



Registration of a Charge

Company name: **HEVEN HOLDINGS LIMITED**

Company number: **02829703**

Received for Electronic Filing: **23/11/2020**



Details of Charge

Date of creation: **19/11/2020**

Charge code: **0282 9703 0027**

Persons entitled: **LANDESBANK HESSEN-THÜRINGEN GIROZENTRALE, LONDON BRANCH**

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: **HERBERT SMITH FREEHILLS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2829703

Charge code: 0282 9703 0027

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th November 2020 and created by HEVEN HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd November 2020 .

Given at Companies House, Cardiff on 24th November 2020

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES



HERBERT
SMITH
FREEHILLS

EXECUTION VERSION

19 November

2020

HEVEN HOLDINGS LIMITED

as Assignor

and

LANDESBANK HESSEN-THÜRINGEN GIROZENTRALE, LONDON BRANCH

as agent and trustee

SECURITY ASSIGNMENT

Herbert Smith Freehills LLP

**WE HEREBY CERTIFY THIS TO BE
A TRUE AND ACCURATE COPY
OF THE ORIGINAL**

Herbert Smith Freehills LLP

**Herbert Smith Freehills LLP
Exchange House, Primrose Street
London EC2A 2EG**

Date: 20 November 2020

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THIS DEED is made on

19 November

2020

BETWEEN:

- (1) **HEVEN HOLDINGS LIMITED** (a company incorporated in England and Wales with company registration number 02829703) whose registered office is at 15 Regent Street, London, England SW1Y 4LR (the "**Assignor**"); and
- (2) **LANDESBANK HESSEN-THÜRINGEN GIROZENTRALE, LONDON BRANCH** as agent and trustee for itself and each of the other Finance Parties (the "**Agent**").

IT IS AGREED as follows:

1. DEFINITIONS, CONSTRUCTION AND THIRD PARTY RIGHTS

1.1 Definitions

- 1.1.1 Terms defined in the Credit Agreement shall, unless otherwise defined in this Deed or unless a contrary intention appears, bear the same meaning when used in this Deed and the following terms shall have the following meanings:

"Administrator" means a person appointed under Schedule B1 to the Insolvency Act 1986 to manage the Assignor's affairs, business and property.

"Ancillary Liabilities" in relation to any of the Subordinated Debt means:

- (A) any refinancing, novation, refunding, restructuring, deferral or extension of any of those liabilities;
- (B) any further advance which may be made under any agreement supplemental to the relevant facilities or credit agreement plus all interest, indemnities, fees and costs in connection therewith;
- (C) any claim for damages or restitution in the event of rescission of any such liabilities or otherwise in connection with any relevant facilities or credit agreement;
- (D) any claim against any Obligor flowing from any recovery by any Obligor of a payment or discharge in respect of those liabilities on the grounds of preference or otherwise; and
- (E) any amounts (including post-insolvency interest) which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

"Assigned Rights" means all rights, titles, benefits and interests, whether present or future, of the Assignor in, to or arising under any Contract including rights to any sums payable to the Assignor and the full benefit of any Security, options, indemnities, guarantees and warranties in respect of such Contract.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London and Jersey.

"Contract" means any document evidencing or recording the terms of any Subordinated Debt.

"Credit Agreement" means the £175,000,000 loan facility agreement dated 27 September 2011 between, among others, Ocubis Financing Limited as borrower and Landesbank Hessen-Thüringen Girozentrale, London Branch as arranger, agent and original lender as amended and restated by a first supplemental agreement dated 7 October 2013, a side letter dated 15 October 2013, a consent letter dated 21 April 2015, an amendment letter dated 21 April 2016, a second supplemental agreement dated 27 October 2016, a consent and amendment letter dated 26 July 2018, the third supplemental agreement dated on or about the date of this Deed, and as further amended, novated, supplemented, extended or restated from time to time.

"LPA" means the Law of Property Act 1925.

"Receiver" means any person appointed by the Agent to be a receiver or receiver and manager or administrative receiver of the Assigned Rights or any part thereof.

"Secured Liabilities" means all monies, obligations and liabilities covenanted to be paid or discharged under or pursuant to Clause 2 (*Covenants to Pay*).

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

"Security Period" means the period from the date of this Deed until the date on which the Agent has determined that all of the Secured Liabilities (whether actual or contingent) have been irrevocably and unconditionally paid and discharged in full.

"Subordinated Debt" means all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing, due or incurred by the Obligors to the Assignor together with all Ancillary Liabilities relating thereto.

"Undocumented Debt" means all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing due or incurred by any Obligor to the Assignor together with any Ancillary Liabilities thereto which are not evidenced or recorded by the Contract but which otherwise exists from time to time.

"VAT" means United Kingdom Value Added Tax together with all interest and penalties relating thereto.

- 1.1.2 Unless a contrary intention appears, words defined in the Companies Act 2006 have the same meanings in this Deed.

1.2 Construction

- 1.2.1 The provisions of clause 1.2 (*Construction*) of the Credit Agreement shall apply to this Deed as if they were set out in this Deed.

- 1.2.2 Unless a contrary indication appears, any reference in this Deed to:

- (A) the singular includes the plural and vice versa;
- (B) the **"Agent"** or a **"Finance Party"** shall be construed so as to include their respective successors in title, permitted assigns and permitted transferees;
- (C) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (D) a provision of law is a reference to that provision as amended or re-enacted;
- (E) a Clause or a Schedule is a reference to a clause of or a schedule to this Deed;
- (F) this Deed shall be construed as references also to any separate or independent stipulation or agreement contained in it;
- (G) another agreement (including the Credit Agreement) shall be construed as a reference to such agreement as the same may have been modified,

extended, amended, varied or supplemented or novated from time to time;

(H) references to any form of property or asset shall include a reference to all or any part of that property or asset; and

(I) the word "**including**" is without limitation.

1.2.3 Clause and Schedule headings are for ease of reference only.

1.2.4 The words "**other**", "**or otherwise**" and "**whatsoever**" shall not be construed *eiusdem generis* or be construed as any limitation upon the generality of any preceding words or matters specifically referred to.

1.3 Third Party Rights

The terms of this Deed may be enforced only by a party to it and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

1.4 Implied Covenants for Title

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

1.5 Effect as a Deed

This Deed is intended to take effect as a deed notwithstanding that the Agent may have executed it under hand only.

1.6 Security Trust Provisions

The Agent holds the benefit of this Deed on trust for the Finance Parties in accordance with clause 27(*The Agent as Security Trustee*) of the Credit Agreement.

2. COVENANTS TO PAY

2.1 Covenant to Pay Secured Liabilities

The Assignor covenants that it shall on demand pay to the Agent all monies and discharge all obligations and liabilities now or hereafter due, owing or incurred by it or any Obligor to any Finance Party under or pursuant to the Finance Documents in each case when the same become due for payment or discharge, whether by acceleration or otherwise, and whether such monies, obligations or liabilities are express or implied; present, future or contingent; joint or several; incurred as principal or surety; originally owing to a Finance Party or purchased (whether by assignment or otherwise) or acquired in any other way by it; denominated in sterling or any other currency; or incurred on any current or other banking account or in any other manner whatsoever.

2.2 Potential Invalidity

Neither the covenant to pay in Clause 2.1 (*Covenant to Pay Secured Liabilities*) nor the obligation to pay interest pursuant to Clause 2.3 (*Interest*) nor the security created by this Deed shall extend to or include any liability or sum which would, but for this Clause 2.2, cause such covenant, obligation or security to be unlawful under any applicable law.

2.3 Interest

2.3.1 The Assignor hereby agrees to pay to the Agent, in respect of any amount demanded from it in accordance with this Deed (to the extent that interest on such amount is not otherwise being paid pursuant to any agreement between the Assignor and the relevant Finance Party) interest from first demand by the Agent of the Assignor:

- (A) at the rate of interest payable or deemed to be payable by the Assignor in respect of the amount demanded as calculated and compounded in accordance with any agreement between the relevant Finance Party and the Assignor with respect to such amount; or
- (B) failing such agreement, at the rate per annum which is **two** per cent (2%) above the interest cost to the relevant Finance Party (as conclusively determined by that Finance Party) of funding the amount demanded, such interest being compounded with monthly rests.

2.3.2 Such interest shall accrue due on a daily basis from the demand by the Agent until actual payment by the Assignor (as well after as before any further demand or judgment or the liquidation of the Assignor).

3. LIMITED RECOURSE

3.1 Notwithstanding Clause 2.1 (*Covenant to Pay Secured Liabilities*) the liability of the Assignor to the Finance Parties under Clause 2.1 (*Covenant to Pay Secured Liabilities*) and under the indemnities under Clauses 15.3 (*Currency Indemnity*), 18.8.2 (*Continuing Security and Indemnity*) and 18.14 (*Costs and Expenses*) shall be:

- 3.1.1 limited in aggregate to an amount equal to that recovered by the Finance Parties as a result of the enforcement of this Deed with respect to the Assigned Rights; and
- 3.1.2 satisfied only from the proceeds of sale or other disposal or realisation of the Assigned Rights pursuant to this Deed.

3.2 The Finance Parties shall not have any recourse under Clause 2.1 (*Covenant to Pay Secured Liabilities*) and under the indemnities under Clauses 15.3 (*Currency Indemnity*), 18.8.2 (*Continuing Security and Indemnity*) and 18.14 (*Costs and Expenses*) to any assets of the Assignor other than the Assigned Rights, provided that nothing in this Clause 3 shall limit the recourse of the Finance Parties to the Assignor in respect of any breach by the Assignor of any obligation (other than a breach of Clause 2.1 (*Covenant to Pay Secured Liabilities*)) and the indemnities under Clauses 15.3 (*Currency Indemnity*), 18.8.2 (*Continuing Security and Indemnity*) and 18.14 (*Costs and Expenses*)) or representation given by the Assignor under this Deed.

4. SECURITY

As a continuing security for the payment and discharge of the Secured Liabilities, the Assignor with full title guarantee hereby:

- 4.1.1 assigns by way of security to the Agent (subject to the proviso for reassignment under Clause 14.1 (*Release*)), the Assigned Rights;
- 4.1.2 charges to the Agent by way of first fixed charge, the Undocumented Debt; and
- 4.1.3 to the extent not effectively assigned under Clause 4.1.1 above, charges to the Agent by way of fixed charge the Assigned Rights.

5. FURTHER ASSURANCE

The Assignor shall promptly upon request by the Agent execute (in such form as the Agent may reasonably require) such documents (including assignments, transfers, mortgages, charges, notices and instructions) in favour of the Agent or its nominees and do all such assurances and things as the Agent may reasonably require for:

- 5.1.1 perfecting and/or protecting (by registration or in any other way) the security created or intended to be created by this Deed; and

- 5.1.2 for exercising all powers, authorities and discretions conferred on the Agent or any Receiver pursuant to this Deed or by law.

6. UNDERTAKINGS

- 6.1 The Assignor undertakes to the Agent that:

6.1.1 Payments

it shall pay all sums due by it under the Contract and observe and perform the covenants and conditions on its part to be observed and performed as set out in the Contract;

6.1.2 Negative Pledge

it shall not, without the prior consent in writing of the Agent, create or attempt to create or permit to subsist or arise any Security on, over or affecting the Contract or any of the Assigned Rights;

6.1.3 Disposals

it shall not dispose of the Contract or any of the Assigned Rights or agree so to do and for these purposes the term "dispose" shall include any form of disposal including any transfer, declaration of trust, assignment, sale, novation or the creation of any other form of legal or equitable interest in or over the Contract or any of the Assigned Rights; and

6.1.4 Consents and Other Necessary Action

it shall take all such action as may be available to it for the purpose of creating, perfecting or maintaining the security created or intended to be created pursuant to this Deed which shall include, without limitation, the obtaining of any necessary consent (in form and content satisfactory to the Agent) to enable the Contract or all or any of the Assigned Rights to be assigned or charged pursuant to this Deed.

6.2 Notices of Assignment

- 6.2.1 The Assignor shall forthwith give notice to each counterparty to the Contract in the form set out in Schedule 1 (*Notice to Counterparty*) and procure that each such counterparty acknowledges such notice to the Agent in the form set out in Schedule 2 (*Acknowledgement of Counterparty*).

- 6.2.2 The notices of assignment and acknowledgement referred to in Clause 6.2.1 shall be in a form substantially similar to those contained in Schedule 1 and Schedule 2 or such other form as the Agent may require.

6.3 No Liability

Notwithstanding anything contained in this Deed:

- 6.3.1 the Finance Parties shall be under no obligation or liability under or in respect of the Contract or the Assigned Rights or be liable to make any payment under or in respect of the Contract or the Assigned Rights;
- 6.3.2 the Finance Parties shall not be obliged to take any steps necessary to preserve the Contract or any of the Assigned Rights or enforce against the Assignor or any other person any term of the Contract, or to make any enquiries as to the nature or sufficiency of any payment received by the Assignor pursuant to the terms of the Contract; and

- 6.3.3 the Assignor shall remain solely and fully liable under or in respect of the relevant Contract to perform all the obligations and to pay all losses, costs, expenses, taxes and damages payable by it under or in connection with that Contract.

7. RIGHTS OF THE AGENT

7.1 Enforcement

At any time on and after the occurrence of an Event of Default which is continuing, the security created pursuant to this Deed shall be immediately enforceable and the Agent may in its absolute discretion and without notice to the Assignor or the prior authorisation of any court:

- 7.1.1 enforce all or any part of the security created by this Deed and take possession of or dispose of all or any of the Assigned Rights in each case at such times and upon such terms as it sees fit;
- 7.1.2 whether or not it has appointed a Receiver, exercise all of the powers, authorities and discretions granted to a Receiver by this Deed or by law;
- 7.1.3 settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands relating in any way to any Contract and any of the Assigned Rights;
- 7.1.4 bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Contract and any of the Assigned Rights which may seem to it to be expedient;
- 7.1.5 exercise in relation to any of the Assigned Rights all the powers, authorities and things which it would be capable of exercising if it were the absolute owner of the same;
- 7.1.6 apply for and maintain any regulatory permission, consent or licence required in connection with any Contract or the Assigned Rights; and
- 7.1.7 fulfil, at the Assignor's expense and risk, its obligations under any Contract.

7.2 Restrictions on Consolidation

Section 93 of the LPA shall not apply to this Deed or to any sale made under it or to the right of the Agent to consolidate all or any of the security created by or pursuant to this Deed with any other security in existence at any time. Such power may be exercised by the Agent at any time on or after the occurrence of an Event of Default.

7.3 Restrictions on Exercise of Power of Sale

Section 103 of the LPA shall not apply to this Deed to restrict the exercise by the Agent of its power of sale which shall arise on the date of this Deed (and the Secured Liabilities shall be deemed to have become due and payable for that purpose). The power of sale and other powers conferred by section 101 of the LPA as varied or extended by this Deed and those powers conferred (expressly or by reference) on a Receiver shall be immediately exercisable by the Agent at any time on or after the occurrence of an Event of Default.

7.4 No Prior Notice Needed

The powers of the Agent set out in Clauses 7.2 (*Restrictions on Consolidation*) and 7.3 (*Restrictions on Exercise of Power of Sale*) above may be exercised by the Agent without prior notice to the Assignor.

8. EXONERATION

8.1 Exoneration

No Finance Party shall, nor shall any Receiver, by reason of its or the Receiver entering into possession of the Assigned Rights or any part thereof, be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable; but every Receiver duly appointed by the Agent under this Deed shall for all purposes be deemed to be in the same position as a receiver duly appointed by a mortgagee under the LPA save to the extent that the provisions of that Act are varied by or are inconsistent with the provisions of this Deed when the provisions hereof shall prevail and every such Receiver and the Agent shall in any event be entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers duly appointed under the LPA.

8.2 Indemnity

The Agent and every Receiver, attorney, delegatee, manager, agent or other person appointed by the Agent hereunder shall be entitled to be indemnified out of the Assigned Rights or any part of them in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Assigned Rights or any part of them. The Agent and any such Receiver may retain and pay all sums in respect of the same out of any moneys received under the powers hereby conferred.

9. APPOINTMENT OF RECEIVER

9.1 Appointment

At any time on or after the occurrence of an Event of Default, or at the request of the Assignor or its agents, the Agent may, without prior notice to the Assignor, in writing (under seal, by deed or otherwise under hand) appoint a Receiver in respect of the Assigned Rights or any part thereof and may in like manner from time to time (and insofar as it is lawfully able to do) remove any Receiver and appoint another in his stead.

9.2 More than one Receiver

Where more than one Receiver is appointed, each joint Receiver shall have the power to act severally, independently of any other joint Receivers, except to the extent that the Agent may specify to the contrary in the appointment.

9.3 Receiver as agent

A Receiver shall be the agent of the Assignor which shall be solely responsible for his acts or defaults and for his remuneration. No Receiver shall at any time act as agent of any Finance Party.

9.4 Receiver's Remuneration

A Receiver shall be entitled to remuneration for his services at a rate to be determined by the Agent from time to time (and without being limited to any maximum rate specified by any statute or statutory instrument).

10. RECEIVER'S POWERS

10.1 Powers

A Receiver shall have (and be entitled to exercise) in relation to the Assigned Rights over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Deed):

- 10.1.1 all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- 10.1.2 all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;
- 10.1.3 all the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which the Assignor itself could do or omit to do;
- 10.1.4 the power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Deed or upon receivers by statute or law generally (including, without limitation, the bringing or defending of proceedings in the name of, or on behalf of, the Assignor; the collection and/or realisation of the Assigned Rights in such manner and on such terms as the Receiver sees fit; and the execution of documents in the name of the Assignor (whether under hand, or by way of deed or by utilisation of the company seal of the Assignor).

10.2 Powers may be Restricted

The powers granted to a Receiver pursuant to this Deed may be restricted by the instrument (signed by the Agent) appointing him but they shall not be restricted by any winding-up or dissolution of the Assignor.

11. PROTECTION OF PURCHASERS

11.1 Absence of Enquiry

No person or persons dealing with the Agent or any Receiver appointed by it shall be concerned to enquire whether any event has happened upon which any of the powers in this Deed are or may be exercisable or otherwise as to the propriety or regularity of any exercise of such powers or of any act purporting or intended to be an exercise of such powers or whether any amount remains secured by this Deed. All the protections to purchasers and persons dealing with receivers contained in sections 104, 107 and 109(4) of the LPA shall apply to any person purchasing from or dealing with the Agent or any such Receiver.

11.2 Receipt: Conclusive Discharge

The receipt of the Agent or any Receiver shall be a conclusive discharge to any purchaser of the Assigned Rights.

12. POWER OF ATTORNEY AND DELEGATION

12.1 Power of Attorney: General

The Assignor hereby irrevocably and by way of security appoints the Agent and any Receiver severally to be its attorney in its name and on its behalf and as its act and deed:

- 12.1.1 to execute and deliver any documents or instruments which the Agent or such Receiver may require for perfecting the title of the Agent to the Assigned Rights or for vesting the same in the Agent, its nominee or any purchaser;
- 12.1.2 to sign, execute, seal and deliver and otherwise perfect any further security document which the Assignor is required to enter into pursuant to this Deed; and
- 12.1.3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Agent or any Receiver under this Deed or which the Assignor is required to do pursuant to this Deed or which may be deemed expedient by the Agent or a Receiver in connection with any preservation, disposition, realisation or getting in by the

Agent or such Receiver of the Assigned Rights or any part thereof or in connection with any other exercise of any other power under this Deed.

12.2 Power of Attorney: Ratification

The Assignor ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in this Clause 12 (*Power of Attorney and Delegation*) shall do or purport to do in exercise of the powers granted by this Clause.

12.3 Power of Attorney: General Delegation

The Agent and any Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Deed (including the power of attorney) on such terms and conditions as it or he shall see fit which shall not preclude exercise of those powers, authorities or discretions by it or him or any revocation of the delegation or any subsequent delegation.

13. APPLICATION OF MONIES RECEIVED UNDER THIS DEED

Any monies received under the powers hereby conferred shall, subject to the repayment of any claims having priority to this Deed, be applied for the following purposes and in the following order of priority:

- 13.1.1 in satisfaction of all costs, charges and expenses and payments (including payments made in accordance with paragraphs (i), (ii) and (iii) of section 109(8) of the LPA) made or incurred by the Agent or the Receiver and of remuneration to the Receiver in such order as the Agent shall in its absolute discretion decide;
- 13.1.2 in or towards satisfaction of the Secured Liabilities which, subject to any provision to the contrary in the Credit Agreement, shall be applied in such order as the Agent shall in its absolute discretion decide; and
- 13.1.3 the surplus, if any, shall be paid to the Assignor or other person or persons entitled to it,

save that the Agent may credit any monies received under this Deed to a suspense account for so long and in such manner as the Agent may from time to time determine and the Receiver may retain the same for such period as he and the Agent consider expedient.

14. RELEASE OF SECURITY

14.1 Release

The Agent shall, at the request and cost of the Assignor, execute or procure the execution by its nominee (in each case in a form acceptable to the Agent) and do all such deeds, acts and things as may be necessary to release and/or reassign the Assigned Rights from the security created by or in accordance with this Deed at the end of the Security Period.

14.2 Avoidance of Payments

- 14.2.1 No amount paid, repaid or credited to the Agent shall be deemed to have been irrevocably paid if the Agent considers that the payment or credit of such amount is capable of being avoided or reduced by virtue of any laws applicable on bankruptcy, insolvency, liquidation or similar laws.
- 14.2.2 If any amount paid, repaid or credited to the Agent is avoided or reduced by virtue of any laws applicable on bankruptcy, insolvency, liquidation or similar laws then any release, discharge or settlement between the Agent and the Assignor shall be deemed not to have occurred and the Agent shall be entitled to enforce this Deed subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made.

15. AMOUNTS PAYABLE

15.1 No Deduction

All payments to be made by the Assignor under this Deed shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If the Assignor is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to a Finance Party under this Deed or, if any such withholding or deduction is made in respect of any recovery under this Deed, the Assignor shall pay such additional amount as may be necessary to ensure that the net amount received by that Finance Party shall equal the full amount due to it under the provisions of this Deed (had no such withholding or deduction been made).

15.2 Currency of Payment

The obligation of the Assignor under this Deed to make payments in any currency shall not be discharged or satisfied by any tender, or recovery pursuant to any judgment or otherwise, expressed in or converted into any other currency, except to the extent to which such tender or recovery results in the effective receipt by a Finance Party of the full amount of the currency expressed to be payable under this Deed.

15.3 Currency Indemnity

15.3.1 If any sum due from the Assignor under this Deed (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (A) making or filing a claim or proof against the Assignor;
 - (B) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings; or
 - (C) applying the Sum in satisfaction of any of the Secured Liabilities,
- the Assignor shall, as an independent obligation, within three Business Days of demand, indemnify each Finance Party against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

15.3.2 The Assignor waives any right it may have in any jurisdiction to pay an amount under this Deed in a currency unit other than that in which it is payable.

16. REPRESENTATIONS AND WARRANTIES

16.1 Representations

The Assignor represents and warrants in favour of each of the Finance Parties that:

16.1.1 Status

It is a company duly formed and validly existing under its laws of jurisdiction or is not, by reason of illness or incapacity (whether mental or physical) incapable of managing its own affairs.

16.1.2 Capacity

It has the power and capacity to enter into and perform the obligations under this Deed and has taken all necessary action to authorise the entry into, performance and delivery of, this Deed.

16.1.3 Legal Validity

Subject to any matters referred to in a legal opinion delivered to the Agent under and in accordance with the Credit Agreement, this Deed constitutes its legal, binding, valid and enforceable obligations.

16.1.4 Non-Conflict

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not:

- (A) conflict with any law or regulation or judicial or official order applicable to it; or
- (B) where applicable, conflict with its constitutional documents; or
- (C) conflict with any agreement or document which is binding upon it or any of its assets or result in a requirement for the creation of any Security over any of the Assigned Rights (other than as contemplated by this Deed),

and the terms of the Contract do not restrict or prohibit the assignment of the Assigned Rights to the Agent.

16.1.5 Status of Security

It is the legal and beneficial owner of the Assigned Rights free from Security (other than this Deed) and this Deed confers the security it purports to confer over the Assigned Rights and the security created under or pursuant to this Deed is not subject to any prior or pari passu Security and is not liable to avoidance on bankruptcy, composition or any other similar insolvency proceedings.

16.1.6 Stamp taxes and registration

All stamp or registration duty or similar Tax or charge payable in its jurisdiction of domicile in respect of this Deed has been paid as at the date of this Deed and all other stamp or registration duty or similar Tax or charge payable after the date of this Deed has been paid within the applicable period and it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in any jurisdiction.

16.1.7 Licences

In relation to an Assignor which is incorporated, it is not necessary under the laws of its jurisdiction of incorporation:

- (A) in order to enable any Finance Party to enforce its rights under this Deed; or
- (B) by reason of the execution of this Deed or the performance by it of its obligations under this Deed,

that any Finance Party should be licensed, qualified or otherwise entitled to carry on business in its jurisdiction of incorporation and no Finance Party is or will be deemed to be resident, domiciled or carrying on business in its jurisdiction of incorporation by reason only of execution, performance and/or enforcement of this Deed.

16.1.8 Jurisdiction

In relation to an Assignor which is incorporated, its:

- (A) irrevocable submission under this Deed to the jurisdiction of the courts of England;
- (B) agreement that this Deed is governed by English law; and
- (C) agreement not to claim any immunity to which it or its assets may be entitled,

are legal, valid and binding under the laws of its jurisdiction of incorporation and any judgment obtained in England will be recognised and be enforceable by the courts of its jurisdiction of incorporation.

16.1.9 No immunity

The execution by it of this Deed constitutes, and the exercise by it of its rights and performance of its obligations under this Deed will constitute, private and commercial acts performed for private and commercial purposes and it will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in its jurisdiction of incorporation in relation to this Deed.

16.1.10 Litigation

No litigation, arbitration or administrative proceedings are taking place, pending or, to the Assignor's knowledge, threatened in writing against it or any of its assets which if adversely determined, would reasonably be expected to have an adverse effect on the security under this Deed.

16.1.11 No default

No event or circumstance is outstanding which continues a default under any deed or instrument which is binding on the Assignor, or to which its assets are subject, which might have a material adverse effect on the Assignor's ability to perform his obligations under this Deed.

16.1.12 Ranking of obligations

The Assignor's payment obligations under this guarantee rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law generally.

16.2 Times for Making Representations and Warranties

The representations and warranties set out in this Clause are made on the date of this Deed and are deemed to be repeated on each Interest Payment Date and each Utilisation Date prior to the expiry of the Security Period by reference to the facts and circumstances then existing.

17. NEW ACCOUNTS

If a Finance Party receives notice of any subsequent charge or other interest affecting any part of the Assigned Rights (the date of receipt of such notice being the "Notice Date") it may, without prejudice to its rights under this Deed, open a fresh account or accounts with the Assignor and continue any existing account in the name of the Assignor and may appropriate to any such fresh account any monies paid in, received or realised for the credit of the Assignor after such time without being under any obligation to apply the same or any part of them in discharge of any of the Secured Liabilities. If a Finance Party fails to open a fresh account it will be deemed to have done so and any monies received or realised after the Notice Date will not reduce the Secured Liabilities outstanding on the Notice Date.

18. MISCELLANEOUS

18.1 The Assignor

This Deed shall be binding on the successors and assigns of the Assignor.

18.2 Assignment and Transfer

The Assignor may not assign any of its rights or transfer of any of its rights or obligations under this Deed. The Agent may assign and transfer all or any part of its rights and obligations under this Deed.

18.3 Disclosure of Information

The Agent may disclose to:

- 18.3.1 any of its professional advisers;
 - 18.3.2 any person to (or through) whom the Agent assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under this Deed;
 - 18.3.3 a Receiver, a prospective Receiver, a trustee-in-bankruptcy or an Administrator;
 - 18.3.4 any person (together with professional advisers) who may have an interest in the benefits arising under this Deed and/or the Credit Agreement; or
 - 18.3.5 any person to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,
- any information about the Assignor, the Credit Agreement or this Deed as the Agent shall consider appropriate if, in relation to Clauses 18.3.2 and 18.3.4 above, the person to whom the information is to be given has entered into a confidentiality undertaking.

18.4 Remedies and Waivers Cumulative

No failure to exercise, or delay in exercising, on the part of any party hereto any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise, or the exercise of any other right or remedy. No waiver by the Agent shall be effective unless it is in writing. The rights and remedies of the Agent are cumulative and not exclusive of any rights or remedies provided by law.

18.5 Set-Off

A Finance Party may set-off any matured obligation due from the Assignor to that Finance Party under this Deed or any of the other Finance Documents against any matured obligation owed by that Finance Party to the Assignor, regardless of the place of payment, booking branch or currency of either obligation and apply any credit balance to which the Assignor is entitled on any account with that Finance Party in accordance with Clause 13 (*Application of Monies Received under this Deed*). If the obligations are in different currencies, a Finance Party may, at the cost of the Assignor, convert either obligation at a market rate of exchange as such Finance Party considers appropriate for the purpose of such set-off.

18.6 Partial 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 relevant jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed, nor the legality, validity or enforceability of that provision under the law of any other jurisdiction, shall in any way be affected or impaired.

18.7 Property

This Deed is and will remain the property of the Agent.

18.8 Continuing Security and indemnity

- 18.8.1 This Deed shall be a continuing security and shall not be discharged by any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities.
- 18.8.2 If any purported obligation or liability of any Obligor to the Finance Parties which if valid would have been the subject of any obligation or charge created by this Deed is or becomes unenforceable, invalid or illegal on any ground whatsoever whether or not known to any Finance Party, the Assignor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and that Assignor was the principal debtor in respect thereof. The Assignor hereby agrees to keep the Finance Parties fully indemnified against all damages, losses, costs and expenses arising from any failure of any Obligor to carry out any such purported obligation or liability.
- 18.8.3 The obligations of the Assignor under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 18.8, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to any Finance Party) including:
- (A) any time, waiver or consent granted to, or composition with, the Assignor, any Obligor or other person;
 - (B) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any person;
 - (C) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Assignor, any Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - (D) any incapacity or lack of power, authority or legal personality of or dissolution/bankruptcy/insolvency or change in the members or status of the Assignor, any Borrower or any other person;
 - (E) any amendment (however fundamental) or replacement of any Finance Document or any other document or security;
 - (F) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
 - (G) any insolvency or similar proceedings.
- 18.8.4 The Assignor waives any right it may have of first requiring the Agent to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Assignor under this Deed. This waiver applies irrespective of any law or any provision of the Finance Documents to the contrary.
- 18.8.5 Until the Security Period has ended, the Agent may refrain from applying or enforcing any other moneys, security or rights held or received by the Agent in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Assignor shall not be entitled to the benefit of the same.
- 18.8.6 Until the Security Period has ended and unless the Agent otherwise directs or is otherwise permitted under the Credit Agreement, the Assignor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- (A) to be indemnified by any Obligor (including any rights it may have by way of subrogation);
- (B) to claim any contribution from any guarantor of any Obligor of the obligations under the Finance Documents;
- (C) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of the Agent or any of the other Finance Parties under any Finance Document or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents;
- (D) to claim, rank, prove or vote as a creditor of any Obligor or its estate in competition with the Agent or any of the other Finance Parties; and/or
- (E) receive, claim or have the benefit of any payment, distribution or security from or on account of any Obligor, or exercise any right of set-off against any Obligor.

18.8.7 The Assignor shall hold on trust for and immediately pay or transfer to the Agent any payment or distribution or benefit of security received by it contrary to this Clause 18.

18.9 Additional Security

This Deed shall be in addition to and not be affected by any other security or guarantee now or hereafter held by any Finance Party for all or any part of the Secured Liabilities nor shall any such other security or guarantee of liability to any Finance Party of or by any person not a party to this Deed be in any way impaired or discharged by this Deed nor shall this Deed in any way impair or discharge such other security or guarantee.

18.10 Variation of Security

This Deed shall not in any way be affected or prejudiced by any Finance Party now or hereafter dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any security or guarantee referred to in Clause 18.9 (*Additional Security*) above or any rights which any Finance Party may now or hereafter have or giving time for payment or granting any indulgence or compounding with any person whatsoever.

18.11 Enforcement of Other Security

No Finance Party shall be obliged to enforce any other Security it may hold for the Secured Liabilities before enforcing any of its rights under this Deed.

18.12 Redemption of Prior Incumbrances

The Agent may redeem or take a transfer of any prior Security over the Assigned Rights and may agree the accounts of prior incumbrancers. Such agreed accounts shall be conclusive and binding on the Assignor. Any amount paid in connection with such redemption or transfer (including expenses) shall be paid on demand by the Assignor to the Agent and until such payment shall form part of the Secured Liabilities.

18.13 Stamp Taxes

The Assignor covenants to pay to each Finance Party immediately on demand a sum equal to any liability which that Finance Party, Receiver, attorney, manager, agent or other person incurs in respect of stamp duty, registration fees and other taxes which is or becomes payable in connection with the entry into, performance or enforcement of this Deed (including any interest, penalties, liabilities, costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax).

18.14 Costs and Expenses

The Assignor shall on demand reimburse each Finance Party and any Receiver, attorney, manager, agent or other person appointed by the Agent under this Deed for all costs and expenses (including legal fees) incurred by such Finance Party, that Receiver, attorney,

manager, agent or other person (on a full indemnity basis together with any applicable VAT) in connection with the negotiation, preparation, printing and execution of this Deed, the completion of the transactions and perfection of the security contemplated by this Deed and the exercise, preservation and/or enforcement or attempted enforcement of the security created by or contemplated by this Deed.

19. CALCULATIONS AND CERTIFICATES

19.1 Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Deed, the entries made in the accounts maintained by the Agent in connection with this Deed are *prima facie* evidence of the matters to which they relate.

19.2 Certificates and Determinations

Any certification or determination by the Agent of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

19.3 Day Count Convention

Any interest accruing under this Deed will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days.

20. NOTICES

20.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be given in person, by post or email.

20.2 Addresses

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Deed for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below or any substitute address, email address or department or officer as the Agent or the Assignor may notify to the other party by not less than five Business Days' notice.

20.3 Delivery

20.3.1 Any communication or document made or delivered by the Agent under or in connection with this Deed will only be effective:

- (A) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address; or
- (B) if by email or any other electronic communication, when received in legible form,

and, if a particular department or officer is specified as part of its address details provided under Clause 20.2 (*Addresses*), if addressed to that department or officer.

20.3.2 Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer identified with the Agent's signature below (or any substitute department or officer as the Agent shall specify for this purpose).

20.4 English language

- 20.4.1 Any notice given under or in connection with this Deed must be in English.
- 20.4.2 All other documents provided under or in connection with this Deed must be:
- (A) in English; or
 - (B) if not in English accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

21. 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 the Deed.

22. LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

23. ENFORCEMENT

23.1 Jurisdiction of English courts

- 23.1.1 Subject to Clause 23.1.3 below, the courts of England have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual dispute or claim) (a "**Dispute**").
- 23.1.2 Subject to Clause 23.1.3 below, the parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly the Assignor will not:
- (A) argue to the contrary; or
 - (B) initiate or pursue any proceedings relating to a Dispute in any jurisdiction other than England.
- 23.1.3 This Clause 23.1 is for the benefit of the Agent only. As a result, the Agent shall not be prevented from initiating or pursuing proceedings relating to a Dispute in any other courts with jurisdiction nor from contending that such courts are appropriate and convenient. To the extent allowed by law, the Agent may initiate or pursue:
- (A) proceedings in any other court; and
 - (B) concurrent proceedings in any number of jurisdictions, irrespective of whether proceedings have already been initiated by any party in England.

IN WITNESS whereof this Deed has been duly executed and delivered as a deed on the date first above written.

SCHEDULE 1

NOTICE TO COUNTERPARTY

[on the letterhead of the Assignor]

To: [Counterparty]

Date: []

Dear Sir or Madam,

Security assignment agreement dated [] 2020 between (1) Heven Holdings Limited and (2) Landesbank Hessen-Thüringen Girozentrale, London Branch (the "Security Assignment")

We refer to the [*describe contract*] dated [•] and made between [], [] and us (the "Contract").

This letter constitutes notice to you that under the Security Assignment we assigned (by way of security) to Landesbank Hessen-Thüringen Girozentrale, London Branch (the "**Agent**") all our rights, benefits and interests (including any and all sums payable to us under the Contract and the benefit of all security, options, indemnities, guarantees and warranties) under the Contract.

We irrevocably instruct and authorise you to:

- (A) disclose to the Agent, without any reference to or further authority from us and without any inquiry by you as to the justification for the disclosure, any information relating to the Contract (including the performance of our obligations thereunder) which the Agent may request from you; and
- (B) pay any sum payable by you under the Contract to the General Account (as the term is defined in the Credit Agreement (defined in the Security Assignment)) at [], Sort Code [], Account No. [] or to such other account as the Agent may notify you in writing.

We will remain liable to perform all our obligations under the Contract and the Agent shall not be under any obligation or liability under the Contract by reason of the Security Assignment or anything arising therefrom.

We will also remain entitled to exercise all our rights, powers and discretions under the Contract and you should continue to give notices under the Contract to us, in each case unless and until you receive notice from the Agent to the contrary stating that the Security Assignment has become enforceable. In this event, all the rights, powers and discretions under the Contract will be exercisable by, and notices should be given to, the Agent or as it directs.

The instructions in this letter apply until you receive notice from the Agent to the contrary and notwithstanding any previous instructions given by us.

The instructions in this letter may not be revoked or amended without the prior written consent of the Agent.

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

Please confirm your agreement to the above by sending the enclosed acknowledgement to the Agent at Landesbank Hessen-Thüringen Girozentrale, London Branch, 3rd Floor, 95 Queen Victoria Street, London EC4V 4HN, Attention: Real Estate Finance (Ref: Mark Lloyd/Barbara Kirby) with a copy to ourselves.

Yours faithfully,

.....
(Authorised signatory)
Heven Holdings Limited

SCHEDULE 2

ACKNOWLEDGEMENT OF COUNTERPARTY

To: Landesbank Hessen-Thüringen Girozentrale, London Branch

Attention: Real Estate Finance (Ref: Mark Lloyd/Barbara Kirby)

Copy: [the Assignor]

Date: []

Dear Sir or Madam,

Security assignment agreement dated [] 2020 between (1) Heven Holdings Limited and (2) Landesbank Hessen-Thüringen Girozentrale, London Branch (the "Security Assignment")

We confirm receipt from [the Assignor] (the "**Assignor**") of a notice dated [] (the "**Notice**") of an assignment upon the terms of the Security Assignment of all the Assignor's rights, benefits and interests under the Contract (as defined in the Notice).

We confirm that:

- (A) we have not received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Assignor under or in respect of the Contract;
- (B) we will pay any amount payable by us under the Contract to the General Account (as the term is defined in the Credit Agreement (defined in the Security Assignment)) with you at [], Sort Code [], Account No. [] or to such other account as you notify to us in writing;
- (C) we must accept your instructions in relation to the Assignor's rights under the Contract; and
- (D) we will not agree to any amendment, waiver or variation of the terms of the Contract without your prior written consent.

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

Yours faithfully

.....
(Authorised signatory)

[Counterparty]

THE ASSIGNOR

EXECUTED as a DEED by
HEVEN HOLDINGS LIMITED
acting by: MATTHEW GRESHAM

)
)
)
)
)


Director

in the presence of

Signature of witness



Name of witness
(in BLOCK CAPITALS)

KATHRYN FELTON

Address of witness





Notice details for HEVEN HOLDINGS LIMITED

Address: 15 Regent Street, London, United Kingdom, SW1Y 4LR

Attention: Matthew Gresham

Email: 

THE AGENT

EXECUTED AS A DEED by)	LANDESBANK HESSEN-THÜRING
LANDESBANK)	GIROZENTRALE, LONDON BRANCH
HESSEN-THÜRINGEN)	
GIROZENTRALE, LONDON BRANCH)	Signature in the name of the company
the London branch of a company)	
incorporated in Germany acting by)	
MARK LLOYD)	
and)	
VLADIMIR BIS)	Authorised signatory
being persons who in accordance)	
with the laws of Germany are)	
acting under the authority of the)	
company)	Authorised signatory

Notice details for LANDESBANK HESSEN-THÜRINGEN GIROZENTRALE, LONDON BRANCH

Address for notices: Helaba London Real Estate Finance
95 Queen Victoria Street
London EC4V 4HN

Attention: Real Estate Finance (Ref: Mark Lloyd / Barbara Kirby)

Email: realestatefinanceuk@helaba.de
with a copy to