

---

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported):

August 22, 2014

Mitcham Industries, Inc.

(Exact name of registrant as specified in its charter)

Texas

000-25142

76-0210849

(State or other jurisdiction  
of incorporation)

(Commission  
File Number)

(I.R.S. Employer  
Identification No.)

8141 SH 75 South, P.O. Box 1175, Huntsville, Texas

77342

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code:

936-291-2277

Not Applicable

Former name or former address, if changed since last report

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

**Item 1.01 Entry into a Material Definitive Agreement.**

On August 22, 2014, Seemap Pte Ltd. ("Seemap Singapore"), a wholly-owned subsidiary of Mitcham Industries, Inc, completed a \$15.0 million credit facility (the "Seemap Credit Facility") with The Hongkong and Shanghai Banking Corporation Limited ("HSBC-Singapore"). The agreement is dated August 15, 2014, but became effective on August 22, 2014. The facility consists of a \$10.0 million term loan, a \$3.0 million revolving credit facility, and a \$2.0 million banker's guarantee facility.

The term portion of the Seemap Credit Facility provides for eleven quarterly principal payments of \$800,000 and a final payment of \$1.2 million on or before August 22, 2017. Interest on the term facility is payable quarterly at LIBOR plus 2.75%. Under the Seemap Credit Facility, Seemap Singapore may borrow up to \$3.0 million from time to time, for periods of from one to three months, for working capital and other general corporate purposes. Borrowings under the revolving credit facility bear interest at LIBOR plus 3.00%. Under the banker's guarantee facility, HSBC-Singapore will, from time to time, issue guarantees on behalf of Seemap Singapore for bid bonds, performance bonds, customs bonds and similar obligations.

The Seemap Credit Facility contains financial covenants that require Seemap Singapore to maintain a minimum shareholder's equity of S\$15 million and a minimum ratio of debt to EBITDA of not less than 125% for each fiscal year, both as defined in the Seemap Credit Facility. Terms used in this Form 8-K and not defined herein have the meanings ascribed to them in the Seemap Credit Facility, which is filed with this Form 8-K as Exhibit 10.1.

Obligations under the Seemap Credit Facility are secured by security interests created under a Security Deed and a guarantee by Mitcham Industries, Inc. Under the Security Deed, Seemap Singapore has granted a security interest in substantially all of its assets.

The Seemap Credit Facility contains customary representations and warranties, conditions precedent to credit extensions, affirmative and negative covenants, and events of default. The negative covenants include restrictions on liens, additional indebtedness, acquisitions, fundamental changes, dispositions of property, restricted payments, and transactions with affiliates. The Seemap Credit Facility also requires Mitcham Industries, Inc., as guarantor, to comply with financial covenants contained in its credit agreement dated August 2, 2013 with HSBC Bank USA, N.A.

The descriptions of the Seemap Credit Facility and the Security Deed set forth above do not purport to be complete statements of the parties' rights under the agreements and are qualified in their entirety by reference to the full text of the Seemap Credit Facility and the Security Deed, which are filed as Exhibits 10.1 and 10.2 with this Form 8-K.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

As described above in Item 1.01, on August 22, 2014, Seemap Singapore completed a \$15.0 million credit agreement.

---

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Mitcham Industries, Inc.

August 27, 2014

By: *Robert P. Capps*

---

*Name: Robert P. Capps*

*Title: Executive Vice President and Chief Financial Officer*

---

Exhibit Index

<u>Exhibit No.</u>	<u>Description</u>
10.1	Facilities Agreement dated 15 August, 2014 between Seemap Pte Ltd as Company and Mitcham industries, Inc. as Guarantor and The HongKong and Shanghai Banking Corporation Limited as Lender
10.2	Security Deed dated 15 August, 2014 between Seemap Pte Ltd as Chargor and The HongKong and Shanghai Banking Corporation Limited as Lender

EXECUTION VERSION

**FACILITIES AGREEMENT**

DATED 15 August, 2014

between **SEAMAP PTE LTD** as Company - and - **MITCHAM INDUSTRIES, INC.** as Guarantor - and - **THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED** as Lender

relating to credit facilities  
in the aggregate of US\$15,000,000

**CONTENTS**

**Clauses Page**

**THIS AGREEMENT** is dated \_\_\_\_\_, 2014  
**BETWEEN:**

- (1) **SEAMAP PTE LTD** (Singapore company registration no. 198703191M), having its registered office at 51 Changi North Crescent, Singapore 499626 (the **Company**);
- (2) **MITCHAM INDUSTRIES, INC.**, a company incorporated under the laws of Texas, United States of America, having its registered address at 8141 Highway 75 South, Huntsville, Texas 77340 (the **Guarantor**); and
- (3) **THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED** having its registered address at 21 Collyer Quay, #14-01, HSBC Building, Singapore 049320 as lender (the **Lender**).

**IT IS AGREED** as follows:

**1. INTERPRETATION**

**1.1**

**Definitions**

In this Agreement:

**Account** means:

- (a) the operating accounts in the name of the Company with the Lender with account number 260-866728-178;
- (b) the operating accounts in the name of the Company with the Lender with account number 052-137783-001, or
- (c) any other account (with that or another office of the Lender or with a bank or financial institution other than the Lender) which is designated by the Lender as an Account for the purposes of this Agreement.

**Adjusted Shareholder's Equity** means at any time the aggregate of the amounts paid up or credited as paid up on the issued ordinary share capital of the Company and the amount standing to the credit of the reserves of the Company, including any net loans (non-trade) due to shareholder(s) or related party(ies) and any amount credited to the share premium account, as reflected in the Company's most recent financial statements delivered to the Lender in accordance with Clause 17.1, but deducting:

- (a) any debit balance on the profit and loss account of the Company;
- (b) (to the extent included) any provision for deferred taxation;
- (c) (to the extent included) any amounts arising from an upward revaluation of assets made at any time; and
- (d) any amount in respect of any dividend or distribution declared, recommended or made by the Company and to the extent such distribution is not provided for in the most recent financial statements,

and so that no amount shall be included or excluded more than once.

**Affiliate** means a Subsidiary or a Holding Company of a person or any other Subsidiary of that Holding Company.

**Availability Period** means the period from and including the date of this Agreement to and including:

- (a) in respect of the Term Loan, 31 August 2014; and
- (b) in respect of a Short Term Revolving Loan or a Banker's Guarantee under the Banker's Guarantee Facilities, the Final Maturity Date (unless the relevant Facility has been varied or cancelled by the Lender pursuant to Clause 2.5),

or such other date as may be agreed between the Company and the Lender.

**Banker's Guarantee** means a banker's guarantee in form and substance to be agreed by the Lender.

**Banker's Guarantee Facility** means Banker's Guarantee Facility 1 or Banker's Guarantee Facility 2, as the context so requires.

**Banker's Guarantee Facility 1** means the banker's guarantee facility made available under this Agreement as set out in Clause 2.3.

**Banker's Guarantee Facility 2** means the banker's guarantee facility made available under this Agreement as set out in Clause 2.4.

**BGF Limit** means BGF Limit 1 or BGF Limit 2, as the context so requires.

**BGF Limit 1** has the meaning ascribed to it in Clause 2.3.

**BGF Limit 2** has the meaning ascribed to it in Clause 2.4.

**Borrowings** means, at any time, the outstanding principal, capital or nominal amount and any fixed or minimum premium payable on prepayment or redemption of any indebtedness for or in respect of Financial Indebtedness (other than in respect of paragraph (h) of that definition) and any amount raised by the issue of redeemable shares which are redeemable before the Final Maturity Date.

**Break Costs** means the amount (if any) which the Lender is entitled to receive under Clause 23.3 (Break Costs) as compensation if any part of a Loan or overdue amount is repaid or prepaid.

**Business Day** means a day (other than a Saturday, Sunday or a gazetted public holiday) on which banks are open for general business in Singapore and in any relevant financial centre for the currency and transaction involved.

**Debenture** means a deed creating security over all the assets of the Company dated on or about the date of this Agreement in favour of the Lender.

**Debt** means the current portion of the aggregate amount of:

- (a) all obligations of the Company for or in respect of Borrowings; and
- (b) Finance Charges,

as reflected in the Company's most recent financial statements delivered to the Lender in accordance with Clause 17.1.

**Default** means:

- (a) an Event of Default; or
- (b) an event which would be (with the expiry of a grace period, the giving of notice or the making of any determination under the Finance Documents or any combination of them) an Event of Default.

**EBITDA** means the operating profits of the Company before taxation at any time:

- (a) before deducting any Finance Charges;
- (b) before taking in account any items treated as exceptional or extraordinary items; and
- (c) before deducting any amount attributable to amortisation of goodwill and other intangible assets or depreciation of tangible assets,

in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining the profits of the Company from ordinary activities before taxation, as reflected in the Company's most recent financial statements delivered to the Lender in accordance with Clause 17.1.

**Event of Default** means an event or circumstance specified as such in Clause 20 (Default).

**Facility** means a credit facility made available under this Agreement.

**Facility Office** means the office(s) through which the Lender will perform its obligations under this Agreement.

**Final Maturity Date** means the date falling 36 months after the Utilisation Date in respect of the Term Loan.

**Finance Charges** means, at any time, the aggregate amount of interest, commission, fees, discounts, prepayment penalties or premiums and other finance payments in respect of Borrowings whether accrued, paid or payable and whether or not capitalised by the Company:

- (a) including the interest element of leasing and hire purchase payments;
- (b) including any amounts paid, payable or accrued by the Company to counterparties under any interest rate hedging instrument;
- (c) deducting any amounts paid, payable or accrued by counterparties to the Company under any interest rate hedging instrument; and
- (d) deducting any interest paid, payable to or accrued to the benefit of the Company on any deposit or bank account.

**Finance Document** means:

- (a) this Agreement;
- (b) any Security Document; and

(c) any other document designated as such by the Lender and the Company.

**Financial Indebtedness** means (without double counting) any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any acceptance credit (including any dematerialised equivalent);
- (c) any bond, note, debenture, loan stock or other similar instrument;
- (d) any redeemable preference share;
- (e) any agreement treated as a finance or capital lease in accordance with generally accepted accounting principles in the jurisdiction of incorporation of the Company;
- (f) receivables sold or discounted (otherwise than on a non-recourse basis);
- (g) the acquisition cost of any asset to the extent payable after its acquisition or possession by the party liable where the deferred payment is arranged primarily as a method of raising finance or financing the acquisition of that asset;
- (h) for the purposes of Clause 20.5 (cross-default) only, any derivative transaction protecting against or benefiting from fluctuations in any rate or price (and, except for non-payment of an amount, the then mark to market value of the derivative transaction will be used to calculate its amount);
- (i) any other transaction (including any forward sale or purchase agreement) required by the generally accepted accounting principles in the jurisdiction of incorporation of the Company to be shown a borrowing in the consolidated financial statements of the Company;
- (j) any counter-indemnity obligation in respect of any guarantee, indemnity, bond, Banker's Guarantee or any other instrument issued by a bank or financial institution, in each case in respect of an indebtedness of a type referred to in the above paragraph; or
- (k) any guarantee, indemnity or similar assurance against financial loss of any person in respect of any item referred to in the above paragraphs.

**Group** means the Company and its Subsidiaries.

**Guarantee** means:

- (a) the initial US\$15,000,000 corporate guarantee dated on or about the date of this Agreement provided by the Guarantor in favour of the Lender, which will remain in force until such time a subsequent corporate guarantee referred to in paragraph (b) below is issued; or
- (b) subject to the consent of the Lender (such consent not to be unreasonably withheld), any subsequent corporate guarantee provided by the Guarantor in favour of the Lender for an amount based on the outstanding principal amount under this Agreement at the time such guarantee is issued, provided that the first such subsequent corporate guarantee shall not be issued earlier than 12 months after the date of the initial corporate guarantee referred to in paragraph (a), and each subsequent corporate guarantee thereafter shall not be earlier than 12 months after the date of the last corporate guarantee.

**Holding Company** of any other person, means a company in respect of which that other person is a Subsidiary.

**Increased Cost** means:

- (a) an additional or increased cost;
- (b) a reduction in the rate of return from the Facilities or on its overall capital (including, without limitation, as a result of any reduction in the rate of return on capital brought about by more capital being required to be allocated by the Lender) which the Lender (acting reasonably) considers material; or
- (c) a reduction of an amount due and payable under any Finance Document,

which is incurred or suffered by the Lender or any of its Affiliates but only to the extent attributable to the Lender having entered into any Finance Document or funding or performing its obligations under any Finance Document.

**Intangible Assets** means any amount attributable in respect of goodwill, patents, rights, intellectual property assets, licences, trademarks or other intangible assets classified as such in the Company's most recent financial statements delivered to the Lender in accordance with Clause 17.1.

**LIBOR** means, in relation to any Loan (other than a Loan in respect of a Banker's Guarantee Facility):

- (a) the applicable Screen Rate; or
- (b) (if no Screen Rate is available for the currency or Term of that Loan) the Reference Bank Rate,

as at 11 a.m. on the Rate Fixing Day for the currency of that Loan and for a period comparable to the Term of that Loan.

**Loan** means, unless otherwise stated in this Agreement, the principal amount of each borrowing under the relevant Facility (other than a Banker's Guarantee Facility) made available under this Agreement or the principal amount outstanding of that borrowing.

**Margin** means:

- (a) in relation to the Term Loan, 2.75 per cent.; and
- (b) in relation to a Short Term Revolving Loan, 3.00 per cent.

**Material Adverse Effect** means a material adverse effect on:

- (a) the business or financial condition of any Obligor, any member of the Group or the Group as a whole;
- (b) the ability of any Obligor to perform its payment obligations under any Finance Document;
- (c) the validity or enforceability of any Finance Document; or
- (d) any right or remedy of the Lender in respect of a Finance Document.

**Maturity Date** means, for a Short Term Revolving Loan and Banker's Guarantee, the last day of its Term.

**Maximum Validity Period** means:

- (a) in relation to a Banker's Guarantee issued or to be issued under Banker's Guarantee Facility 1, 2 years from the date of the Utilisation Date; or
- (b) in relation to a Banker's Guarantee issued or to be issued under Banker's Guarantee Facility 2, 3 years from the date of the Utilisation Date

**Obligor** means:

- (a) the Company;
- (b) the Guarantor; or
- (c) any other party to a Security Document other than the Lender.

**Original Financial Statements** means the audited consolidated financial statements of the Company for the year ended 31 January 2013.

**Parent** means Seemap International Holdings Pte Ltd (Singapore company registration no. 199600338N).

**Party** means a party to this Agreement.

**Rate Fixing Day** means the second Business Day before the first day of a Term or such other day as the Lender determines is generally treated as the rate fixing day in consideration of the circumstances then prevailing.

**Reference Bank Rate** means the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Lender at its request by the Reference Banks as the rate at which the relevant Reference Bank could borrow funds in the London interbank market in US Dollars for the relevant period, were it to do so by asking for and then accepting interbank offers for deposits in reasonable market size in that currency and for that period.

**Reference Banks** means such banks as may be appointed by the Lender in its sole and absolute discretion.

**Repayment Instalment** means each instalment for repayment of the Term Loan.

**Repeating Representations** means the representations which are deemed to be repeated under Clause 16.17 (Times for making representations).

**Request** means a request for a Loan or a Banker's Guarantee (as the case may be), substantially in the form of Schedule 2 (Form of Request).

**Rollover Loan** means one or more Short Term Revolving Loans:

- (a) to be made on the same day that a maturing Short Term Revolving Loan is due to be repaid;
- (b) the aggregate amount of which is equal to or less than the maturing Revolving Credit Loan; and
- (c) to be made for the purpose of refinancing a maturing Short Term Revolving Loan.

**Screen Rate** means the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other person which takes over the administration of that rate) for US Dollars for the relevant period displayed on pages LIBOR01 or LIBOR02 of the Reuters screen (or any replacement Reuters page which displays that rate) or on the appropriate page of such other information service

which publishes that rate from time to time in place of Reuters. If such page or service ceases to be available, the Lender may specify another page or service displaying the relevant rate after consultation with the Company.

**Security Document** means:

- (a) the Guarantee;
- (b) the Debenture; and
- (c) any other document evidencing or creating security to secure any obligation of the Company to the Lender under the Finance Documents.

**Security Interest** means any mortgage, pledge, lien, charge, assignment, hypothecation or security interest or any other agreement or arrangement having a similar effect.

**Short Term Revolving Facility** means the short term revolving facility made available under this Agreement as set out in Clause 2.2.

**Short Term Revolving Loan** means each Loan under the Short Term Revolving Facility.

**Singapore Dollar(s)** or **S\$** means the lawful currency of Singapore.

**Subsidiary** means a subsidiary within the meaning of section 5 of the Companies Act, Chapter 50 of Singapore.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest).

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

**Tax Payment** means a payment made by the Company to the Lender in any way related to a Tax Deduction or under any indemnity given by the Company in respect of Tax under any Finance Document.

**Term** means:

- (a) in relation to the Term Loan or a Short Term Revolving Loan, each period determined under this Agreement by reference to which interest on the Term Loan, that Short Term Revolving Loan or an overdue amount is calculated; or
- (b) in relation to a Banker's Guarantee, the period from the date of issue of that Banker's Guarantee to its expiry date as agreed by the Lender in its sole and absolute discretion.

**Term Loan** means the Loan under the Term Loan Facility.

**Term Loan Facility** means the term loan facility made available under this Agreement as set out in Clause 2.1.

**Term Loan Facility Commitment** means US\$10,000,000 to the extent not cancelled, transferred or reduced under this Agreement.

**US Dollar(s)** or **US\$** means the lawful currency of the United States of America.

**Utilisation Date** means the date of the utilisation of a Facility, being the date on which the relevant Loan is made or a Banker's Guarantee is issued, as the context so requires.

## 1.2 Construction

(a) In this Agreement, unless the contrary intention appears, a reference to:

- (i) an **amendment** includes a supplement, novation, restatement or re-enactment and **amended** will be construed accordingly;
- (ii) **assets** includes present and future properties, revenues and rights of every description;
- (iii) an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
- (iv) **disposal** means a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;
- (v) **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money;
- (vi) **know your customer requirements** are the identification checks that the Lender requests in order to meet its obligations under any applicable law or regulation to identify a person who is (or is to become) its customer;
- (vii) a **person** includes any individual, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
- (viii) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

- (ix) a currency is a reference to the lawful currency for the time being of the relevant country;
  - (x) a Default being **outstanding** means that it has not been remedied or waived and an Event of Default being **outstanding** means that it has not been remedied or waived;
  - (xi) a provision of law is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;
  - (xii) a Clause, a Subclause or a Schedule is a reference to a clause or subclause of, or a schedule to, this Agreement;
  - (xiii) a Party or any other person includes its successors in title, permitted assigns and permitted transferees;
  - (xiv) a Finance Document or another document is a reference to that Finance Document or other document as amended, modified or supplemented;
  
  - (xv) a time of day is a reference to Singapore time;
  - (xvi) words importing the singular include the plural and vice versa; and
  - (xvii) words importing one gender shall include all other genders.
- (b) Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:
- (i) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);
  - (ii) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
  - (iii) notwithstanding sub-paragraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.
- (c) Unless expressly provided to the contrary in a Finance Document, a person who is not a party to a Finance Document may not enforce any of its terms under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore and, notwithstanding any term of any Finance Document, no consent of any third party is required for any variation (including any release or compromise of any liability) or termination of any Finance Document.
- (d) Unless the contrary intention appears:
- (i) a reference to a Party will not include that Party if it has ceased to be a Party under this Agreement;
  - (ii) a word or expression used in any other Finance Document or in any notice given in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement; and
  - (iii) any obligation of an Obligor under the Finance Documents which is not a payment obligation remains in force for so long as any payment obligation of an Obligor is or may be outstanding under the Finance Documents.
- (e) The headings in this Agreement do not affect its interpretation.

## 2. FACILITIES

### 2.1 Term Loan Facility

Subject to the terms of this Agreement, the Lender makes available to the Company a committed term loan facility in an aggregate amount equal to the Term Loan Facility Commitment.

### 2.2 Short Term Revolving Facility

Subject to the terms of this Agreement, the Lender makes available to the Company an uncommitted multi-currency short term revolving facility up to an aggregate amount equal to US\$3,000,000 (the **Short Term Revolving Facility Limit**).

### 2.3 Banker's Guarantee Facility 1

Subject to the terms of this Agreement, the Lender makes available to the Company an uncommitted banker's guarantee facility under which the Company may request the Lender to issue Banker's Guarantees up to an aggregate amount of US\$5,000,000 (the **BGF 1 Limit**).

### 2.4 Banker's Guarantee Facility 2

Subject to the terms of this Agreement, the Lender makes available to the Company an uncommitted banker's guarantee facility under which the Company may request the Lender to issue Banker's Guarantees up to an aggregate amount of US\$500,000 (the **BGF 2 Limit**).

### 2.5 Lender's right of review



(d) the amount of the Loan requested:

(i) is a minimum of US\$200,000 and an integral multiple of US\$100,000, or its equivalent in Singapore Dollars, or such other amount the Lender may in its sole and absolute discretion agree; and

(ii) does not exceed the maximum undrawn amount available under the relevant Facility on the proposed Utilisation Date; and

(e) the proposed Term complies with this Agreement.

**5.3 Only one Loan may be requested in a Request.  
Advance of Loan**

(a) The Lender is not obliged to make a Loan if as a result:

(i) in the case of the Term Loan, the Term Loan Facility Commitment would be exceeded;

(ii) in the case of a Short Term Revolving Loan:

(A) the aggregate of all Short Term Revolving Loans would exceed the Short Term Revolving Facility Limit; or

(B) the aggregate of all Short Term Revolving Loans and outstanding Banker's Guarantees issued by the Lender under the Banker's Guarantee Facilities would exceed US\$5,000,000; or

(iii) the aggregate of the Loans under the Term Loan Facility, the Short Term Revolving Facility and the outstanding amount of all Banker's Guarantees issued by the Lender under the Banker's Guarantee Facilities would exceed US\$15,000,000.

(b) If the conditions set out in this Agreement have been met, the Lender shall make the Loan available to the Company on the Utilisation Date.

## **6. UTILISATION – BANKER'S GUARANTEE**

### **6.1 Giving of Requests**

(a) The Company may request a Banker's Guarantee to be issued by giving to the Lender a duly completed Request.

(b) Unless the Lender otherwise agrees, the latest time for receipt by the Lender of a duly completed Request is 11.00 a.m. 3 Business Days before the proposed Utilisation Date.

(c) Each Request is irrevocable.

### **6.2 Completion of Requests**

A Request for a Banker's Guarantee will not be regarded as being duly completed unless:

(a) it identifies the relevant Banker's Guarantee Facility under which the Banker's Guarantee is to be issued;

(b) the Utilisation Date is a Business Day falling within the Availability Period;

(c) the amount of the Banker's Guarantee requested is:

(i) when aggregated with all other outstanding Banker's Guarantees issued under the same Banker's Guarantee Facility, less than the relevant BGF Limit; or

(ii) such other amount as the Lender may agree;

(d) the proposed beneficiary is approved by the Lender;

(e) the form of the Banker's Guarantee is attached;

(f) the expiry date of the Banker's Guarantee:

(i) does not cause the Term of the Banker's Guarantee to exceed the relevant Maximum Validity Period; and

(ii) falls on or before the Final Maturity Date; and

(g) the delivery instructions for the Banker's Guarantee are specified.

**6.3 Only one Banker's Guarantee may be requested in a Request.  
Issue of Banker's Guarantee**

If the conditions set out in this Agreement have been met, the Lender shall issue the Banker's Guarantee on the Utilisation Date.

#### 6.4 Extension of a Banker's Guarantee

- (a) The Company may request that a Banker's Guarantee issued on its behalf is extended by delivery to the Lender of a notice specifying the new proposed Maturity Date three Business Days before the Maturity Date of that Banker's Guarantee.
- (b) The terms of each extended Banker's Guarantee will remain the same as before the extension, except that:
  - (i) its amount may be reduced; and
  - (ii) its Maturity Date will be the date specified in the extension request (subject to the requirements pertaining to the expiry date set out in Clause 6.2(f)).
- (c) If the conditions set out in this Agreement have been met, the Lender shall extend the Banker's Guarantee in the manner requested.

#### 6.5 Conditions precedent

- (a) The Lender is not obliged to issue or extend any Banker's Guarantee unless and until the Company has paid to the Lender the Banker's Guarantee fee referred to in Clause 7.2.
- (b) The Lender is not obliged to issue or extend any Banker's Guarantee if as a result:
  - (i) the relevant BGF Limit would be exceeded;
  - (ii) the aggregate of all Short Term Revolving Loans and outstanding Banker's Guarantees issued by the Lender under the Banker's Guarantee Facilities would exceed US\$5,000,000; or
  - (iii) the aggregate of the Loans under the Term Loan Facility, the Short Term Revolving Facility and the outstanding amount of all Banker's Guarantees issued by the Lender under the Banker's Guarantee Facilities would exceed US\$15,000,000.
- (c) The Lender is not obliged to issue or extend any Banker's Guarantee if either on the date of the Request or extension request or the Utilisation Date or extension date:
  - (i) the Repeating Representations are not correct in all material respects; and/or
  - (ii) a Default or in the case of an extension, an Event of Default is outstanding or would result from the issuance or extension of that Banker's Guarantee.

### 7. BANKER'S GUARANTEE

#### 7.1 General

- (a) A Banker's Guarantee is **repaid** or **prepaid** if:
  - (i) the Company provides cash cover for that Banker's Guarantee;
  - (ii) the maximum amount payable under the Banker's Guarantee is reduced in accordance with its terms; or
  - (iii) the Lender is satisfied that it has no further liability under that Banker's Guarantee.

The amount by which a Banker's Guarantee is repaid or prepaid under sub-paragraphs (i) and (ii) above is the amount of the relevant cash cover or reduction.

- (b) If a Banker's Guarantee or any amount outstanding under a Banker's Guarantee becomes immediately payable under this Agreement, the Company must repay or prepay that amount immediately.
- (c) **Cash cover** is provided for a Banker's Guarantee if the Company pays an amount in the currency of the Banker's Guarantee to the Lender in the name of the Company and the following conditions are met:
  - (i) until no amount is or may be outstanding under that Banker's Guarantee, withdrawals from the account may only be made to pay the Lender amounts under this Clause; and
  - (ii) the Company has executed a security document over that account, in form and substance satisfactory to the Lender, creating a first ranking security interest over that account.
- (d) The **outstanding** or **principal** amount of a Banker's Guarantee at any time is the maximum amount that is or may be payable by the Company in respect of that Banker's Guarantee at that time.

#### 7.2 Fees in respect of Banker's Guarantees

- (a) The Company must pay to the Lender a Banker's Guarantee fee computed at 1% per annum of the face value of each Banker's Guarantee requested by it for the period from the issue or extension of that Banker's Guarantee until its Maturity Date, subject to a minimum charge as prescribed in the Lender's applicable standard tariffs.

- (b) All Banker's Guarantee fees are payable upfront in advance (prior to the issue or extension of the relevant Banker's Guarantee).

### 7.3 Indemnities

- (a) The Company hereby undertakes to indemnify and hold harmless the Lender from and against all liabilities, costs, losses, damages and expenses which the Lender may incur or sustain by reason of, or arising in connection with, or by reference to, the issue of any Banker's Guarantee or the performance by it of the obligations expressed to be assumed by it under this Agreement in connection with the issue of any Banker's Guarantee, other than as a result of gross negligence, wilful misconduct or wilful default on the part of the Lender.
- (b) The Company unconditionally and irrevocably:
- (i) confirms that the Lender is entitled to pay any demand made on it which appears on its face to be in order and which is made in accordance with the Banker's Guarantee under or by reference to such Banker's Guarantee without requiring proof or the agreement of any Obligor that the amounts so demanded or paid are or were due and notwithstanding that any Obligor or any other person may dispute the validity of any such request, demand or payment;
  - (ii) authorises the Lender to exercise the rights and powers conferred on it by the Banker's Guarantee and confirms that the Lender shall deal in documents only and shall not be concerned with the legality of the claim or any other underlying transaction or any set-off, counterclaim or defence as between the Obligor and any beneficiary of a Banker's Guarantee;
  - (iii) agrees that the Lender need not have regard to the sufficiency, accuracy or genuineness of any demand or any certificate or statement in connection with any demand or any incapacity of or limitation upon the powers of any person signing or issuing such demand, certificate or statement which appears on its face to be in order and agrees that the Lender shall not be obliged to enquire as to any such matters and may assume that any such demand, certificate or statement which appears on its face to be in order is correct and properly made; and
- (c) agrees to reimburse the Lender promptly after demand all moneys whatsoever paid by the Lender as contemplated by sub-paragraph (i) above, together with interest from the time of payment to the date of reimbursement at the rate specified in Clause 10.3 (*Interest on overdue amounts*), provided that this indemnity shall not apply to any amounts which, as a result of the gross negligence, wilful misconduct or wilful default of the Lender (as the case may be), are paid to a person other than the beneficiary of the relevant Banker's Guarantee specified in the relevant demand.

### 7.4 Demands under a Banker's Guarantee

If the Lender receives a demand for payment under a Banker's Guarantee, it shall notify the Company forthwith of:

- (a) the amount demanded; and
- (b) the date on which it is payable,

7.5 and the Company shall on demand pay to the Lender such amount.

#### **Continuing indemnity**

Clauses 7.3 and 7.4 shall operate as a continuing guarantee and indemnity, shall extend to the ultimate balance of the obligations and liabilities of the Company hereunder and shall continue in force notwithstanding any intermediate payment in part of such obligations or liabilities.

### 7.6 Additional security

The obligations of the Company under Clauses 7.3 and 7.4 shall be in addition to and shall not be in any way prejudiced by any collateral or other security now or hereafter held by the Lender as security or any lien to which the Lender may be entitled.

### 7.7 Preservation of rights

No invalidity or unenforceability of all or any part of this Agreement (including, without limitation, Clauses 7.3 and 7.4) shall affect any rights of indemnity or otherwise which the Lender would or may have in the absence of or in addition to this Agreement.

## 8. REPAYMENT

### 8.1 Repayment of Term Loan

- (a) The Company shall repay the Term Loan in full by 11 equal quarterly Repayment Instalments of US\$800,000 each, and a final Repayment Instalment of US\$1,200,000.
- (b) The first Repayment Instalment shall be repaid on the date falling 3 months after the Utilisation Date and the final Repayment Instalment shall be repaid on or before the Final Maturity Date.
- (c) The Company irrevocably authorises the Lender to debit such amounts from the Accounts (or any of them) or such other account in the name of the Company with the Lender as the Lender in its sole and absolute discretion deems necessary to repay the instalments as set out in paragraph (a) above.
- (d) No amount of the Term Loan which is repaid may be re-borrowed.

## 8.2 Repayment of Short Term Revolving Loan

- (a) Subject to Clause 2.5, the Company must repay each Short Term Revolving Loan in full on its Maturity Date.
- (b) Subject to the other terms of this Agreement, any amounts repaid under paragraph (a) above may be re-borrowed.

## 8.3 Repayment of Banker's Guarantees

- (a) Subject to Clause 2.5, the Company must repay each Banker's Guarantee in full on its Maturity Date.
- (b) Subject to the other terms of this Agreement, any amounts repaid under paragraph (a) above may be re-utilised.

## 9. PREPAYMENT AND CANCELLATION

### 9.1 Mandatory prepayment — illegality

- (a) The Lender must notify the Company promptly if it becomes aware that it is unlawful in any jurisdiction for the Lender to perform any of its obligations under a Finance Document, to fund or maintain any Loan or to have outstanding any Banker's Guarantee.
- (b) After notification under paragraph (a) above:
  - (i) in respect of all outstanding Banker's Guarantees:
    - (A) the Company must use its best endeavours to ensure the release of the liability of the Lender under each outstanding Banker's Guarantee;
    - (B) failing this, the Company must repay or prepay the Lender each Banker's Guarantee requested by it on the date specified in paragraph (c) below; and
    - (C) no further Banker's Guarantees will be issued.
  - (ii) in respect of all Loans under the Term Loan Facility and the Short Term Revolving Facility:
    - (A) the Company must repay or prepay the Lender each Loan on the date specified in paragraph (c) below;
    - (B) the Term Loan Facility Commitment will be immediately cancelled; and
    - (C) no further Loan under the Short Term Revolving Facility may be borrowed.
- (c) The date for repayment or prepayment of a Loan or the Banker's Guarantee will be:
  - (i) in the case of a Loan:
    - (A) the last day of the current Term for that Loan; or
    - (B) if earlier, the date specified by the Lender in the notification under paragraph (a) above and which must not be earlier than the last day of any applicable grace period allowed by law; or
  - (ii) in the case of a Banker's Guarantee, the date specified by the Lender in the notification under paragraph (a) above.

### 9.2 Mandatory prepayment — change of ownership

- (a) The Company must promptly notify the Lender if the Guarantor disposes of all or any part of its interest (whether direct or indirect) in all of the issued shares of the Company (a **change of ownership**).
- (b) After a change of ownership, the Lender may, by notice to the Company:
  - (i) cancel the Term Loan Commitment; and
  - (ii) declare the Term Loan, together with accrued interest and all other amounts accrued under the Finance Documents in relation to the Term Loan, to be immediately due and payable.

**9.3** Any such notice will take effect in accordance with its terms.  
**Mandatory prepayment – disposal of assets**

- (a) In this Subclause:

**net proceeds** means any amount received by the Company as consideration for a relevant disposal to a person which is not a member of the Group, including the amount of any intercompany loan repaid or prepaid to continuing members of the Group, less all Taxes and reasonable costs and expenses incurred by the Company in connection with the relevant disposal; and

**relevant disposal** means a disposal of any asset or business (whether by way of a share or asset sale) acquired from ION Geophysical Corporation, other than sales of inventory in the normal course of business.

- (b) The Company must procure that the net proceeds are applied towards repaying the Term Loan.
- (c) Any prepayment under this Subclause must be made on or before the last day of the Term of the Term Loan in which the relevant disposal occurred.

#### **9.4 Voluntary prepayment**

- (a) The Company may, by giving not less than 10 Business Days' prior written notice to the Lender, prepay any Loan at any time in whole or in part.
- (b) A prepayment of part of a Loan must be in a minimum amount of US\$1,000,000 and an integral multiple of US\$1,000,000, or the amount outstanding under the Loan.

#### **9.5 Automatic cancellation**

The Term Loan Facility Commitment will be automatically cancelled at the close of business on the last day of its Availability Period.

#### **9.6 Voluntary cancellation**

- (a) The Company may, by giving not less than 10 Business Days' prior notice to the Lender, cancel the unutilised amount of the Term Loan Facility Commitment in whole or in part.
- (b) Partial cancellation of the Term Loan Facility Commitment must be in a minimum amount of US\$1,000,000.

#### **9.7 Involuntary prepayment and cancellation**

- (a) If the Company is, or will be, required to pay to the Lender:

- (i) a Tax Payment; or
- (ii) an Increased Cost,

the Company may, while the requirement continues, give notice to the Lender requesting prepayment and cancellation.

- (b) After notification under paragraph (a) above:

- (i) the Company must repay or prepay each Loan and Banker's Guarantee on the date specified in paragraph (c) below;
- (ii) the Term Loan Facility Commitment will be immediately cancelled; and
- (iii) no further Loan under the Short Term Revolving Facility may be borrowed and no further Banker's Guarantee will be issued.

- (c) The date for repayment or prepayment of a Loan and/or Banker's Guarantee will be:

- (i) the last day of the current Term for that Loan or in the case of a Banker's Guarantee, 5 Business Days after the date of the notification; or
- (ii) if earlier, the date specified by the Company in its notification.

#### **9.8 Partial prepayment of Term Loan**

- (a) Except where this Clause expressly provides otherwise, any partial prepayment of the Term Loan will be applied against the remaining Repayment Instalments pro rata.
- (b) Any voluntary prepayment of a Term Loan will be applied against the remaining Repayment Instalments in inverse order of maturity.
- (c) No amount of a Term Loan prepaid under this Agreement may subsequently be re-borrowed.

#### **9.9 Re-borrowing of Short Term Revolving Loans**

Any voluntary prepayment of a Short Term Revolving Loan may be re-borrowed on the terms of this Agreement. Any mandatory or involuntary prepayment of a Short Term Revolving Loan may not be re-borrowed.

#### **9.10 Miscellaneous provisions**

- (a) Any notice of prepayment and/or cancellation under this Agreement is irrevocable and must specify the relevant date(s)
- (b) All prepayments under this Agreement must be made with accrued interest on the amount prepaid and the applicable fees in respect of the prepayment. No premium or penalty is payable in respect of any prepayment except for Break Costs.
- (c) No prepayment or cancellation is allowed except in accordance with the express terms of this Agreement.
- (d) No amount of the Term Loan Facility Commitment cancelled under this Agreement may subsequently be reinstated.

## **10. INTEREST**

### **10.1 Calculation of interest**

The rate of interest on each Loan for each Term is the percentage rate per annum equal to the aggregate of the applicable:

- (a) Margin; and
- (b) LIBOR.

### **10.2 Payment of interest**

Except where it is provided to the contrary in this Agreement, the Company must pay accrued interest on the Loan on the last day of each Term and also, if the Term is longer than three months, on the dates falling at three-monthly intervals after the first day of that Term.

### **10.3 Interest on overdue amounts**

- (a) If the Company fails to pay any amount payable by it under the Finance Documents, it must immediately on demand by the Lender pay interest on the overdue amount from its due date up to the date of actual payment, both before, on and after judgment.
- (b) Interest on an overdue amount is payable at a rate of the Lender's prime lending rate (as published on the Lender's website from time to time) plus 4.75 per cent. per annum. For this purpose, the Lender may:
  - (i) select successive Terms of any duration of up to three months; and
  - (ii) determine the appropriate Rate Fixing Day for that Term.
- (c) Notwithstanding paragraph (b) above, if the overdue amount is a principal amount of the Loan and becomes due and payable before the last day of its current Term, then:
  - (i) the first Term for that overdue amount will be the unexpired portion of that Term; and
  - (ii) the rate of interest on the overdue amount for that first Term will be at a rate of the Lender's prime lending rate (as defined in Clause 10.3(b)) plus 4.75 per cent. per annum.

After the expiry of the first Term for that overdue amount, the rate on the overdue amount will be calculated in accordance with paragraph (b) above.

- (d) Interest (if unpaid) on an overdue amount will be compounded with that overdue amount at the end of each of its Terms but will remain immediately due and payable.

### **10.4 Notification of rates of interest**

The Lender must promptly notify the Company of the determination of a rate of interest under this Agreement.

### **10.5 Deduction of interest payments from Company's account(s)**

Notwithstanding anything to the contrary in this Clause 10, the Company irrevocably authorises the Lender to debit such amounts from the Accounts (or any of them) or such other account in the name of the Company with the Lender as the Lender in its sole and absolute discretion deems necessary to pay any interest due from the Company under this Clause 10.

## **11. TERMS**

### **11.1 Term Loan**

- (a) The Term Loan shall have successive Terms, each of a period of 3 months or such other period as may be agreed to by the Lender in its sole and absolute discretion.
- (b) The first Term for the Term Loan will start on the Utilisation Date in relation to the Term Loan and each subsequent Term shall start on the expiry of its preceding Term.

### **11.2 Short Term Revolving Loans**

- (a) Each Short Term Revolving Loan has one Term only.
- (b) The Company must select the Term for a Short Term Revolving Loan in the relevant Request.
- (c) Subject to the following provisions of this Clause, each Term for a Short Term Revolving Loan will be 1, 2 or 3 months or any other period agreed by the Company and the Lender.

### **11.3 No overrunning the Final Maturity Date**

If a Term would otherwise overrun the Final Maturity Date, it will be shortened so that it ends on the Final Maturity Date.

## 11.4 Other adjustments

The Lender and the Company may enter into such other arrangements as they may agree for the adjustment of Terms and the consolidation and/or splitting of Loans.

## 11.5 Notification

The Lender must notify the Company of the duration of each Term promptly after ascertaining its duration.

## 12. MARKET DISRUPTION

### 12.1 Market disruption

(a) If a Market Disruption Event occurs in relation to a Loan for any Term, the Lender shall promptly notify the Company and the rate of interest on that Loan for that Term shall be the rate per annum which is the sum of:

(i) the Margin; and

(ii) the rate notified by the Lender to the Company as soon as practicable and in any event, before interest is due to be paid in respect of that Term, to be that which expresses as a percentage rate per annum the cost to the Lender of funding that Loan from whatever source it may reasonably select.

(b) In this Agreement “**Market Disruption Event**” means:

(i) at or about 11.00 a.m. on the Rate Fixing Day for the relevant Term the Screen Rate is not available or the Screen Rate is zero or negative and the Lender (in its absolute discretion) determines that adequate and fair means do not exist for ascertaining LIBOR for the relevant Term; or

(ii) before close of business in Singapore on the Rate Fixing Day for the relevant Term, the Lender notifies the Company that the cost to the Lender of obtaining matching deposits in the relevant Interbank market would be in excess of LIBOR.

### 12.2 Alternative basis

(a) If a Market Disruption Event occurs and the Lender so requires, the Company and the Lender shall enter into negotiations for a period of not more than 30 days with a view to agreeing an alternative basis for determining the rate of interest and/or funding for the affected Loan.

(b) Any alternative basis agreed will be binding on each Party.

## 13. TAXES

### 13.1 Tax gross-up

(a) Each Obligor must make all payments to be made by it under the Finance Documents without any Tax Deduction, unless a Tax Deduction is required by law.

(b) If an Obligor or the Lender is aware that the Company must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction) then it must promptly notify the other Party.

(c) If a Tax Deduction is required by law to be made by an Obligor, the amount of the payment due from the Company will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.

(d) If an Obligor is required to make a Tax Deduction, it must make the minimum Tax Deduction allowed by law and must make any payment required in connection with that Tax Deduction within the time allowed by law.

(e) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Obligor making that Tax Deduction or payment must deliver to the Lender evidence satisfactory to the Lender that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

### 13.2 Tax indemnity

(a) Except as provided below, the Company must indemnify the Lender against any loss or liability which the Lender determines has been suffered (directly or indirectly) by it for or on account of Tax in relation to a payment received (or any payment deemed to be received) under a Finance Document.

(b) Paragraph (a) above does not apply to:

(i) any Tax assessed on the Lender under the laws of the jurisdiction in which:

(A) the Lender is incorporated or, if different, the jurisdiction (or jurisdictions) in which the Lender is treated as resident for tax purposes; or

(B) the Lender's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable by the Lender; or

(ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 13.1 (Tax gross-up).

(c) If the Lender makes, or intends to make, a claim under paragraph (a) above, it must promptly notify the Company of the event which will give, or has given, rise to the claim.

### **13.3 Stamp taxes**

The Company must pay and indemnify the Lender against any stamp duty, stamp duty land tax, registration or other similar Tax payable in connection with the entry into, performance or enforcement of any Finance Document.

### **13.4 Goods and services tax**

(a) Any amount payable under a Finance Document by the Company is exclusive of any goods and services tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Company must pay to the Lender (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.

(b) Where a Finance Document requires the Company to reimburse the Lender for any costs or expenses, the Company must also at the same time pay and indemnify the Lender against all goods and services tax or any other Tax of a similar nature incurred by the Lender in respect of those costs or expenses.

## **14. INCREASED COSTS**

### **14.1 Increased Costs**

Except as provided below in this Clause, the Company must, within five Business Days of a demand made by the Lender, pay to the Lender the amount of any Increased Cost incurred by the Lender or any of its Affiliates as a result of:

(a) the introduction of, or any change in, or any change in the interpretation, administration or application of, any law or regulation; or

(b) compliance with any law or regulation made after the date of this Agreement.

### **14.2 Exceptions**

The Company need not make any payment for an Increased Cost to the extent that the Increased Cost is:

(a) compensated for under another Clause or would have been but for an exception to that Clause; or

(b) attributable to the Lender or its Affiliate wilfully failing to comply with any law or regulation.

### **14.3 Increased Cost Claims**

(a) The Lender, if intending to make a claim pursuant to Clause 14.1 (Increased Costs) shall promptly upon becoming aware of the same notify the Company of the event giving rise to the claim.

(b) The Lender, together with its demand, shall provide a certificate confirming the amount and basis of calculation (in reasonable detail) of its Increased Costs.

## **15. PAYMENTS**

### **15.1 Place**

Unless a Finance Document specifies that payments under it are to be made in another manner, all payments by the Company under a Finance Document must be made to the Lender to its account at such office or bank as it may notify to the Company for this purpose by not less than five Business Days' prior notice.

### **15.2 Funds**

Payments under the Finance Documents to the Lender must be made for value on the due date at such times and in such funds as the Lender may specify to the Company as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

### **15.3 Currency**

(a) Unless a Finance Document specifies that payments under it are to be made in a different manner, the currency of each amount payable under the Finance Documents is determined under this Clause.

(b) Interest is payable in the currency in which the relevant amount in respect of which it is payable is denominated.

(c) A repayment or prepayment of any principal amount is payable in the currency in which that principal amount is denominated on its due date.

- (d) Amounts payable in respect of Taxes, fees, costs and expenses are payable in the currency in which they are incurred.
- (e) Each other amount payable under the Finance Documents is payable in US Dollars, Singapore Dollars or such other currency that was utilised.

#### 15.4 No set-off or counterclaim

All payments made by an Obligor under the Finance Documents must be made without set-off, deduction, counterclaim, withholding or condition of any kind.

#### 15.5 Business Days

- (a) If a payment under the Finance Documents is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any principal under this Agreement interest is payable on that principal at the rate payable on the original due date.

#### 15.6 Partial payments

- (a) If the Lender receives a payment insufficient to discharge all the amounts then due and payable to it under the Finance Documents, the Lender shall apply that payment towards the obligations of the Company under the Finance Documents in the following order:
  - (i) **first**, in or towards payment pro rata of any unpaid fees, costs and expenses of the Lender under the Finance Documents;
  - (ii) **secondly**, in or towards payment pro rata of any accrued interest or fee due but unpaid under this Agreement;
  - (iii) **thirdly**, in or towards payment pro rata of any principal amount due but unpaid under this Agreement; and
  - (iv) **fourthly**, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.
- (b) The Lender may vary the order set out in sub-paragraphs (a)(ii) to (iv) above.
- (c) This Subclause will override any appropriation made by the Company.

#### 15.7 Timing of payments

If a Finance Document does not provide for when a particular payment is due, that payment will be due within three Business Days of demand by the Lender.

### 16. REPRESENTATIONS

<u>16.1</u>	<u>Representations</u>
16.2	<b>Status</b> The representations set out in this Clause are made by the Company to the Lender.

- (a) Each Obligor is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of incorporation.
- (b) Each Obligor and member of the Group has the power to own its assets and, in the case of any Obligor or member of the Group which is a legal entity, carry on its business as it is being conducted.

#### 16.3 Powers and authority

Each Obligor has the power to enter into and perform, and has taken all necessary action to authorise the entry into and performance of, the Finance Documents to which it is or will be a party and the transactions contemplated by those Finance Documents.

#### 16.4 Legal validity

- (a) Each Finance Document to which each Obligor is a party is its legally binding, valid and enforceable obligation.
- (b) Each Finance Document to which each Obligor is a party is in the proper form for its enforcement in, as the case may be, its jurisdiction of incorporation (in the case of an Obligor which is a legal entity) or place of residence (in the case of an Obligor who is a natural person).

#### 16.5 Validity and admissibility in evidence

All authorisations required:

- (a) to enable each Obligor to lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party;
- (b) to make the Finance Documents to which it is a party admissible in evidence in, as the case may be, and each Obligor's jurisdiction of incorporation (in the case of an Obligor which is a legal entity) or place of residence (in the case of an Obligor who is a natural

person); and

(c) for each Obligor to carry on its business, and which are material,

**16.6** have been obtained or effected and are in full force and effect, or will when required.  
**Non-conflict**

The entry into and performance by each Obligor of, and the transactions contemplated by, the Finance Documents to which it is a party do not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents (if applicable); or
- (c) any document which is binding upon it or its assets, a breach of which would reasonably be expected to have a Material Adverse Effect.

### **16.7 Governing law and enforcement**

- (a) The choice of Singapore law or other applicable law as the governing law of the Finance Documents to which each Obligor is a party will be recognised and enforced in, as the case may be, that Obligor's jurisdiction of incorporation.
- (b) Any judgment obtained in Singapore in relation to a Finance Document to which each Obligor is a party will be recognised and enforced in its jurisdiction of incorporation.
- (c) Any judgment obtained in any applicable jurisdiction referred to in a Finance Document in relation to that Finance Document to which each Obligor (other than the Company) is a party will be recognised and enforced in that Obligor's jurisdiction of incorporation.

### **16.8 No default**

- (a) No Default is outstanding or would reasonably be expected to result from the execution of, or the performance of any transaction contemplated by, any Finance Document; and
- (b) No other event is outstanding which constitutes a default under any document which is binding on any Obligor or member of the Group or the assets of any Obligor or member of the Group to an extent or in a manner which has or is likely to have a Material Adverse Effect.

### **16.9 Deduction of Tax**

No Obligor is required under the law applicable where it is incorporated or resident or at its address specified in this Agreement to make any deduction for or on account of Tax from any payment it may make under any Finance Document.

### **16.10 No filing or stamp taxes**

Under the law of each Obligor's jurisdiction of incorporation, it is not necessary that the Finance Documents to which it is a party be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents, save for the registration of the Debenture with the Accounting and Corporate Regulatory Authority of Singapore and payment of stamp duty thereon.

### **16.11 No misleading information**

- (a) Any written factual information provided by any Obligor or any member of the Group was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (b) Any financial projections have been prepared on the basis of recent historical information and on the basis of reasonable assumptions.
- (c) Nothing has occurred and no information has been given or withheld that results in the information being untrue or misleading in any material respect.

### **16.12 Financial statements**

The Company's audited financial statements most recently delivered to the Lender (which, at the date of this Agreement, are the Original Financial Statements):

- (a) have been prepared in accordance with accounting principles and practices generally accepted in Singapore, consistently applied; and
- (b) fairly represent its financial condition and operations as at the date to which they were drawn up,

**16.13** except, in each case, as disclosed to the contrary in those financial statements.  
**No material adverse change**

There has been no material adverse change in the consolidated financial condition of the Company since the date to which the Original Financial Statements were drawn up.

#### **16.14 Pari passu ranking**

The Company's payment obligations under the Finance Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

#### **16.15 Litigation**

No litigation, arbitration or administrative proceedings are current or, to the Company's knowledge, pending or threatened, which, if adversely determined (taking into account the likelihood of success of those proceedings), would reasonably be expected to have a Material Adverse Effect.

#### **16.16 Information**

- (a) All written information supplied by the Company to the Lender in connection with the Finance Documents is true and accurate in all material respects as at its date or (if appropriate) as at the date (if any) at which it is stated to be given; and
- (b) the Company has not omitted to supply any information which, if disclosed, might make the information supplied untrue or misleading in any material respect.

#### **16.17 Times for making representations**

- (a) The representations set out in this Clause are made by the Company on the date of this Agreement.
- (b) Unless a representation is expressed to be given at a specific date, each representation is deemed to be repeated by the Company on the date of each Request and the first day of each Term.
- (c) When a representation in Clause 16.8(a) (*No default*) is repeated on a Request for a Rollover Loan or the first day of a Term for the Term Loan (other than the first Term for the Term Loan), the reference to a Default will be construed as a reference to an Event of Default.
- (d) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

### **17. INFORMATION COVENANTS**

#### **17.1 Financial statements and other information**

- (a) The Company must supply to the Lender its management financial statements (both on a consolidated and an unconsolidated basis) for each financial half year ended as at 31 July and 31 January respectively.
- (b) All financial statements under paragraph (a) must be supplied as soon as they are available within 120 days of the end of each financial half year.
- (c) Within 180 days of each financial year ended as at 31 January, the Company must supply to the Lender audited financial statements for that most recently ended financial year.

#### **17.2 Form of financial statements**

- (a) The Company must ensure that each set of financial statements supplied under this Agreement fairly represents the financial condition (consolidated or otherwise) of the Group as at the date to which those financial statements were drawn up.
- (b) The Company must notify the Lender of any change to the manner in which its audited financial statements are prepared.
- (c) If requested by the Lender, the Company must supply to the Lender:
  - (i) a full description of any change notified under paragraph (b) above; and
  - (ii) sufficient information to enable it to make a proper comparison between the financial position shown by the set of financial statements prepared on the changed basis and its most recent audited consolidated financial statements delivered to Lender under this Agreement.
- (d) If requested by the Lender, the Company must enter into discussions for a period of not more than 30 days with a view to agreeing any amendments required to be made to this Agreement to place the Company and the Lender in the same position as they would have been in if the change had not happened.
- (e) If no agreement is reached under paragraph (d) above on the required amendments to this Agreement, the Company must ensure that its auditors certify those amendments; the certificate of the auditors will be, in the absence of manifest error, binding on all the Parties.

#### **17.3 Information — miscellaneous**

The Company must supply to the Lender:

- (a) copies of all documents required by law to be despatched by the Company to its shareholders (or any class of them) or its creditors generally or any class of them at the same time as they are despatched, as reasonably requested by Lender;
- (b) promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings which are current, threatened or pending and, if adversely determined (taking into account the likelihood of success of those proceedings), could reasonably be expected to have a Material Adverse Effect; and
- (c) promptly on request, such further information regarding the financial condition and operations of the Group or any other matter as the Lender may reasonably require, except to the extent that disclosure of the information would breach any law, regulation or duty of confidentiality.

#### 17.4 Notification of Default

- (a) The Company must notify the Lender of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- (b) Promptly on request by the Lender, the Company must supply to the Lender a certificate, signed by two of its authorised signatories on its behalf, certifying that no Default is outstanding or, if a Default is outstanding, specifying the Default and the steps, if any, being taken to remedy it.

#### 17.5 Half-year end

The Company must not, without the Lender's prior consent, change its financial half-year ends.

#### 17.6 Know your customer requirements

The Company must promptly on the request of the Lender supply to the Lender any documentation or other evidence which is requested by the Lender (whether for itself or on behalf of any prospective new Lender) to enable the Lender or prospective new Lender to carry out and be satisfied with the results of all applicable know your customer requirements.

### 18. FINANCIAL COVENANTS

#### 18.1 Interpretation

- (a) Except as provided to the contrary in this Agreement, an accounting term used in this Clause is to be construed in accordance with the principles applied in connection with the Original Financial Statements.
- (b) Any amount in a currency other than Singapore Dollars is to be taken into account at its Singapore Dollar equivalent calculated on the basis of:
  - (i) the Lender's spot rate of exchange for the purchase of the relevant currency in the Singapore foreign exchange market with Singapore Dollars at or about 11.00 a.m. (Singapore time) on the day the relevant amount falls to be calculated; or
  - (ii) if the amount is to be calculated on the last day of a financial period of the Company, the relevant rates of exchange used by the Company in, or in connection with, its financial statements for that period.

#### 18.2 Adjusted Shareholders' Equity

- (a) The Company must ensure that its Adjusted Shareholder's Equity (including Intangible Assets) is not at any time less than S\$15,000,000.
- (b) The Company must ensure that its Intangible Assets shall not at any time exceed the amount of its Adjusted Shareholders' Equity.

#### 18.3 Ratio of EBITDA to Debt

The Company must ensure that its EBITDA is not at any time less than 125 per cent of its Debt for each financial year ended 31 January.

#### **18.4 Guarantor's financial covenants**

**18.5** The Guarantor shall comply with the financial covenants of its Credit Agreement dated August 2, 2013 among, Mitcham Industries, Inc., The Lenders Party Thereto and HSBC Bank USA, N.A. (as amended, varied or supplemented from time to time). A breach of those covenants shall constitute a breach of this provision. The Guarantor shall provide the Lender with calculations of these covenants in a form and under the time frame as is provided to HSBC USA, N.A under that Credit Agreement.

#### **Provision of further guarantees**

- (a) If at any time the Company or the Guarantor breaches any of the covenants in this Clause 18, the Lender may require that the Company shall, within 10 Business Days of the Lender's demand, procure that such further or other guarantees in favour of the Lender be provided on terms which are satisfactory to the Lender.
- (b) The Company shall provide, together with any guarantee executed pursuant to paragraph (a), such other documents evidencing the relevant

authorisations of such execution and legal opinions reasonably requested by the Lender in form and substance satisfactory to the Lender.

## **19. GENERAL COVENANTS**

### **19.1 General**

The Company agrees to be bound by the covenants set out in this Clause relating to it and, where the covenant is expressed to apply to an Obligor or a member of the Group, the Company must ensure that the Guarantor or Subsidiary (as the case may be) performs that covenant.

### **19.2 Change of business and alteration of constitutional documents**

The Company shall not, without the prior written consent of the Lender, substantially change the nature of its business from that carried on at the date of this Agreement, and/or alter its constitutional documents relating to its borrowing process and principal business activities.

### **19.3 No change of shareholding**

- (a) Each Obligor shall procure that the Parent shall not, without the Lender's prior written consent, change its shareholding in the Company.
- (b) The Guarantor shall at all times be the beneficial owner (whether directly or indirectly) of all the issued shares of the Company.

### **19.4 Authorisations**

---

Each Obligor must, promptly:

- (a) obtain, maintain and comply with the terms; and
- (b) supply certified copies to the Lender,

of any authorisation required under any law or regulation to enable that Obligor to perform its obligations under, or for the legality, validity, enforceability or admissibility in evidence in its place of incorporation (in the case of a legal entity) or residence (in the case of a natural person) of, any Finance Document.

### **19.5 Compliance with laws**

Each Obligor and member of the Group must comply in all respects with all laws to which it is subject where failure to do so has or is likely to have a Material Adverse Effect.

### **19.6 Mergers**

No Obligor may, without the Lender's prior written consent, enter into any amalgamation, demerger, merger or reconstruction, such consent not to be unreasonably withheld or delayed.

### **19.7 Acquisitions**

The Company may not, without the Lender's prior written consent, make any acquisition or investment in excess of S\$3,000,000, other than in the normal course of business.

### **19.8 Declaration of Dividend**

The Company may only declare or make payment of any dividend or any other distribution of profits if it would not result in a breach of any of the financial covenants under Clause 18.

### **19.9 Subordination**

The Company shall procure that, at all times, any Financial Indebtedness owing to the Parent or the Guarantor shall be subordinated in right of repayment to all amounts owing or which may become owing by the Company to the Lender.

### **19.10 Negative pledge**

- (a) Except as provided in paragraph (b) below, no member of the Group shall create or allow to exist any Security Interest on any of its assets.
- (b) Paragraph (a) does not apply to:
  - (i) any Security Interest entered into pursuant to a Finance Document;
  - (ii) any pledge of goods or services acquired through documentary credits granted or obtained in the ordinary course of business, for the purpose of financing the acquisition or provision of goods and services; or
  - (iii) the charge created by the Company in favour of DBS Bank Ltd on or about 19 September 2006 or any Security Interest other than pursuant to a Finance Document created prior to the date of this Agreement, except to the extent the principal amount secured by that

Security Interest exceeds the amount secured by that Security Interest as at the date of this Agreement or to the extent such Security Interest is otherwise varied.

- (iv) any lien arising by operation of law or agreement of similar effect and in the ordinary course of business and, if arising as a result of any default or omission by any member of the Group, which does not subsist for a period of more than 60 days;
- (v) any Security Interest arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a member of the Group in the ordinary course of business;
- (vi) any Security Interest arising as a result of legal proceedings discharged within 30 days or otherwise contested in good faith (and not otherwise constituting an Event of Default);
- (vii) any Security Interest arising by operation of law in respect of taxes being contested in good faith; or
- (viii) any Security Interest securing Financial Indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other Financial Indebtedness which has the benefit of Security Interests given by any member of the Group, other than as permitted under the preceding paragraphs) does not exceed S\$3,000,000 or its equivalent, provided that prior written consent from the Lender has been obtained (such consent not to be unreasonably withheld).

### 19.11 Disposals

- (a) Except as provided in paragraph (c) below, no member of the Group shall, either in a single transaction or in a series of transactions and whether related or not, part with, transfer, sell or otherwise dispose of all or any part of its undertaking, property, assets or rights (or attempt to do so).
- (b) Without prejudice to the generality of paragraph (a), the Company shall not, without the prior written consent of the Lender, part with, transfer, sell or otherwise dispose of any shares in any Subsidiary.
- (c) Paragraph (a) does not apply to:
  - (i) any disposal by way of a sale at arm's length on commercial terms in the ordinary course of business by the disposing entity (as conducted at the date of this Agreement);
  - (ii) any disposal of any asset by a member of the Group (the **Disposing Company**) to another member of the Group (the **Acquiring Company**), but if the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor and if the Disposing Company has given security over the asset, the Acquiring Company must give equivalent security over the asset;
  - (iii) any disposal of assets (other than shares or businesses) in exchange for other assets reasonably comparable or superior as to type and quality and over which security must be given if security was given over the original assets that were exchanged;
  - (iv) any disposal of assets (other than shares in any member of the Group) which are obsolete or which are no longer required for the relevant person's business or operations;
  - (v) any disposal arising as a result of any permitted transaction contemplated under this Agreement;
  - (vi) any disposal of assets compulsorily acquired by any governmental authority; and
  - (vii) any disposal of fixed assets where the proceeds of disposal are intended to be used within 12 months of that disposal to purchase replacement fixed assets comparable or superior as to type, value and quality.

### 19.12 Pari passu ranking

The Company must ensure that its payment obligations under the Finance Documents rank at least pari passu with all its other present and future unsecured payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

### 19.13 Financial Indebtedness

- (a) Except as provided in paragraph (b) and Clause 19.14 below, no member of the Group:
  - (i) may incur any Financial Indebtedness; or
  - (ii) grant, issue or extend any guarantee or indemnity or enter into any other form of contractual undertaking or arrangement of similar effect for the benefit of any person in respect of any Financial Indebtedness or obligation of any other person, whether actual or contingent.
- (b) Paragraph (a) does not apply to:
  - (i) any Financial Indebtedness under the Finance Documents and/or permitted under the Finance Documents;
  - (ii) any guarantee or indemnity which has been granted, issued or extended prior to the date of this Agreement, except to the extent that any Financial Indebtedness guaranteed or indemnified exceeds the amount so guaranteed or indemnified as at the date of this Agreement or to the extent that such guarantee or indemnity is otherwise varied; or

- (iii) any guarantee or indemnity granted, issued or extended by any member of the Group in the ordinary course of business as conducted by such member of the Group as at the date of this Agreement and solely for the purpose of the carrying on by it of its business.
- (iv) arising under any interest rate hedging for any Facility or a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency or interest rates and not for investment or speculative purposes, provided that the counter-party to such transaction is the Lender of an affiliate of the Lender;
- (v) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities and any advance payment made in relation to capital expenditure in the ordinary course of business;
- (vi) guarantees to landlords in the ordinary course of business;
- (vii) any guarantees guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of business.

#### 19.14 Right of first refusal in respect of further financing

- (a) The Lender shall have a right of first refusal in respect of any further financing sought by the Company.
- (b) The Company may only seek further financing from lenders other than the Lender if the following conditions have been met:
  - (i) the Company has requested the Lender to provide it with further facilities or financing;
  - (ii) the Company has provided all details required by the Lender in relation to the facilities or financing referred to in paragraph (a); and
  - (iii) the Lender has either confirmed in writing that it will not provide the Company with the further facilities or financing requested, or the Lender does not, within 14 days of the later of a request made under paragraph (a) and the provision of information under paragraph (b), inform the Company that its request will be considered.

#### 19.15 Maintenance of Accounts with the Lender

19.16 The Company shall at all times maintain each Account in its name with the Lender.

#### **Insurance**

The Company must insure its business and assets with insurance companies to such an extent and against such risks as companies engaged in a similar business normally insure.

#### 19.17 Environmental matters

- (a) In this Subclause:

**Environmental Approval** means any authorisation required by an Environmental Law.

**Environmental Claim** means any claim by any person in connection with:

- (i) a breach, or alleged breach, of an Environmental Law;
  - (ii) any accident, fire, explosion or other event of any type involving an emission or substance which is capable of causing harm to any living organism or the environment; or
  - (iii) any other environmental contamination.
- Environmental Law** means any law or regulation concerning:
- (i) the protection of health and safety;
  - (ii) the environment; or
  - (iii) any emission or substance which is capable of causing harm to any living organism or the environment.

- (b) Each member of the Group must ensure that it is, and has been, in compliance with all Environmental Law and Environmental Approvals applicable to it, where failure to do so has or is likely to have a Material Adverse Effect or results in any liability for the Lender.

- (c) The Company must promptly upon becoming aware notify the Lender of:

- (i) any Environmental Claim current, or to its knowledge, pending or threatened; or
- (ii) any circumstances likely to result in an Environmental Claim,

which has or, if substantiated, is likely to either have a Material Adverse Effect or result in any liability for the Lender.

#### 19.18 Further assurance

The Company shall, and shall procure that the Subordinated Lender shall, from time to time on the Lender's request do or procure the doing of all such acts and will execute or procure the execution of all such documents as the Lender may consider necessary for giving full effect to this Agreement or any other Finance Document or securing to the Lender the full benefits of all rights and powers and remedies conferred on the Lender in this Agreement or any other Finance Document.

## 20. DEFAULT

### 20.1 **Events of Default**

20.2 Each of the events set out in this Clause is an Event of Default.

#### **Non-payment**

Any Obligor does not pay on the due date any amount payable by it under the Finance Documents in the manner required under the Finance Documents unless its failure to pay is caused by administrative or technical error and payment is made within three Business Days of its due date.

### 20.3 Breach of other obligations

- (a) Any Obligor does not comply with any term of Clause 19 (General covenants) or Clause 18 (Financial covenants) applicable to it; or
- (b) any Obligor does not comply with any other term of the Finance Documents not already referred to in this Clause.
- (c) No Event of Default under paragraph (a) and (b) above will occur if the failure to comply is capable of remedy and is remedied within 20 Business Days of the earlier of (i) the Lender giving notice to the Company and (ii) the Company becoming aware of its failure to comply.

### 20.4 Misrepresentation

- (a) A representation made or repeated by an Obligor in any Finance Document or in any document delivered by or on behalf of an Obligor under any Finance Document is incorrect in any material respect when made or deemed to be repeated.
- (b) No Event of Default under paragraph (a) above will occur if the misrepresentation, or circumstances giving rise to it, is/are capable of remedy and is/are remedied within 20 Business Days of the earlier of (i) the Lender giving notice to the Company and (ii) the Company becoming aware of the misrepresentation.

### 20.5

#### **Cross-default**

Any of the following occurs in respect of an Obligor or any member of the Group:

- (a) any of its Financial Indebtedness is not paid when due (after the expiry of any applicable grace period);
- (b) any of its Financial Indebtedness:
  - (i) becomes prematurely due and payable;
  - (ii) is placed on demand; or
  - (iii) is capable of being declared by a creditor to be prematurely due and payable or being placed on demand, in each case, as a result of an event of default (howsoever described); or
- (c) any commitment for its Financial Indebtedness is cancelled or suspended as a result of an event of default (howsoever described).

No Event of Default will occur under this Clause 20.5 if the obligation to pay the relevant Financial Indebtedness is set aside, compromised or otherwise settled within 20 Business Days and no event of default however described in any contract or agreement to which the relevant Obligor is a party would be continuing by reason of such obligation having arisen and having been set aside, compromised or otherwise settled.

### 20.6 Cessation of business

An Obligor or any member of the Group ceases, or threatens to cease, to carry on business or its beneficial interest in or control of the whole or a substantial part of its business is transferred (whether by agreement, operation of law or otherwise) without the prior written consent of the Lender, such consent, in the case of a member of the Group other than the Company (and only in such case), not to be unreasonably withheld.

### 20.7

#### **Insolvency**

Any of the following occurs in respect of an Obligor or any member of the Group:

- (a) it is, or is deemed for the purposes of any law to be, unable to pay its debts as they fall due or insolvent;
- (b) it admits its inability to pay its debts as they fall due;
- (c) it suspends making payments on any of its debts or announces an intention to do so;

- (d) by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling of any of its indebtedness;
- (e) any judgment debt is not paid when due;
- (f) a moratorium is declared in respect of any of its indebtedness.

If a moratorium occurs in respect of an Obligor or any member of the Group, the ending of the moratorium will not remedy any Event of Default caused by the moratorium.

## **20.8 Insolvency proceedings**

- (a) Any of the following occurs in respect of an Obligor or any member of the Group:
  - (i) any step is taken with a view to a moratorium or a composition, assignment or similar arrangement with any of its creditors;
  - (ii) any person presents a petition or files documents, or any resolution is passed authorising any person to present a petition or file documents, with a court or any registrar, for its winding-up, administration, judicial management or dissolution;
  - (iii) an order for its winding-up, administration, judicial management or dissolution is made;
  - (iv) any liquidator, trustee in bankruptcy, judicial manager, receiver, administrative receiver, administrator, compulsory manager, provisional manager or similar officer is appointed in respect of it or any of its assets;
  - (v) its shareholders, directors or other officers request the appointment of, or give notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial manager, receiver, administrative receiver, administrator or similar officer; or
  - (vi) any other analogous step or procedure is taken in any jurisdiction.
- (b) This Clause 20.8 shall not apply to any winding-up petition, court filing or analogous procedure or step in any jurisdiction which is frivolous or vexatious and is discharged, stayed or dismissed within 20 Business Days of commencement.

## **20.9 Creditors' process**

Any attachment, sequestration, distress, execution or analogous event affects any asset(s) of the Company an Obligor or any member of the Group.

## **20.10 Effectiveness of Finance Documents**

- (a) It is or becomes unlawful for any Obligor to perform any of its obligations under the Finance Documents.
- (b) Any Finance Document is not effective in accordance with its terms or is alleged by the Company to be ineffective in accordance with its terms for any reason.
- (c) An Obligor repudiates a Finance Document or evidences an intention to repudiate a Finance Document.

## **20.11 Declared company**

Any Obligor which is a Singapore company is declared by the Minister of Finance to be a company to which Part IX of the Companies Act, Chapter 50 applies.

## **20.12 Nationalisation**

All or a material part of the assets of an Obligor are seized, compulsorily acquired, expropriated or nationalised.

## **20.13 Termination or material amendment to a material contract**

Any termination occurs or any material amendment is made to any contract which has or is likely to have a Material Adverse Effect.

## **20.14 Material adverse change**

Any event or series of events occurs which, in the reasonable opinion of the Lender, has or is likely to have a Material Adverse Effect.

## **20.15**

### **Acceleration**

---

If an Event of Default is outstanding, the Lender may, by notice to the Company:

- (a) cancel all or any part of the Term Loan Facility Commitment or Facilities; and/or
- (b) declare that all or part of any amounts outstanding under the Finance Documents are:
  - (i) immediately due and payable; and/or

- (ii) payable on demand by the Lender.  
Any notice given under this Subclause will take effect in accordance with its terms.

## **21. EVIDENCE AND CALCULATIONS**

### **21.1 Accounts**

Accounts maintained by the Lender in connection with this Agreement are prima facie evidence of the matters to which they relate for the purpose of any litigation or arbitration proceedings.

### **21.2 Certificates and determinations**

Any certification or determination by the Lender of a rate or amount under the Finance Documents will be, in the absence of manifest error, conclusive evidence of the matters to which it relates.

### **21.3 Calculations**

Any interest or fee accruing under this Agreement accrues from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days.

## **22. FEES**

### **22.1 Upfront fee**

The Company must pay to the Lender on the date of this Agreement an upfront fee of US\$22,500 or 0.15 per cent. of the aggregate amount of the Facilities made available under this Agreement (or US\$15,000,000).

### **22.2 Prepayment fee**

If any part of the Loan is prepaid within the first 15 months from the relevant Utilisation Date (including, for the avoidance of doubt, pursuant to Clauses 9.1 and 9.7), the Company must pay to the Lender a prepayment fee on the date on which such prepayment is made. The amount of the prepayment fee shall be 1 per cent. of the amount prepaid.

### **22.3 Cancellation fee**

If any part of the Term Loan Facility Commitment is cancelled (including, for the avoidance of doubt, under Clauses 9.1 and 9.7), the Company must pay to the Lender a cancellation fee on the date on which such part of the Term Loan Facility Commitment is cancelled. The amount of the cancellation fee shall be 1 per cent. of the amount cancelled.

## **23. INDEMNITIES AND BREAK COSTS**

### **23.1 Currency indemnity**

- (a) The Company must, as an independent obligation, indemnify the Lender against, and within three Business Days of the Lender's demand, pay to the Lender any amount determined by the Lender in respect of, any loss or liability which the Lender incurs as a consequence of:

- (i) the Lender receiving an amount in respect of any Obligor's liability under the Finance Documents; or
- (ii) that liability being converted into a claim, proof, judgment or order,

in a currency other than the currency in which the amount is expressed to be payable under the relevant Finance Document.

- (b) Unless otherwise required by law, the Company waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency other than that in which it is expressed to be payable.

### **23.2 Other indemnities**

- (a) The Company must indemnify the Lender against, and within three Business Days of the Lender's demand, pay to the Lender any amount determined by the Lender in respect of, any loss or liability which the Lender incurs as a consequence of:

- (i) the occurrence of any Event of Default;
- (ii) any failure by an Obligor to pay any amount due under a Finance Document on its due date or the investigation of any event which the Lender believes is an Event of Default;
- (iii) the information produced or approved by an Obligor being or being alleged to be misleading or deceptive in any material respect;
- (iv) any enquiry, investigation, subpoena (or similar order) or litigation with respect to any Obligor or with respect to the transactions contemplated or financed under this Agreement;
- (v) acting or relying on any notice which the Lender believes to be genuine, correct and appropriately authorised;

- (vi) a failure by an Obligor to pay any amount due under a Finance Document on its due date;
  - (vii) funding, or making arrangements to fund, its participation in a Loan requested by a Company in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of this Agreement (other than by reason of default or negligence by the Lender alone); or
  - (viii) a Loan (or part of a Loan) not being prepaid in accordance with a notice of prepayment given by the Company.
- (b) The Company's liability in each case includes any loss or expense on account of funds borrowed, contracted for or utilised to fund any amount payable under any Finance Document or any Loan.

### **23.3 Break Costs**

- (a) The Company must pay to the Lender its Break Costs.
- (b) Break Costs are the amount (if any) by which:
- (i) the interest which the Lender would have received for the period from the date of receipt of any part of a Loan or an overdue amount to the last day of the applicable Term for that Loan or overdue amount if the principal or overdue amount received had been paid on the last day of that Term;  
exceeds
  - (ii) the amount which the Lender would be able to obtain by placing an amount equal to the amount received by it on deposit with a leading bank in the appropriate interbank market for a period starting on the Business Day following receipt and ending on the last day of the applicable Term.
- (c) The Lender must supply to the Company details of the amount of any Break Costs claimed by it under this Subclause.

### **23.4 Force majeure**

The Lender shall not be liable to the Company for any loss, damage or delay attributable in whole or part to action by any government or government agency or other force majeure and in particular, but not limited to, strike, industrial action (whether involving the Lender's staff or not), equipment failure or interruption of power supplies. The Lender will endeavour to give notice generally to its customers of any anticipated delays by notices in branches.

## **24. EXPENSES**

### **24.1 Initial costs**

The Company must, within three Business Days of the Lender's demand, pay to the Lender the amount of all agreed reasonable costs and expenses (including legal fees) incurred by it in connection with the negotiation, preparation, printing and execution of the Finance Documents.

### **24.2 Subsequent costs**

The Company must, within seven Business Days of the Lender's demand, pay to the Lender the amount of all reasonable costs and expenses (including legal fees) incurred by it in connection with:

- (a) the negotiation, preparation, printing and execution of any Finance Document executed after the date of this Agreement; and
- (b) any amendment, waiver or consent requested by or on behalf of an Obligor or specifically allowed by this Agreement.

### **24.3 Enforcement costs**

The Company must, within seven Business Days of the Lender's demand, pay to the Lender the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation of any rights under, any Finance Document.

## **25. AMENDMENTS AND WAIVERS**

### **25.1 Change of currency**

If a change in any currency of a country occurs (including where there is more than one currency or currency unit recognised at the same time as the lawful currency of a country), the Finance Documents will be amended to the extent the Lender determines is necessary to reflect the change.

### **25.2 Waivers and remedies cumulative**

The rights of the Lender under the Finance Documents:

- (a) may be exercised as often as necessary;

(b) are cumulative and not exclusive of its rights under the general law; and

(c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

## 26. CHANGES TO THE PARTIES

### 26.1 Assignments and transfers by the Company

The Company may not assign or transfer any of its rights and obligations under the Finance Documents without the prior consent of the Lender.

### 26.2 Assignments and transfers by the Lender

- (a) The Lender may at any time assign or transfer (including by way of novation) any of its rights and obligations under this Agreement to any other bank or financial institution or to a trust fund or other entity which is regularly engaged in or established for the purpose of making, purchasing or investing in loans, securities or other financial assets (the **New Lender**).
- (b) A transfer of obligations will be effective only if the New Lender confirms to the Company in form and substance satisfactory to the Company that it is bound by the terms of this Agreement as the Lender. On the transfer becoming effective in this manner the Lender will be released from its obligations under this Agreement to the extent that they are transferred to the New Lender.

---

### 26.3

---

### Costs resulting from change of Lender or Facility Office

If:

- (a) the Lender assigns or transfers any of its rights and obligations under the Finance Documents or changes its Facility Office; and
- (b) as a result of circumstances existing at the date the assignment, transfer or change occurs, the Company would be obliged to pay a Tax Payment or an Increased Cost,

then, unless the assignment, transfer or change is made by the Lender to mitigate any circumstances giving rise to the Tax Payment, Increased Cost or a right to be prepaid and/or cancelled by reason of illegality, the Company need only pay that Tax Payment or Increased Cost to the same extent that it would have been obliged to if no assignment, transfer or change had occurred.

## 27. DISCLOSURE OF INFORMATION

Without detracting from the Lender's rights of disclosure under any law (including without limitation under the Banking Act, Chapter 19 of Singapore (the **Banking Act**)), the Lender, its officers and agents may disclose in any manner howsoever, any information (which may include copies of this Agreement) which the Lender has acquired under or in connection with this Agreement, any information relating to the Company or its account relationship with the Lender (including without limitation, details of this Agreement and its credit balances and deposits with the Lender):

- (a) to any branch, representative office, affiliated, associated or related corporation of the Lender and their respective officers, servants or agents, whether situated in or out of Singapore for credit monitoring or review purposes;
- (b) to any person with whom it may enter, or has entered into, any kind of transfer, participation or other agreement in relation to any Finance Document;
- (c) which is publicly available, other than as a result of a breach by the Lender of this Clause;
- (d) in connection with any legal or arbitration proceedings;
- (e) if required to do so under any law or regulation;
- (f) to a governmental, banking, taxation or other regulatory authority;
- (g) to its professional advisers;
- (h) to a rating agency;
- (i) to a stock exchange, listing authority or similar body;
- (j) to any person in connection with or in contemplation of a securitisation or other transaction having a similar effect;
- (k) to any credit bureau of which the Lender is a member or subscriber;
- (l) to any related entity of the Company; or
- (m) with the agreement of the Company.

This Clause 27 is not and shall not be deemed to constitute, an express or implied agreement by the Lender with the Company for a higher degree of confidentiality than that prescribed in Section 47 of, and the Sixth Schedule to, the Banking Act.

## 28. SET-OFF

The Lender may set off any matured obligation owed to it by the Company under the Finance Documents (to the extent beneficially owned by the Lender) against any obligation (whether or not matured) owed by the Lender to the Company, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## 29. SEVERABILITY

If a term of a Finance Document is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect:

- (a) the legality, validity or enforceability in that jurisdiction of any other term of the Finance Documents; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of the Finance Documents.

## 30. COUNTERPARTS

Each Finance Document may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of the Finance Document.

## 31. NOTICES

### 31.1 In writing

- (a) Any communication in connection with a Finance Document must be in writing and, unless otherwise stated, may be given in person, by post, fax, e-mail or any other electronic communication approved by the Lender.
- (b) For the purpose of the Finance Documents, an electronic communication will be treated as being in writing.
- (c) Unless it is agreed to the contrary, any consent or agreement required under a Finance Document must be given in writing.

### 31.2 Contact details

- (a) The contact details of the Company for this purpose are:

Address:	51 Changi North Crescent
Fax number:	Singapore 499626
Attention:	+65 6545 0585 Managing Director

With a copy to:

Mitcham Industries, Inc.

8141 Highway 75 South

Huntsville, Texas 77340 USA

Fax number: +1 936 295 1933

Attention: Chief Financial Officer

- (b) The contact details of the Lender for this purpose are:

Address:	21 Collyer Quay
Fax number:	#08-01 HSBC Building
Attention:	Singapore 049320 +65 6424 4783 Eric Chin

- (c) The Company or the Lender may change their contact details by giving five Business Days' notice to the other Party.
- (d) Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

### 31.3 Effectiveness

- (a) Except as provided below, any communication in connection with a Finance Document will be deemed to be given as follows:

- (i) if delivered in person, at the time of delivery;
  - (ii) if posted, at noon the second day after being deposited in the post, postage prepaid, in a correctly addressed envelope; and
  - (iii) if by fax or other electronic means, when transmitted.
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.
- (c) A communication to the Lender will only be effective on actual receipt by it.

### **32. LANGUAGE**

- (a) Any notice given in connection with a Finance Document must be in English.
- (b) Any other document provided in connection with a Finance Document must be:
- (i) in English; or
  - (ii) (unless the Lender otherwise agrees) accompanied by a certified English translation. In this case, the English translation prevails unless the document is a statutory or other official document.

### **33. GOVERNING LAW**

This Agreement is governed by Singapore law.

### **34. ENFORCEMENT**

#### **34.1 Jurisdiction**

- (a) The Singapore courts have exclusive jurisdiction to settle any dispute in connection with any Finance Document.
- (b) The Singapore courts are the most appropriate and convenient courts to settle any such dispute and the Company waives objection to those courts on the grounds of inconvenient forum or otherwise in relation to proceedings in connection with any Finance Document.
- (c) This Clause is for the benefit of the Lender only. To the extent allowed by law, the Lender may take:
- (i) proceedings in any other court; and
  - (ii) concurrent proceedings in any number of jurisdictions.

#### **34.2 Service of process**

The Guarantor irrevocably appoints the Company as its agent under this Agreement for service of process in any proceedings before the Singapore courts in connection with this Agreement.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

## **SCHEDULE 1**

### **PART 1**

#### **CONDITIONS PRECEDENT DOCUMENTS FOR FIRST UTILISATION**

##### **A. Company**

1. A certified true copy of the Memorandum and Articles of Association of each Obligor.
2. A certified true extract of a resolution of the board of directors of each Obligor approving the terms of, and the transactions contemplated by, each Finance Document to which it is a party.
3. A specimen of the signature of each person authorised on behalf of each Obligor to execute or witness the execution of any Finance Document to which it is a party or to sign or send any document or notice in connection with any Finance Document to which it is a party.
4. A certificate of a director of each Obligor:
  - (a) confirming that the Company utilising the Facilities in full would not breach any limit binding on it;
  - (b) certifying that each copy document specified in this Schedule which is required to be delivered by it to the Lender is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement; and
  - (c) confirming that there is no material adverse change in the financial condition of that Obligor nor will there be any prospective material adverse change in the financial condition by the utilisation of the Facilities.

**B. Other documents and evidence**

1. This Agreement and any other Finance Document, duly executed by each Obligor which is a party thereto.
2. A certified true copy of the Original Financial Statements of the Company.
3. Evidence that all fees, costs and expenses then due from the Company under this Agreement have been paid or will be paid by the first Utilisation Date.
4. A copy of any other authorisation or other document, opinion or assurance which the Lender considers to be necessary or desirable (if it has notified the Company accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.
5. Such other information and documents as the Lender may require.

**PART 2**

**CONDITIONS PRECEDENT DOCUMENTS FOR UTILISATION OF BANKER’S GUARANTEE FACILITIES**

1. In addition to the documents listed in Part I of this Schedule 2, a duly signed counter-indemnity in the Lender’s standard form from the Company in respect of each Banker’s Guarantee to be issued.

**SCHEDULE 2**

**FORM OF REQUEST**

To: THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED  
 From: SEAMAP PTE LTD  
 Date: [ ]

**SEAMAP PTE LTD — US\$15,000,000 Facilities Agreement dated [ ], 2014 (the Agreement)**

1. We refer to the Agreement. This is a Request.
2. We wish to [borrow a Term Loan/Short Term Revolving Loan/arrange for a Banker’s Guarantee to be issued]<sup>1</sup> on the following terms:
  - (a) Utilisation Date: [ ]
  - (b) Amount/currency: [ ].
  - (c) Term: [ ].
3. Our [payment/delivery]<sup>1</sup> instructions are: [ ].
4. We confirm that each condition precedent under the Agreement which must be satisfied on the date of this Request is so satisfied.
5. This Request is irrevocable.
6. [We attach a copy of the proposed Banker’s Guarantee]<sup>1</sup>

.....  
 Name:  
 Designation:  
 For and on behalf of

SEAMAP PTE LTD

**SIGNATORIES**

**Company**

Signed by  
 /s/Mark Welker—

---

**Name: Mark Welker**  
**Title: Director**

---

for and on behalf of  
**SEAMAP PTE LTD**  
 in the presence of:

/s/Lim Gek Hong

Name of Witness: Lim Gek Hong

**Guarantor**

Signed by

/s/Guy Malden

**Name: Guy Malden**

**Title: Executive Vice President**

for and on behalf of

**MITCHAM INDUSTRIES, INC.**

in the presence of:

/s/Lim Gek Hong

Name of Witness: Lim Gek Hong

<sup>1</sup> Delete as applicable.

**Lender**

Signed by

/s/Kelvin Tan Swee Beng

**Name: Kelvin Tan Swee Beng**

**Title: Managing Director and Head of Commercial Banking**

for and on behalf of

**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**

in the presence of:

/s/Eric Chin

Name of Witness: Eric Chin

**EXECUTION VERSION**  
**SECURITY DEED**

DATED 15 August, 2014

between

**SEAMAP PTE LTD**

as Chargor

- and -

**THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED**

as Lender

**CONTENTS**

**Clause Page**

1. Interpretation
2. Creation of Security
3. Continuing Security
4. Representations — general
5. Restrictions on dealings
6. Land
7. Investments
8. Intellectual Property
9. Accounts
10. Insurances
11. Relevant contracts
12. When Security becomes enforceable
13. Enforcement of Security
14. Receiver
15. Powers of Receiver
16. Application of proceeds
17. Expenses and indemnity
18. Delegation
19. Further assurances
20. Power of attorney
21. Waiver, remedies cumulative
22. Severability
23. Disclosure of information
24. Miscellaneous
25. Release
26. Changes to the parties
27. Evidence and calculations
28. Set Off
29. Notice

30. Jurisdiction

31. Waiver Of Immunity

32. Governing Law

## Schedules

1. Schedule 1

2. Schedule 2

## SIGNATORIES

**THIS DEED** is dated 15 August, 2014.

### BETWEEN:

(1) **SEAMAP PTE LTD** (Company registration number 198703191M) (the **Chargor**); and

(2) **THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED** (the **Lender**).

### BACKGROUND:

(A) By a facilities agreement dated August 15, 2014 and made between (i) the Chargor as borrower (the **Borrower**), (ii) Mitcham Industries, Inc as guarantor, and (iii) the Lender, it was agreed that the Lender would make available to the Borrower credit facilities of up to US\$15,000,000 upon the terms and subject to the conditions set out therein.

(B) It is one of the conditions precedent to the availability of the facilities under the Facilities Agreement that the Chargor enters into this Deed as security for the Secured Liabilities.

**NOW THIS DEED WITNESSES** as follows:

## 1. INTERPRETATION

### 1.1

### Definitions

In this Deed:

**Act** means the Conveyancing and Law of Property Act, Chapter 61 of Singapore.

**Excluded Credit Balances** means all sums which have been or may from time to time be deposited by the Chargor with DBS Bank Ltd. whether in Singapore Dollars or other currency(ies) under any fixed deposit, time deposit or other similar account (s) which the Chargor may open with DBS Bank Ltd. (which expression shall include any sum(s) which are from time to time deposited by the Chargor with DBS Bank Ltd. in any such fixed deposit, time deposit or other account (s) whether in the same or any other currency and whether in addition to or by way of renewal of or replacement for any sums or part thereof previously deposited or otherwise, together with all interest accruing from time to time in respect of it or them of any part of any such sum(s) or interest, but only to the extent such sums are subject to a security interest in the favour of DBS Bank Ltd.

**Facilities Agreement** means the facilities agreement referred to in Recital (A).

**Party** means a party to this Deed.

**Receiver** means a receiver and manager or a receiver, in each case, appointed under this Deed.

**Secured Liabilities** means :-

(a) all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of:-

(i) the Chargor to the Lender (including without limitation, the obligations and liabilities under the Finance Documents and the Facilities);

(ii) each Obligor (other than the Chargor) to the Lender under the Finance Documents to which such Obligor is a party; and

(b) all costs and expenses (including all goods and services, value added and other duties or taxes payable in such costs and expenses) incurred by the Lender in connection with the enforcement of, or the preservation of, its rights against the Obligors under the Finance Documents.

**Security Assets** means all assets of the Chargor the subject of any security created by this Deed.

**Security Period** means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

### 1.2 Construction

- (a) Capitalised terms defined in the Facilities Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (b) The provisions of clause 1.2 (*Construction*) of the Facilities Agreement apply to this Deed as though they were set out in full in this Deed except that references to the Facilities Agreement are to be construed as references to this Deed.
- (c) The term **Secured Liabilities** includes liabilities which would be treated as such but for the liquidation, dissolution or judicial management of, or similar event affecting an Obligor.
  - (a) (i) The term **Finance Document** includes all amendments and supplements including supplements providing for further advances; and
  - (ii) the term **this Security** means any security created by this Deed.
- (e) Any covenant of the Chargor under this Deed (other than a payment obligation) remains in force during the Security Period.
- (f) If the Lender considers that an amount paid under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or judicial management of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (g) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset.
- (h) A person who is not a party to this Deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act, Chapter 53B of Singapore, and notwithstanding any term of this Deed, the consent of any third party is not required for any variation (including any release or compromise of any liability) or termination of this Deed.

## 2. CREATION OF SECURITY

### 2.1 General

- (a) All the security created under this Deed:
  - (i) is created by the Chargor as sole legal and beneficial owner of the Security Assets;
  - (ii) is created in favour of the Lender;
  - (iii) is created over present and future assets of the Chargor other than the Excluded Credit Balances; and
  - (iv) is security for the payment of all the Secured Liabilities.
- (b) If the rights of the Chargor under a document cannot be secured without the consent of a party to that document:
  - (i) the Chargor must notify the Lender promptly;
  - (ii) this Security will secure all amounts which the Chargor may receive, or has received, under that document but exclude the document itself; and
  - (iii) unless the Lender otherwise requires, the Chargor must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under this Deed.

### 2.2 Land

- (a) The Chargor charges:
  - (i) by way of a first legal mortgage all estates or interests in any freehold or leasehold property now owned by it; and
  - (ii) (to the extent that they are not the subject of a mortgage under sub-paragraph (i) above) by way of first fixed charge all estates or interests in any freehold or leasehold property.
- (b) A reference in this Subclause to a mortgage or charge of any freehold or leasehold property includes:
  - (i) all buildings, fixtures, fittings and fixed plant and machinery on that property; and
  - (ii) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

### 2.3 Investments

- (a) The Chargor charges:
  - (i) by way of a first legal mortgage all shares in any member of the Group (other than itself) owned by it or held by any nominee on its behalf; and
  - (ii) (to the extent that they are not the subject of a mortgage under sub-paragraph (i) above) by way of a first fixed charge its interest in

all shares, stocks, debentures, bonds or other securities and investments owned by it or held by any nominee on its behalf.

(b) A reference in this Subclause to a mortgage or charge of any stock, share, debenture, bond or other security includes:

- (i) any dividend or interest paid or payable in relation to it; and
- (ii) any right, money or property accruing or offered at any time in relation to it by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

## **2.4 Plant and machinery**

The Chargor charges by way of a first fixed charge all plant and machinery owned by it and its interest in any plant or machinery in its possession.

## **2.5 Credit balances**

The Chargor charges by way of a first fixed charge all of its rights in respect of any amount standing to the credit of any account (including any account contemplated by this Deed) it has with any person and the debt represented by it, other than the Excluded Credit Balances.

## **2.6 Book debts etc.**

---

The Chargor charges by way of a first fixed charge:

- (a) all of its book and other debts;
- (b) all other moneys due and owing to it; and
- (c) the benefit of all rights, securities or guarantees of any nature enjoyed or held by it in relation to any item under paragraph (a) or (b) above,

2.7 other than the Excluded Credit Balances.

## **Insurances**

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest.

## **2.8 Other contracts**

The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights in respect of:

- (a) any agreement to which it is a party except to the extent that it is subject to any fixed security created under any other term of this Clause;
- (b) any letter of credit issued in its favour; and
- (c) any bill of exchange or other negotiable instrument held by it.

## **2.9 Intellectual property**

The Chargor charges by way of a first fixed charge, all of its rights in respect of:

- (a) any know-how, patent, trade mark, service mark, design, business name, topographical or similar right;
- (b) any copyright or other intellectual property monopoly right; and
- (c) any interest (including by way of licence) in any of the above,

2.10 in each case whether registered or not and including all applications for the same.

## **Miscellaneous**

The Chargor charges by way of first fixed charge:

- (a) its goodwill;
- (b) the benefit of any authorisation (statutory or otherwise) held in connection with its use of any Security Asset;
- (c) the right to recover and receive compensation which may be payable to it in respect of any authorisation referred to in paragraph (b) above; and
- (d) its uncalled capital.

## **2.11 Floating charge**

- (a) The Chargor charges by way of a first floating charge all its assets not at any time otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, charge or assignment under this Clause.
- (b) Except as provided below, the Lender may by notice to the Chargor convert the floating charge created by the Chargor under this Subclause into a fixed charge as regards any of that Chargor's assets specified in that notice, if:
  - (i) an Event of Default is outstanding; or
  - (ii) the Lender, acting reasonably, considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
- (c) The floating charge created by this Subclause will automatically convert into a fixed charge over all of the Chargor's assets if a judicial manager is appointed or the Lender receives notice of an intention to appoint a judicial manager.

## **3. CONTINUING SECURITY**

### **3.1 Continuing Security**

This security shall be continuing and will extend to the ultimate balance of the Secured Liabilities and all sums payable by the Obligors under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

### **3.2 Reinstatement**

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

### **3.3 Additional security**

- (a) This Deed is in addition to and is not in any way prejudiced by any other security now or subsequently held by the Lender.
- (b) No prior security held by the Lender (in its capacity as such or otherwise) over any Security Asset will merge into this Security.

## **4. REPRESENTATIONS — GENERAL**

### **4.1 Nature of security**

The Chargor represents to the Lender that this Deed creates those Security Interests it purports to create and is not liable to be amended or otherwise set aside on its liquidation or judicial management or otherwise.

### **4.2 Times for making representations**

- (a) The representations set out in this Deed (including in this Clause) are made on the date of this Deed.
- (b) Unless a representation is expressed to be given at a specific date, each representation under this Deed is deemed to be repeated by the Chargor on each date during the Security Period.
- (c) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

## **5. RESTRICTIONS ON DEALINGS**

- (a) The Chargor shall not, and shall procure that no other member of the Group will:
  - (i) create or permit to subsist any Security Interest on any Security Asset; or
  - (ii) sell, transfer, assign, discount, factor, grant, licence, lease or otherwise dispose of any Security Asset, except with the prior written consent of the Lender.
- (b) Paragraph (a) does not apply to:
  - (i) any Security Interest in favour of the Lender under this Deed;
  - (ii) the charge created by the Chargor in favour of DBS Bank Ltd on or about 19 September 2006 in relation to the Excluded Credit Balances;
  - (iii) any other Security Interest created or outstanding with the prior consent of the Lender, except to the extent the principal amount secured by that Security Interest is increased such that it exceeds the amount secured by that Security Interest as at the date of this Deed or to the extent such Security Interest is otherwise varied without the consent of the Lender;

- (iv) any lien arising by operations of the law or agreement of similar effect and in the ordinary course of business and if arising as a result of any default or omission by the Chargor, which does not subsist for a period of more than 60 days;
- (v) any Security Interest permitted to be created under the Finance Documents, including but not limited to the Security Interest permitted under Clause 19.10(b) of the Facilities Agreement; or
- (vi) any transfer, sale or disposal permitted under the Finance Documents, including but not limited to the transfers, sale or disposals permitted under Clause 19.11(b) of the Facilities Agreement.

## 6. LAND

### 6.1

#### **General**

In this Clause:

**Environmental Approval** means any authorisation required by any Environmental Law.

**Environmental Claim** means any claim by any person in connection with:

- (a) a breach, or alleged breach, of an Environmental Law;
- (b) any accident, fire, explosion or other event of any type involving an emission or substance which is capable of causing harm to any living organism or the environment; or
- (c) any other environmental contamination.

**Environmental Law** means any law or regulation concerning:

- (a) the protection of health and safety;
- (b) the environment; or
- (c) any emission or substance which is capable of causing harm to any living organism or the environment.

**Fixtures** means all fixtures and fittings and fixed plant and machinery on the Mortgaged Property.

**Insured Property Assets** means the Premises and all the Chargor's other assets of an insurable nature in the Premises.

**Mortgaged Property** means all freehold or leasehold property included in the definition of **Security Assets**.

**Premises** means all buildings and erections included in the definition of **Security Assets**.

**Report on Title** means any report on title on the Mortgaged Property addressed and provided at the request of the Lender before the date of this Deed or, in the case of any Mortgaged Property acquired after the date of this Deed, its date of acquisition.

### 6.2

#### **Information for Report on Title**

The Chargor represents to the Lender that:

- (a) the information provided to the lawyers who prepared any Report on Title relating to any of its Mortgaged Property for the purpose of that Report on Title was true in all material respects at the date it was expressed to be given;
- (b) the information referred to in paragraph (a) above was at the date it was expressed to be given complete and did not omit any information which, if disclosed would make that information untrue or misleading in any material respect; and
- (c) as at the date of this Deed, nothing has occurred since the date of any information referred to in paragraph (a) above which renders that information untrue or misleading in any respect and which, if disclosed, would make that information untrue or misleading in any material respect.

### 6.3 Title

The Chargor represents to the Lender that except as disclosed in any Report on Title relating to any of its Mortgaged Property:

- (a) it is the legal and beneficial owner of its Mortgaged Property;
- (b) no breach of any law or regulation is outstanding which affects or might affect materially the value of its Mortgaged Property;
- (c) there are no covenants, agreements, stipulations, reservations, conditions, interest, rights or other matters whatsoever affecting its Mortgaged Property;
- (d) nothing has arisen or has been created or is subsisting which would be an overriding interest, or an unregistered interest which overrides first registration or registered dispositions, over its Mortgaged Property;
- (e) no facilities necessary for the enjoyment and use of its Mortgaged Property are enjoyed by that Mortgaged Property on terms entitling

any person to terminate or curtail its use;

(f) it has received no notice of any adverse claims by any person in respect of the ownership of its Mortgaged Property or any interest in it, nor has any acknowledgement been given to any person in respect of its Mortgaged Property; and

(g) its Mortgaged Property is held by it free from any Security Interest or any tenancies or licences.

---

#### 6.4

#### **Environmental matters**

The Chargor must:

(a) obtain all Environmental Approvals required by it;

(b) comply in all material respects with any Environmental Approval or Environmental Law applicable to it;

(c) ensure that the Lender does not incur any liability by reason of any breach by it of any Environmental Law or Environmental Approval; and

(d) promptly upon becoming aware notify the Lender of:

(i) any Environmental Claim current or, to its knowledge, pending or threatened; or

6.5 (ii) any circumstances reasonably likely to result in an Environmental Claim.

#### **Repair**

The Chargor must keep:

(a) its Premises in good and substantial repair and condition and adequately and properly painted and decorated; and

(b) its Fixtures and all plant, machinery, implements and other effects owned by it and which are in or on its Premises or elsewhere in a good state of repair and in good working order and condition.

#### 6.6 Insurance

(a) The Chargor must insure its Insured Property Assets against:

(i) loss or damage by fire;

(ii) other risks normally insured against by persons carrying on the same class of business as that carried on by it; and

(iii) any other risks which the Lender may reasonably require.

(b) Any insurance must be in a sum or sums not less than the replacement value of the Insured Property Assets. For this purpose, **replacement value** means the total cost of entirely rebuilding, reinstating or replacing those Insured Property Assets in the event of their being completely destroyed, together with architects' and surveyors' fees.

(c) Any insurance required under this Clause must be with an insurance company or underwriters reasonably acceptable to the Lender.

(d) All moneys received or receivable under any insurance in respect of the Insured Property Assets must be applied:

(i) in replacing, restoring or reinstating the Insured Property Assets destroyed or damaged or in any other manner which the Lender may agree; or

(ii) if an Event of Default is outstanding, if the Lender so directs and the terms of the relevant insurances allow, in or towards satisfaction of the Secured Liabilities.

(e) The Chargor must procure that a note of the Lender's interest is endorsed upon all policies of insurance maintained by that Chargor or any person on its behalf in respect of the Insured Property Assets.

(f) The Chargor may not do or permit anything to be done which may make void or voidable any policy of insurance in connection with any Insured Property Asset.

(g) The Chargor must promptly pay all premiums and do all other things necessary to keep each policy of insurance in respect of its Insured Property Assets in force.

(h) The Chargor must, immediately on demand by the Lender, produce to the Lender the policy, certificate or cover note relating to any insurance policy and the receipt for the payment of any premium for any insurance policy as the Lender may request.

---

#### 6.7

#### **Compliance with leases**

The Chargor must:

(a) perform all the terms on its part contained in any lease comprised in the Mortgaged Property; and

- (b) not do or allow to be done any act as a result of which any lease comprised in its Mortgaged Property may become liable to forfeiture or otherwise be terminated.

## **6.8 Acquisitions**

- (a) If the Chargor acquires any freehold or leasehold property, or any interest therein, after the date of this Deed it must:
  - (i) notify the Lender immediately; and
  - (ii) immediately on request by the Lender and at the cost of the Chargor, execute and deliver to the Lender a legal mortgage in favour of the Lender of that property in any form which the Lender may require.
- (b) If the consent of the landlord in whom the reversion of a lease is vested is required for the Chargor to execute a legal mortgage over it, the Chargor will not be required to perform that obligation unless and until it has obtained the landlord's consent. The Chargor must use its reasonable endeavours to obtain the landlord's consent.

## **6.9 Compliance with applicable laws and regulations**

The Chargor must perform all its obligations under any law or regulation in any way related to or affecting its Mortgaged Property.

## **6.10 Notices**

The Chargor must, within 14 days after the receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority with respect to the Mortgaged Property (or any part of it):

- (a) deliver a copy to the Lender; and
- (b) inform the Lender of the steps taken or proposed to be taken to comply with the relevant requirement.

## **6.11 Leases**

The Chargor may not exercise any of the power of a mortgagor under Section 23 of the Act nor grant or agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy of the Mortgaged Property or any part of it or accept a surrender of any lease or tenancy or confer upon any person any contractual licence or right to occupy the Mortgaged Property.

## **6.12 Deposit of title deeds**

The Chargor must deposit with the Lender all deeds and documents of title relating to its Mortgaged Property.

## **6.13 Access**

The Chargor must permit the Lender and any person nominated by it at all reasonable times to enter any part of its Mortgaged Property and view the state of it, provided that the Lender shall give the Chargor advance notice of at least five Business Days prior to such visit.

## **6.14 Investigation of title**

Provided that the Lender has first given the Chargor advance notice of at least five Business Days prior to any such investigation or enquiry, the Chargor must grant the Lender or its lawyers on request all facilities within the power of the Chargor to enable the Lender or its lawyers to:

- (a) carry out investigations of title to the Mortgaged Property; and
- (b) make such enquiries in relation to any part of the Mortgaged Property as a prudent mortgagee might carry out.

The Chargor shall bear the cost of such investigations of title or enquiries to the Mortgaged Property, it being agreed that the Chargor's liability under this paragraph shall not exceed one investigations of title or enquiries to the Mortgaged Property per calendar year unless a Default is outstanding.

## **6.15 Report on title**

The Chargor must, as soon as practicable after a request by the Lender (acting reasonably), provide the Lender with a report on title of the Chargor to the Mortgaged Property concerning those items which may properly be sought to be covered by a prudent mortgagee in a lawyer's report of this nature.

The Chargor shall bear the cost of such report on title, it being agreed that the Chargor's liability under this paragraph shall not exceed one report on title per calendar year unless a Default is outstanding.

## **6.16 Power to remedy**

If the Chargor fails to perform any term affecting its Mortgaged Property, the Chargor must allow the Lender or its agents and contractors:

- (a) to enter any part of its Mortgaged Property;
- (b) to comply with or object to any notice served on the Chargor in respect of its Mortgaged Property; and
- (c) to take any action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice.

The Chargor must immediately on request by the Lender pay the costs and expenses of the Lender or its agents and contractors reasonably incurred in connection with any action taken by it under this Subclause.

## 7. INVESTMENTS

### 7.1

#### **General**

In this Clause:

**Book-entry Securities** means the book-entry securities as defined in Division 7A of the Companies Act, Chapter 50 of Singapore.

**Investments** means:

- (a) the Shares;
- (b) all other shares, stocks, debentures, bonds or other securities and investments included in the definition of **Security Assets** in Clause 1.1 (Definitions);
- (c) any dividend or interest paid or payable in relation to any of the above; and
- (d) any right, money or property accruing or offered at any time in relation to any of the above by way of redemption, substitution, exchange, bonus or preference under option rights or otherwise.

**Regulations** means the Companies (Central Depository System) Regulations made under the Companies Act, Chapter 50 of Singapore.

7.2 **Shares** means shares in any member of the Group.

#### **Investments**

The Chargor represents to the Lender that:

- (a) its Shares and, to the extent applicable, its other Investments, are fully paid; and
- (b) it is the sole legal and beneficial owner of its Investments.

### 7.3

#### **Deposit**

The Chargor must:

- (a) subject to paragraph (c) below, immediately deposit with the Lender, or as the Lender may direct, all certificates and other documents of title or evidence of ownership in relation to any of its Investments;
- (b) subject to paragraph (c) below, promptly execute and deliver to the Lender all share transfers and other documents which may be requested by the Lender in order to enable the Lender or its nominees to be registered as the owner or otherwise obtain a legal title to any of its Investments; and
- (c) in the case of any Investments which comprises Book-entry Securities, immediately:
  - (i) deliver or cause to be delivered to the Lender all such documents or instruments duly executed by the Chargor and/or the relevant person or persons as may be required or deemed necessary by the Lender to grant or create in favour of the Lender or its nominees a first-priority security interest in such Investments in accordance with the Regulations or any other law as may be applicable to such book-entry securities; and
  - (ii) (as the Lender may instruct or require) permit and/or procure and/or give instructions for and/or do all such other acts and things (including the transfer of such Investments into a securities account of the Lender or its nominee) to grant or create in favour of the Lender or its nominees such first-priority security interest or to perfect or protect the same.

## 7.4 Changes to rights

The Chargor may not take or allow the taking of any action on its behalf which may result in the rights attaching to any of its Investments being altered or further shares in any member of the Group being issued.

## 7.5 Calls

- (a) The Chargor must pay all calls or other payments due and payable in respect of any of its Investments.
- (b) If the Chargor fails to do so, the Lender may pay the calls or other payments on behalf of the Chargor. The Chargor must immediately on

request reimburse the Lender for any payment made by the Lender under this Subclause.

## 7.6 Other obligations in respect of Investments

- (a) The Chargor must promptly copy to the Lender and comply with all requests for information which is within its knowledge and which are made under any statutory or regulatory provisions relevant or binding on the Chargor and/or the Investments or any similar provision contained in any articles of association or other constitutional document relating to any of its Investments. If it fails to do so, the Lender may elect to provide such information as it may have on behalf of the Chargor.
- (b) The Chargor must comply with all other conditions and obligations assumed by it in respect of any of its Investments.
- (c) The Lender is not obliged to:
  - (i) perform any obligation of the Chargor;
  - (ii) make any payment, or to make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor; or
  - (iii) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,

## 7.7 Voting rights in respect of any Investment.

- (a) Before this Security becomes enforceable:
  - (i) the voting rights, powers and other rights in respect of the Investments must (if exercisable by the Lender) be exercised in any manner which the Chargor may direct in writing; and
  - (ii) all dividends or other income paid or payable in relation to any Investments must be paid directly to the Chargor.

The Chargor must indemnify the Lender against any loss liability incurred by the Lender as a consequence of the Lender acting in respect of the Investments on the direction of the Chargor.

- (b) After this Security has become enforceable, the Lender may exercise (in the name of the Chargor and without any further consent or authority on the part of the Chargor) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Investment, any person who is the holder of any Investment or otherwise.

## 8. INTELLECTUAL PROPERTY

### 8.1 General

---

In this Clause **Intellectual Property Rights** means:

- (a) any know-how, patent, trade mark, service mark, design, business name, topographical or similar right;
- (b) any copyright or other intellectual property monopoly right;
- (c) any interest (including by way of licence) in any of the above; or
- (d) any application for any of the above,

in each case, whether registered or not, and included in the definition of **Security Assets** in Clause 1.1 (Definitions).

### 8.2 Representations

---

The Chargor represents to the Lender that:

- (a) the Intellectual Property Rights owned by it are all of the Intellectual Property Rights required by it in order for it to carry on its business as it is now being conducted;
- (b) it is the sole legal and beneficial owner of those Intellectual Property Rights;
- (c) those Intellectual Property Rights are free of any Security Interests (except for those created by or under this Deed) and any other rights or interests (including any licences) in favour of third parties;
- (d) it does not, in carrying on its business, infringe any Intellectual Property Rights of any third party; and
- (e) to its knowledge, no Intellectual Property Right owned by it is being infringed, nor is there any threatened infringement of any such Intellectual Property Right.

### 8.3 Preservation

- (a) The Chargor must:
- (i) make such registrations and pay such fees, registration taxes and similar amounts as are necessary to keep its Intellectual Property Rights in force;
  - (ii) take all other steps which are reasonably practicable to maintain and preserve its interests in its Intellectual Property Rights;
  - (iii) if requested to do so by the Lender, make entries in any public register of its Intellectual Property Rights which either record the existence of this Deed or the restrictions on disposal imposed by this Deed; and
  - (iv) take such steps as are necessary (including the institution of legal proceedings) to prevent third parties infringing those Intellectual Property Rights.
- (b) The Chargor must ensure that, except with the prior consent of the Lender, none of its Intellectual Property Rights which is registered is abandoned or cancelled, lapses or is liable to any claim of abandonment for non-use or otherwise.

## 9. ACCOUNTS

### 9.1

#### **General**

In this Clause:

**Account Bank** means a person with whom a Security Account is maintained under this Clause.

**Receipts Account** means any account in the name of the Chargor designated as such by the Lender and shall include (without limitation) each Account as defined in the Facilities Agreement.

**Security Account** means the Receipts Account and any other account in the name of the Chargor established under this Clause.

### 9.2 Accounts

All Security Accounts must be maintained at a branch of the Account Bank approved by the Lender. The initial Account Bank is the Lender.

### 9.3 Change of Account Bank

- (a) The Account Bank may be changed to another bank or financial institution if the Lender so reasonably requires.
- (b) A change only becomes effective when the proposed new Account Bank agrees with the Lender and the Chargor, in a manner satisfactory to the Lender, to fulfil the role of the Account Bank under this Deed.
- (c) If there is a change of Account Bank, the amount (if any) standing to the credit of the Security Accounts maintained with the old Account Bank will be transferred to the corresponding Security Accounts maintained with the new Account Bank immediately upon the appointment taking effect.
- (d) The Chargor must take any action which the Lender may require to facilitate a change of Account Bank and any transfer of credit balances (including the execution of bank mandate forms).

### 9.4 Interest

Amounts standing to the credit of each Security Account will bear interest at a rate considered by the Account Bank to be a fair market rate.

### 9.5 Book debts and receipts

- (a) The Chargor shall use reasonable endeavours to realise its:
  - (i) securities to the extent held by way of temporary investment;
  - (ii) book and other debts and other moneys due and owing to it; and
  - (iii) royalties, fees and income of any nature owed to it,

in the ordinary course of its business and hold the proceeds of the realisation (until payment into the Receipts Account if required in accordance with paragraph (b) below) on trust for the Lender.

- (b) The Chargor must, except to the extent that the Lender (acting reasonably) otherwise agrees, pay all the proceeds of the realisation referred to under paragraph (a) above into the Receipts Account.

### 9.6 Withdrawals

- (a) The Chargor shall be entitled to withdraw and deal with any monies from time to time standing to its credit in any Security Account, unless an Event of Default is outstanding, in which case the Lender may give written notice to the Account Bank to block any Security Account

and the Chargor may not withdraw any moneys standing to the credit of any Security Account.

- (b) Upon the occurrence of an Event of Default, the Lender may, at the close of business on each Business Day during the Security Period, pay all amounts standing to the credit of the Receipts Account into another Security Account, provided that the Chargor shall not be required to pay any fees in respect of such payment (or transfer).
- (c) Upon the occurrence of an Event of Default, the Lender (or a Receiver) may (subject to the payment of any claims having priority to this Security) withdraw amounts standing to the credit of a Security Account to meet an amount due and payable under the Finance Documents when it is due and payable.

## 9.7 Notices of charge

- (a) The Chargor must:
  - (i) promptly give notice to each Account Bank (which is not the Lender) substantially in the form of Part 1 of Schedule 1 (Forms of letter for Account Bank); and
  - (ii) use reasonable endeavours to ensure that each such Account Bank acknowledges the notice substantially in the form of Part 2 of Schedule 1 (Forms of letter for Account Bank).

## 10. INSURANCES

### 10.1

#### **General**

In this Clause:

**Insurance** means each contract or policy of insurance the subject of the assignment created pursuant to Clause 2.7.

### 10.2

#### **Documents**

The Chargor shall promptly:

- (a) execute and/or deliver to the Lender:
  - (i) the originals of the insurance policies relating to the Insurances and copies of the related premium receipts as the Lender may reasonably request; and
  - (ii) upon the occurrence of a Default or in the event a Default is likely to occur, such other documents relating to the Insurances as necessary to create, maintain and perfect the Security Interest created under this Deed;
- (b) if reasonably required by the Lender, procure that a note of the Lender's interest pursuant to Clause 2.7 is endorsed upon all policies of insurance relating to the Insurances and that each such policy contains customary endorsements in favour of the Lender, loss payee provisions, notice of cancellation provisions and other clauses in a form acceptable to the Lender; and
- (c) if reasonably required by the Lender, effect any policy in the joint names of the Lender and the Chargor.

## 10.3 Maintenance and Renewal

- (a) The Chargor shall maintain such Insurances in respect of the Security Assets with reputable independent underwriters or insurance companies against those risks, and to the extent, usually insured by prudent companies carrying on similar businesses and against those risks, and to the extent, required by applicable law or by contract.
- (b) The Chargor shall renew and maintain in force each policy or contract of insurance representing any of the Insurances effected by it pursuant to Clause 10.3(a) and ensure that Clause 10.2 is complied with (if required) in relation to any such renewed policy or contract of insurance.

## 10.4 Enforceability

The Chargor shall not do or omit to do or permit to be done or omitted anything which might render any Insurance void, voidable or unenforceable.

## 10.5 Lender may insure

If the Chargor fails to produce originals of insurance policies, copies of premium receipts and such other evidence as the Lender reasonably requires within 20 Business Days of the receipt by the Chargor of a demand by the Lender for such documents, which prove to the satisfaction of the Lender that the Chargor is complying with Clause 10.3, the Lender may (acting reasonably), at the Chargor's expense, but shall not be obliged to, arrange such insurances of the assets of the Chargor or any of them as it thinks fit.

## 10.6 Payment of Premiums

The Chargor shall punctually pay or procure to be paid all premiums and other sums due in respect of each of the Insurances effected by it and, on the reasonable request of the Lender, shall provide to the Lender evidence of such payment and, if the Chargor fails

to comply with the provisions of this paragraph, the Lender may, acting reasonably, make the necessary payment at the cost of the Chargor.

## 10.7 No Amendments or Settlements

- (a) The Chargor shall not make or agree to any material adverse amendment to the terms of any Insurance effected by it without the prior consent of the Lender.
- (b) The Chargor shall not waive, release, settle, compromise or abandon any material claim under any Insurance effected by it or do anything else in respect of any Insurance effected by it which may reduce the amount of likely recovery under that Insurance.

## 11. RELEVANT CONTRACTS

### 11.1

#### **General**

In this Clause:

**Relevant Contract** means any agreement to which the Chargor is a party and which the Lender (acting reasonably) has designated as a Relevant Contract from time to time.

### 11.2

#### **Undertaking**

The Chargor shall procure that:

- (a) all payments to it by any other party to a Relevant Contract to which it is a party are not subject to any right of set-off or similar right;
- (b) each such Relevant Contract is its legally binding, valid, and enforceable obligation;
- (c) it is not in default of any of its obligations under any such Relevant Contract; and
- (d) there is no prohibition on assignment in any such Relevant Contract or if there are any such prohibitions, it will use reasonable endeavours to obtain a waiver from the relevant counterparty in respect of such prohibition.

### 11.3

#### **Preservation**

The Chargor may not, without the prior consent of the Lender:

- (a) amend or waive any term of, or terminate, any Relevant Contract to which it is a party which is likely to have a Material Adverse Effect; or
- (b) take any action which might jeopardise the existence or enforceability of any such Relevant Contract.

### 11.4

#### **Other undertaking**

The Chargor must:

- (a) duly and promptly perform its obligations, and diligently pursue its rights, under each Relevant Contract to which it is a party; and
- (b) supply the Lender and any Receiver with copies of each such Relevant Contract and any material information and documentation relating to any such Relevant Contract reasonably requested by the Lender or any Receiver, except to the extent that disclosure of the information or documentation would breach any law, regulation or duty of confidentiality.

## 11.5 Notices of assignment

Upon the occurrence of a Default or in the event a Default is likely to occur, the Chargor shall, upon being notified by the Lender:

- (a) immediately serve a notice of assignment, substantially in the form of Part 1 of Schedule 2 (Forms of letter for Relevant Contracts), on each counterparty to a Relevant Contract to which it is a party; and
- (b) use its reasonable endeavours to procure that each such party acknowledges that notice, substantially in the form of Part 2 of Schedule 2 (Forms of letter for Relevant Contracts).

## 12. WHEN SECURITY BECOMES ENFORCEABLE

### 12.1 Event of Default

Notwithstanding any provision contained in this Deed, this Security will become immediately enforceable if an Event of Default occurs and the Lender gives notice to the Chargor that this Security is enforceable.

### 12.2 Enforcement

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

### **12.3 Power of sale**

The power of sale and other powers conferred by Section 24 of the Act, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable.

## **13. ENFORCEMENT OF SECURITY**

### **13.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 25 of the Act (restricting the power of sale) and Section 21 of the Act (restricting the right of consolidation) do not apply to this Security.
- (c) The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender to lease, make agreements for leases, accept surrenders of leases and grant options as the Lender may think fit and without the need to comply with any provision of section 23 of the Act.
- (d) All or any of the powers, authorities and discretions which are conferred by the Act and/or this Deed either expressly or impliedly upon a Receiver may be exercised by the Lender without first appointing the Receiver or notwithstanding the appointment of the Receiver.

### **13.2 No liability as mortgagee in possession**

Neither the Lender nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

### **13.3 Privileges**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that Section 25 of the Act does not apply.

### **13.4 Protection of third parties**

No person (including a purchaser) dealing with the Lender or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Lender or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Finance Documents; or
- (d) how any money paid to the Lender or to that Receiver is to be applied.

### **13.5 Redemption of prior mortgages**

- (a) At any time after this Security has become enforceable, the Lender may (acting reasonably):
  - (i) redeem any prior Security Interest against any Security Asset; and/or
  - (ii) procure the transfer of that Security Interest to itself; and/or
  - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.
- (b) The Chargor must pay to the Lender, immediately on demand, the costs and expenses incurred by the Lender in connection with any such redemption and/or transfer, including the payment of any principal or interest.

### **13.6 Contingencies**

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Lender (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account.

## **14. RECEIVER**

### **14.1 Appointment of Receiver**

- (a) Except as provided below, the Lender may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
  - (i) this Security has become enforceable; or
  - (ii) the Chargor so requests the Lender in writing at any time.
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.

- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 29(1) of the Act) does not apply to this Deed.

## 14.2 Removal

the Lender may by writing under its hand (subject to any requirement for an order of the court in the case of an receiver and manager) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

## 14.3 Remuneration

the Lender may fix the remuneration of any Receiver appointed by it and the maximum rate specified in Section 29(6) of the Act will not apply.

## 14.4 Agent of Chargor

- (a) A Receiver will be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.

- (b) the Lender will not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

## 14.5 Relationship with the Lender

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Lender in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

## 15. POWERS OF RECEIVER

### 15.1 General

- (a) A Receiver has all of the rights, powers and discretions conferred on the Lender under this Deed and the Act, and also those set out below in this Clause in addition to those conferred on it by any law.

- (a) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

### 15.2 Possession

A Receiver may take immediate possession of, get in and collect any Security Asset.

### 15.3

### Carry on business

### 15.4

A Receiver may carry on any business of the Chargor in any manner he thinks fit.

### Employees

- (a) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.

- (b) A Receiver may discharge any person appointed by the Chargor.

### 15.5 Borrow money

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

### 15.6 Sale of assets

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.

- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

- (c) Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Chargor.

### 15.7 Leases

A Receiver may let any Security Asset for any term and at any rent (with or without a premium) which he thinks fit and may accept a surrender of any lease or tenancy of any Security Asset on any terms which he thinks fit (including the payment of money to a lessee or

tenant on a surrender).

## 15.8 Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset.

## 15.9 Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

## 15.10 Receipts

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

## 15.11 Subsidiaries

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Security Asset.

### 15.12 **Delegation**

15.13 A Receiver may delegate his powers in accordance with this Deed.

### 15.14 **Lending**

A Receiver may lend money or advance credit to any customer of the Chargor.

#### **Protection of assets**

A Receiver may:

- (a) effect any repair or insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset;
- (b) commence and/or complete any building operation; and
- (c) apply for and maintain any planning permission, building regulation approval or any other authorisation,

15.15 in each case as he thinks fit.

#### **Other powers**

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and
- (c) use the name of the Chargor for any of the above purposes.

## 16. APPLICATION OF PROCEEDS

All moneys received or recovered pursuant to this Deed following an enforcement in accordance with Clause 12.1 and/or the powers hereby conferred shall be applied in accordance with the provisions of clause 15.6 (*Partial payments*) of the Facilities Agreement.

## 17. EXPENSES AND INDEMNITY

The Chargor must:

- (a) immediately on demand pay all costs and expenses (including legal fees on a full indemnity basis) incurred in connection with this Deed by the Lender, Receiver, attorney, manager, agent or other person appointed by the Lender under this Deed; and
- (b) keep each of them indemnified against any failure or delay in paying those costs or expenses; this includes any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise.

## 18. DELEGATION

### 18.1 Power of Attorney

The Lender or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

### 18.2 Terms

Any such delegation may be made upon any terms (including power to sub-delegate) which the Lender or any Receiver may think fit.

### **18.3 Liability**

Neither the Lender nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

## **19. FURTHER ASSURANCES**

The Chargor must, at its own expense, take whatever action the Lender or a Receiver may reasonably require for:

- (a) creating, perfecting or protecting any security intended to be created by this Deed; or
- (b) facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Lender or any Receiver or any of its delegates or sub-delegates in respect of any Security Asset.

This includes:

- (i) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Lender or to its nominee; or
- (ii) the giving of any notice, order or direction and the making of any registration, which, in any such case, the Lender may reasonably require.

## **20. POWER OF ATTORNEY**

### **19.1 Power of attorney**

The Chargor, by way of security, irrevocably and severally appoints the Lender, each Receiver and any of its delegates or sub-delegates to be its attorney or attorneys and in its name and otherwise on its behalf and as its act and deed to sign, seal, execute, deliver, perfect and do all deeds, agreements, instruments, acts and things which may be required (or which the Lender, the Receiver or any of their delegates or sub-delegates shall consider requisite) for carrying out any obligation imposed on the Chargor by or pursuant to this Deed, for carrying out any sale, transfer, assignment, lease or other dealings by the Lender, the Receiver or any of their delegates or sub-delegates, for conveying or transferring any legal estate or other interest in land or other property or otherwise, for getting in the Security Assets, and generally for enabling the Lender, the Receiver or any of their delegates or sub-delegates to exercise the respective powers, rights, authorities and discretions conferred on them or any of them by or pursuant to this Deed or by law and (without prejudice to the generality of the foregoing) to sign, seal and deliver and otherwise perfect any deed, assurance, agreement, assignment, charge, conveyance, mortgage, transfer, instrument or act which it or he may deem proper in or for the purpose of exercising any of the such powers, rights, authorities and discretions.

### **19.2 Ratification**

The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause.

## **21. WAIVER, REMEDIES CUMULATIVE**

The rights of the Lender under this Deed :

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of its rights under the general law;
- (c) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any right is not a waiver of that right.

## **22. SEVERABILITY**

If any provision of this Deed is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect :

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Deed; or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other provisions of this Deed.

## **23. DISCLOSURE OF INFORMATION**

- (a) Without detracting from the Lender's rights of disclosure under any law (including without limitation under the Banking Act (Cap. 19) of Singapore (the **Banking Act**)) or any other agreement between the Lender and an Obligor, the Lender, its officers and agents may disclose in any manner howsoever, any information (which may include copies of the Finance Documents) which the Lender has acquired under or in connection with the Facilities, any information relating to the Obligors or their respective account relationship with the Lender (including without limitation, details of the Loans, the securities taken and the Obligors' respective credit balances and deposits with the Lender):

- (i) to any branch, representative office, affiliated, associated or related corporation of the Lender and its respective officers, servants or agents, whether situated in or out of Singapore for credit monitoring or review purposes or for audit or intra group or reporting or outsourcing purposes;
- (ii) to any third party service provider to which the Lender outsources any relevant services or functions;
- (iii) to any person with whom it may enter, or has entered into, any kind of transfer, participation or other agreement in relation to the Facilities Agreement or this Deed;
- (iv) which is publicly available, other than as a result of a breach by the Lender of this Clause;
- (v) in connection with any legal or arbitration proceedings;

- (vi) if required to do so under any law or regulation;
- (vii) to a governmental, banking, taxation or other regulatory authority;
- (viii) to its professional advisers;
- (ix) to a rating agency;

(x) to a stock exchange, listing authority or similar body;

(xi) to any person in connection with or in contemplation of a securitisation or other transaction having a similar effect;

- (xii) to any credit bureau of which the Lender is a member or subscriber;
- (xiii) to any related entity of an Obligor; or
- (xiv) with the agreement of the relevant Obligor.

(b) This Clause 23 is not and shall not be deemed to constitute, an express or implied agreement by the Lender with the Chargor for a higher degree of confidentiality than that prescribed in Section 47 of, and the Third Schedule to, the Banking Act.

## 24. MISCELLANEOUS

### 24.1 Covenant to pay

The Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.

### 24.2 New Accounts

- (a) If any subsequent charge or other interest affects any Security Asset, the Lender may open a new account with the Chargor.
- (b) If the Lender does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other account.
- (c) As from that time all payments made to the Lender will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

### 24.3 Time deposits

Without prejudice to any right of set-off the Lender may have under any other Finance Document or otherwise, if any time deposit matures on any account the Chargor has with the Lender within the Security Period when:

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

that time deposit will automatically be renewed for any further maturity which the Lender considers appropriate.

### 24.4 Notice of assignment

This Deed constitutes notice in writing to the Chargor of any charge or assignment of a debt owed by the Chargor to any other member of the Group and contained in any other Security Document.

## 25. RELEASE

At the end of the Security Period, the Lender must, at the request and cost of the Chargor, take whatever action is necessary to release its Security Assets from this Security.

## 26. CHANGES TO THE PARTIES

26.1	<b>Successors and Assigns</b>
26.2	This Deed is binding on the successors and assigns of the Chargor and the Lender.

## **The Chargor**

The Chargor may not assign or transfer any of its rights or obligations under this Deed.

### **26.3**

#### **The Lender**

The Lender may:

- (a) assign, transfer or dispose of any of, or any interest in, its rights and/or obligations under this Deed, to or in favour of any person; or
- (b) transfer by novation or otherwise any of its rights or obligations under this Deed to any person.

## **27. EVIDENCE AND CALCULATIONS**

### **27.1 Accounts**

Accounts maintained by the Lender in connection with this Deed are prima facie evidence of the matters to which they relate.

### **27.2 Certificates and determinations**

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

## **28. SET OFF**

The Lender may set off any obligations (whether or not matured) owed by the Chargor under this Deed (to the extent beneficially owned by the Lender) against any obligation (whether or not matured) owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Lender may set off in an amount estimated by it in good faith to be the amount of that obligation.

## **29. NOTICE**

The provisions in clause 31 (*Notices*) of the Facilities Agreement relating to the giving and receiving of notices shall apply to this Deed, except that references to a Finance Document shall be construed as a reference to this Deed.

## **30. JURISDICTION**

### **30.1 Submission**

For the benefit of the Lender, the Chargor agrees that the courts of Singapore have jurisdiction to settle any disputes in connection with this Deed and accordingly submits to the jurisdiction of the Singapore courts.

### **30.2**

#### **Forum convenience and enforcement abroad**

The Chargor:

- (a) waives objection to the Singapore courts on grounds of inconvenient forum or otherwise as regards proceedings in connection with this Deed; and
- (b) agrees that a judgment or order of a Singapore court in connection with this Deed is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

### **30.3 Non-exclusivity**

Nothing in this Clause 30 limits the right of the Lender to bring proceedings against the Chargor in connection with this Deed:

- (a) in any other court of competent jurisdiction; or
- (b) concurrently in more than one jurisdiction.

## **31. WAIVER OF IMMUNITY**

The Chargor irrevocably and unconditionally:

- (a) agrees that if the Lender brings proceedings against it or its assets in relation to this Deed, no immunity from those proceedings (including, without limitation, suit, attachment prior to judgment, other attachment, the obtaining of judgment, execution or other enforcement) will be claimed by or on behalf of itself or with respect to its assets;
- (b) waives any such right of immunity which it or its assets now has or may subsequently acquire; and
- (c) consents generally in respect of any such proceedings to the giving of any relief or the issue of any process in connection with those proceedings, including, without limitation, the making, enforcement or execution against any assets whatsoever (irrespective

of its use or intended use) of any order or judgment which may be made or given in those proceedings.

## 32. GOVERNING LAW

This Deed is governed by Singapore law.

This Deed has been entered into as a deed on the date stated at the beginning of this Deed.

### SCHEDULE 1

#### FORMS OF LETTER FOR ACCOUNT BANK

##### PART 1

##### NOTICE TO ACCOUNT BANK

To: [Account Bank]

[Date]

Dear Sirs,

**Security Document dated [                      ] between Seamap Pte Ltd  
and The Hongkong and Shanghai Banking Corporation Limited (the Security Document)**

This letter constitutes notice to you that under the Security Document we have charged (by way of a first fixed charge) in favour of The Hongkong and Shanghai Banking Corporation Limited (the **Lender**) all our rights in respect of any amount moneys standing to the credit of any account maintained by us with you (the **Accounts**).

We hereby give you irrevocable instructions and notice, and by acknowledging receipt of this notice, you acknowledge and agree:

- (a) to disclose to the Lender any information relating to any Account requested from you by the Lender;
- (b) that under the terms of the Security Document, we shall be entitled to operate and make any withdrawal from the Accounts at any time until and unless you receive instructions from the Lender that the security created under the Security Document has become enforceable;
- (c) that upon receipt of instructions from the Lender that the security created under the Security Document has become enforceable, you shall:
  - (i) hold all sums standing to the credit of any Account to the order of the Lender;
  - (ii) comply with the terms of any written notice or instruction relating to any Account received by you from the Lender; and
  - (iii) pay or release any sum standing to the credit of any Account in accordance with the written instructions of the Lender.

Upon receipt of instructions from the Lender that the security created under the Security Document has become enforceable, we are not permitted to withdraw any amount from any Account without the prior written consent of the Lender.

We acknowledge that you may comply with the instructions in this letter without any further permission from us.

We enclose a copy of the Security Document.

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

This letter is governed by Singapore law.

Please confirm your agreement to the above by sending the attached acknowledgement to the Lender at 21 Collyer Quay #08-01, HSBC Building, Singapore 049320 with a copy to ourselves.

Yours faithfully,

/s/MarkWelker

(Authorised Signatory)

Seamap Pte Ltd

##### PART 2

#### ACKNOWLEDGEMENT OF ACCOUNT BANK

**[On the letterhead of the Account Bank]**

To: The Hongkong and Shanghai Banking Corporation Limited  
Copy: Seamap Pte Ltd

Dear Sirs,

**Security Document dated [            ] between Seamap Pte Ltd  
and The Hongkong and Shanghai Banking Corporation Limited (the Security Document)**

We confirm receipt from Seamap Pte Ltd (the **Chargor**) of a notice dated [            ] of a charge upon the terms of the Security Document over all the rights of the Chargor to any amount standing to the credit of any of the Chargor's accounts with us (the **Accounts**).

We confirm that we:

- (a) accept the instructions contained in the notice and agree to comply with the notice;
- (b) have not received notice of the interest of any third party in any Account;
- (c) have neither claimed nor exercised, nor will claim or exercise, any security interest, set-off, counter-claim or other right in respect of any Account; and
- (d) upon receipt of instructions from the Lender that the security created under the Security Document has become enforceable, will not permit any amount to be withdrawn from any Account without your prior written consent.

The Accounts maintained with us are:

**[Specify accounts and account numbers]**

This letter is governed by Singapore law.

Yours faithfully,

.....

(Authorised signatory)  
[Account Bank]

**SCHEDULE 2**

**FORMS OF LETTER FOR RELEVANT CONTRACTS**

**PART 1**

**NOTICE TO COUNTERPARTY**

To: [Contract party]

[Date]

Dear Sirs,

**Security Document dated [            ] between Seamap Pte Ltd  
and The Hongkong and Shanghai Banking Corporation Limited (the Security Document)**

This letter constitutes notice to you that under the Security Document we have assigned by way of security to The Hongkong and Shanghai Banking Corporation Limited (the **Lender**) all our rights in respect of [insert details of Contract] (the **Contract**).

We confirm that:

- (a) we will remain liable under the Contract to perform all the obligations assumed by us under the Contract; and
- (b) none of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.

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

This letter is governed by Singapore law.

Please acknowledge receipt of this letter by sending the attached acknowledgement to the Lender at 21 Collyer Quay #08-01, HSBC Building, Singapore 049320.

Yours faithfully,

/s/Mark Welker

(Authorised signatory)

**PART 2**

**Acknowledgement of Counterparty**

To: The Hongkong and Shanghai Banking Corporation Limited (as Lender)

Copy: Seamap Pte Ltd

[Date]

Dear Sirs,

We confirm receipt from Seamap Pte Ltd (the **Chargor**) of a notice dated [ ] of an assignment on the terms of the Security Document dated [ ] of all the Chargor's rights in respect of [insert details of the Contract] (the **Contract**).

We confirm that we will pay all sums due, and give notices, under the Contract as directed in that notice.

This letter is governed by Singapore law.

Yours faithfully,

.....

(Authorised signatory)

[Counterparty]

**SIGNATORIES**

**Chargor**

THE COMMON SEAL of

**SEAMAP PTE LTD**

was affixed to this deed

in the presence of:

/s/Guy Malden

Guy Malden

Director

/s/Mark Welker

Mark Welker

Director/Secretary