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Form PTO-1594 (Rev. 03/05)  
OMB Collection 0651-0027 (exp. 6/30/2005)

U.S. DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

RE

102960994



TRADEMARKS ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

Lypstyl Holdings Limited

- Individual(s)
- General Partnership
- Corporation- State: \_\_\_\_\_
- Association
- Limited Partnership

Other Company registered in Jersey,  
Channel Islands  
Citizenship (see guidelines) \_\_\_\_\_

Additional names of conveying parties attached?  Yes  No

3. Nature of conveyance /Execution Date(s) :

Execution Date(s) January 11, 2005

- Assignment
- Security Agreement
- Merger
- Change of Name
- Other \_\_\_\_\_

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached?  Yes  No

Name: Barclays Bank PLC

Internal

Address: \_\_\_\_\_

Street Address: 54 Lombard Street

City: London

State: \_\_\_\_\_

Country: United Kingdom Zip: EC3P 3AH

- Association
- General Partnership
- Limited Partnership
- Corporation
- Other \_\_\_\_\_

Citizenship \_\_\_\_\_  
If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)  
76/463750; 76/463751; 76/463752

B. Trademark Registration No.(s)  
0021085

Additional sheet(s) attached?  Yes  No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

Lypstyl-Aid; Lypstyl Moisture Burst; Lypstyl Condition & Protect; Lypstyl

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: Leslie S. Blanchard

Internal Address: \_\_\_\_\_

Street Address: 208 East Main Street

City: Abingdon

State: VA Zip: 24210

Phone Number: 276/628-5151

Fax Number: 276/628-5621

Email Address: lblanchard@pennstuart.com

6. Total number of applications and registrations involved:

4

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 115.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number 50-1748

Authorized User Name Leslie S. Blanchard

9. Signature: Leslie Blanchard  
Signature

03/08/05  
Date

Leslie S. Blanchard  
Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 67

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to:

Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

03/16/2005 ECOOPER 00000117 501748 76463750

01 FEB 2005

7:50 PM

TRADEMARK  
REEL: 003135 FRAME: 0219

Dated: 11 January 2005

WE HEREBY CERTIFY THIS  
TO BE A TRUE COPY

*Simmons & Simmons*

SIMMONS & SIMMONS  
City Point

One Ropemaker Street  
LONDON EC2Y 9SS

# Security Agreement

between

Lypstyl Holdings Limited

as Company

and

Barclays Bank PLC

as Lender

relating to

Project Alpha Echo

Simmons & Simmons

CityPoint One Ropemaker Street London EC2Y 9SS

T 020 7628 2020 F 020 7628 2070 DX Box No 12

TRADEMARK

REEL: 003135 FRAME: 0220

**THIS DEED** is dated

11 January 2005 and made

**BETWEEN:**

- (1) **Lypsyll Holdings Limited**, (the "Company"), registered in Jersey as company number 85722 and having its registered office at Oak Walk, St Peter, Jersey JE3 7EF; and
- (2) **Barclays Bank PLC**, (the "Lender"), registered in England and Wales and having its registered office at 54 Lombard Street, London, EC3P 3AH.

**BACKGROUND:**

- (A) The Lender has agreed to make credit facilities available to the Company on and subject to the terms and conditions of the Facility Agreement.
- (B) It is a condition precedent to the availability of that facility that the Company enters into this Deed for the purpose of securing the obligations of the Company to the Lender under the Facility Agreement and the other Finance Documents.

**NOW IT IS AGREED as follows:**

1. **Definitions and Construction**

1.1 **Definitions**

In this Deed, unless the context otherwise requires:

**"Appointee"** means:

- (A) each delegate or sub-delegate of the Lender or any Receiver appointed in accordance with clause 15.1;
- (B) each manager, agent, adviser or other person appointed by the Lender or any Receiver in relation to this Deed; and
- (C) each officer and employee of the Lender or of any Receiver or of any other person mentioned in paragraph (A) or paragraph (B) of this definition;

**"Charged Intellectual Property"** means all Intellectual Property now or at any time hereafter belonging to the Company, including any Intellectual Property specified in schedule 7 (*Intellectual Property*);

**"Charged Portfolio"** means the Investments and the Related Assets;

**"Charged Property"** means the undertaking, property, assets, rights and revenues of the Company (whether present or future) from time to time charged in favour of, or assigned (whether at law or in equity) to, the Lender by or pursuant to this Deed;

**"Chattels"** means all plant and machinery not charged pursuant to clause 3.1(B) and all other chattels now or at any time hereafter belonging to the Company or in which the Company has, now or in the future, any right, title or interest;

**"Contracts"** means the contracts, agreements or reports, if any, listed in part 4 of schedule 3 and including any Material Licences and the Reports;

**"Debts"** means:

- (A) all present and future book and other debts and other moneys of any nature whatsoever now or at any time hereafter due, owing, payable or incurred to the Company, including those referred to, or deriving from the assets referred to, in clause 3.1;
- (B) all claims and other things in action which may give rise to any such debts or moneys;
- (C) the benefit of all bills of exchange, promissory notes and negotiable instruments of any description now or at any time hereafter enjoyed or held by the Company in relation to any of the foregoing; and
- (D) all rights of any nature whatsoever relating to any of the foregoing including any security (whether in the form of guarantees, indemnities, insurances or otherwise) and any remedies therefor;

**"Enforcement Event"** means any Event of Default which is continuing;

**"Environmental Liability"** means all costs, expenses, liabilities, claims, damages, penalties or fines arising from:

- (A) any legal requirement, direction, notice, order or obligation served or imposed by any competent authority or court of competent jurisdiction under Environmental Law;
- (B) the carrying out of any investigatory, monitoring, precautionary, remedial or engineering works (whether on the Charged Property or elsewhere) which are necessary to avoid the issue, service or imposition of any legal requirement, direction, notice, order or obligation by any competent authority or court of competent jurisdiction under Environmental Law;
- (C) the carrying out of any investigatory, monitoring, precautionary, remedial or engineering works (whether on the Charged Property or elsewhere) which are necessary or desirable in order to ensure the continued operation of the business of the Company or the protection of the Company's goodwill or which are otherwise for the benefit of the Company; or
- (D) the repair, replacement or rebuilding of any part of the Charged Property or any disruption of the business of the Company caused or necessitated by the carrying out of any investigatory, monitoring, precautionary, remedial or engineering works (whether on the Charged Property or elsewhere) in connection with Environmental Matters,

including in each case all legal, consulting, monitoring, laboratory and other professional fees and other costs and expenses associated therewith;

**"Environmental Matters"** means the pollution of the Environment, the protection of the Environment, ecosystems or human health, the health and safety of employees in the workplace, the protection of natural amenity, the presence, production, disposal, release, use, storage, spillage, deposit, escape, discharge, leak, emission, recovery or transport of, or radiation from, any Dangerous Materials and issues relating to noise and genetically modified organisms;

"Facility Agreement" means the facility agreement dated on or about the date of this Deed between, amongst others, (1) the Lender and (2) the Company;

"Finance Documents" shall have the meaning given to it in the Facility Agreement;

"German Charged Intellectual Property" means any Charged Intellectual Property registered in the Federal Republic of Germany;

"Insurance Policies" means any Insurance Policy (other than the Key-man Policies) in which the Company may now or at any time hereafter have an interest, including any Insurance Policy specified in part 2 of schedule 3;

"Investments" means all shares, stocks, debentures, bonds, warrants and securities of any kind whatsoever whether marketable or otherwise and any certificates representing any of the same and all other interests both present and future held by or on behalf of the Company in any person (including any subsidiary of the Company) and includes all allotments, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all money or property offered at any time by way of dividend, conversion, redemption, bonus, preference, option or otherwise in respect thereof, including but not limited to any shares in the Company's subsidiaries specified in part 1 of schedule 2 and any shares and other investments specified in part 2 and part 3 of schedule 2;

"Key-man Policies" means any Key-man Policy in which the Company may now or at any time hereafter have an interest, including any Key-man Policy specified in part 1 of schedule 3;

"Land Registration Acts" means the Land Registration Acts 1925 to 2002;

"LPA" means the Law of Property Act 1925;

"Notice of Assignment" means:

- (A) in relation to a Key-man Policy, a notice of assignment in substantially the form set out in part 1 of schedule 4,
- (B) in relation to an Insurance Policy, a notice of assignment in substantially the form set out in part 2 of schedule 4,
- (C) in relation to rental income, a notice of assignment in substantially the form set out in part 3 of schedule 4, and
- (D) in relation to a Contract, a notice of assignment in substantially the form set out in part 4 of schedule 4,

or, in relation to any of the foregoing, a notice of assignment in such other form as may be specified by the Lender;

"Notice of Charge" means a notice of charge in substantially the form set out in part 5 of schedule 4,

"Planning Acts" means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation

Act 1991 and any other legislation from time to time in force of a like nature or relating to town and country planning;

**"Policies"** means the Key-man Policies and the Insurance Policies, including those effected or maintained by the Company in compliance with the terms of the Facility Agreement;

**"Real Property"** means:

- (A) all freehold or leasehold property wheresoever situate (including any property in England and Wales specified in schedule 1) now or at any time hereafter belonging to the Company together with all rights, easements and privileges from time to time attached or appurtenant thereto or benefiting the same; and
- (B) all buildings, erections and structures (whether in the course of construction or otherwise) and fixtures and fittings and fixed plant and machinery from time to time therein or thereon;

**"Receiver"** means any person appointed by the Lender pursuant to any power of appointment contained or referred to in this Deed to be a receiver or a receiver and manager or an administrative receiver of the whole or any part of the Charged Property (whether alone or jointly with any other person) and includes any other or additional person appointed or substituted as receiver, receiver and manager or administrative receiver and **"Receivers"** shall be construed accordingly;

**"Related Assets"** means all dividends, interest and other monies payable in respect of any Investments and all other rights, benefits and proceeds in respect of or derived from any such investments (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise);

**"Secured Liabilities"** means all present and future obligations and liabilities (whether actual or contingent and whether owned jointly or severally or in any other capacity whatsoever) of each Obligor to the Lender under each Finance Document except for any obligations which, if it were so included, would result in this Deed contravening any Financial Assistance Prohibition. The term Finance Document includes all amendments and supplements, including supplements providing for further advances; and

**"Security"** means the security from time to time constituted by or pursuant to this Deed.

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

## 1.2 Construction

- (A) Terms and expressions defined in the Facility Agreement shall, where the context so admits and unless otherwise defined in this Deed, have the same meanings when used in this Deed.
- (B) The provisions of clauses 1.2 (*Construction*) and 1.3 (*Third Party Rights*) of the Facility Agreement apply to this Deed as though they were set out in full in this Deed and in respect of this Deed.
- (C) The terms of the other Finance Documents and of any side letters between any parties in relation to any Finance Document are incorporated in this Deed to the

extent required to ensure that any purported disposition of the Charged Property contained in this Deed is a valid disposition in accordance with the Law of Property (Miscellaneous Provisions) Act 1989.

- (D) Each mortgage, charge and assignment created under this Deed is made by the Company with full title guarantee (subject to any Security granted under the Existing Financing Agreements) in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (E) If the Lender considers (acting reasonably) that any amount paid or credited to it is capable of being avoided or reduced by virtue of any Bankruptcy, insolvency, liquidation or similar laws, the liability of the Company under this Deed and the security constituted hereby will continue and such amount will not be considered to have been irrevocably paid.

## 2. Covenant to Pay

The Company shall pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.

## 3. Creation of Security

3.1 As a continuing security for the payment and discharge of the Secured Liabilities, the Company hereby:

### (A) **Real Property**

- (1) charges in favour of the Lender by way of legal mortgage all Real Property situated in England and Wales and vested in the Company at the date hereof (including any property specified in schedule 1);
- (2) charges in favour of the Lender by way of fixed charge all Real Property situated outside England and Wales and belonging to the Company at the date hereof; and
- (3) (to the extent that they are not the subject of an effective legal mortgage under (1) above or a fixed charge under (2) above) charges in favour of the Lender by way of fixed charge all Real Property belonging to it or acquired by it after the date of this Deed;

### (B) **Chattels**

charges in favour of the Lender by way of fixed charge all right, title and interest of the Company to and in the Chattels;

### (C) **Policies**

- (1) assigns absolutely to the Lender by way of security all right, title and interest of the Company to and in the Key-man Policies; and
- (2) assigns absolutely to the Lender by way of security all right, title and interest of the Company to and in all rights and claims to which the Company is now or may at any time hereafter become entitled in relation to the proceeds of any of the Insurance Policies;

(D) **Intellectual Property**

- (1) charges in favour of the Lender by way of fixed charge all right, title and interest of the Company to and in the Charged Intellectual Property.
- (2) In order to perfect such fixed charge with respect to the German Charged Intellectual Property, all German Charged Intellectual Property, in particular as set out in schedule 7 (*Intellectual Property*), is hereby assigned (*abgetreten*) by the Company to the Lender, and the Lender hereby accepts such assignment (*Annahme der Abtretung*).
- (3) The assignment as provided for in clause 3.1(D)(2) above also includes the assignment and transfer, if applicable, of:
  - (a) any inchoate rights (*Anwartschaftsrechte*), co-ownership rights (*Miteigentum*) and joint ownership rights (*Gesamthandseigentum*) in relation to the German Charged Intellectual Property and any rights and claims for any substitute of the German Charged Intellectual Property;
  - (b) all rights of the Company resulting from the German Charged Intellectual Property, in particular,
    - (i) any rights to use or license or other utilisation rights (*Verwertungsrechte*) in relation to the German Charged Intellectual Property,
    - (ii) all present and future claims for royalties under license agreements concerning any of the German Charged Intellectual Property between the Company and third parties,
    - (iii) all present and future claims against third parties arising from the exploitation of any of the German Charged Intellectual Property and
    - (iv) all ancillary rights pertaining to the German Charged Intellectual Property as well as all rights resulting from the underlying agreements;
  - (c) all present and future rights of the Company against third parties resulting from the German Charged Intellectual Property, in particular any rights to use, license or other utilisation rights in relation to the German Charged Intellectual Property; and
  - (d) all present and future rights of the Company against third parties resulting from any violation of the German Charged Intellectual Property, in particular, any rights to claim for omission, information compensation or of unjust enrichment in case of violation of the German Charged Intellectual Property as well as any rights and claims derived from a transfer of use to third parties.
- (4) Insofar as the assignment is prohibited by law or otherwise from assigning and transferring the rights resulting from underlying agreements hereunder without the consent of a third party, the assignment is subject to the condition precedent that such consent is granted by the respective third party.



(5) Clauses 3.1(D)(2) to 3.1(D)(5) of this Deed are governed by and must be construed in accordance with the laws of the Federal Republic of Germany.

**(E) Charged Portfolio**

charges in favour of the Lender by way of fixed charge all right, title and interest of the Company to and in the Charged Portfolio;

**(F) Accounts**

charges in favour of the Lender by way of fixed charge all right, title and interest of the Company to and in all rights and claims to which the Company is now or may at any time hereafter become entitled in relation to all moneys now or at any time hereafter standing to the credit of any account (including the Reserved Accounts) it has with any person (including the Lender) and the debts represented by it together with all rights relating or attaching thereto (including the right to interest accruing thereon);

**(G) Rental Income**

assigns absolutely to the Lender by way of security all right, title and interest of the Company to and in all rights and claims to which the Company is now or may at any time hereafter become entitled against the lessees or any guarantors or sureties for the obligations of such lessees in relation to all rents and other moneys now or at any time hereafter payable under or in respect of any lease of Real Property;

**(H) Contracts**

assigns absolutely to the Lender by way of security all right, title and interest of the Company to and in all rights and claims to which the Company is now or may at any time hereafter become entitled under or in respect of the Contracts;

**(I) Debts**

charges in favour of the Lender by way of fixed charge all right, title and interest of the Company to and in all the Debts which are not otherwise subject to a fixed charge or assigned (whether at law or in equity) to the Lender by or pursuant to this Deed;

**(J) Goodwill**

charges in favour of the Lender by way of fixed charge all goodwill now or at any time hereafter belonging to the Company;

**(K) Uncalled Capital**

charges in favour of the Lender by way of fixed charge all rights and claims to which the Company is now or may at any time hereafter become entitled in relation to its uncalled capital;

(L) **Hedging**

assigns absolutely to the Lender by way of security all its rights under any Hedge Document and to the extent they are not subject to an effective assignment, charges in favour of the Lender the Hedge Documents by way of fixed charge;

(M) **Orders under Insolvency Act**

charges in favour of the Lender by way of fixed charge all right, title and interest of the Company to and in all moneys and other assets now or at any time hereafter due, owing, payable or transferable to the Company or any administrator or liquidator thereof pursuant to any order or declaration of the court made pursuant to any provision of the Insolvency Act 1986; and

(N) **Floating Charge**

charges in favour of the Lender by way of floating charge the whole of the Company's property, undertaking and assets, present and future, other than any property or assets for the time being effectively charged to the Lender by way of fixed charge or effectively assigned (whether at law or in equity) to the Lender or otherwise subject to an effective fixed security in favour of the Lender pursuant to this Deed.

3.2 Each legal mortgage, fixed charge and assignment created or effected by clause 3.1 shall be a first fixed security unless the assets mortgaged, charged and assigned are the subject of an effective first fixed security under any Security granted pursuant to the Existing Financing Agreements, in which case the relevant legal mortgage, fixed charge or assignment shall under this Deed shall rank behind that Security.

3.3 The floating charge shall be a first floating charge.

3.4 The floating charge is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

4. **Conversion of Floating Charge**

4.1 Upon an Enforcement Event, the Lender may at any time by notice in writing to the Company convert the floating charge with immediate effect into a fixed charge as regards any property or assets specified in the notice.

4.2 Notwithstanding clause 4.1, if:

(A) the Company creates or permits to subsist any Security Interest (that is not expressly permitted under the terms of the Facility Agreement) on, over or with respect to any of the Charged Property subject to the floating charge, or attempts to do so; or

(B) any person carries out, or attempts to carry out, any enforcement or process (including any distress, execution, taking of possession, forfeiture or sequestration) against any of the Charged Property subject to the floating charge; or

(C) a resolution passed or an order is made for the winding up, dissolution, administration or reorganisation of the Company or an administrator is appointed to the Company,

the floating charge over the Charged Property the subject of such Security Interest, enforcement or process shall be deemed to have been automatically converted into a fixed charge, without any notice from the Lender to the Company, immediately before such event occurs.

5. **Restrictions on Dealing**

5.1 The Company hereby undertakes that at no time during the subsistence of the Security will the Company create, grant, extend or attempt to create, grant or extend or permit to subsist any Security Interest on or over all or any part of the Charged Property (unless expressly permitted under the terms of the Facility Agreement).

5.2 The Company hereby undertakes that at no time during the subsistence of the Security will the Company, except with the prior written consent of the Lender or unless expressly permitted under the terms of the Facility Agreement and except for disposals of property for the time being subject to the floating charge in the ordinary and usual course of and for the purposes of its business:

- (A) sell, transfer, assign, lease or otherwise dispose of all or any part of the Charged Property; or
- (B) dispose of, or create, any estate, interest or right in or over, or relating to the use, occupation, possession or enjoyment of, all or any part of the Charged Property or permit the acquisition by any person of any proprietary interest or any right in or over, or which may affect the value of, any of the Charged Property; or
- (C) grant any right of pre-emption or any option in respect of or in connection with any of the foregoing; or
- (D) agree to do any of the foregoing.

5.3 None of the foregoing restrictions in this clause 5 shall be construed as limiting any powers exercisable by any Receiver appointed by the Lender under or pursuant to this Deed.

6. **Rights Attaching to Certain Assets**

**Investments**

6.1 Prior to the occurrence of an Enforcement Event:

- (A) all voting and other rights relating to the Charged Portfolio may be exercised by the Company or as it may direct provided that:
  - (1) such rights shall not be exercised in any manner which would breach the terms of any of the Finance Documents or is inconsistent with or prejudicial to the security intended to be conferred on the Lender by or pursuant to this Deed or any other Finance Document; and
  - (2) the Company shall not, without the prior written consent of the Lender, permit or agree to any variation of the rights attaching to or conferred by all or any part of the Charged Portfolio; and

- (B) all principal, interest, dividends and other money paid on or in respect of the Charged Portfolio to the Company or its nominee(s) shall be dealt with in accordance with the provisions of clauses 8.4 to 8.5 (inclusive).

6.2 After the occurrence of an Enforcement Event:

- (A) the Company shall comply or procure the compliance with any direction of the Lender or, as the case may be, any Receiver to issue or transfer the Charged Portfolio in accordance with any such direction and/or to register the Investments in the name of the Lender (or its nominees);
- (B) all voting and other rights in respect of the Charged Portfolio may be exercised by the Lender or any Receiver or as it or he may direct;
- (C) the Company shall comply or procure the compliance with any direction of the Lender or, as the case may be, any Receiver in respect of the exercise of such voting and other rights and shall deliver to the Lender or, as the case may be, such Receiver such forms of proxy or other appropriate forms of authorisation as will enable the Lender or, as the case may be, such Receiver to exercise such voting and other rights;
- (D) all principal, interest, dividends and other money paid on or in respect of the Charged Portfolio to the Company or its nominee(s) shall be dealt with in such manner as the Lender or any Receiver shall direct (and the Company shall comply or procure compliance with any such direction) and (until so dealt with) shall be held upon trust for the Lender; and
- (E) all principal, interest, dividends and other money paid on or in respect of the Charged Portfolio to the Lender or any Receiver or its or his nominee(s) (whether directly or pursuant to a direction given under clause 6.2(D)) may be applied in accordance with clause 13.

**Accounts**

- 6.3 Subject to the terms of the Facility Agreement, all moneys now or at any time hereafter standing to the credit of any account opened or maintained by the Company with the Lender and any other bank or financial institution and all or any rights and benefits relating thereto shall be incapable of assignment (and each deposit of any such moneys shall be made on such terms accordingly) and the Company shall not purport to assign or otherwise dispose of any interest in any such moneys or any such rights and benefits.
- 6.4 During the subsistence of the Security (and whether or not an Enforcement Event shall have occurred) the Lender may, in its absolute discretion, from time to time apply any part of the moneys standing to the credit of the Reserved Accounts in accordance with the terms of the Facility Agreement.

7. **Perfection of Security**

**Real Property - Land Registry**

- 7.1 In the case of any Real Property title to which is now or at any time hereafter registered at the Land Registry, the Company hereby applies to the Chief Land Registrar to enter the following restriction in the register and against which this Deed shall be noted:

3  
1  
"Except under an Order of the Registrar no disposition or dealing by the proprietor of the land is to be registered or noted without the consent of the proprietor for the time being of [insert details of this Deed]".

### **Policies**

7.2 The Company shall:

- (A) forthwith deliver to the Lender, or procure the delivery to the Lender of, Notices of Assignment duly executed by the Company or on its behalf and acknowledged by each of the insurers liable on the Policies, if any, listed in part 1 of schedule 3; and
- (B) if so requested by the Lender whilst an Event of Default is continuing, forthwith deliver to the Lender, or procure the delivery to the Lender of, Notices of Assignment duly executed by the Company or on its behalf and acknowledged by each of the insurers liable on any other Policies specified by the Lender.

### **Intellectual Property**

7.3 The Company shall at its cost as soon as practicable and in any event within 3 months of the creation of the Security and thereafter from time to time upon demand of the Lender promptly execute and file or record or register any documents, pay any fees, taxes or other costs or do any thing which may be necessary to enable the Lender to apply (in such form as the Lender may require) to the relevant authorities to register, record or enter a memorandum in respect of this Deed and/or the Security and/or any of the restrictions contained in this Deed in any relevant register relating to the Charged Intellectual Property in accordance with the requirements set out in the Facility Agreement.

### **Charged Portfolio**

- 7.4 The Company shall deliver to the Lender (or procure delivery to the Lender of), and the Lender shall be entitled to hold and retain, all (or such part thereof as may from time to time be specified by the Lender) the certificates and other documents of title to or representing the Charged Portfolio held or acquired by the Company or its nominee(s) together with stock transfer forms (executed in blank by or on behalf of the Company) in respect of the Charged Portfolio held on the date of this Deed and any subsequent date on which it acquires any of the Charged Portfolio and any such other declarations of trust, instruments of transfer or assignment and other documents or things which the Lender may specify with a view to perfecting or improving its security over the Charged Portfolio, in each case in form and substance satisfactory to the Lender.
- 7.5 The Lender may at any time after the occurrence of an Enforcement Event have any of the Investments registered in its name or in the name of, or otherwise have the same held by, one or more nominees on its behalf.

### **Accounts**

- 7.6 The execution of this Deed by the Company shall constitute notice to the Lender of the charges created by clause 3.1(F).
- 7.7 The Company shall, if so requested by the Lender, forthwith deliver to the Lender, or procure the delivery to the Lender of Notices of Charge duly executed by the Company or on its behalf and acknowledged by each of the banks other than the Lender (or such of them as may be specified by the Lender) with which any of the accounts have been opened or are being maintained.

## **Rental Income and Contracts**

- 7.8 The Company shall, if so requested by the Lender whilst an Event of Default is continuing, forthwith deliver to the Lender, or procure the delivery to the Lender of, Notices of Assignment duly executed by the Company or on its behalf and acknowledged by each of the parties (or such of them as may be specified by the Lender) against whom the Company is entitled to assert the rights and claims referred to in clauses 3.1(G) and 3.1(H).

## **General**

- 7.9 The Company shall promptly notify the Lender of:
- (A) any acquisition or proposed acquisition by the Company, or any nominee on its behalf, of any property which falls (or, upon being so acquired, would fall) within the definitions of "Real Property", "Charged Intellectual Property" or "Investments" contained in clause 1.1;
  - (B) as soon as reasonably practical upon receipt of the same and in any event within 2 months of creation of the Security (or such longer period as the Lender may agree (acting reasonably)) deposit with the Lender documents of title in respect of the Charged Intellectual Property in the form of registration certificates and/or certified copies thereof or certified copy register entries and from time to time, promptly upon receipt of the same, renewal certificates;
  - (C) any opening or proposed opening by the Company of any bank account; and
  - (D) the taking out by the Company of, or any proposal made by the Company for the issue to it of, any insurance or assurance policy.
- 7.10 The Company confirms that promptly following entry into this Deed the Company will deposited with the Lender all documents that relate to the Company's rights, titles, estates or interests to or in any part of the Charged Property (including documents constituting or evidencing title but excluding documents relating to Charged Intellectual Property, covered in 7.9(B) above) other than those documents which the Lender has agreed in writing need not be so deposited. On each occasion that the Company obtains or receives other such documents, the Company will promptly deposit them with the Lender unless the Company obtains the Lender's written consent not to do so. At the Lender's request, the Company will promptly produce any such documents which have not been required to be deposited with the Lender.
- 7.11 The Lender shall be entitled to provide for the safe custody by third parties of all or any of the documents deposited with it in accordance with clause 7.10 and shall not be responsible for any loss or damage occurring to or in respect thereof.

## **8. Covenants**

### **Real Property and Chattels**

- 8.1 Save as otherwise agreed in the Facility Agreement, the Company shall during the subsistence of the Security:
- (A) keep all buildings, erections, structures, fixtures, fittings, fixed and movable plant and machinery, implements, utensils and other effects forming part of the Charged

Property in good and substantial repair and, where applicable, in good working order and condition and when necessary rebuild, renew or replace the same;

- (B) permit the Lender and all persons authorised by it to enter and view the state and condition of the foregoing and, forthwith after the service by the Lender of notice of any defect or want of repair, well and substantially repair and make good the same;
- (C) not without the previous consent in writing of the Lender (such consent not to be unreasonably withheld or delayed) (and then only to the extent that such consent permits and in accordance with any conditions thereof):
  - (1) make any application for planning permission or implement any planning permission obtained or enter or agree to enter into any agreement under Section 38 of the Highways Act 1980 or Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or Section 106 of the Town and Country Planning Act 1990 or any similar act or acts;
  - (2) use or suffer to be used the whole or any part of any Real Property belonging to the Company at the date hereof other than for its existing use at the date hereof or use or suffer to be used the whole or any part of any Real Property acquired by the Company at any time after the date hereof other than for its existing use at the date of such acquisition;
  - (3) sever, unfix or remove any of the fixtures, fittings or fixed plant and machinery forming part of the Charged Property from the Real Property to which the same is for the time being affixed or permit the same to be so severed, unfix or removed; or
  - (4) remove any of the Chattels (not being a Chattel for the time being forming part of the Company's stock in trade or work in progress) which the Lender may from time to time, by notice to the Company, specify for the purposes of this clause from the location or locations specified therefor in such notice, or permit the same to be so removed, save for the purpose of effecting any necessary repairs thereto or of replacing the same with new or improved models or substitutes;
- (D) comply in all material respects with any conditions attaching to any planning permissions relating to or affecting the Real Property; and
- (E) ensure that all outgoings in relation to the Charged Property (including rents, rent charges, service charges, general and water rates, taxes, charges, assessments and impositions), whether parliamentary, municipal, parochial or otherwise, which are now or become payable, charged or assessed on or in respect of any part of the Charged Property, or the owner, user or occupier of any part of the Charged Property, will be fully and punctually paid to the extent that failure to do so would have a material adverse effect on the rights of the Company to occupy or own that Charged Property.

#### Charged Portfolio

- 8.2 Save as otherwise agreed in the Facility Agreement, the Company shall during the subsistence of the Security pay on the same becoming due all calls or other payments which may be or become due in respect of any of the Charged Portfolio. If the Company fails to make any such payment, the Lender may if it thinks fit (it being acknowledged by the Company that the Lender will incur no liability to the Company if it does not) make

such payment on behalf of the Company. The Company shall reimburse any sums so paid by the Lender to the Lender on demand and shall pay interest thereon from the date of payment by the Lender until such sums are reimbursed at the rate and otherwise as mentioned in clause 14.3 of the Facility Agreement.

### **Contracts**

- 8.3 Save as otherwise agreed in the Facility Agreement, the Company shall during the subsistence of the Security:-
- (A) observe and perform, and remain liable to observe and perform in all material respects, all the obligations on its part contained in and assumed by it under the Contracts (and the Lender shall be under no obligation by virtue of this Deed in respect of any failure by the Company so to observe or perform such obligations);
  - (B) observe and perform, and remain liable to observe and perform, in all material respects, all the obligations on its part contained in and assumed by it under the Contracts (and the Lender shall be under no obligation by virtue of this Deed in respect of any failure by the Company so to observe or perform such obligations);
  - (C) diligently pursue any remedies available to it in respect of any breach thereof or in respect of any claim arising under any Contract or Report; and
  - (D) not, without the prior written consent of the Lender (such consent not to be unreasonably withheld), make or agree to make any material amendment, waiver or release of, or determine, any of the Contracts or permit any breach or default thereof or thereunder to exist.

### **Debts**

- 8.4 Save as otherwise agreed in the Facility Agreement, the Company shall at all times during the subsistence of the Security subject to any directions given in accordance with clause 8.5, get in and realise the Debts on behalf of the Lender and hold the proceeds of the getting in and realisation thereof upon trust for the Lender and in accordance with the instructions of the Lender.
- 8.5 The Company shall at all times during the subsistence of the Security deal with the Debts in accordance with any directions from time to time given in writing by the Lender and in default of and subject to such directions shall not at any such time without the prior written consent of the Lender deal with the Debts otherwise than by getting in and realising the same in the ordinary and usual course of the Company's business. Without prejudice to the generality of the foregoing, the Company shall not at any such time without such a direction or consent compound, release, exchange, set-off, factor or discount the whole or any part of any Debt, or grant time or indulgence in respect thereof or enter into any agreement for any of the foregoing or do anything whereby the recovery of the whole or any part of any Debt may be impeded, delayed or prevented.
- 8.6 Whilst an Event of Default is continuing, the Company may not withdraw, receive or otherwise transfer any credit balance from an account without the prior written consent of the Lender.

### **9. Leases**

- 9.1 Save as otherwise agreed in the Facility Agreement, the Company hereby undertakes with the Lender that in relation to any lease or agreement for lease to which all or any part of



the Charged Property may for the time being be subject (including any leases listed in part 3 of schedule 3) the Company will:

- (A) observe and perform in all material respects all of the material covenants, conditions, agreements and obligations on the part of the lessor contained therein;
- (B) duly enforce in all material respects all of the material covenants, conditions, agreements and obligations on the part of the lessee contained therein;
- (C) duly and promptly implement in all material respects any provision therein for the review of any rent thereby reserved and not agree to any revised rent or appoint or agree to the appointment of any third party to determine such rent without the prior written consent of the Lender;
- (D) efficiently manage the premises thereby demised;
- (E) not, without the prior written consent of the Lender:
  - (1) accelerate or defer payment of, or serve or permit the service of any notice pursuant to Section 17 of the Landlord and Tenant (Covenants) Act 1995 in respect of, any moneys due thereunder;
  - (2) waive, release, relax or vary any of the terms thereof;
  - (3) exercise any right to determine or extend the same;
  - (4) grant any licence, consent or approval thereunder;
  - (5) accept a surrender of the whole or any part thereof; or
  - (6) agree to do any of the foregoing; and
- (F) supply to the Lender from time to time on demand such information in relation to any of the foregoing matters as the Lender shall require.

9.2 Save as otherwise agreed in the Facility Agreement, the Company hereby undertakes with the Lender that in relation to any lease or agreement for lease under which all or any part of the Charged Property is held by the Company the Company will:

- (A) punctually pay the rents reserved by and perform and observe in all material respects all of the covenants, conditions, agreements and obligations on the part of the lessee contained therein;
- (B) duly enforce in all material respects all of the material covenants, conditions, agreements and obligations on the part of the lessor contained therein;
- (C) duly and promptly deal in all material respects with any review of any rent reserved by such lease and not agree to any revised rent or appoint or agree to the appointment of any third party to determine such rent without the prior written consent of the Lender;
- (D) forthwith notify the Lender of any matter or event by reason of which such lease has or may become subject to determination or to the exercise by the lessor of any right of re-entry or forfeiture;

- (E) if so required by the Lender, commence and pursue diligently applications for relief from forfeiture of any lease;
- (F) not, without the prior written consent of the Lender:
  - (1) accelerate or defer payment of any moneys due thereunder;
  - (2) waive, release, relax or vary any of the terms thereof;
  - (3) exercise any right to determine or extend the same;
  - (4) apply for any licence, consent or approval thereunder;
  - (5) surrender, assign, charge or otherwise dispose of the whole or any part thereof; or
  - (6) agree to do any of the foregoing; and
- (G) supply to the Lender from time to time on demand such information in relation to any of the foregoing matters as the Lender shall require.

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10. **Extension and Variation of the Law of Property Act 1925**

- 10.1 The restriction on the consolidation of mortgages imposed by Section 93(1) of the LPA shall not apply to this Deed or the Security.
- 10.2 The powers of leasing, letting, entering into agreements for leases or lettings and accepting and agreeing to accept surrenders of leases conferred by Sections 99 and 100 of the LPA may be exercised by the Lender at any time on or after the occurrence of an Enforcement Event on such terms as the Lender shall in its absolute discretion think fit and without the need for the Lender to comply with any restrictions imposed by or any other provisions of the said Sections 99 and 100. The Lender may delegate the powers conferred by Sections 99 and 100 of the LPA, as varied and extended by this Deed, to any person and any such delegation shall neither preclude the subsequent exercise of such powers by the Lender itself nor the subsequent delegation thereof to some other person or any revocation of such delegation.
- 10.3 Notwithstanding any other provisions of this Deed, the Secured Liabilities shall be deemed for the purposes of Section 101 of the LPA to have become due, and all the powers referred to in clause 11.1 shall arise, on the date of this Deed.
- 10.4 Sections 103 and 109(1) of the LPA shall not apply to the charges created by this Deed. All the powers referred to in clause 11.1 may be exercised by the Lender without notice to the Company on or at any time after the occurrence of an Enforcement Event whilst the same is continuing.

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11. **Enforcement**

- 11.1 On or at any time after the occurrence of an Enforcement Event and whilst the same is continuing, the Lender may, without notice to the Company:
  - (A) take possession of and hold all or any part of the Charged Property; and/or
  - (B) appoint one or more persons to be a Receiver of the whole or any part of the Charged Property; and/or

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(C) exercise in any manner it considers appropriate all or any of the powers, authorities and discretions:

(1) conferred on mortgagees by the LPA as varied or extended by this Deed;

(2) conferred by this Deed expressly or by implication on any Receiver; and

(3) otherwise conferred by statute or common law on mortgagees or receivers (including in the circumstances referred to by way of exception in clause 13.1(B), the appointment of an administrator under the Insolvency Act 1986).

11.2 The Lender may (subject to paragraph 17 of Schedule B1 to the Insolvency Act 1986) exercise any of its powers under clauses 11.1(A) and 11.1(C) whether or not it shall have previously appointed any person to be a Receiver.

11.3 The Lender may:

(A) (so far as it is lawfully able) remove any Receiver; and

(B) appoint another person or other persons as Receiver or Receivers either in the place of a Receiver who has been so removed or who has ceased to act or to act jointly with any other Receiver.

11.4 The Lender's powers to appoint a person to be a Receiver shall:

(A) be in addition to, and not to the prejudice of, all statutory and other powers of appointment of the Lender to appoint a Receiver under the LPA as extended by this Deed or otherwise;

(B) be and remain exercisable by the Lender in respect of any part of the Charged Property in respect of which no appointment of any person as a Receiver by the Lender shall from time to time be subsisting and notwithstanding that an appointment by the Lender shall have subsisted and been withdrawn in respect of any part of the Charged Property and/or shall be subsisting in respect of any other part of the Charged Property; and

(C) be without prejudice to any statutory power which the Lender may have to appoint an administrator of the Company under the Insolvency Act 1986 or any other applicable enactment.

11.5 Every appointment of any person to be a Receiver and every removal of any Receiver may be made by deed or by instrument in writing under the hand of any officer or manager of the Lender or any person authorised for such purpose by the Lender or any such officer or manager.

11.6 If at any time two or more persons shall hold office as Receivers of the same part of the Charged Property, each such Receiver shall be entitled (unless the contrary shall be stated in the instrument appointing him) to exercise individually as well as jointly (and to the exclusion of the other or others of them) all the powers and discretions conferred on Receivers by this Deed or by law.

11.7 Except (a) as provided by law, (b) for any liability of the Lender resulting from any appointment made by it in accordance with this clause and (c) for any liability of the Receiver resulting from any exercise by him of any powers on his own behalf in accordance with clause 12.2, each Receiver shall be deemed at all times and for all

purposes to be the agent of the Company which shall be solely responsible for his acts, omissions, defaults, losses and misconduct, for all obligations and liabilities entered into, incurred or adopted by him and for the payment of his remuneration (except where caused by the Receiver's gross negligence or wilful misconduct) and the Lender will not be responsible, in any circumstances whatsoever, to the Company or to any other person for any of them. No Receiver shall at any time act as agent for the Lender unless the Lender shall expressly appoint the Receiver in writing to be its agent.

11.8 If the Lender or any Receiver shall enter (or shall be deemed to have entered) into possession of the Charged Property or any part thereof, it or he may from time to time and at any time go out of such possession.

11.9 Every Receiver shall be entitled to remuneration for his services. The amount of such remuneration shall:

(A) be settled from time to time by agreement between him and the Lender or, failing any such agreement, fixed by the Lender; and

(B) not be limited to the maximum rate specified in Section 109(6) of the LPA.

The foregoing shall be subject to Section 36 of the Insolvency Act 1986.

## 12. Powers of Receiver

12.1 Every Receiver shall, in relation to the Charged Property in respect of which he is appointed and subject to any limitations or restrictions expressed in the instrument appointing him but notwithstanding any winding-up or dissolution of the Company, have:

(A) all the powers conferred by the LPA on mortgagors and on mortgagees in possession and on receivers appointed under that Act, as varied and extended by the provisions of this Deed;

(B) whether or not the Receiver is in fact an administrative receiver, all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 as varied and extended by the provisions of this Deed and all other powers conferred on or exercisable by him by virtue of the provisions of the Insolvency Act 1986;

(C) all the powers otherwise conferred by statute or common law on mortgagees in possession or receivers; and

(D) power in the name or otherwise on behalf of and at the cost of the Company to exercise all the powers and rights of an absolute owner and to do or omit to do anything which the Company itself could do or omit to do.

12.2 In addition and without prejudice to the generality of the foregoing, every Receiver shall (subject to any limitations or restrictions expressed in the instrument appointing him but notwithstanding any winding-up or dissolution of the Company) have the following powers (and every reference in this clause 12.2 to the "Charged Property" shall be read as reference to that part of the Charged Property in respect of which such Receiver was appointed):

(A) to enter upon, take possession of, collect and get in all or any part of the Charged Property including rents and other income whether accrued before or after the date of his appointment and, for those purposes, to make such demands and to take such proceedings as he may think fit;

- (B) to sell, transfer, assign, convey, exchange, surrender or otherwise dispose of or deal with and/or grant options in respect of each and every part of the Charged Property in such manner (whether by public auction, private contract or otherwise) on such terms and for such consideration as he may in his absolute discretion think fit including, without the consent of the Company, the severing and separate disposal from the premises to which they were affixed of fixtures, fittings and plant and machinery;
- (C) subject to clause 5.1, to raise or borrow money from any person (including the Lender) on either a secured or an unsecured basis for any of the purposes set out in this clause on such terms and in such manner as he shall think fit, including terms whereby the obligations incurred thereby and/or any security therefor will rank either in priority to, pari passu with or subsequent to the Secured Liabilities and/or the Security or any part thereof (and no person lending such money shall be concerned to see or enquire as to the propriety or purpose of the exercise of such power or the application of money so raised or borrowed);
- (D) without prejudice to the generality of clauses 12.2(K) and 12.2(L), to appoint a solicitor, accountant or other professionally qualified person to assist him in the performance of his functions;
- (E) to bring, prosecute, enforce, defend and abandon applications, claims, disputes, actions, suits and proceedings in connection with the business of the Company or all or any part of the Charged Property or the Security and to negotiate, compromise and settle any of the same;
- (F) to refer to arbitration any question affecting the Company, including any applications, claims, disputes, actions, suits or proceedings referred to in clause 12.2(E), and to take any action referred to therein in connection with any question referred (whether by the Receiver or any other person) to arbitration;
- (G) to arrange, effect, obtain, maintain, renew, replace, vary and/or terminate and claim, settle claims and/or exercise all other rights under, any policies of insurance, bonds or performance guarantees (or arrangements having a similar effect) in respect of all or any part of the Charged Property, the Company's business and/or any other matter or thing in relation to his powers as he may think fit;
- (H) to use the Company's seal or, if the Company has more than one seal, any of the Company's seals;
- (I) to execute and deliver any deed, receipt, letter or other document;
- (J) to draw, make, accept and endorse any bill of exchange, promissory note or negotiable instrument;
- (K) to employ, hire and appoint officers, employees, workmen, contractors, agents, managers and advisers of all kinds, whether or not professionally qualified, including his own firm and partners and employees of that firm, on such terms as to remuneration and otherwise as he shall think fit; and
- (L) to vary the terms of the employment, hiring and appointment of, and dismiss, discharge and terminate the appointment of, any such persons and any such persons employed, hired or appointed by the Company;

- (M) to start, continue, carry out, complete and/or terminate any repair, refurbishment, renewal, maintenance, management, decoration, alteration, building, improvement and/or development of, and/or any other works on, all or any part of the Charged Property and, in connection therewith or otherwise, to apply for and obtain any approval, permission, consent and licence (including any planning permission, building regulation approval and Environmental Permit), all as he may think fit or expedient;
- (N) to make any payment which is, or which the Receiver may consider to be, necessary or incidental to the performance of his functions or needed to effect, maintain or satisfy any liability or obligation of the Company;
- (O) to commence, carry on, manage, develop, reconstruct, amalgamate, diversify and/or terminate any trade or business whatsoever, and/or to concur in any of the foregoing, in such manner as he shall think fit;
- (P) to promote or procure the formation of any body corporate with a view to such body corporate becoming a subsidiary of the Company or otherwise;
- (Q) without prejudice to the generality of clause 12.2(B), to transfer or grant any interest in the whole or any part of the Charged Property and/or of the business of the Company to subsidiaries of the Company or any other person in such manner and generally on such terms as he thinks fit;
- (R) without restriction, to grant, vary the terms of, determine, surrender or accept surrenders of leases or tenancies of, or licences, easements and/or options in respect of, each and every part of the Charged Property to, with or from such person (including the Lender) in such manner and generally on such terms and conditions as he thinks fit;
- (S) to enter into any arrangement or compromise with any person; and
- (T) to allow time for payment by or to the Company of any debts either with or without security;
- (U) to make, or to require the directors of the Company to make, such calls in respect of any uncalled capital of the Company as he may think expedient;
- (V) to rank and/or claim and/or prove in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the Company and to receive dividends, and to accede to trust deeds or other arrangements for or with the creditors of any such person;
- (W) to present or defend a petition for the winding-up of the Company;
- (X) to change the situation of the Company's registered office;
- (Y) to purchase, take a lease or tenancy of, hire or otherwise acquire any properties, assets, interests or rights of any description which he shall consider necessary or desirable for any of the purposes set out in this clause or otherwise for the benefit of the whole or any part of the Charged Property;
- (Z) to redeem, discharge, compromise or acquire any security, whether or not having priority to the Security or any part of it, on such terms as he may think fit;

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- (AA) to enter into such contracts, bonds, covenants, guarantees, commitments, indemnities and other liabilities or obligations as he shall think fit; and
- (BB) to perform, rectify, complete, repudiate, rescind, disclaim, abandon, disregard, determine, enforce, vary, assign, novate or otherwise dispose of any of the Company's contracts or any of its rights, liabilities or obligations (whether arising under a contract or otherwise); and
- (CC) to (a) exercise any option, election or discretion to charge VAT or to treat supplies made by the Company as taxable supplies for the purposes of VAT (and neither the Lender nor the Receiver shall be liable for any loss resulting from such exercise) and (b) transfer to any person the right of the Company to recover any VAT;
- (DD) to do all such other things as may seem to him to be necessary or desirable for the maintenance, preservation, protection, perfection, improvement and/or realisation of all or any part of the Charged Property and/or of the Security or to be incidental or conducive to any of the functions, powers, authorities or discretions conferred on or vested in him under or by virtue of this Deed or by law; and
- (EE) to exercise any of the powers set out in this clause 12.2 in the name or otherwise on behalf of the Company (notwithstanding any winding-up of the Company) or in his own name or otherwise on his own behalf.

12.3 In making any sale or other disposal of any of the Charged Property or any acquisition in the exercise of their respective powers, any Receiver or the Lender may accept or dispose of such consideration as he or it shall think fit or, if thought expedient by such Receiver or the Lender, may effect such sale, disposal or acquisition for no consideration. Without prejudice to the generality of the foregoing, any such consideration may be wholly or partly:

- (A) in the form of cash (in any currency) or of shares, securities, obligations or other non-cash assets of any nature whatsoever;
- (B) payable or receivable in a lump sum or in a single tranche (whether or not deferred) or by instalments; and
- (C) quantified after the sale, disposal or acquisition has taken place (whether by a third party or by reference to future results or events or otherwise howsoever).

Any contract for any such sale, disposal or acquisition by any Receiver or the Lender may contain conditions excluding or restricting the personal liability of such Receiver or the Lender.

12.4 Each Receiver may choose when, where, how and how often to exercise each of his rights, powers and remedies as provided by this Deed or by law. None of those rights, powers and remedies will, except where stated otherwise, be restricted in any respect by reference to any other such power, right or remedy.

### 13. Application of Moneys

13.1 All moneys received by any Receiver pursuant to this Deed shall (subject to the rights and claims of any person having prior rights thereto) be applied in the following order:

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- (A) firstly, in the payment and discharge of the costs, charges and expenses of and incidental to the Receiver's appointment, of any liabilities incurred or payable by him whether on his own account or on behalf of the Company in the exercise of any of his powers including the costs of realisation of that part of the Charged Property in respect of which he was appointed and of all other outgoings properly payable by him;
  - (B) secondly, in the payment of his remuneration; and
  - (C) thirdly, in payment to the Lender, whereupon the Lender may apply the same in accordance with clause 13.2.

Section 109(8) of the LPA will not apply in relation to any Receiver.

- 13.2 All moneys from time to time received or recovered by the Lender from the Company or from any person or persons liable to pay the same or from any Receiver or otherwise pursuant to this Deed or standing to the credit of any account of the Company with the Lender (including the proceeds of any conversion of currency) may (subject to the rights and claims of any person having prior rights thereto), in the absence of any contrary application in accordance with any of the other provisions of this Deed, be applied by the Lender (and notwithstanding any purported appropriation by the Company) in or towards the discharge of all or any of the Secured Liabilities in accordance with clause 33.2 of the Facility Agreement.
- 13.3 The Lender may pay moneys to the credit of any suspense or other account (in each case being an account bearing interest at commercial rates for deposit accounts) after which they may be held in such account for so long as the Lender shall think fit pending any further application from time to time of such moneys.

14. **Protection of purchasers**

No purchaser or other person dealing with the Lender or any Receiver shall be bound to inquire whether the right of the Lender or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Lender or such Receiver in such dealings.

15. **Delegation**

- 15.1 The Lender and any Receiver may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the powers authorities and discretions which are for the time being exercisable by the Lender or such Receiver under this Deed or by law in relation to the Charged Property or any part of it. Any such delegation may be made upon such terms (including power to sub-delegate) and subject to such regulations as the delegator may think fit.
- 15.2 The Lender shall not be in any way liable or responsible to the Company for any liabilities, losses, costs or expenses arising from any act or omission on the part of any delegate or sub-delegate appointed in accordance with clause 15.1 except to the extent that they shall be caused by the fraud, negligence or wilful misconduct of any person who is both (a) a delegate or a sub-delegate and (b) an officer or an employee, of the Lender.
- 15.3 No Receiver shall be in any way liable or responsible to the Company for any liabilities, losses, costs or expenses arising from any act or omission on the part of any delegate or sub-delegate appointed in accordance with clause 15.1 except to the extent that they shall

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be caused by the fraud, negligence or wilful misconduct of any person who is both (a) a delegate or a sub-delegate and (b) an officer or an employee, of such Receiver.

**16. Power of Attorney**

16.1 The Company by way of security for the performance of the Company's obligations under this Deed irrevocably appoints the Lender and any Receiver jointly and also severally to be the attorney or attorneys of the Company and in its name and as its act and deed or otherwise on its behalf to sign, seal, execute, deliver, perfect and do all deeds, instruments, acts and things which whilst an Enforcement Event is continuing, may be required or which the attorney shall consider desirable:

- (A) for carrying out any obligation imposed on the Company by or pursuant to this Deed (including the obligations of the Company under clause 7 and the statutory covenant referred to in that clause);
- (B) for carrying any sale, lease or other dealing whatsoever by the Lender or any Receiver into effect;
- (C) for conveying or transferring any legal estate or other interest in land or any other property whatsoever;
- (D) for getting in all or any part of the Charged Property; and
- (E) generally for enabling the Lender and any Receiver to exercise the respective powers, authorities and discretions conferred on them by or pursuant to this Deed or by law.

Each of the Lender and any Receiver shall have full power to delegate the power conferred on it or him by this clause 16.1 in accordance with clause 15.1 but no such delegation shall preclude the subsequent exercise of such power by the Lender or the Receiver itself or himself or preclude the Lender or the Receiver from making a subsequent delegation thereof to some other person. Any such delegation may be revoked by the Lender or the Receiver at any time.

16.2 The Company agrees to ratify and confirm all things done or purported to be done by such attorney in the exercise or purported exercise of its or his powers.

**17. Effectiveness of Security**

17.1 The Security shall be a continuing security for the Secured Liabilities and shall not be considered as satisfied or discharged by any intermediate payment or settlement of the whole or any part of the Secured Liabilities or any other matter or thing whatsoever.

17.2 The Security shall be in addition to and independent of any other security which the Lender may now or at any time in the future hold or take (whether from the Company or any other person) for or in respect of the Secured Liabilities or any of them or any other obligations whatsoever and:

- (A) shall not operate so as in any way to prejudice, determine, affect or merge in or with any such other security; and
- (B) shall not be prejudiced, determined or affected by any such other security or by any release, reassignment or discharge thereof.

The Company confirms that it is not relying on or expecting the Lender to obtain and/or enforce any such security.

- 17.3 Any release or discharge of the Security or of any of the Secured Liabilities shall not release or discharge the Company from any liability to the Lender for the same or any other moneys which may exist independently of this Deed.
- 17.4 Any waiver, consent or approval given by the Lender in relation to this Deed shall only be effective if given in writing and then only for the purpose and upon any terms and conditions on which it is given.
- 17.5 Neither the Security nor any remedy of the Lender in respect thereof shall be prejudiced by:
- (A) any time or indulgence granted to the Company or any other person; or
  - (B) any delay or abstention by the Lender in perfecting or enforcing any remedies, securities, guarantees or rights it may now or in the future have from or against the Company or any other person; or
  - (C) any waiver, release, variation, act, omission, forbearance, unenforceability, indulgence or invalidity of or relating to any such remedy, security, guarantee or right; or
  - (D) any other act or thing whatsoever which, but for this clause 17.5, would or might prejudice the Security or the right of the Lender to any such remedy except for a reassignment, release or discharge in accordance with the provisions of clause 18.
- 17.6 The Lender may choose when, where, how and how often to exercise each of its rights, powers and remedies as provided by this Deed or by law. No failure on the part of the Lender to exercise, or any delay on its part in exercising, any such right, power or remedy shall impair the same or operate or be construed as a waiver thereof, nor shall any single, partial or defective exercise of any such right, power or remedy preclude any further or other exercise thereof or the exercise of any other such right, power or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.
- 17.7 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect (or any of the security intended to be created by or pursuant to this Deed is ineffective) under any law of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect or impair:
- (A) the legality, validity or enforceability of the remaining provisions or the effectiveness of any of the remaining security under such law; or
  - (B) the legality, validity or enforceability of such provision or the effectiveness of such security under the law of any other jurisdiction.

18. **Redemption of Security**

18.1 Upon and subject to the Lender (acting reasonably) being satisfied that:

- (A) it is under no commitment, obligation or liability (whether actual or contingent) to make advances or provide other financial accommodation to the Company under or pursuant to the Finance Documents or to any other person whose

liabilities the Company has undertaken a liability to the Lender under or pursuant to the Finance Documents or which could otherwise lead to the Company incurring any further obligation to the Lender under or pursuant to the Finance Documents,

- (B) the Company has no liability (whether actual or contingent) to the Lender under or pursuant to the Finance Documents in respect of any matter or thing whatsoever, and
- (C) the Lender has no right, or does not intend to exercise any right, to retain the Security in accordance with clause 20.1,

as soon as reasonably practicable thereafter and at the request and cost of the Company, the Lender shall (but subject to the rights and claims of any person having prior rights thereto) reassign the property and assets assigned to the Lender by or pursuant to this Deed and release or otherwise discharge the Security but any such reassignment, release or discharge shall be subject to clause 19.2. Each such reassignment, release and discharge will be in the form set out in Schedule 6 together with such amendments as the Lender may agree or reasonably require.

- 18.2 If the Company parts with or disposes of an asset as expressly permitted under the Facility Agreement, the Lender shall, if it has been given 5 Business Day's notice, use reasonable endeavours to provide to the Company at the same time as the disposal, an executed deed of release of such asset in the form set out in schedule 5 with such amendments as the Lender may agree or reasonably require.

19. **Avoidance of Payments**

- 19.1 Any settlement, reassignment, release or discharge between (a) the Company and (b) the Lender or any Receiver shall (whether or not so expressed) (to the extent that the Company is insolvent at the time of or as a result of the release of the Security) be deemed to be conditional upon no right, security, disposition or payment granted or made to the Lender or such Receiver (as the case may be) by the Company or any other person being void, avoided or set aside, either wholly or in part, for any reason whatsoever, including by virtue of any provisions or enactments relating to bankruptcy, insolvency, administration or liquidation for the time being in force.

- 19.2 In the event of the whole or any part of any such right, security, disposition or payment being so void, avoided or set aside, the Lender or such Receiver (as the case may be) shall be entitled to enforce this Deed against the Company subsequently as if such settlement, reassignment, release or discharge had not occurred and such right, security, disposition or payment (or, as the case may be, the part thereof so void, avoided or set aside) had not been granted or made.

20. **Retention of Security**

- 20.1 Notwithstanding any other provision of this Deed or any settlement, reassignment, release, discharge or arrangement given or made by the Lender pursuant to a discharge in full of the Secured Liabilities, the Lender may, if the Company is insolvent at the relevant time, retain the Security and all documents of title relating to, and certificates or other documents representing or evidencing ownership of, the Charged Property or any part thereof deposited with it pursuant to this Deed until the later to occur of (a) the Lender being satisfied that the conditions set out in clauses 18.1(A) and 18.1(B) have been met and (b) the expiry of the Retention Period relating to such discharge or, if applicable, of the further period referred to in clause 20.2.

20.2 If at any time during the said Retention Period a petition shall be presented for an order for the winding-up of the Company or for the making of an administration order in respect of the Company or the Company shall commence to be wound-up voluntarily or any analogous proceedings shall be commenced in respect of the Company, the Lender may continue to retain the Security and the documents aforesaid for such further period as the Lender may determine and the Security and such documents shall be deemed to have continued to have been held as security for the Secured Liabilities.

20.3 As used in this clause 20, the expression "Retention Period" means, in relation to any discharge in full of the Secured Liabilities, the period beginning on the date on which that discharge was made and ending on the date falling one month after the expiration of the maximum period within which that discharge can be declared void, avoided or reduced by virtue of any applicable law or for any other reason whatsoever.

21. New Accounts

21.1 If the Lender shall at any time receive or be deemed to have received notice of any Security affecting the whole or any part of the Charged Property which is prohibited by the terms of this Deed:

- (A) the Lender may open a new account or accounts for the Company in its books, and
- (B) if the Lender does not in fact open any such new account, then unless it gives express written notice to the Company to the contrary, the Lender shall be treated as if it had in fact opened such account or accounts at the time when it received or was deemed to have received such notice,

and as from such time and unless such express written notice shall be given to the Company, all payments by or on behalf of the Company to the Lender shall be credited or treated as having been credited to such new account or accounts and not as having been applied in reduction of the Secured Liabilities at such time.

22. Assignment

22.1 The Lender shall, if it is entitled to assign its rights under the Facility Agreement, have a full and unfettered right to assign or transfer the whole or any part of the benefit of this Deed.

22.2 The Company may not assign or transfer any of the Company's rights or obligations under this Deed or enter into any transaction or arrangement which would result in any of those rights or obligations passing to or being held in trust for or for the benefit of another person.

22.3 The Company will, on the Lender's request, immediately execute and deliver to the Lender any form of instrument required by the Lender to confirm or facilitate any such assignment and/or transfer and/or contractual relations.

23. Indemnity

The Company agrees to indemnify and keep indemnified the Lender, each Receiver and each Appointee from and against all liabilities, losses, costs and expenses incurred or suffered by any such person in or in connection with or directly or indirectly as a result of:

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- (A) any of the obligations or undertakings expressed to be binding on or undertaken by the Company in or pursuant to this Deed not being performed or observed fully and punctually, and/or
  - (B) any representation or warranty given or made by the Company in or pursuant to this Deed being incorrect, untrue or misleading in any respect, and/or
  - (C) the exercise or purported exercise of any of the powers, authorities or discretions vested in any such person under or pursuant to this Deed,

save where such liabilities, losses, costs and expenses arise as a result of the fraud, negligence or wilful misconduct of the person claiming to be so indemnified or any of its officers or employees.

24. **Restrictions on Liability**

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24.1 Except to the extent that any such exclusion will be prohibited or rendered invalid by law, the Lender will not in any circumstances whatsoever (whether by reason of taking possession of the Charged Property or any part thereof or for any other reason whatsoever and whether as a mortgagee in possession or on any other basis whatsoever):

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- (A) be liable to account to the Company or any other person as a mortgagee in possession;
  - (B) be liable to account to the Company or any other person for anything except the Lender's own actual receipts;
  - (C) be liable to the Company or any other person for any liabilities, losses, costs or expenses arising from or connected with:
    - (1) any realisation of the Charged Property or any part thereof, or
    - (2) any act or omission of the Lender or its employees or agents in relation to the Charged Property or any part thereof,

except to the extent that they shall be caused by the fraud, negligence or wilful misconduct of the Lender or any of its officers or employees.

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24.2 All the provisions of clause 24.1 shall apply, mutatis mutandis, in respect of the liability of any Receiver or any Appointee.

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25. **Counterparts**

This Agreement may be executed by facsimile signature and/or in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute a single Agreement.

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26. **Law**

This Deed shall be governed by, and construed in accordance with, English law with the exception of sub-clauses 3.1(D)(2) to (5).

27. **Enforcement**

27.1 **Jurisdiction of English courts**

- (A) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a "Dispute").
- (B) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (C) This clause 27.1 is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

28. **Deed**

Each of the Company and the Lender intends this document to be a deed and the Company executes and delivers it as its deed.

**IN WITNESS WHEREOF** this Deed has been executed by the parties on the date specified above.

**SIGNATURES**

**The Lender**

BARCLAYS BANK PLC


By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**The Chargor**

LYPSYL HOLDINGS LIMITED

By: 

Name: TON CRITCHER

Title: MANAGING DIRECTOR

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REEL: 003135 FRAME: 0250



**SIGNATURES**

**The Lender**

BARCLAYS BANK PLC

By: Charlotte England

Name: CHARLOTTE ENGLAND

Title: ASSOCIATE DIRECTOR

**The Chargor**

LYPSYL HOLDINGS LIMITED

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHEDULE 1: DETAILS OF REAL PROPERTY**

(b)

**PART 1 : REGISTERED LAND**

(Freehold or leasehold property (if any) in England and Wales belonging to the Company title to which is registered at the Land Registry)

<u>County and District/ London Borough</u>	<u>Description of Property</u>	<u>Title Number</u>
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**PART 2 : UNREGISTERED LAND**

(Freehold or leasehold property (if any) in England and Wales belonging to the Company title to which is not registered at the Land Registry)

(a) The freehold/leasehold property known as:

and comprised in the following title deed(s) or other document(s) of title:

<u>Date</u>	<u>Document</u>	<u>Parties</u>
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(b) The freehold/leasehold property known as:

and comprised in the following title deed(s) or other document(s) of title:

Date

Document

Parties

**SCHEDULE 2: DETAILS OF INVESTMENTS**

**PART 1 : SHARES IN THE COMPANY'S SUBSIDIARIES**

<u>Name of Subsidiary</u>	<u>Issued Share Capital</u>	<u>Description and Number of Shares Held</u>	<u>Share Certificate Number(s)</u>	<u>Insu</u>
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**PART 2 : OTHER SHARES**

<u>Name of Company</u>	<u>Issued Share Capital</u>	<u>Description and Number of Shares Held</u>	<u>Share Certificate Number(s)</u>	<u>Insu</u>
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**PART 3 : OTHER INVESTMENTS**

<u>Name of Issuer/ Obligor</u>	<u>Description of Investment</u>	<u>Document Evidencing or Indicating Title</u>	<u>Dat</u>
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**SCHEDULE 3: DETAILS OF ASSIGNED ASSETS**

**PART 1 : KEY-MAN POLICIES**

<u>Insurer</u>	<u>Policy No.</u>	<u>Life Assured</u>	<u>Sum Assured</u>	<u>Date of Policy and Duration of Cover</u>
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**PART 2: INSURANCE POLICIES**

<u>Insurer</u>	<u>Policy No.</u>	<u>Insured Risks</u>	<u>Sums Payable</u>	<u>Date of Policy and Duration of Cover</u>
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**PART 3 : RENTAL INCOME**  
payable under the leases described below:

<u>Date</u>	<u>Parties</u>	<u>Subject Matter</u>
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**PART 4 : CONTRACTS**

<u>Date</u>	<u>Parties</u>	<u>Details</u>
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**SCHEDULE 4: FORMS OF NOTICE**

**PART 1 : FORM OF NOTICE OF ASSIGNMENT OF KEY-MAN POLICY**

To: [name of insurer]

Date: •

Dear Sirs,

We hereby give you notice that by an assignment contained in a Security Agreement entered into by us in favour of Barclays Bank PLC (the "Lender") dated • we have assigned absolutely to the Lender (subject to a provision for reassignment) all our right, title and interest to and in the insurance policy (the "Policy") details of which are set out below.

After your receipt of this notice:

- (a) all rights, interests and benefits whatsoever accruing to or for our benefit arising from the Policy belong to the Lender, but until further notice from us or the Lender, all payments to be made pursuant to { the Policy should be made to } us;
- (b) no amendment, waiver or release of any such rights, interests or benefits shall be effective without the prior written consent of the Lender;
- (c) no termination of such rights, interests or benefits shall be effective unless you shall have given the Lender 30 days written notice of the proposed termination specifying the action necessary to avoid such termination; and
- (d) no breach or default on our part of any of the terms of the Policy shall be deemed to have occurred unless you shall have given the Lender 30 days written notice of the potential breach or default specifying how to make good such breach or default.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy of this letter and returning the same to the Lender at • marked for the attention of •.

Details of the Policy:

Yours faithfully,

.....

for and on behalf of

[name of Company]

[On copy only:

To: Barclays Bank PLC (the "Lender")

Date: •

We acknowledge receipt of a notice in the foregoing terms, agree to the contents thereof and to comply therewith and confirm that we have not received notice of any previous assignments, charges or other encumbrances of or over any of the right, title and interest, or any of the rights, interests or benefits, referred to in such notice.

We are aware that you are relying on this acknowledgement in connection with your rights under the Security Agreement.

For and on behalf of

[name of insurer]

.....

[name in block capitals]

Authorised signatory]

**PART 2: FORM OF NOTICE OF ASSIGNMENT OF INSURANCE POLICY**

To: [name of insurer]

Date: •

Dear Sirs,

We hereby give you notice that by an assignment contained in a Security Agreement entered into by us in favour of Barclays Bank PLC (the "Lender") dated • we have assigned absolutely to the Lender (subject to a provision for reassignment) all our right, title and interest to and in all rights and claims to which we are now or may at any time hereafter become entitled in relation to the proceeds of the insurance policy (the "Policy") details of which are set out below.

After your receipt of this notice:

- (a) all payments under or arising from the Policy should be made to the Lender or to its order;
- (b) all remedies provided for in the Policy or available at law or in equity in relation to such payments are exercisable by the Lender;
- (c) all rights to compel performance of your obligations under the Policy to make such payments are exercisable by the Lender;
- (d) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Policy in relation to such obligations and payments belong to the Lender;
- (e) no amendment, waiver or release of any such rights, interests or benefits shall be effective without the prior written consent of the Lender;
- (f) no termination of such rights, interests or benefits shall be effective unless you shall have given the Lender 30 days written notice of the proposed termination specifying the action necessary to avoid such termination; and
- (g) no breach or default on our part of any of the terms of the Policy shall be deemed to have occurred unless you shall have given the Lender 30 days written notice of the potential breach or default specifying how to make good such breach or default.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy of this letter and returning the same to the Lender at • marked for the attention of •.

Details of the Policy:

Yours faithfully,



.....  
for and on behalf of

[name of Company]

[On copy only:

To: Barclays Bank PLC (the "Lender")

Date: •

We acknowledge receipt of a notice in the foregoing terms, agree to the contents thereof and to comply therewith and confirm that we have not received notice of any previous assignments, charges or other encumbrances of or over any of the right, title and interest, or any of the rights, claims, interests or benefits; referred to in such notice.

We are aware that you are relying on this acknowledgement in connection with your rights under the Security Agreement.

For and on behalf of

[name of insurer]

.....  
[name in block capitals]

Authorised signatory]

**PART 3 : FORM OF NOTICE OF ASSIGNMENT OF RENTAL INCOME**

To: [name of lessee/guarantor/surety]

Date: •

Dear Sirs,

We hereby give you notice that by an assignment contained in a Security Agreement entered into by us in favour of Barclays Bank PLC (the "Lender") dated • we have assigned absolutely to the Lender (subject to a provision for reassignment) all our right, title and interest to and in all rights and claims to which we are now or may at any time hereafter become entitled against the lessees or any guarantors or sureties for the obligations of such lessees in relation to all rents and other moneys now or at any time hereafter payable under or in respect of the lease (the "Lease") details of which are set out below.

After your receipt of this notice:

- (a) all payments to be made by you under or arising from the Lease should be made to the Lender or to its order;
- (b) all remedies provided for in the Lease or available at law or in equity in relation to such payments are exercisable by the Lender;
- (c) all rights to compel performance of your obligations under the Lease to make such payments are exercisable by the Lender;
- (d) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Lease in relation to such obligations and payments belong to the Lender;
- (e) no amendment, waiver or release of any such rights, interests or benefits shall be effective without the prior written consent of the Lender;
- (f) no termination of such rights, interests or benefits shall be effective unless you shall have given the Lender 30 days written notice of the proposed termination specifying the action necessary to avoid such termination; and
- (g) no breach or default on our part of any of the terms of the Lease shall be deemed to have occurred unless you shall have given the Lender 30 days written notice of the potential breach or default specifying how to make good such breach or default.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy of this letter and returning the same to the Lender at • marked for the attention of •.

Details of the Lease:

Yours faithfully,

.....  
for and on behalf of

[name of Company]

[On copy only:

To: Barclays Bank PLC (the "Lender")

Date: •

We acknowledge receipt of a notice in the foregoing terms, agree to the contents thereof and to comply therewith and confirm that we have not received notice of any previous assignments, charges or other encumbrances of or over any of the right, title and interest, or any of the rights, claims, interests or benefits, referred to in such notice.

We are aware that you are relying on this acknowledgement in connection with your rights under the Security Agreement.

For and on behalf of

[name of lessee/guarantor/surety]

.....  
[name in block capitals]

Authorised signatory]

**PART 4: FORM OF NOTICE OF ASSIGNMENT OF CONTRACT**

To: [name of counterparty]

Date: •

Dear Sirs,

We hereby give you notice that by an assignment contained in a Security Agreement entered into by us in favour of Barclays Bank PLC (the "Lender") dated • we have assigned absolutely to the Lender (subject to a provision for reassignment) all our right, title and interest to and in all rights and claims to which we are now or may at any time hereafter become entitled under or in respect of the contract (the "Contract") details of which are set out below.

After your receipt of this notice:

- (a) all payments under or arising from the Contract should be made to the Lender or to its order;
- (b) all remedies provided for in the Contract or available at law or in equity are exercisable by the Lender;
- (c) all rights to compel performance of your obligations under the Contract are exercisable by the Lender;
- (d) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Contract belong to the Lender;
- (e) no amendment, waiver or release of any such rights, interests or benefits shall be effective without the prior written consent of the Lender;
- (f) no termination of such rights, interests or benefits shall be effective unless you shall have given the Lender 30 days written notice of the proposed termination specifying the action necessary to avoid such termination; and
- (g) no breach or default on our part of any of the terms of the Contract shall be deemed to have occurred unless you shall have given the Lender 30 days written notice of the potential breach or default specifying how to make good such breach or default.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy of this letter and returning the same to the Lender at • marked for the attention of •.

Details of the Contract:

Yours faithfully,

.....

for and on behalf of

[name of Company]

[On copy only:

To: Barclays Bank PLC (the "Lender")

Date: •

We acknowledge receipt of a notice in the foregoing terms, agree to the contents thereof and to comply therewith and confirm that we have not received notice of any previous assignments, charges or other encumbrances of or over any of the right, title and interest, or any of the rights, claims, interests or benefits, referred to in such notice.

We are aware that you are relying on this acknowledgement in connection with your rights under the Security Agreement.

For and on behalf of

[name of counterparty]

.....

[name in block capitals]

Authorised signatory]

**PART 5: FORM OF NOTICE OF CHARGE OF ACCOUNT**

To: [name of bank]

Date: •

Dear Sirs,

We hereby give you notice that by a charge contained in a Debenture entered into by us in favour of Barclays Bank PLC (the "Lender") dated • we have charged in favour of the Lender by way of a first fixed charge, inter alia, all our right, title and interest to and in all rights and claims to which we are now or may at any time hereafter become entitled in relation to all moneys now or at any time hereafter standing to the credit of the account (the "Account") details of which are set out below together with all rights relating or attaching thereto (including the right to interest accruing thereon).

Accordingly, unless and until you receive instructions from the Lender to the contrary:

- (a) all our rights, powers and discretions in relation to the Account shall be exercisable solely by the Lender;
- (b) no moneys may be released from the Account without the prior written consent of the Lender; and
- (c) you should apply any amount standing to the credit of the Account in accordance with the instructions from time to time given to you by the Lender.

This authority and instruction is irrevocable without the prior written consent of the Lender.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy of this letter and returning the same to the Lender at • marked for the attention of •.

Details of the Account:

Yours faithfully,

.....  
for and on behalf of

[name of Company]

[On copy only:

To: Barclays Bank PLC (the "Bank")

Date: •

We acknowledge receipt of a notice in the foregoing terms, agree to the contents thereof and to comply therewith and confirm that we have not received notice of any previous assignments, charges or other encumbrances of or over any of the right, title and interest, or any of the rights and claims, referred to in such notice.

We further confirm that:

- (a) we shall not exercise any right of combination, consolidation or set-off which we may have in respect of the Account referred to in such notice; and
- (b) we shall send you copies of such statements, orders and notices issued or given by us relating to such Account, and provide you with such other information relating thereto, as you may from time to time request.

We are aware that you are relying on this acknowledgement in connection with your rights under the Debenture.

For and on behalf of

[name of bank]

.....  
[name in block capitals]

Authorised signatory]





4. **Documents Remain in Full Force and Effect**

The Debenture and the Existing Financing Agreements (and all security created by the Debenture and the Existing Financing Agreements) shall continue in full force and effect with regard to all assets charged by the Debenture and the Existing Financing Agreements save as provided in clause 2 of this deed and any other deeds or release entered into.

5. **Costs and Expenses**

The Company agrees to indemnify the Lender for all costs, charges and liabilities (including all professional fees and disbursements and irrecoverable value added tax and/or any similar tax) reasonably incurred in connection with the execution of this deed and the Lender is hereby authorised to debit any account of the Company held with the Lender with the amount of such costs, charges and liabilities.

6. **Governing Law**

This deed shall be governed by and construed in accordance with the laws of England.

7. **Counterparts**

This deed may be executed in any number of counterparts and by different parties on separate counterparts, each of which when so executed and delivered shall be an original but all counterparts shall together constitute one and the same instrument.

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2. **Release**

2.1 With immediate effect and notwithstanding anything in the Debenture and/or the Existing Financing Agreements, the Lender hereby absolutely, irrevocably and unconditionally:

(A) releases and discharges the Company from all of its respective present, future, actual or contingent obligations and liabilities to the Lender (whether as primary obligor or as surety or in any other capacity whatsoever) in connection with the Security Arrangements or otherwise; and

(B) reassigns and discharges all the assets of the Company which are expressed to be assigned, mortgaged, pledged, charged and/or otherwise subject to a security interest in favour of the Lender whether pursuant to Security Arrangements or otherwise, to the intent that these assets shall henceforth be held free and discharged from all such security interests.

3. **Effective Release and Reassignment**

The Lender hereby agrees that, at the request of and cost of the Company, it will do all such things and execute all such documents as may be necessary to give effect to such releases, discharges and reassignments as are contemplated by clause 2 of this deed.

4. **Costs and Expenses**

The Company agrees to indemnify the Lender for all costs, charges and liabilities (including all professional fees and disbursements and irrecoverable value added tax and/or any similar tax) reasonably incurred in connection with the execution of this deed and the Lender is hereby authorised to debit any account of the Company held with the Lender with the amount of such costs, charges and liabilities.

5. **Governing Law**

This deed shall be governed by and construed in accordance with the laws of England.

6. **Counterparts**

This deed may be executed in any number of counterparts and by different parties on separate counterparts, each of which when so executed and delivered shall be an original but all counterparts shall together constitute one and the same instrument.

**SCHEDULE 7: INTELLECTUAL PROPERTY**

STATUS REPORT BY COUNTRY

AUSTRALIA

PROPRIETOR	MARK	CLASS	APPLIC. DATE	APPLIC. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
LIPSYL HOLDINGS LIMITED	LIPSYL (Word)	3	20-Jun-1991	106471	REGISTERED	20-Jun-2007	A lip salve.

AUSTRIA

PROPRIETOR	MARK	CLASS	APPLIC. DATE	APPLIC. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
LIPSYL HOLDINGS LIMITED	LIPSYL (Word)	3	5-Oct-1992	AM 476992	REGISTERED	30-Nov-2012	
LIPSYL HOLDINGS LIMITED	LIPSYL (Word)	3	19-Nov-1992	144950	REGISTERED		
LIPSYL HOLDINGS LIMITED	LIPSYL (Word)	3	14-May-1982	AM 141782	REGISTERED	31-Jul-2012	
LIPSYL HOLDINGS LIMITED	LIPSYL (Word)	3	21-Jul-1982	100143	REGISTERED		

STATUS REPORT BY COUNTRY

BENELUX

PROPRIETOR	MARK	CLASS	APPLIC. DATE	APPLIC. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
LYPSYL HOLDINGS LIMITED	LYPSYL (Word)	5	6-Apr-1971	002072 028313	REGISTERED	6-Apr-2012	Préparations pour prévenir les gercures.

BULGARIA

PROPRIETOR	MARK	CLASS	APPLIC. DATE	APPLIC. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
LYPSYL HOLDINGS LIMITED	LYPSYL (Word)	3	1-Mar-2001 10-Jul-2002	53945 42819	REGISTERED	1-Mar-2011	

STATUS REPORT BY COUNTRY

CANADA

PROPRIETOR	MARK	CLASS	APPLIC. DATE	APPLIC. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
LYPSTL HOLDINGS LIMITED	LYPSTL (Word)™	3	27-Dec-1946	NFLD002844	REGISTERED	27-Dec-2006	Lip salves and cosmetics
LYPSTL HOLDINGS LIMITED	LYPSTL (Word)™	3	20-Mar-1916	TMDA021573	REGISTERED	20-Mar-2011	Lip salves, face powder, face creams, lipstick, perfumes, eye shadow, hand creams and nail polish.
LYPSTL HOLDINGS LIMITED	LYPSTL AND OINTMENT™ (Word)™	3	16-Apr-2002	1,137,850	PENDING		Preparations for the treatment of minor mouth irritations.
LYPSTL HOLDINGS LIMITED	LYPSTL MOISTURE BURST™ (Word)™	3	18-Apr-2002	1,137,851	REGISTERED	6-Jul-2019	Lip balms.
LYPSTL HOLDINGS LIMITED	LYPSTL CONDITION & PROTECT™ (Word)™	3	23-Jul-2002	1,147,847	REGISTERED	14-Jul-2019	Lip balms.
LYPSTL HOLDINGS LIMITED	LYPSTL NATURALS™ (Word)™	3	14-Jul-2004	TMA51429	PENDING		Perfumery, essential oils, namely, dentifrices for medical usage, cosmetics, namely, preparations for the treatment of minor mouth irritations and for the relief of chapped lips; lip balms and lip moisturizers.
LYPSTL HOLDINGS LIMITED	LYPSTL (Word)	3	28-Aug-2003	1,189,012	REGISTERED	21-Aug-2011	

CYPRUS

PROPRIETOR	MARK	CLASS	APPLIC. DATE	APPLIC. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
LYPSTL HOLDINGS LIMITED	LYPSTL (Word)	3		32831	REGISTERED	21-Aug-2011	

STATUS REPORT BY COUNTRY

DENMARK

PROPRIETOR	MARK	CLASS	APPLIC. DATE		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO.			
L'PSYL HOLDINGS LIMITED	L'PSYL (Word)	3, 8, 21	16-Jun-1946 24-Aug-1946	VA 01 512, 1946 VR 01 273, 1946	REGISTERED	24-Aug-2006	

STATUS REPORT BY COUNTRY



STATUS REPORT BY COUNTRY

EGYPT

PROPRIETOR	MARK	CLASS	APPLIC. DATE REGISTR. DATE	APPLIC. NO REGISTR. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
LYPSYL HOLDINGS LIMITED	LYPSYL (Word)	3	20-Mar-2001	141264	PENDING		

EUROPEAN UNION (CTM)

PROPRIETOR	MARK	CLASS	APPLIC. DATE		APPLIC. NO REGISTR. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. DATE				
LYPSYL HOLDINGS LIMITED	LYPSYL (Word)™	3, 5	27-Jul-2001		2320265	PENDING		Class 3: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices; lipsticks; lip balms and ointments for cosmetic usage. Class 5: Pharmaceutical, veterinary and sanitary preparations; diuretic substances adapted for medical use; food for babies; plasters, materials for dressings; material for stopping teeth; dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides, healthcare products for lips, balms, creams, lip ointments for medical usage.

STATUS REPORT BY COUNTRY

FINLAND

PROPRIETOR	MARK	CLASS	APPLIC. DATE		APPLIC. NO.		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO.					
LPSYL HOLDINGS LIMITED	LPSYL (Word) **	3, 9	12-Feb-1991	195100266	24889	REGISTERED	23-Nov-2011		
LPSYL HOLDINGS LIMITED	LPSIL (Word) **	1, 2, 3, 5	14-Feb-1997	195700378	32221	REGISTERED	17-Feb-2008		
			17-Feb-1998						

STATUS REPORT BY COUNTRY

GERMANY

PROPRIETOR	MARK	CLASS	APPLIC. DATE		APPLIC. NO.	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. DATE				
L'YPSYL HOLDINGS LIMITED	L'YPSYL (Word)	3	23-Jul-1987	3-Feb-1988	1117341	REGISTERED	31-Jul-2007	

STATUS REPORT BY COUNTRY

HUNGARY

PROPRIETOR	MARK	CLASS	APPLIC. DATE		APPLIC. NO REGISTR. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. DATE				
LYPSTL HOLDINGS LIMITED	LYPSTL (Word)	3	19-Oct-2001	17-Oct-2002	M0106541 172802	REGISTERED	19-Oct-2011	

STATUS REPORT BY COUNTRY

LIBYA

PROPRIETOR	MARK	CLASS	APPLIC. DATE		APPLIC. NO		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. DATE	REGISTR. NO	REGISTR. NO			
LYPSYL HOLDINGS LIMITED	LYPSYL (Word)	3	-	-	-	-	PENDING	-	Cosmetics, non-medicated lip salves and ointments, and lip balms.
LYPSYL HOLDINGS LIMITED	LYPSYL (Word)	5	-	-	-	-	PENDING	-	Health care products for lips, namely, lip balms, creams and ointments for medical usage; preparations for the treatment of minor mouth irritations

STATUS REPORT BY COUNTRY

NIGERIA

PROPRIETOR	MARK	CLASS	APPLIC. DATE REGISTR. DATE	APPLIC. NO. REGISTR. NO.	STATUS	RENEWAL DATE	GOODS AND SERVICES
LPSYL HOLDINGS LIMITED	LPSYL (Word)	3	19-Mar-2001	TP 4828801	PENDING		Cosmetics, preparations for lips, lip salve lotions
LPSYL HOLDINGS LIMITED	LPSYL (Word)	5	19-Mar-2001	TP 4828801	PENDING		Pharmaceuticals.

STATUS REPORT BY COUNTRY

POLAND

PROPRIETOR	MARK	CLASS	APPLIC. DATE	APPLIC. NO.	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO.			
LYPEYL HOLDINGS LIMITED	LYPEYL (Word)	3		120838	REGISTERED	29-Jul-2008	

STATUS REPORT BY COUNTRY  
RUSSIAN FEDERATION

PROPRIETOR	MARK	CLASS	APPLIC. DATE		APPLIC. NO	STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. DATE				
LPSYL HOLDINGS LIMITED	LPSYL (Word) --	3	7-Feb-2001	9-Oct-2002	2001703524 224220	REGISTERED	7-Feb-2011	



REPORT BY COUNTRY

AFRICA

APPLICANT	MARK	CLASS	APPLIC. DATE		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
APPLICANT	LYPSTL (Word)	3	17-Sept-2001	2001/16302	PENDING		Cosmetics; preparations for lips; lip save lotions.

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APPLICANT	MARK	CLASS	APPLIC. DATE		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
APPLICANT	LYPSTL (Word)	3	13-Dec-1916	0019610	REGISTERED	23-Jan-2007	

IRELAND

APPLICANT	MARK	CLASS	APPLIC. DATE		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
APPLICANT	LYPSTL (Word)	3	16-Mar-1977	01313/1977	REGISTERED	15-Mar-2007	
			20-Apr-1977	P-287580			

REPORT BY COUNTRY

APPLIC. NO REGISTR. NO	CLASS	MARK	APPLIC. DATE		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
70021085	3	LYPSYL (Word) **	12-Apr-1992	70021085	REGISTERED	10-May-2012	Cosmetics, Salves, and Ornaments
0021085			10-May-1992	0021085			
76463751	3	LYPSYL MOISTURE BURST (Word) **	4-Nov-2002	76463751	PENDING		Cosmetics, non-medicated lip salves and ornaments, and lip balms
76463750	3, 5	LYPSYL-AID (Word) **	4-Nov-2002	76463750	PENDING		Class 3: Cosmetics, non-medicated lip salves and ornaments, and lip balms. Class 5: Healthcare products for lips, namely, lip balms, creams and ornaments for medical usage; preparations for the treatment of minor mouth irritations
76463752	3	LYPSYL CONDITION & PROTECT (Word) **	4-Nov-2002	76463752	PENDING		Cosmetics, non-medicated lip salves and ornaments, and lip balms

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APPLIC. NO REGISTR. NO	CLASS	MARK	APPLIC. DATE		STATUS	RENEWAL DATE	GOODS AND SERVICES
			REGISTR. DATE	REGISTR. NO			
UA 2001031510	5	LYPSYL (Word)	13-Mar-2001	UA 2001031510	PENDING		

TRADEMARK