details*), are:-

Party	Addressee	Address	Email Address
Chargor	Kevin McKay	Unit 1 Ground Floor Adelaide Exchange, 24-26 Adelaide Street, Belfast, Antrim, Northern Ireland, BT2 8GD	kevin@benmoregroup.com

Security Agent	Manager, Corporate Trusts	6th Floor, 125 London Wall, London, EC2Y 5AS	corporatetrusts@apexgroup.com
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19.4 Change of Details

Either party may notify the other party at any time of a change to its details for the purposes of Clause 19.3 (*Parties' details*) provided that such notification shall only be effective on:-

- 19.4.1 the date specified in the notification as the date on which the change is to take place; or
- 19.4.2 if no date is specified or the date specified is less than 10 Business Days after the date on which notice is given, the date falling 10 Business Days after notice of any such change has been given.

20. RIGHTS AND WAIVERS

20.1 Delay

No delay or omission on the part of the Security Agent in exercising any Right provided by law or under this Deed shall impair such Right or operate as a waiver thereof or of any other Right.

20.2 Single or Partial Exercise

The single or partial exercise by the Security Agent of any Right provided by law or under this Deed shall not preclude any other or further exercise thereof or the exercise of any other Right.

20.3 Rights to be Cumulative

The Rights provided in this Deed are cumulative with, and not exclusive of, any Rights provided by law.

21. INVALIDITY

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:-

- 21.1 the legality, validity or enforceability in that jurisdiction of any other provision of this Deed; nor
 - 21.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Deed,
- shall be affected or impaired.

22. ASSIGNMENT BY SECURITY AGENT

The Security Agent may at any time, without the consent of the Chargor, assign or transfer the whole or, as the case may be, any part of the Security Agent's Rights under this Deed to any person to whom the whole or any part of any of the Security Agent's rights under the Facilities Agreement shall be assigned or transferred.

22.1 Contracts (Rights of Third Parties) Act 1999

- 22.1.1 Each Secured Party, any Receiver and their respective officers, employees and agents may enforce any term of this Deed which purports to confer a benefit on that person, but no other person who is not a party to this Deed has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

- 22.1.2 Notwithstanding any term of any Finance Document, the parties to this Deed and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of any person who is not a party to this Deed.

22.2 Counterparts

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

23. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the laws of Northern Ireland.

24. ENFORCEMENT

24.1 Jurisdiction of the Courts of Northern Ireland

- 24.1.1 The courts of Northern Ireland 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**").
- 24.1.2 The parties to this Deed agree that the courts of Northern Ireland are the most appropriate and convenient courts to settle Disputes and accordingly no such party will argue to the contrary.
- 24.1.3 This Clause 24.1.3 (*Jurisdiction of the Courts of Northern Ireland*) is for the benefit of the Security Agent and the other Secured Parties only. As a result, neither the Security Agent nor any other Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent and the other Secured Parties may take concurrent proceedings in any number of jurisdictions.

EXECUTED AND DELIVERED AS A DEED by the Chargor and the Security Agent on the date set out at the beginning of this Deed.

SCHEDULE

Name of Company	Shares	No. of Shares	Nominal Value	Registered Holder
KH (Balmoral) Ltd (registered number NI671741)	Ordinary	18	£18.00	Benmore Developments (N.I.) Limited (registered number NI028681)

SIGNATURE PAGE

THE CHARGOR

EXECUTED (but not delivered until the date hereof))
as a Deed by)
BENMORE DEVELOPMENTS (N.I.) LIMITED)
acting by)

..... Director
a director

in the presence of:

.....
Signature of Witness

.....
Name of Witness

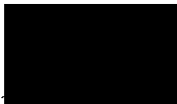
.....
Address

.....
Occupation

THE SECURITY AGENT

SIGNED by)
a duly authorised officer for and on behalf)
APEX CORPORATE TRUSTEES (UK) LIMITED)

.....
Authorised signatory **Mark Bennett**

in the presence of: 

.....
Signature of Witness
CHRIS BURGESS

.....
Name of Witness
6th Floor 125 London Wall
London EC2Y 5AS

.....
Address
Trustee

.....
Occupation

.....
Signature of Witness

SUSAN SWANN
6TH FLOOR 125 LONDON WALL
LONDON EC2Y 5AS

TRUSTEE