



Registration of a Charge

Company name: **INSTITUTE OF CONTEMPORARY ARTS LIMITED**
Company number: **00444351**



Received for Electronic Filing: **31/01/2020**

Details of Charge

Date of creation: **16/01/2020**
Charge code: **0044 4351 0007**
Persons entitled: **ENCUMBRANCE INCORPORATED**
Brief description:
Contains fixed charge(s).
Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**
Certified by: **KINGSLEY NAPLEY LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 444351

Charge code: 0044 4351 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th January 2020 and created by INSTITUTE OF CONTEMPORARY ARTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st January 2020 .

Given at Companies House, Cardiff on 3rd February 2020

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 16 June 2020

MORTGAGE OF ASSET

(1) INSTITUTE OF CONTEMPORARY ARTS LIMITED

(2) ENCUMBRANCE INCORPORATED

THIS DEED is made the 16th day of January 2020

BETWEEN:

- (1) **INSTITUTE OF CONTEMPORARY ARTS LIMITED** incorporated and registered in England and Wales with company number 00444351 and with registered charity number 236848 whose registered office is at The Mall, London, SW1Y 5AH (the "**Borrower**"); and
- (2) **ENCUMBRANCE INCORPORATED**, a company registered in the State of New York with EIN company number 84-4057891 and whose registered office is at 34-31 82nd St., Apt. 42 Jackson Heights, NY 11372 (the "**Lender**").

RECITALS:

- (A) Pursuant to the Loan Agreement, the Lender has agreed to provide the Borrower with loan facilities in the sum of £1,000 to be advanced by the Lender to the Borrower on a secured basis with interest accruing at a fixed rate of 10% per annum.
- (B) Under this deed, the Borrower provides security to the Lender for the loan facilities made available under the Loan Agreement.

It is hereby agreed

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

Terms defined in the Loan Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed:

"Business Day": a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Delegate": any person appointed by the Lender or any Receiver pursuant to clause 11, and any person appointed as attorney of the Lender, Receiver or Delegate.

"Event of Default": has the meaning given to that expression in the Loan Agreement.

"Loan Agreement": the loan agreement dated on or around the date of this deed between the Borrower and the Lender for the provision of the loan facilities secured by this deed.

"LPA 1925": the Law of Property Act 1925.

"Receiver": a receiver, receiver and manager or administrative receiver appointed by the Lender under clause 9.

"Secured Assets": the property described in Schedule 1.

"Secured Liabilities": all present and future obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity including, without limitation, under or in connection with the Loan Agreement or this deed (including, without limitation, those arising under clause 24.3.2), together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

"Security": any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

"Security Period": the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

1.2 INTERPRETATION

1.2.1 the provisions of clause 1.2 of the Loan Agreement apply to this deed as if they were set out in full in this deed, except that each reference in that clause to the Loan Agreement shall be read as a reference to this deed; and

1.2.2 any reference to the term "Borrower" in this agreement also refers to each of its transferees, successors or assignees.

1.3 CLAWBACK

If the Lender considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

1.4 PERPETUITY PERIOD

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

1.5 SCHEDULES

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

2. COVENANT TO PAY

The Borrower, but no other person on the Borrower's behalf, shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

3. GRANT OF SECURITY

LEGAL MORTGAGE

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender by way of first legal mortgage, the Secured Assets.

4. LIABILITY OF THE BORROWER

4.1 LIABILITY NOT DISCHARGED

The Borrower's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is or becomes wholly or partially illegal, void or unenforceable on any ground;

4.1.2 the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

4.2 IMMEDIATE RECOURSE

The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower.

5. COVENANTS

5.1 NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS

The Borrower shall not at any time, except with the prior written consent of the Lender:

5.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed;

5.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Secured Assets; or

5.1.3 create or grant (or purport to create or grant) any interest in any Secured Asset in favour of a third party.

5.2 PRESERVATION OF SECURED ASSETS

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender or

materially diminish the value of any of the Secured Assets (except for expected fair wear and tear) or the effectiveness of the security created by this deed.

5.3 NOTICE OF MISREPRESENTATIONS AND BREACHES

The Borrower shall, promptly on becoming aware of any of the same, notify the Lender in writing of any breach of any covenant set out in this deed.

5.4 INFORMATION

The Borrower shall:

- 5.4.1 give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require;
- 5.4.2 permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Secured Asset, and the records relating to that Secured Asset, at all reasonable times and on reasonable prior notice; and
- 5.4.3 promptly notify the Lender in writing of any action, claim or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense.

5.5 PAYMENT OF OUTGOINGS

The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender.

5.6 MAINTENANCE OF INTERESTS IN SECURED ASSETS

The Borrower:

- 5.6.1 shall not, without the prior written consent of the Lender:
 - 5.6.1.1 grant, or agree to grant, any licence or lease affecting the whole or any part of any Secured Assets; or
 - 5.6.1.2 in any other way dispose of, or agree to dispose of, surrender or create any legal or equitable interest in the whole or any part of any Secured Assets;
- 5.6.2 shall keep the Secured Assets in its sole and exclusive possession at the location (if any) specified in Schedule 1 or at such other location as the Lender may consent in writing and shall not take the Secured Assets, or allow them to be taken, out of England and Wales.

6. POWERS OF THE LENDER

6.1 POWER TO REMEDY

- 6.1.1 The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.
- 6.1.2 The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.
- 6.1.3 Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed, shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with clause 13.1.

6.2 EXERCISE OF RIGHTS

- 6.2.1 The rights of the Lender under clause 6.1 are without prejudice to any other rights of the Lender under this deed.
- 6.2.2 The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

6.3 LENDER HAS RECEIVER'S POWERS

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

6.4 NEW ACCOUNTS

- 6.4.1 If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Lender may open a new account for the Borrower in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 6.4.2 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 6.4.1, then, unless the Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lender shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Lender.

6.5 INDULGENCE

The Lender may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.

7. WHEN SECURITY BECOMES ENFORCEABLE

7.1 SECURITY BECOMES ENFORCEABLE ON EVENT OF DEFAULT

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

7.2 DISCRETION

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

8. ENFORCEMENT OF SECURITY

8.1 ENFORCEMENT POWERS

8.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.

8.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 7.1.

8.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

8.2 ACCESS ON ENFORCEMENT

8.2.1 At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed or the Loan Agreement, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated (or where the Lender or a Receiver reasonably believes a Secured Asset to be situated) without incurring any liability to the Borrower for, or by any reason of, that entry.

8.2.2 At all times, the Borrower must use its best endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 8.2.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

8.3 PROTECTION OF THIRD PARTIES

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire:

8.3.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;

- 8.3.2 whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
- 8.3.3 how any money paid to the Lender, any Receiver or any Delegate is to be applied.

8.4 PRIVILEGES

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

8.5 NO LIABILITY AS MORTGAGEE IN POSSESSION

Neither the Lender, nor any Receiver or any Delegate shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

8.6 CONCLUSIVE DISCHARGE TO PURCHASERS

The receipt of the Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

9. RECEIVER

9.1 APPOINTMENT

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

9.2 REMOVAL

The Lender may, without further notice, (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

9.3 REMUNERATION

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

9.4 POWER OF APPOINTMENT ADDITIONAL TO STATUTORY POWERS

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

9.5 POWER OF APPOINTMENT EXERCISABLE DESPITE PRIOR APPOINTMENTS

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets.

9.6 AGENT OF THE BORROWER

Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

10. POWERS OF RECEIVER

10.1 GENERAL

10.1.1 Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on it by statute, have the powers set out in clause 10.1.4 to clause 10.15.

10.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.

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

10.1.4 Any exercise by a Receiver of any of the powers given by clause 10 may be on behalf of the Borrower, the directors of the Borrower or itself.

10.1.5 REPAIR AND IMPROVE SECURED ASSETS

A Receiver may undertake or complete any works or repairs, alterations, additions, replacements or other acts for the protection or improvement of the Secured Assets as it thinks fit.

10.2 GRANT OR SURRENDER LEASES

A Receiver may grant, or accept surrenders of, any leases, lettings or hire affecting any of the Secured Assets on any terms and subject to any conditions that it thinks fit.

10.3 EMPLOY PERSONNEL AND ADVISERS

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit.

10.4 REMUNERATION

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that the Lender may prescribe or agree with it.

10.5 REALISE SECURED ASSETS

A Receiver may collect and get in the Secured Assets or any part of them in respect of which it is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

10.6 REMOVE SECURED ASSETS

A Receiver may enter any premises where any Secured Assets are located and sever, dismantle and remove any Secured Assets from the premises without the Borrower's consent.

10.7 MANAGE SECURED ASSETS

A Receiver may do all such things as may be necessary for the ownership, management or operation of the Secured Assets.

10.8 DISPOSE OF SECURED ASSETS

A Receiver may grant options and licences over all or any part of the Secured Assets, sell, exchange, convert into money, realise, assign, lease and accept surrenders of leases of all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

10.9 VALID RECEIPTS

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

10.10 MAKE SETTLEMENTS

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

10.11 BRING PROCEEDINGS

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

10.12 BORROW

A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

10.13 DELEGATION

A Receiver may delegate its powers in accordance with this deed.

10.14 ABSOLUTE BENEFICIAL OWNER

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

10.15 INCIDENTAL POWERS

A Receiver may do any other acts and things that it:

10.15.1 may consider desirable or necessary for realising any of the Secured Assets;

10.15.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or

10.15.3 lawfully may or can do as agent for the Borrower.

11. DELEGATION

11.1 DELEGATION

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 15.1).

11.2 TERMS

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

11.3 LIABILITY

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

12. APPLICATION OF PROCEEDS

12.1 ORDER OF APPLICATION OF PROCEEDS

All monies received or recovered by the Lender, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of, the security constituted by this deed (other than sums received pursuant to any insurance policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Lender's rights to recover any shortfall from the Borrower):

- 12.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- 12.1.2 in or towards payment of the Secured Liabilities in any order and manner that the Lender determines; and
- 12.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.

12.2 APPROPRIATION

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

12.3 SUSPENSE ACCOUNT

All monies received by the Lender, a Receiver or a Delegate under this deed (other than sums received pursuant to any insurance policy, which are not going to be applied in or towards discharge of the Secured Liabilities):

- 12.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense account;
- 12.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
- 12.3.3 may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

13. COSTS AND INDEMNITY

13.1 COSTS

The Borrower shall, within five Business Days of demand, pay to, or reimburse, the Lender and any Receiver on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with:

- 13.1.1 this deed or the Secured Assets;

13.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed; or

13.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate and in the manner specified in the Loan Agreement.

13.2 INDEMNITY

The Borrower shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

13.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;

13.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or

13.2.3 any default or delay by the Borrower in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 13.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

14. FURTHER ASSURANCE

14.1 The Borrower shall promptly, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

14.1.1 creating, perfecting or protecting the security intended to be created by this deed;

14.1.2 facilitating the realisation of any Secured Asset; or

14.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

14.2 including, without limitation the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

15. POWER OF ATTORNEY

15.1 APPOINTMENT OF ATTORNEYS

By way of security, the Borrower irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:

- 15.1.1 the Borrower is required to execute and do under this deed; or
- 15.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate.

15.2 RATIFICATION OF ACTS OF ATTORNEYS

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 15.1.

16. RELEASE

- 16.1 Subject to clause 23.3, at the end of the Security Period, the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

- 16.1.1 release the Secured Assets from the security constituted by this deed; and
- 16.1.2 reassign the Secured Assets to the Borrower.

17. ASSIGNMENT AND TRANSFER

17.1 ASSIGNMENT BY LENDER

- 17.1.1 At any time, without the consent of the Borrower, the Lender may assign or transfer any or all of its rights and obligations under this deed.
- 17.1.2 The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Secured Assets and this deed that the Lender considers appropriate.

17.2 ASSIGNMENT BY BORROWER

The Borrower may not voluntarily assign any of its rights, or transfer any of its rights or obligations, under this deed.

18. SET-OFF

EXCLUSION OF BORROWER'S RIGHT OF SET-OFF

All payments made by the Borrower to the Lender under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

19. AMENDMENTS, WAIVERS AND CONSENTS

19.1 AMENDMENTS

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

19.2 WAIVERS AND CONSENTS

19.2.1 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

19.2.2 A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing.

19.3 RIGHTS AND REMEDIES

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

20. SEVERANCE

20.1 SEVERANCE

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

21. COUNTERPARTS

21.1 COUNTERPARTS

21.1.1 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

21.1.2 Transmission of the executed signature page of a counterpart of this deed by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

22. THIRD PARTY RIGHTS

22.1 THIRD PARTY RIGHTS

22.1.1 Except as expressly provided in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

22.1.2 The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

23. FURTHER PROVISIONS

23.1 INDEPENDENT SECURITY

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed.

23.2 CONTINUING SECURITY

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

23.3 DISCHARGE CONDITIONAL

Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

23.3.1 the Lender or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and

23.3.2 the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

23.4 CERTIFICATES

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower shall be, in the absence of any manifest error, conclusive evidence of the amount due.

23.5 CONSOLIDATION

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

24. NOTICES

24.1 DELIVERY

Any notice or other communication given to a party under or in connection with this deed shall be:

24.1.1 in writing;

24.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and

24.1.3 sent to:

24.1.3.1 the Borrower at:
12 Carlton House Terrace, London SW1Y 5AH, UK
Fax: N/A
Attention: Stefan Kalmar

24.1.3.2 the Lender at:
34-31 82nd St. Apt. 42 Jackson Heights, NY 11372
Fax: N/A
Attention: Cameron Rowland

or to any other address or fax number as is notified in writing by one party to the other from time to time.

24.2 RECEIPT BY BORROWER

Any notice or other communication that the Lender gives to the Borrower shall be deemed to have been received:

24.2.1 if delivered by hand, at the time it is left at the relevant address;

24.2.2 if posted by pre-paid first class post or other next working day delivery service, on the second Business Day after posting; and

24.2.3 if sent by fax, when received in legible form.

A notice or other communication given as described in clause 24.2.1 or clause 24.2.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

24.3 RECEIPT BY LENDER

Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

24.4 SERVICE OF PROCEEDINGS

This clause 24 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24.5 NO NOTICE BY EMAIL

A notice or other communication given under or in connection with this deed is not valid if sent by email.

25. GOVERNING LAW AND JURISDICTION

25.1 GOVERNING LAW

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

25.2 JURISDICTION

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

25.3 OTHER SERVICE

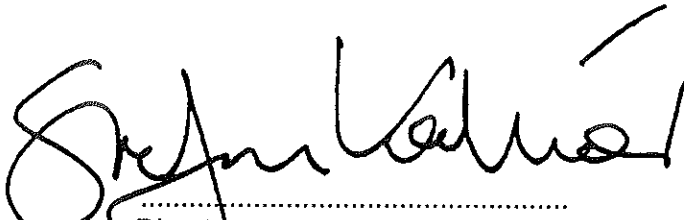
The Borrower irrevocably consents to any legal action or proceedings under clause 25.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

IN WITNESS WHEREOF this document has been executed and delivered as a deed on the date first stated above.

SCHEDULE 1

- The “mahogany door: 12 Carlton House Terrace, ground floor, reception to gallery” as part of *Encumbrance* located at 12 Carlton House Terrace, London SW1Y 5AH, UK.

EXECUTED AND DELIVERED AS A DEED
by INSTITUTE OF CONTEMPORARY ARTS
LIMITED acting by Stefan Kalmar,
a director in the presence of:


.....
Director

Witness:
Signature


.....

Name

Morag Donald

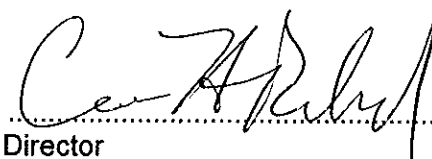
Address

Studio D, Ficus Mount House
7 Playground Gardens
London E2 7FA

Occupation

Coordinator

EXECUTED AND DELIVERED AS A DEED
by ENCUMBRANCE INCORPORATED acting by
Cameron Rowland a director in the presence of:


.....
Director

Witness:
Signature


.....

Name

Morag Donald

Address

Studio D, Ficus Mount House
7 Playground Gardens
London E2 7FA

Occupation

Coordinator