



Registration of a Charge

Company name: **EXPANDED PILING LIMITED**

Company number: **00414814**



X7ZK56YO

Received for Electronic Filing: **18/02/2019**

Details of Charge

Date of creation: **15/02/2019**

Charge code: **0041 4814 0004**

Persons entitled: **LLOYDS BANK PLC (AS SECURITY AGENT FOR THE SECURED PARTIES)**

Brief description: **LAND AND BUILDINGS ON THE SOUTHSIDE OF CHEAPSIDE, BRIGSLEY REGISTERED WITH TITLE NUMBER HS216039 AS MORE FULLY DESCRIBED IN THE LEGAL MORTGAGE REGISTERED BY THIS FORM MR01 (THE "MORTGAGE"). FOR MORE DETAILS PLEASE REFER TO THE MORTGAGE.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

JORDAN KLUCKOW



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 414814

Charge code: 0041 4814 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th February 2019 and created by EXPANDED PILING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th February 2019 .

Given at Companies House, Cardiff on 19th February 2019

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



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATED

15 February

EXECUTION VERSION
2019

EXPANDED PILING LIMITED
as Chargor

- and -

LLOYDS BANK PLC
as Security Agent

LEGAL MORTGAGE

Save for material redacted pursuant to s444A of the Companies Act 2006,
I certify that this is a true and complete copy of the original seen by me

Name: JORDAN KLUCKOW

Title: Solicitor

Date: 15/02/2019

Hogan Lovells International LLP (Ref: F3B/SA19)
Atlantic House, Holborn Viaduct, London EC1A 2FG



Matter ref 145151.002000
F3/4879927

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CONTENTS

ClausePage

1.	DEFINITIONS AND INTERPRETATION	1
2.	COVENANT TO PAY	5
3.	CHARGING CLAUSE	6
4.	TITLE DOCUMENTS, INSURANCE POLICIES AND TRANSFERS	7
5.	COLLECTION OF RECEIVABLES	8
6.	NEGATIVE PLEDGE AND OTHER RESTRICTIONS	8
7.	FURTHER ASSURANCE	9
8.	CONTINUING SECURITY	9
9.	INSURANCE	9
10.	PROPERTY	10
11.	ENVIRONMENT	13
12.	OPENING OF NEW ACCOUNTS	14
13.	POWERS OF SALE, LEASING AND ACCEPTING SURRENDERS	14
14.	APPOINTMENT OF A RECEIVER	14
15.	POWERS OF A RECEIVER	15
16.	POWER OF ATTORNEY	16
17.	OTHER POWERS EXERCISABLE BY THE SECURITY AGENT	17
18.	APPLICATION OF MONEY RECEIVED BY THE SECURITY AGENT OR A RECEIVER	17
19.	PROTECTION OF THIRD PARTIES	18
20.	PROTECTION OF THE SECURITY AGENT ANY NOMINEE AND RECEIVER	18
21.	SECURITY AGENT	18
22.	COSTS, EXPENSES AND LIABILITIES	18
23.	INTEREST ON OVERDUE AMOUNTS	19
24.	SET-OFF	19
25.	CURRENCY INDEMNITY	20
26.	TRANSFER	20
27.	RELEASE OF SECURITY	20
28.	EVIDENCE OF SECURED SUMS	21
29.	THIRD PARTY RIGHTS	21
30.	FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS	21
31.	COUNTERPARTS	22
32.	SERVICE OF DEMANDS AND NOTICES	22
33.	GOVERNING LAW AND JURISDICTION	23
34.	ENFORCEMENT	23
	SCHEDULE 1	24

The Chargor	24
Terms of Guarantee	25
SCHEDULE 3	28
Registered Property to be mortgaged	28
SCHEDULE 4	29
Details of Existing Security	29
SCHEDULE 5	30

THIS MORTGAGE made on

15 February

2019

BETWEEN:

- (1) Expanded Piling Limited, a company incorporated in England and Wales with registered number 00414814 (the "Chargor"); and
- (2) Lloyds Bank plc as security agent and trustee for the Secured Parties.

WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Definitions:** Unless the context otherwise requires, the following words and expressions shall have the following meanings:

"Act" means the Companies Act 2006;

"Assets" means, in relation to the Chargor, all its undertaking, property, assets, revenues and rights of every description, or any part of them;

"Assigned Contracts" means each and all of the following both present and future:

- (a) each Occupational Lease; and
- (b) all other agreements, in which the Chargor has an interest and which is designated as an Assigned Contract by the Chargor and the Security Agent,

in each case including any guarantees or sureties entered into in respect of them;

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

"Confidentiality Undertaking" means a confidentiality undertaking substantially in a recommended form of the LMA for the relevant type of proposed transaction or in any other form agreed between the Parent and the Security Agent;

"Contract Claims" means:

- (a) any sums payable to the Chargor pursuant to all representations, warranties, undertakings and indemnities to, agreements with and security to be provided in favour of the Chargor in respect of and pursuant to the Assigned Contracts;
- (b) any net proceeds of any claims, awards and judgements which may at any time be received or receivable by the Chargor pursuant to any of the Assigned Contracts together with the benefit of all powers and remedies for enforcing the same.

"Disposal" means a sale, lease, licence (excluding any licence to occupy which is terminable on 3 months' notice or less), transfer, loan or other disposal by a person of any asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions);

"Disposal Proceeds" means all capital monies or other sums or other consideration paid or payable in respect of the disposal of the Chargor's interest in all or any part of any Property and after deducting;

- (a) any reasonable expenses which are incurred by any member of the Group with respect to that Disposal to persons who are not members of the Group; and
- (b) any tax incurred and required to be paid by the seller in connection with that Disposal (as reasonably determined by the seller, on the basis of existing rates and taking account of any available credit, deduction or allowance);

"Enforcement Event" has the meaning given to the term "Termination Date" in the Security Trust Deed;

"Environmental Laws" means all laws, regulations, directives and codes of practice relating to the protection of the environment or public health and safety or the production, transportation, storage, treatment, deposit or disposal of any substance capable of causing harm to any living organism;

"Existing Security" means the mortgages and charges set out in Schedule 4 (*Details of Existing Security*) for so long as they continue in force;

"Finance Documents" shall have the meaning given thereto in the Security Trust Deed;

"Fixed Charge Asset" means an Asset for the time being comprised within an assignment created by Clause 3.1 (*Assignments*) or within a mortgage or fixed charge created by clause 3.2 (*Creation of fixed security*);

"Group" means the Parent and its Subsidiaries for the time being;

"Group Company" means all or any member(s) of the Group;

"Guarantor" means the Chargor insofar only as it covenants and guarantees under clause 2.1(b) (*Covenant to pay*) to pay or discharge Indebtedness due or owing by a Group Company to the Secured Parties and **"Guarantee"** shall be construed accordingly;

"Holding Account" means the bank account maintained by Laing O'Rourke Holdings Limited with the Security Agent and designated as such in a letter between the Parent and the Security Agent;

"Indebtedness" means any obligation for the payment or repayment of money in any currency, whether present or future, actual or contingent, joint or several, whether incurred as principal or surety or in any other way whatever, and including principal, interest, commission, fees and other charges;

"Insurance Policy" means any contract or policy of insurance of the Chargor (including all cover notes) of whatever nature which are from time to time taken out by or on behalf of the Chargor or (to the extent of its interest) in which the Chargor has an interest at any time in relation to the Properties but excluding any public liability insurance, third party liability insurance whose proceeds are required to be applied to meet liabilities to third parties under and in accordance with such policy and any directors' and officers' insurance;

"Intercreditor Agreement" means the intercreditor agreement dated 14 April 2016 (as amended and restated from time to time) and made between, among others, the Security Agent and the Secured Parties;

"Liability" means any liability, damage, loss, cost, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise;

"Occupational Lease" means any lease, agreement for lease, licence or other occupational interest subject to which the Chargor's interest in a Property is held now or

in the future including any guarantee and rent deposit arrangements entered into under the terms of them;

"Parent" means Laing O'Rourke Corporation Limited a limited liability company incorporated in Cyprus with registered number 190393;

"Party" means a party to this Mortgage;

"Principal" means a Group Company from which Indebtedness is due or owing to a Secured Party, except as Guarantor;

"Property" means each property in England and Wales vested in the Chargor and registered at HM Land Registry details of which are set out in Schedule 3 (*Registered Property to be mortgaged*) including all:

- (a) land, cellars, vaults, underground tunnels, eaves, canopies, structures and the like used or enjoyed in connection with it now or in the future;
- (b) buildings, fixtures (including trade fixtures) and fixed plant and machinery held in the name of the Chargor and other structures now or in future on it; and
- (c) easements, access rights, rights of way, wayleaves and rights attaching to it;

"Receivables" means, in relation to the Chargor, all sums of money receivable by it now or in the future consisting of or payable under or derived from any Fixed Charge Asset including, without limitation, the Disposal Proceeds;

"Receiver" means any receiver or receiver and manager appointed under clause 14 (*Appointment of a Receiver*) and (where the context requires or permits) includes any substituted receiver or receiver and manager;

"Secured Parties" has the meaning given thereto in the Security Trust Deed;

"Secured Sums" means all present and future obligations and liabilities (whether actual or contingent and whether incurred jointly or severally and whether as principal or surety or in any other capacity whatsoever and whether incurred originally by the Chargor or by some other person) of each Group Company to all or any of the Secured Parties under each or any of the Finance Documents, in each case together with:

- (a) all costs, charges and expenses incurred by any Secured Party in connection with the protection, preservation or enforcement of its rights under any Finance Document; and
- (b) all moneys, obligations and liabilities due, owing or incurred in respect of any variations or increases in the amount or composition of the facilities provided under any Finance Document or the obligations and liabilities imposed under such documents.

"Security Agent" means Lloyds Bank plc acting as security agent and trustee for the Secured Parties and includes any successor appointed by the Secured Parties;

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

"Security Trust Deed" means the security trust deed dated 31 December 2015 as amended and restated on 14 April 2016 and as further amended and restated on or about

the date of this Mortgage and made between, among others, the Security Agent and the Secured Parties; and

"Subsidiary" means a subsidiary undertaking within the meaning of section 1162 of the Act and disregarding for this purpose the fact that any shares in that undertaking may be held by way of security and the beneficiary of that security (or a nominee of that beneficiary) may be registered as a member of the relevant undertaking;

1.2 Interpretation: Unless the context otherwise requires, in this Mortgage:

- (a) references to a **"Party"** shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees;
- (b) **"including"** and **"in particular"** shall not be construed restrictively but shall mean respectively **"including, without prejudice to the generality of the foregoing"** and **"in particular, but without prejudice to the generality of the foregoing"**;
- (c) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (d) **"property"** includes any interest (legal or equitable) in real or personal property and any thing in action;
- (e) **"variation"** includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and **"vary"** and **"varied"** shall be construed accordingly;
- (f) **"writing"** includes telex and facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Mortgage to be signed and **"written"** has a corresponding meaning;
- (g) an Enforcement Event is **"continuing"** if it has not been waived in writing or remedied to the satisfaction of the Security Agent;
- (h) subject to clause 30.4 (*Variations*) references to this Mortgage or to any other document include references to this Mortgage or such other document (including any Finance Document) as varied in any manner from time to time, even if changes are made to the composition of the parties to this Mortgage or such other document or to the nature or amount of any facilities made available under such other document;
- (i) the singular shall include the plural and vice versa and any gender shall include the other genders;
- (j) any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances;
- (k) headings are inserted in this Mortgage for convenience and shall not affect its interpretation; and
- (l) Indebtedness due, owing or incurred under the Finance Documents shall include all moneys, obligations and liabilities due, owing or incurred in respect of any variations or increases in the amount or composition of the Finance Documents provided for therein or the obligations and liabilities imposed thereunder.

- 1.3 **Security Trust Deed and Intercreditor Agreement:** This Mortgage is subject to the terms of the Security Trust Deed and the Intercreditor Agreement (including, without limitation, any term relating to the discharge or release of security). If any provision of this Mortgage shall conflict with any term (including, without limitation, any term relating to the discharge or release of security) of the Security Trust Deed and/ or the Intercreditor Agreement, then the relevant term of the Security Trust Deed and/or the Intercreditor Agreement shall prevail.
- 1.4 **Companies Acts:** Expressions defined in the Act (and not redefined in this Mortgage) shall have the same meanings in this Mortgage, except that the expression "company" shall include a body corporate established outside Great Britain.
- 1.5 **Statutes:** Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances.

1.6 **Disposition of Property**

The terms of any other Finance Document and of any side letters between the parties to this Mortgage are incorporated into each other Finance Document to the extent required for the purported disposition of any Property contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2. **COVENANT TO PAY**

2.1 **Covenant to pay:** The Chargor hereby:

- (a) covenants that it will, on the Security Agent's written demand, pay or discharge the Secured Sums when due at the times and in the manner provided in the relevant Finance Documents; and
- (b) covenants and guarantees that it will, on the Security Agent's written demand, pay or discharge to the Security Agent all Indebtedness now or in the future due, owing or incurred by each Group Company to each Secured Party under or in connection with the Finance Documents;

2.2 **Guarantee:** The guarantee contained in clause 2.1(b) (*Covenant to pay*) is given subject to, and with the benefit of, the provisions set out in Schedule 2 (*Terms of Guarantee*).

2.3 **Binding nature:** The Chargor agrees to be bound by the guarantee contained in clause 2.1(b) (*Covenant to pay*), even if another member of the Group which was intended to execute this Mortgage may not do so or may not be effectively bound.

2.4 **Demands:**

- (a) The making of one demand shall not preclude the Security Agent from making any further demands.
- (b) Any third party dealing with the Security Agent or any Receiver shall not be concerned to see or enquire as to the validity of any demand under this Mortgage.

2.5 **Proviso:** The covenants and guarantee contained in this clause and the security created by this Mortgage shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

3. CHARGING CLAUSE

3.1 Assignments: The Chargor, with full title guarantee (subject to the Existing Security), as security for the payment or discharge of all Secured Sums, assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) to the Security Agent (as trustee for the Secured Parties):

- (a) all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies;
- (b) all of its rights, title, interest and benefit in each Assigned Contract;
- (c) the Disposal Proceeds; and
- (d) all of its rights, title, interest and benefit in and to the Contract Claims.

3.2 Fixed Security: The Chargor, with full title guarantee (subject to the Existing Security), as security for the payment or discharge of all Secured Sums, charges in favour of the Security Agent (as trustee for the Secured Parties):

- (a) by way of legal mortgage, each of the Properties registered at HM Land Registry or which will be subject to first registration at HM Land Registry upon the execution and delivery of this Mortgage, in each case as described in Schedule 3 (*Registered Property to be Mortgaged*);
- (b) by way of fixed charge:
 - (i) all interests and rights in or relating to a Property or the proceeds of sale of a Property now or in the future belonging to it;
 - (ii) all plant and machinery now or in the future held by the Chargor and attached to any Property which, or an interest in which, is charged by it under the preceding provisions of this clause 3.2;
 - (iii) all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Property;
 - (iv) all its interests in the remaining Assigned Contracts (to the extent not assigned pursuant to clause 3.1 (*Assignments*)); and
 - (v) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Charge Asset except to the extent that such rights, money or property are for the time being effectively charged by fixed charge under the foregoing provisions of this clause 3.2.

3.3 Priority:

Any Security Interest created in the future by the Chargor (except in favour of the Security Agent) over the Fixed Charge Assets shall be expressed to be subject to this Mortgage and shall rank in order of priority behind the charges created by this Mortgage.

3.4 Application to HM Land Registry: The Chargor:

- (a) in relation to each register of title of any present and future land of the Chargor which is charged to the Security Agent under this Mortgage or pursuant to clause 6 (*Further Assurance*) consents to the Security Agent (or its solicitors) at any time submitting to HM Land Registry any and all of the following:

- (i) a Form AP1 (application to change the register) in respect of the security created by this Mortgage;
 - (ii) a Form RX1 (*Application to register a restriction*) in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Chargee] referred to in the charges register or their conveyancer"; and
 - (iii) submitting a Form CH2 (Application to enter an obligation to make further advances); and
- (b) will procure that a copy of any consent required from the beneficiaries of any Existing Security over the Properties which are subject to the Existing Security to enable the Security Agent to make the applications referred to in clause 3.4(a) are delivered to the Security Agent; and
 - (c) to the extent applicable, covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Property in England and Wales mortgaged by clause 3.2 (*Fixed Security*) at its own expense, immediately following its execution of this Mortgage.

3.5 Notices:

- (a) The Chargor shall, if the Security Agent reasonably deems it necessary for the enforcement of the Security created under this Mortgage (or in the event the Security Agent reasonably believes that notice of enforcement or security is to be served in respect of such Assigned Documents on behalf of any other creditor), execute a notice of assignment in respect of the Assigned Documents in substantially the form set out in Part 1 of Schedule 5 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, deliver that notice to the counterparty to such Assigned Documents.
- (b) The Chargor shall, if the Security Agent reasonably deems it necessary for the enforcement of the Security created under this Mortgage (or in the event the Security Agent reasonably believes that notice of enforcement or security is to be served in respect of such proceeds on behalf of any other creditor) execute a notice of charge to the insurers (and any broker) of the security over the proceeds of any Insurance Policies created by this Mortgage in substantially the form set out in Part 2 of Schedule 5 (*Forms of Notice of Assignment/Charge*) and, as soon as reasonably practicable, serve that notice on each such insurer and broker; and
- (c) The Chargor shall use reasonable endeavours (including expending reasonable costs and expenses) to procure the execution and delivery to the Security Agent of acknowledgments by the addressees of the notices delivered to them pursuant to paragraphs (a) to (b) above.

4. TITLE DOCUMENTS, INSURANCE POLICIES AND TRANSFERS

Subject to the rights of any prior chargee (including, without limitation, the beneficiaries of the Existing Security) and except as otherwise provided for under the Finance Documents or expressly agreed in writing by the Security Agent, the Chargor shall deposit with the Security Agent, and the Security Agent shall be entitled to retain during the continuance of the security created by this Mortgage, all deeds and documents of title relating to its Fixed Charge Assets that are necessary to give effect to or to perfect the fixed security described in Clause 3.2 (*Fixed Security*) or, in respect of all deeds and documents of title

relating to any Property, provide an acceptable letter of undertaking from Chargor's counsel to hold the same to the order of the Security Agent.

5. COLLECTION OF RECEIVABLES

5.1 Holding Account: The Chargor shall, to the extent required pursuant to the Finance Documents, collect and realise all its Disposal Proceeds and, immediately on receipt, pay all money so collected into the Holding Account. To the extent that such Disposal Proceeds are required to be paid into the Holding Account under the Finance Documents, the Chargor shall, pending such payment, hold all money so received upon trust for the Security Agent.

5.2 No derogation: The Chargor shall not purport, without the Security Agent's prior written consent (not to be unreasonably withheld or delayed), to charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any Receivable in favour of any person or do or omit to do anything which might delay or prejudice its full recovery.

5.3 Credit balance: Subject to the terms of the Finance Documents, if a credit balance arises on any account of the Chargor with the Security Agent (or a Secured Party) directly or indirectly as a result of Disposal Proceeds being credited or transferred to such account, the Security Agent (or such Secured Party) shall have an absolute discretion whether to permit or refuse to permit such credit balance to be utilised or withdrawn by the Chargor and the Security Agent (or such Secured Party) may in its sole discretion at any time transfer all or any part of such credit balance to a separate account of the Chargor with it.

5.4 Factored debts: If the Security Agent releases, waives or postpones its rights in respect of any Receivable to enable the Chargor to factor or discount them to any Secured Party or third party (the "factor"), the charges created by this Mortgage shall in all other respects remain in full force and effect. In particular, all amounts becoming due to the Chargor from the factor and any Receivables re-assigned, or due to be re-assigned to the Chargor, shall be subject to the relevant fixed charge created by this Mortgage, subject only to any defences or rights of set-off which the factor may have against the Chargor.

5.5 Information: The Chargor shall deliver to the Security Agent such particulars as to the amount and nature of its Receivables as the Security Agent may from time to time reasonably require.

6. NEGATIVE PLEDGE AND OTHER RESTRICTIONS

Other than as expressly permitted under the Finance Documents, the Chargor shall not, without the prior written consent of the Security Agent:

- (a) create, or agree or attempt to create, or permit to subsist, any Security Interest (except under this Mortgage and the Existing Security) or any trust over any of its Fixed Charge Assets, or permit any lien (other than a lien arising by operation of law in the ordinary course of the Chargor's business) to arise or subsist over any of its Fixed Charge Assets;
- (b) sell, assign, license, lease any of its Fixed Charge Assets, or part with possession or ownership of them, or purport or agree to do so;
- (c) increase the amount secured by the Existing Security or agree to make any material amendment to its terms.

7. FURTHER ASSURANCE

- (a) Subject to Clauses 3.5 (*Notices*), which shall be applied strictly in accordance with its terms, the Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices, forms and instructions) as the Security Agent reasonably deems necessary for the enforcement or preservation of the Security created under this Mortgage (or the preservation of the priority of such Security) in such form as the Security Agent may reasonably require (in favour of the Security Agent or its nominee) in order to:
- (i) perfect, protect or in relation to Receivables enhance the Security Interest created or intended to be created by this Mortgage (which may include the execution of a mortgage, charge, assignment, transfer, notice, instruction or other Security Interest over all or any of the Fixed Charge Assets) or for the exercise of any rights, powers and remedies of any Secured Party provided by this Mortgage or by law;
 - (ii) confer on the Security Agent or confer on the Secured Parties, Security Interest over any Property of the Chargor located in any jurisdiction outside England and Wales which is (to the extent permitted by local law) equivalent or similar to the Security intended to be conferred by or pursuant to this Mortgage; and/or
 - (iii) facilitate the realisation of the Fixed Charge Assets subject to the Security Interest conferred or intended to be conferred by this Mortgage or the exercise of any rights vested in the Security Agent, any Receiver, administrator or nominee, including executing any transfer, conveyance, charge, assignment or assurance of all or any of the Fixed Charge Assets which are the subject of the Security constituted by this Mortgage, making any registration and giving any notice, order or instructions.
- (b) Subject to Clauses 3.5 (*Notices*), which shall be applied strictly in accordance with its terms, the Chargor shall take all such action as is available to it (including making all filings and registrations) as may be reasonably necessary for the purpose of the creation, perfection, protection or maintenance of any Security Interest conferred or intended to be conferred on the Security Agent or the Secured Parties by or pursuant to this Mortgage.
- (c) **Existing Security:** Following the discharge of the Existing Security, the Chargor shall as soon as reasonably practicable do all such reasonable acts and execute all such documents in order to perfect, protect or in relation to Receivables enhance the Security intended to be created by this Mortgage.

8. CONTINUING SECURITY

This Mortgage shall be a continuing security for the Secured Parties, notwithstanding any intermediate payment or settlement of accounts or other matter whatever and shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, combination, lien, or other rights exercisable by any Secured Party as banker against the Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by any Secured Party.

9. INSURANCE

- 9.1 Positive covenants:** The Chargor covenants that it shall:

- (a) **Keep insured:** maintain at all times, with insurance companies of good financial standing acceptable to the Security Agent, such insurance policies in relation to its Properties against such risks as are normally insured by prudent companies carrying on a similar business and against such other risks as the Security Agent may from time to time reasonably require to the full replacement value of such Properties for the time being on an index-linked basis;
- (b) **Comply with terms:** comply with the material terms of all its Insurance Policies, including any stipulations or restrictions as to use or operation of any asset, and not do or permit anything to be done which may make any Insurance Policy void or voidable;
- (c) **Prepayments:** where required in accordance with the Finance Documents, transfer an amount equal to the proceeds of any insurance claims for loss or damage to any of its Fixed Charge Assets to the Holding Account;
- (d) **Insurance broker's undertaking:** procure that, as soon as reasonably practicable following the date of this Mortgage its insurance broker undertakes in writing to the Security Agent that:
 - (i) as soon as it becomes aware that the Chargor has failed to pay any premium or renew any insurance, it will keep the Security Agent's interest in such insurance in force up to the full sum insured and for the same risks (subject to the premium for any such period of extended cover being paid by the Security Agent for the account of the Chargor);
 - (ii) it will advise the Security Agent of any proposed cancellation of the policy as soon as reasonably practicable before such cancellation is due to take effect;
 - (iii) it will advise the Security Agent as soon as reasonably practicable of any act, omission or event which comes to the knowledge of the broker and which in its reasonable opinion would invalidate the insurance or render it unenforceable, in whole or in part;
 - (iv) it will, unless otherwise agreed in writing with the Security Agent, advise the Security Agent if any claim with a value in excess of £100,000 is rejected by insurers or if insurers make a reservation of rights following the notification of any claim.

9.2 **Negative covenant:** The Chargor shall not do anything which, or omit to do anything the omission of which, would render any policy of insurance void or voidable.

10. PROPERTY

10.1 **Representations and warranties:** Except as disclosed in writing to the Security Agent, the Chargor represents and warrants that:

- (a) **Legal and beneficial owner:** it is the legal and beneficial owner of the Property mortgaged by virtue of clause 3.1(a) (*Creation of fixed security*);
- (b) **No breach of law:** there subsists no breach of any law or regulation which affects the value of the Property;
- (c) **No covenants:** there are no covenants, agreements, stipulations, reservations, conditions, interests or rights which materially adversely affect the Property which are not registered against the title of the Property or otherwise notified to the

Security Agent by the Parent or the Chargor on or before the date of this Mortgage;

- (d) **No overriding interest:** to the best of its knowledge and belief nothing has arisen or has been created or is subsisting which would be an overriding interest over the Property;
- (e) **No right to terminate:** no facility necessary for the use of the Property is available on terms entitling any person to terminate or curtail its use;
- (f) **No adverse claim:** it has not received notice of any adverse claim by any person in respect of the ownership of the Property or any interest in it;
- (g) **No security:** the Property is free from any Security Interest (except those created by the Existing Security and this Mortgage or any Security Interests which are expressly permitted under the Finance Documents);
- (h) **Repairing obligations:** it is in compliance with its material repairing obligations as tenant under the terms of any lease; and
- (i) **Easements:** it has the full unrestricted right to use all easements and facilities necessary for the beneficial occupation of the Property for the current use of that Property.

10.2 **Repetition of representations and warranties:** The representations and warranties contained in clause 10.1 (other than paragraph (c)) shall be deemed to be repeated on each day on which there are any Secured Sums outstanding by reference to the facts and circumstances then subsisting.

10.3 **Positive covenants:** The Chargor covenants that it shall:

- (a) **Repair:** subject to clause 10.3(d) below and any disposal of the Properties notified to the Security Agent on or before the date of the Mortgage, keep all its buildings and all its plant, machinery, fixtures, fittings and other effects charged by it under this Mortgage in good and substantial repair and in good working order and condition and save in respect of the Properties designated as development properties in Schedule 3 (*Registered Property to be Mortgaged*) or required by law will not, without the prior written consent of the Security Agent (not to be unreasonably withheld or delayed), alter, pull down, remove or dispose of any of them, except in the ordinary course of repair, maintenance or improvement;
- (b) **Information:** as soon as reasonably practicable provide to the Security Agent such documents or information relating to its Properties, including details of any Assigned Contracts, as the Security Agent may from time to time reasonably require;
- (c) **Payments:** punctually pay or cause to be paid all rates, taxes, levies, charges, duties, assessments, impositions and outgoings assessed, charged or imposed, now or in the future, in respect of its Properties or Properties in which it has an interest and, when required, produce to the Security Agent proof of such payment;
- (d) **Compliance with applicable laws:** ensure the due observance in all material respects of all laws, statutes, statutory instruments, regulations and by-laws for the time being in force and all notices, orders and requirements of any competent authority (statutory or otherwise) affecting its Properties or Properties in which it has an interest or affecting its business or Fixed Charge Assets or relating to the protection of the environment in relation to the Property and carry out all works

and give effect to all arrangements which any such authority may direct or recommend;

- (e) **Building operations:** subject to clause 10.3(d) above, complete with reasonable expedition any building operations relating to its Properties required by law, to the satisfaction of any competent authority and in conformity with all requisite planning and by-law consents;
- (f) **Contracts:** comply with the terms of all material agreements, assignments, contracts, conveyances, grants and other deeds and documents for the time being binding on it or affecting the Property or its use or enjoyment and not take any action which, or omit to take any action the omission of which, results in any interest or estate in the Property being materially adversely affected;
- (g) **Compliance with lease:** punctually pay the rents reserved by and observe and perform in all material respects the other covenants, agreements or obligations on its part to be observed and performed which are contained in any material lease, agreement for lease, tenancy agreement or licence to occupy relating to any Properties and, to the extent it makes commercial sense to do so, enforce the observance and performance by the landlord or licensor of its material obligations under any such document;
- (h) **Notices, orders and proposals:** supply to the Security Agent copies of any notice, order or proposal affecting its Properties in any material respect received by it:
 - (i) within ten days of receipt where it is received from any competent authority or tenant; and
 - (ii) within seven days of receipt where it is received from any landlord;and at its reasonable cost either promptly comply with such notice or order or (if so requested by the Security Agent) make or join with the Security Agent in making such objections or representations or taking such other steps as the Security Agent may think fit (acting reasonably) and any compensation received by it as a result shall be charged to the Security Agent and paid to it and applied in or towards the discharge of the Secured Sums;
- (l) **Valuation reports:** promptly on receipt, cause a copy of each professional valuation report which it obtains in relation to its Properties to be provided to the Security Agent;
- (l) **Notification of non-compliance:** notify the Security Agent, as soon as reasonably practicable on receipt, of any claim, notice or other communication received by it alleging non-compliance by it in relation to any matter referred to in this clause 10.3 which is not frivolous or vexatious;
- (k) **Access to Property:** permit the Security Agent (but without the Security Agent being under any obligation to do so) to:
 - (i) inspect, at reasonable times and on reasonable notice, any of its Properties; and
 - (ii) enter upon all or any of its Properties to effect such material repairs as the Security Agent may consider reasonably necessary, without becoming liable as a mortgagee in possession.

- (l) **Certificate of Title:** use all reasonable endeavours (including the incurring of reasonable expenses) to comply with any reasonable request from the Security Agent in respect of any material issues identified in relation to the Properties in the certificates of title delivered to the Security Agent in accordance with the Finance Documents.

10.4 Negative covenants: The Chargor shall not, without the prior written consent of the Security Agent:

- (a) **No building:** save for the Properties designated as development properties in Schedule 3 (*Registered Property to be Mortgaged*) or where required in accordance with an existing contractual obligation, carry out any material building work on its Properties or make any structural alteration to any building on its Properties or apply for any planning consent for the development or change of use of its Properties, or at any time sever, remove or dispose of any material fixture on it;
- (b) **No onerous obligations:** enter into onerous or restrictive obligations affecting its Properties or create or permit to arise any overriding interest or any easement or right whatever in or over it which might materially adversely affect its value or the value of the security constituted by this Mortgage over it;
- (c) **No elections:** make any election to waive the exemption under paragraph 2 of Schedule 10 to the Value Added Tax Act 1994 in its capacity as landlord of any Property;
- (d) **Possession:** part with possession of its Properties (except on the determination of any lease, tenancy or licence granted to it or in connection with any disposal which is permitted under the Finance Documents); or
- (e) **No sharing:** share the occupation of its Properties with any other person or agree to do so (save as disclosed to the Security Agent prior to the date of this Mortgage), save in respect of any short term agreement or licence to occupy entered into in the ordinary course of business.

10.5 Consolidation of mortgages: Section 93 of the Law of Property Act 1925, dealing with the consolidation of mortgages, shall not apply to this Mortgage.

11. ENVIRONMENT

11.1 Positive covenants: The Chargor covenants that it shall:

- (a) **Environmental Laws:** comply in all material respects with all Environmental Laws applicable to the Property;
- (b) **Licences and approvals:** obtain, keep in force and comply with all material licences and approvals which are necessary or which are normally obtained by prudent companies carrying on similar businesses or having similar assets where failure to do so would have a material adverse effect on the Chargor or the value of the Property;
- (c) **Notice:** as soon as reasonably applicable after receipt, notify the Security Agent of:
 - (i) any indication given to it that any of its Fixed Charge Assets are listed in any register of contaminated land or contaminative use or similar register;

- (ii) any material claim, order, notice or other communication received by it alleging its failure to comply in a material respect with any Environmental Law or any such approval or licence or alleging liability under it;
 - (iii) any indication that any charge is or may be imposed under any Environmental Law on its Properties in connection with statutory nuisance;
 - (iv) the existence of any environmental condition which could have a material adverse effect on the value of its Properties as security to the Security Agent;
- (d) **Steps taken:** keep the Security Agent informed of any steps taken or intended to be taken by it in respect of any matter referred to in clause 11.1(c) above; and
- (e) **New requirements:** give notice to the Security Agent as soon as practicable of any new or additional requirements under any Environmental Law specifically imposed on it or on its Properties.

12. OPENING OF NEW ACCOUNTS

- 12.1 **Creation of new account:** On receiving notice that the Chargor has created a Security Interest over or otherwise encumbered or disposed of any of its Fixed Charge Assets in contravention of a Finance Document, a Secured Party may rule off all its accounts and open new accounts with the Chargor.
- 12.2 **Credits to new account:** If a Secured Party does not open a new account immediately on receipt of such notice, it shall nevertheless be treated as if it had done so on that day. From that day, all payments made by the Chargor to such Secured Party shall be treated as having been credited to a new account and shall not operate to reduce the amount owing from the Chargor to such Secured Party at the time when it received such notice.

13. POWERS OF SALE, LEASING AND ACCEPTING SURRENDERS

- 13.1 **Section 103 of the LPA:** Section 103 of the Law of Property Act 1925 shall not apply to this Mortgage, and the statutory power of sale shall arise on, and be exercisable at any time after, the execution of this Mortgage. However, the Security Agent shall not exercise such power of sale until this Mortgage has become enforceable.
- 13.2 **Powers of sale extended:** The statutory powers of sale, leasing and accepting surrenders exercisable by the Security Agent by virtue of this Mortgage are extended so as to authorise the Security Agent (whether in its own name or that of the Chargor concerned) to:
- (a) grant a lease of any Property vested in the Chargor or in which it has an interest on such terms and conditions as the Security Agent shall think fit; and
 - (b) sever any fixtures from Property vested in the Chargor and sell them separately.

14. APPOINTMENT OF A RECEIVER

- 14.1 **Appointment and enforcement triggers:** At any time after:
- (a) the occurrence of an Enforcement Event;
 - (b) in relation to the Chargor, a step or proceeding is taken, or a proposal made, for the appointment of an administrator or for a voluntary arrangement under Part I of the Insolvency Act 1986; or

- (c) a request has been made by the Parent and/or the Chargor to the Security Agent for the appointment of a Receiver over its Fixed Charge Assets or in respect of the Chargor,

then this Mortgage shall become enforceable and, notwithstanding the terms of any other agreement between the Chargor and any Secured Party, the Security Agent may (unless precluded by law) appoint in writing any person or persons to be a receiver or a receiver and manager (or receivers or receivers and managers) of all or any part of the Fixed Charge Assets of the Chargor, as the Security Agent may choose in its entire discretion.

- 14.2 **Power to act separately:** Where more than one Receiver or administrator is appointed, the appointees shall have power to act separately unless the Security Agent shall specify to the contrary.
- 14.3 **Receiver's remuneration:** The Security Agent may from time to time determine the remuneration of a Receiver.
- 14.4 **Removal of Receiver:** The Security Agent may (subject to section 45 of the Insolvency Act 1986) remove a Receiver from all or any of the Fixed Charge Assets of which he is the Receiver.
- 14.5 **Further appointments of a Receiver:** Such an appointment of a Receiver shall not preclude:
 - (a) the Security Agent from making any subsequent appointment of a Receiver over all or any Fixed Charge Assets over which a Receiver has not previously been appointed or has ceased to act; or
 - (b) the appointment of an additional Receiver to act while the first Receiver continues to act.
- 14.6 **Receiver's agency:** The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until the Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Security Agent or the Secured Parties.

15. POWERS OF A RECEIVER

- 15.1 **General:** The Receiver may exercise, in relation to the Chargor over whose Fixed Charge Assets he is appointed, all the powers, rights and discretions set out in Schedules 1 and 2 to the Insolvency Act 1986 and in particular, by way of addition to and without limiting such powers, the Receiver may, with or without the concurrence of others:
 - (a) sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Fixed Charge Assets of the Chargor, without the need to observe any of the provisions of sections 99 and 100 of the Law of Property Act 1925, in such manner and generally on such terms and conditions as he shall think fit in his absolute and unfettered discretion and any such sale or disposition may be for cash, securities or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of the Chargor;
 - (b) promote the formation of a Subsidiary of the Chargor with a view to such Subsidiary purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Fixed Charge Assets of the Chargor;
 - (c) sever any fixtures from Property and/or sell them separately;

- (d) arrange for the purchase, lease, licence or acquisition of all or any Fixed Charge Assets of the Chargor by any Subsidiary on a basis whereby the consideration may be for cash, securities, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such Subsidiary and whether or not such consideration is payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
- (e) make any arrangement or compromise with any Secured Party or others as he shall think fit;
- (f) make and effect all repairs, renewals and improvements to the Fixed Charge Assets of the Chargor and effect, renew or increase insurances on such terms and against such risks as he shall think fit;
- (g) appoint managers, officers and agents for the above purposes at such remuneration as the Receiver may determine;
- (h) redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- (i) pay the proper administrative charges of any Secured Parties in respect of time spent by their agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the Chargor;
- (j) commence and/or complete any building operations upon any Property of the Chargor and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he may in his absolute discretion think fit; and
- (k) do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the relevant Fixed Charge Assets.

16. POWER OF ATTORNEY

16.1 Appointment of attorney: The Chargor, by way of security and to more fully secure the performance of its obligations under this Mortgage, hereby irrevocably appoints the Security Agent and separately any nominee and/or any Receiver to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise (whether or not a Receiver or administrator has been appointed) to:

- (a) do anything which the Chargor is obliged to do (but has not done within 5 Business Days of being notified by the Security Agent of such failure and being requested to comply) in accordance with this Mortgage, including to execute and, following an Enforcement Event, deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
- (b) enable the Security Agent or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Mortgage or by statute in relation to this Mortgage or the Fixed Charge Assets charged, or purported to be charged, by it.

16.2 **Ratification:** The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

16.3 **Sums recoverable:** All sums expended by the Security Agent, nominee and/or any Receiver under this clause 16 shall be recoverable from the Chargor under clause 22 (*Costs, expenses and liabilities*).

17. **OTHER POWERS EXERCISABLE BY THE SECURITY AGENT**

17.1 **Receiver's powers:** All powers of the Receiver conferred by this Mortgage may be exercised by the Security Agent after this Mortgage has become enforceable in accordance with clause 14.1 (*Appointment and enforcement triggers*). In that event, clause 15.1(h) (*Powers of Receiver*) shall be read and construed as if the words "be charged on the Fixed Charge Assets of the Chargor" were substituted for the words "be deemed an expense properly incurred by the Receiver".

17.2 **Receipt of book debts:** Following the occurrence of an Enforcement Event, the Security Agent, its nominee or any manager, officer or agent of the Security Agent is hereby irrevocably empowered to:

- (a) receive all book debts and other debts and claims which may be assigned to the Security Agent pursuant to this Mortgage;
- (b) on payment to give an effectual discharge for them and on non-payment to take and institute (if the Security Agent in its sole discretion so decides) all steps and proceedings either in the name of the relevant assignor or in the name of the Security Agent for their recovery; and
- (c) agree accounts and to make allowances and to give time to any surety.

The relevant assignor ratifies and confirms whatever the Security Agent or any manager or officer of the Security Agent shall do or purport to do under this clause 17.

17.3 **Security Agent's powers:** The Security Agent shall have no liability or responsibility to the Chargor arising out of the exercise or non-exercise of the powers conferred on it by this clause 17, except for gross negligence or wilful default.

17.4 **No duty of enquiry:** The Security Agent need not enquire as to the sufficiency of any sums received by it in respect of any book debt or other debt or claim so assigned to it or make any claim or take any other action to collect in or enforce them.

18. **APPLICATION OF MONEY RECEIVED BY THE SECURITY AGENT OR A RECEIVER**

18.1 **Order of priority:** Any money received or realised under the powers conferred by this Mortgage shall be paid or applied in accordance with the terms of the Intercreditor Agreement as the same may be amended or superseded from time to time.

18.2 **Suspense account:** Until all the Secured Sums have been unconditionally and irrevocably paid and discharged in full, the Security Agent may place and keep to the credit of a suspense account any money received from or realised in respect of the Chargor's liability under this Mortgage. The Security Agent shall have no intermediate obligation to apply such money in or towards the discharge of any of the Secured Sums. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Security Agent in good faith to be a fair market rate.

18.3 **Discretion to apply:** Until all Secured Sums have been unconditionally and irrevocably paid and discharged in full, the Security Agent may refrain from applying or enforcing any other moneys, security or rights held by it in respect of the Secured Sums or may apply

and enforce such moneys, security or rights in such manner and in such order as it shall decide in its reasonable discretion and subject to the terms of the Finance Documents.

19. PROTECTION OF THIRD PARTIES

19.1 No duty to enquire: No purchaser from, or other person dealing with, the Security Agent its nominee or any Receiver or administrator shall be concerned to enquire whether any of the powers which the Security Agent has exercised or purported to exercise has arisen or become exercisable, or whether this Mortgage has become enforceable, or whether any nominee, Receiver or administrator has been validly appointed, or whether any event or cause has happened to authorise the Security Agent, any nominee or a Receiver or administrator to act or as to the propriety or validity of the exercise or purported exercise of any such power, and the title of such a purchaser and the position of such a person shall not be impeachable by reference to any of those matters.

19.2 Receipt: The receipt of the Security Agent shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any money paid to or by the direction of the Security Agent.

20. PROTECTION OF THE SECURITY AGENT ANY NOMINEE AND RECEIVER

20.1 Limitation: Neither the Security Agent nor any nominee or Receiver shall be liable in respect of any Liability which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise, any of their respective powers under or by virtue of this Mortgage, except if and insofar as such Liability results from its or his own gross negligence or wilful default.

20.2 Entry into possession: Without prejudice to the generality of clause 20.1 (*Limitation*), none of the Security Agent, any nominee or any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or him respectively. If and whenever the Security Agent or any nominee enters into possession of any Fixed Charge Assets, it shall be entitled at any time at its discretion to go out of possession.

21. SECURITY AGENT

21.1 Security Agent as trustee: The Security Agent declares itself to be a trustee of this Mortgage (and any other Security Interest created in its favour pursuant to this Mortgage) for the Secured Parties. The retirement of the person for the time being acting as Security Agent and the appointment of a successor shall be effected in the manner provided for in Security Trust Deed dated.

21.2 Trustee Act 2000: The Parties agree that the Security Agent shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.

21.3 No partnership: Nothing in this Mortgage shall constitute or be deemed to constitute a partnership between any of the Secured Parties and the Security Agent.

22. COSTS, EXPENSES AND LIABILITIES

22.1 Costs and expenses: The Chargor shall, without double recovery, pay the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by the Security Agent or any Receiver in connection with the negotiation, preparation and execution, completion and perfection of this Mortgage and any documents referred to in this Mortgage.

22.2 Enforcement costs: The Chargor shall, without double recovery and within three Business Days of demand, pay to the Security Agent, for each Secured Party on a full

indemnity basis, the amount of all costs and expenses (including legal, valuation, accountancy and consultancy fees and disbursements and out-of-pocket expenses) and any VAT thereon, incurred by the Security Agent and/or any other Secured Party in connection with the enforcement of or the preservation of or the release of any of its rights under this Mortgage or any documents referred to in this Mortgage in any jurisdiction and any proceedings instituted by or against the Security Agent, in any jurisdiction, as a consequence of taking, holding or enforcing the Security created by this Mortgage.

22.3 Indemnity for Liabilities: The Chargor shall also, within three Business Days of the Security Agent's written demand, reimburse or pay to the Security Agent, its employees or agents and any nominee, on demand (on the basis of a full indemnity) the amount of all Liabilities reasonably incurred by the Security Agent, its employees or agents or any nominee, in connection with:

- (a) any default or delay by the Chargor in the performance of any of its obligations under this Mortgage;
- (b) the exercise, or the attempted or purported exercise, by or on behalf of the Security Agent of any of its powers or any other action taken by or on behalf of the Security Agent with a view to or in connection with the recovery of the Secured Sums, the enforcement of the Security Interests created by this Mortgage or for any other purpose contemplated in this Mortgage;
- (c) the carrying out or consideration of any other act or matter which the Security Agent may reasonably consider to be conducive to the preservation, improvement or benefit of any Fixed Charge Asset; and
- (d) any stamp duty, stamp duty reserve tax or similar tax which may be payable as a result of the execution or performance of this Mortgage.

23. INTEREST ON OVERDUE AMOUNTS

- (a) Any overdue amounts secured and not paid in accordance with this Mortgage shall (subject to paragraph (b) below) carry interest at the rate and in accordance with the terms contained in the relevant Finance Document in relation to overdue sums or at such other rate and in accordance with the terms (if any) agreed between the Chargor and the relevant Secured Party or (in the absence of any such agreed rates) at the rate of three per cent per annum over the base rate from time to time of the Security Agent and (in either case) such interest shall accrue on a day-to-day basis to the date of repayment in full and, if unpaid, shall be compounded on the terms so agreed (or in the absence of such agreed terms) with quarterly rests on the Security Agent's usual quarterly interest days. Interest shall continue to be charged and compounded on this basis after as well as before any demand or judgment.
- (b) Paragraph (a) above shall not apply to the extent that default interest on such amount is charged pursuant to the relevant Finance Document and itself constitutes part of the Secured Sums.

24. SET-OFF

After the occurrence of an Enforcement Event which is continuing, a Secured Party may (but is not obliged to) retain any money it is holding (in any capacity) standing to the credit of the Chargor in any currency upon any account or otherwise (whether or not in the Chargor's name) as cover for any Secured Sums and/or at any time or times without notice to the Chargor set off all or any of such money against all or such part of the Secured Sums due, owing or incurred by the Chargor as the Security Agent may select. If

the obligations are in different currencies, the Security Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

25. CURRENCY INDEMNITY

If, for any reason, any amount payable to a Secured Party by the Chargor under this Mortgage is paid or recovered in a currency other than that in which it is required to be paid (the "contractual currency"), then, to the extent that the payment to such Secured Party (when converted into the contractual currency at its then applicable rate of exchange using a reasonable source of exchange) falls short of the amount payable in the contractual currency, the Chargor shall, as a separate and independent obligation, fully indemnify such Secured Party within 3 Business Days of demand against the amount of the shortfall.

26. TRANSFER

26.1 Transfer by a Secured Party

- (a) Any Secured Party may at any time assign and transfer all or any of its rights in relation to this Mortgage to any person to whom it is permitted to assign or transfer any of its rights under the relevant Finance Documents or otherwise grant an interest in them to any person, subject to the terms of the Finance Documents.
- (b) The Security Agent may assign and transfer all of its rights and obligations under this Mortgage to any replacement Security Agent appointed in accordance with the Security Trust Deed. Upon such assignment and transfer becoming effective, the replacement Security Agent shall be, and be deemed to be, acting as agent and trustee for each of the Secured Parties (including itself) for the purposes of this Mortgage in replacement of the previous Security Agent.

26.2 Disclosure: The Chargor irrevocably authorises each Secured Party, at its discretion, at any time or from time to time, to disclose any information concerning the Chargor, this Mortgage and the Secured Sums:

- (a) to any associated company of such Secured Party;
- (b) to any prospective assignee or transferee or grantee referred to in clause 27 (*Transfer*) and any other person considered by such Secured Party to be concerned in the prospective transaction; and
- (c) to any person who, as part of the arrangements made in connection with any transaction referred to in clause 27 (*Transfer*), requires such information after the transaction has been effected.

provided, in each case, that any such associated company, potential assignee, transferee or grantee enters into a Confidentiality Undertaking in relation to such information and the Secured Party concerned complies with the express terms of the Finance Documents.

The above authority is without prejudice to a Secured Party's right of disclosure implied by law.

27. RELEASE OF SECURITY

27.1 Redemption: Subject to Clause 27.2 (*Avoidance of Payments*), if all Secured Sums have been irrevocably paid or discharged in full and none of the Secured Parties are under any further actual or contingent liability to make advance or provide other financial accommodation to any person under any Finance Document, the Security Agent will (at

the request and cost of the Chargor), execute and do all such reasonable acts as may be necessary to release the Chargor and the Fixed Charge Assets from the Security constituted by this Mortgage, discharge the Chargor from the guarantees, re-assign the relevant Fixed Charge Assets back to the Chargor and return all title documents, share certificates, stock transfer forms and other ancillary documents delivered to it in connection with this Mortgage or discharge the undertakings in relation to the same.

- 27.2 **Avoidance of Payments:** If the Security Agent considers in good faith that any amount received in payment or purported payment of the Secured Sums is capable of being avoided or reduced by virtue of any insolvency, bankruptcy, liquidation or other similar laws, the liability of the Chargor under this Mortgage and the Security constituted by this Mortgage shall continue and such amount shall not be considered to have been irrevocably paid.

28. **EVIDENCE OF SECURED SUMS**

A certificate signed (or, where reliance is being placed on it by any third party, appearing to be signed) by an officer of the Security Agent as to the Secured Sums for the time being due or owing from the Chargor to a Secured Party shall be treated, in favour of such Secured Party or any person to whom such certificate is issued, as conclusive evidence for all purposes against the Chargor and binding on it (save in the case of manifest error) and such certificate may be relied upon by any Secured Party and any other such person in all circumstances without further enquiry.

29. **THIRD PARTY RIGHTS**

- 29.1 **Directly enforceable rights:** Pursuant to the Contracts (Rights of Third Parties) Act 1999:

- (a) the provisions of clause 24 (*Set-off*), clause 25 (*Currency indemnity*) and clause 26 (*Transfer by a Secured Party*) shall be directly enforceable by a Secured Party;
- (b) the provisions of clause 14 (*Appointment of a Receiver*) to clause 20 (*Protection of the Security Agent and Receiver*) inclusive shall be directly enforceable by any nominee or Receiver;
- (c) the provisions of clause 18.2 (*Protection of third parties*) shall be directly enforceable by any purchaser; and
- (d) clause 28 (*Evidence of Secured Sums*) shall be directly enforceable by any person to whom a certificate is issued under clause 28.

- 29.2 **Exclusion of Contracts (Rights of Third Parties) Act 1999:** Save as otherwise expressly provided in clause 29.1 (*Directly enforceable rights*), no person other than a Party shall have any right by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any term (express or implied) of this Mortgage, but without prejudice to any right or remedy of the third party which may exist or be available apart from that Act.

- 29.3 **Rights of the Parties to vary:** The Parties (or the Parent, on behalf of the Chargor, and the Security Agent) may by agreement vary any term of this Mortgage (including this clause 29) without the necessity of obtaining any consent from any other person.

30. **FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS**

- 30.1 **Delay etc:** All rights, powers and privileges under this Mortgage shall continue in full force and effect, regardless of any Secured Party nominee or Receiver exercising, delaying in exercising or omitting to exercise any of them.

- 30.2 **Severability:** No provision of this Mortgage shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.
- 30.3 **Illegality, invalidity, unenforceability:** Any provision of this Mortgage which is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Mortgage.
- 30.4 **Variations:** No variation of this Mortgage shall be valid and constitute part of this Mortgage, unless such variation shall have been made in writing and signed by the Security Agent (on behalf of the Secured Parties) and the Parent (on behalf of the Chargor) or by all Parties.
- 30.5 **Consents:** Save as otherwise expressly specified in this Mortgage or any other Finance Document, any consent of the Security Agent may be given absolutely or on any terms and subject to any conditions as the Security Agent may determine in its discretion in accordance with the Finance Documents (acting reasonably).

31. **COUNTERPARTS**

This Mortgage may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all of which when taken together shall constitute a single document.

32. **SERVICE OF DEMANDS AND NOTICES**

- 32.1 **Addresses:** Any communication to be made under or in connection with this Mortgage may be made or given by any manager, officer or agent of the Security Agent:

- (a) in writing addressed to the Chargor and served on it at the address for service of the Chargor stated in Schedule 1 (*The Chargor*); or
- (b) by facsimile transmission to the facsimile number specified for service of the Chargor stated in Schedule 1 (*The Chargor*);

or any substitute address or fax number or department or officer as the Chargor may notify to the Security Agent by not less than five Business Days' notice.

- 32.2 **Delivery:** A notice or demand shall be deemed to be duly served on the Chargor:

- (a) if delivered by hand, at the time it is delivered;
- (b) if sent by pre-paid first class post, five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address; or
- (c) if given or made by facsimile, when received in legible format at the time of transmission;

and, if a particular department or officer is specified as part of its address details provided under Clause 32.1 (*Addresses*), if addressed to that department or officer. Provided that, where delivery or transmission occurs after 6.00 pm on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9.00 am on the next Business Day.

- 32.3 **Security Agent:** Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of any department or officer identified

as part of its address details at the end of this Mortgage (or any substitute department or officer that the Security Agent shall specify for this purpose).

32.4 Notice or demand to Chargor: A notice or demand duly served on the Parent by the Security Agent shall constitute effective notice to or demand on the Chargor.

32.5 Electronic mail: Notices under this Mortgage may not be served by electronic mail or other electronic means of communication other than facsimile.

32.6 Notification of change: Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to clause 32.1 (*Addresses*) or changing its own address or fax number, the Security Agent shall notify the other parties.

33. GOVERNING LAW AND JURISDICTION

33.1 This Mortgage and all non-contractual obligations arising in any way whatsoever out of or in connection with this Mortgage shall be governed by, construed and take effect in accordance with English law.

34. ENFORCEMENT

34.1 Jurisdiction of English courts

(a) The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this Mortgage (whether contractual or non-contractual, including a dispute regarding the existence, validity or termination of this Mortgage or any claim for set-off) or the legal relationships established by this Mortgage (a "Dispute") only where such Dispute is the subject of proceedings commenced by the Chargor.

(b) Where a Dispute is the subject of proceedings commenced by the Security Agent or by one or more Secured Parties, the Security Agent is or any such Secured Parties are (as applicable) entitled to bring such proceedings before any courts with jurisdiction by reason of the registered office of the Chargor (including but not limited to the courts of England). If the Chargor raises a counter-claim in the context of proceedings commenced by the Security Agent or by one or more Secured Parties, the Chargor shall bring such counter-claim before the court seized of the Security Agents', Secured Party's or Secured Parties' claim and no other court.

(c) To the extent allowed by law, the Chargor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.

34.2 Agreement: The Chargor expressly agrees and consents to the provisions of this clause 34.

THIS MORTGAGE has been executed by the Chargor as a deed and signed by the Security Agent and it has been delivered and shall take effect on the date stated at the beginning of this document.

SCHEDULE 1

The Chargor

Name of Chargor	Registered Number (including place of incorporation)	Address for Service
Expanded Piling Limited	00414814 (England and Wales)	Bridge Place Anchor Boulevard Admirals Walk, Crossway Dartford, Kent DA2 6SN Attn: Company Secretary Fax: +44(0)1322 296262

Schedule 2

Terms of Guarantee

1. **Continuing security:** This Guarantee is a continuing security to the Secured Parties and will continue in full force irrespective of whatever dealings may occur on any account between any Secured Party and any Principal.
2. **Guarantee irrevocable:** This Guarantee is irrevocable.
3. **New accounts:** If the Guarantor gives notice to the Security Agent to crystallise its liability under this Guarantee or if this Guarantee ceases for any reason to be binding on the Guarantor as a continuing security in relation to the Principal, then each Secured Party may break its accounts with the Guarantor and such Principal as it deems appropriate and open new accounts for the account holders affected.
4. **Payments:** All payments falling due by the Guarantor under this Guarantee will be made to the Security Agent without any set-off or counterclaim and free from any deduction or withholding for or on account of any taxes or other charges in the nature of taxes imposed by any competent authority. If any such deduction or withholding is required by law, the Guarantor will pay to the Security Agent any additional amount necessary to ensure that each Secured Party receives and retains the full amount of the relevant payment as if such deduction or withholding had not been made.
5. **Turnover Trust:** If the Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Guarantor under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application in accordance with clause 19.1 (*Application of Money Received by the Security Agent or a Receiver*) of this Guarantee.
6. **Suspense account:** Any Secured Party may at any time (without prejudice to its other rights) place and keep for such time as such Secured Party may think prudent any money received, recovered or realised under or by virtue of this Guarantee on a separate or suspense account to the credit of either such Secured Party or the relevant Guarantor (as it thinks fit), without any intermediate obligation on its part to apply such money or any part of it in or towards discharge of the Secured Sums.
7. **Additional security:** This Guarantee is to be in addition to and is not to prejudice or be prejudiced by any other guarantee or security (including any other guarantee signed by the Guarantor) which a Secured Party may hold from or on account of any Principal either now or in the future.
8. **No demand:** This Guarantee may be enforced without a Secured Party first making demand on the relevant Principal or taking any steps or proceedings against such Principal or having recourse to any other guarantee or security.
9. **No subrogation:** The Guarantor shall have no right to:
 - (a) make any claim (whether by way of proof in liquidation or otherwise) against a Principal or any property of a Principal; or
 - (b) participate in any security held or money received by a Secured Party on account of the Secured Sums; or
 - (c) stand in the place of any Secured Party in respect of any such security or money,

until, in each case, all Secured Sums have been paid or discharged to the Secured Parties in full.

10. **No discharge:** A Secured Party may at any time (without affecting its rights against the Guarantor under this Guarantee) grant, extend, increase, renew, vary, determine or refuse any credit or facility to a Principal, or take, hold, exchange, vary, release, abstain from perfecting or enforcing any guarantee or security for the Secured Sums, or compromise with or extend time or grant waivers, releases or any indulgence to the Principal or a co-surety, or make any arrangement, concession or settlement with either of them or do or omit or neglect to do anything whatever which, but for this provision, might exonerate the Guarantor or discharge its obligations under this Guarantee (except for a specific written release given by the Security Agent of such obligations).
11. **Guarantor Intent:** Without prejudice to the generality of paragraph 10 (*No discharge*), the Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any reasonable fees, costs and/or expenses associated with any of the foregoing.
12. **No reduction of liability:** After this Guarantee becomes enforceable, no payment received by a Secured Party from any source in respect of the Secured Sums will be treated as reducing the Guarantor's liability to the Secured Parties under this Guarantee, so that, until the Secured Parties have received payment in full of all Secured Sums, they will be deemed, as between the Secured Parties and the Guarantor, to remain wholly unsatisfied.
13. **Adjustments:** If the state of account between a Secured Party and a Principal, by reference to which any Secured Sum is calculated for the purposes of this Guarantee, requires adjustment at any time because of any insolvency law or because of any claim made against a Secured Party by an office-holder (within the meaning of section 234 of the Insolvency Act 1986) or a person performing a substantially similar function in any insolvency proceedings outside England and Wales, then, notwithstanding any other provision of this Guarantee:
 - (a) the liability of the Guarantor to such Secured Party will be increased by any amount which such Secured Party is required to pay or account for as a result of such adjustment; and
 - (b) such Secured Party may treat any release or settlement made by it with any Guarantor before any such adjustment is required as being of no effect and may still recover from the Guarantor the amount of any such adjustment.

If a Secured Party is required because of any insolvency law to pay to any such office-holder a sum of money referable to an amount paid to a third party out of any account of a Principal with such Secured Party, the amount of such repayment shall be treated as and form part of the Indebtedness owing to such Secured Party by such Principal for the purposes of this Guarantee.

14. **Insolvency claims:** If any claim is made against a Secured Party under any insolvency law, such Secured Party may agree the claim or settle it on any terms it chooses without the necessity of asking for any Guarantor's agreement. If such Secured Party does agree

or settle the claim, the Guarantor will be liable under this Guarantee as if a court order had been made containing the terms which such Secured Party has agreed. The Guarantor will be responsible for all costs and expenses which such Secured Party properly incurs in defending such a claim.

15. **Winding up:** The winding up or dissolution of a Principal will not affect the Guarantor's liability under this Guarantee and any sum payable to a Secured Party at the date of the commencement of such winding up or immediately prior to such dissolution (as the case may be) will be treated as continuing payable until actually paid in full.
16. **Liability as principal:** If any question arises as to the capacity of a Principal in relation to any dealing between such Principal and any Secured Party, or as to the capacity, authority or power of any officer, employee or agent of a Principal to bind it to any transaction with any Secured Party, or as to whether any of the Secured Sums are immediately due and payable, that question shall, as between the Guarantor and such Secured Party, be disregarded and the Guarantor will for the purposes of this Guarantee be and continue to be liable to such Secured Party in respect of any such dealing, transaction and/or Secured Sums as if the Guarantor were a principal debtor.
17. **Binding and conclusive:** Each of the following will be binding and conclusive on the Guarantor (except in the case of manifest error):
 - (a) any admission or acknowledgement in writing by a Principal or on its behalf of the amount of any Secured Sums or otherwise in relation to this Guarantee;
 - (b) any judgment or award obtained by a Secured Party against a Principal;
 - (c) any proof by a Secured Party in winding up which is admitted; or
 - (d) any statement of account furnished by a Secured Party the correctness of which is certified by any one of its officers or managers.

SCHEDULE 3

Registered Property to be mortgaged

Name of Chargor/Registered Proprietor	Description of Property	Title Number
Expanded Piling Limited	Land and buildings on the Southside of Cheapside, Brigsley.	HS216039

The address for service of the Security Agent in the case of registered land is Lloyds Bank plc,
Agency – Specialist Lending Services, New Ueberior House, 11 Earl Grey Street, Edinburgh, EH3
9BN, United Kingdom.

SCHEDULE 4

Details of Existing Security

None applicable

SCHEDULE 5

Part 1

FORM OF NOTICE OF ASSIGNMENT OF ASSIGNED AGREEMENT CLAIMS

Served by Recorded Delivery or By Hand

To: [*counterparty*]

[*date*]

Dear Sirs,

Notice of Assignment

We refer to the [*description of Assigned Agreement*] dated [***] made between Yourselfs (1) and [***] (2) (the "Agreement").

We refer to a Mortgage (the "Mortgage") dated [***] made between, inter alia, [***] (the "Security Agent") and ourselves. Terms defined in the Mortgage are to have the same meanings in this letter.

We hereby give you notice that all claims arising in respect of the Agreement (the "Contract Claims") have been assigned by way of security to the Security Agent by Clause 3.1 (*Assignments*) of the Mortgage.

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous directions which we may have given you to the contrary):

- unless otherwise directed by the Security Agent, to furnish or disclose to the Security Agent in addition to ourselves all material notices, matters or things required under the Agreement or any related document to be furnished and disclosed to ourselves; and
- to accept from and agree with the Security Agent (and not ourselves) all claims under, discharges for and waivers, variations, terminations and cancellations of the Agreement, any other document which is incidental to the Agreement and/or the Contract Claims without any reference to or further authority from us.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter and all non-contractual obligations arising in any way whatsoever out of or in connection with this letter shall be governed by, construed and take effect in accordance with English law.

Please confirm your acknowledgement of this Notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Hogan Lovells International LLP at Atlantic House, London EC1A 2FG (Ref F3EJC/145151.002000) and to [****Security Agent's name and address****] marked for the attention of [***].

Signed

.....

for and on behalf of

[***the Company***]

[on copy]

ACKNOWLEDGEMENT

To: Hogan Lovells International LLP

Atlantic House

London EC1A 2FG

Ref: [***]

To: [*** Security Agent ***]

For the attention of: [***]

We, [*** Counterparty***] hereby acknowledge receipt of a notice of assignment from [***the Chargor***] (the "Assignor") of which the attached is a copy (the "Notice of Assignment").

We confirm that:

- (a) we have not received notice of any other assignment of the Contract Claims described in the Notice of Assignment or any interest therein;
- (b) we will not, without the prior written consent of the Security Agent (not to be unreasonably withheld), vary, rescind or otherwise alter or terminate the Agreement or in any way prejudice the rights of the Security Agent and the Secured Parties under the Agreement; and
- (c) we confirm that we will act in accordance with the instructions given by the Assignor in the Notice of Assignment.

For and on behalf of

.....

[*** Counterparty***]

Dated:

SCHEDULE 5

Part 2

FORM OF NOTICE OF ASSIGNMENT - INSURANCES

Served by Recorded Delivery or By Hand

To: *[insert name and address of Insurer]*

[Date]

Dear Sirs

Re: *[describe relevant policies]* dated *[date]* between (1) you and (2) *[insert name of Charging Companies]*

1. We give notice that, by a Mortgage (the "**Mortgage**") dated ***** made between inter alia ***** (the "**Security Agent**") and ourselves, we have assigned by way of security to the Security Agent all our rights, title and interest from time to time in respect of any sums payable to us pursuant to the Policies (together with any other agreement supplementing or amending the same, the "**Policies**"). We note, for the avoidance of doubt, that the assignment relates solely to the rights, title and interest of the signatories to this notice and not those of any other insured party under the Policies.
2. We irrevocably authorise and instruct you from time to time:
 - (a) to disclose to the Security Agent (without any reference to or further authority from us) such information relating to the Policies as the Security Agent may from time to time reasonably request;
 - (b) to hold all sums from time to time due and payable by you to us under the Policies to the order of the Security Agent and to pay or release all or any part of those sums only in accordance with the written instructions given to you by the Security Agent from time to time;
 - (c) to comply with any written notice or instructions relating to the Mortgage, the sums payable by you to us from time to time under the Policies (or the debts represented by them) which you may receive from the Security Agent (without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction); and
 - (d) to send copies of all notices and other material information given or received under the Policies to the Security Agent.
3. This notice may only be revoked or amended with the prior written consent of the Security Agent.
4. Please confirm by completing the enclosed copy of this notice and returning it to the Security Agent (with a copy to us) that you:

- (a) accept the instructions and authorisations contained in this notice and undertake to comply with this notice; and
- (b) have not received notice of the grant of any security or the existence of any other interest of any third party in or to the Policies or any proceeds of them.

5. This notice is governed by English law.

Yours faithfully

for and on behalf of

[Name of Chargor]

[on copy]

To: *[Name of Security Agent]*
 as Security Agent
 [address of Security Agent]
Copy to: *[Name of Chargor]*

Dear Sirs

We acknowledge receipt of the above notice and consent and agree to its terms.

for and on behalf of

[Name of Insurer]

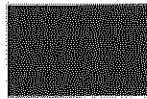
Dated:

EXECUTION PAGE

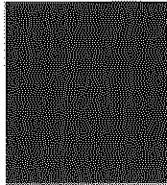
THE CHARGOR

Executed and Delivered as a deed
by **Expanded Piling Limited**
(pursuant to a resolution of its Board
of Directors) acting by:

)
)
)
)



Director:



In the presence of:

Name:

Address:

Occupation:

NORTON ROSE FULBRIGHT
Norton Rose Fulbright LLP
3 More London Riverside
London SE1 2AQ United Kingdom
nortonrosefulbright.com

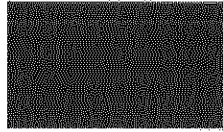
Shivani Patel



THE SECURITY AGENT

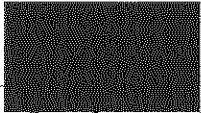
Signed as a deed by ^{STEVEN} *Clay* for
and on behalf of Lloyds Bank plc

Under a power of attorney dated *14 June*
2018



Attorney:

In the presence of:

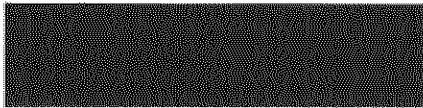


Name:

Address:

Harry Balgour - Lynn

Occupation:



Hogan Lovells
International LLP
Atlantic House
London EC1A 2FG

Address:

Lloyds Bank plc

Agency – Specialist Lending Services

New Uberior House

11 Earl Grey Street

Edinburgh

EH3 9BN

Attention:

John Togher