



Registration of a Charge

Company name: **ST. MODWEN DEVELOPMENTS LIMITED**

Company number: **00892832**



X6FW18D6

Received for Electronic Filing: **27/09/2017**

Details of Charge

Date of creation: **08/09/2017**

Charge code: **0089 2832 0256**

Persons entitled: **KLEINWORT BENSON (GUERNSEY) LIMITED**

Brief description: **NONE SPECIFIED.**

Contains fixed charge(s).

Contains negative pledge.

Chargor acting as a bare trustee for the property.

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:

JOSEPH PLUMB - CMS CAMERON MCKENNA NABARRO OLSWANG



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 892832

Charge code: 0089 2832 0256

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th September 2017 and created by ST. MODWEN DEVELOPMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th September 2017 .

Given at Companies House, Cardiff on 29th September 2017

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**

Certified True Copy of The Original

CMS Cameron McKenna Nabarro Olswang LLP

For and on behalf of:

CMS Cameron McKenna Nabarro Olswang LLP

Cannon Place, 78 Cannon Street, London EC4N 6AF

Date: *25/9/17*

Dated *8th September* 2017

- (1) **ST. MODWEN DEVELOPMENTS
LIMITED**
- (2) **KLEINWORT BENSON (GUERNSEY)
LIMITED as trustee of the M&G Secured
Lease Income Fund and its nominee
BORROWDALE NOMINEES LIMITED**

**LOAN SECURITY AGREEMENT
relating to "Navitas" Facility
Swansea University, Swansea Bay Campus
(SLIF 13417)**

**CMS Cameron McKenna Nabarro Olswang LLP
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THIS DEED is made on the 8th day of September 2017

BETWEEN:

- (1) **ST. MODWEN DEVELOPMENTS LIMITED** (a company registered in England and Wales with number 00892832) of Park Point, 17 High Street, Longbridge, Birmingham, B31 2UQ (the "Chargor"); and
- (2) **KLEINWORT BENSON (GUERNSEY) LIMITED** (a company registered in the island of Guernsey number 670) of Dorey Court, Admiral Park, St Peter Port, Guernsey, GY1 2HT as trustee of the M&G Secured Lease Income Fund and its nominee **BORROWDALE NOMINEES LIMITED** (a company registered in the island of Guernsey number 19435) also of Dorey Court, Admiral Park, St Peter Port, Guernsey as lender (together, the "Lender").

WHEREAS:

- (A) The Chargor enters into this Deed in connection with a development loan agreement (the "Development Loan Agreement") dated on or about the date of this Deed and made between, inter alia, (1) the Chargor and (2) the Lender.
- (B) The Board of Directors of the Chargor is satisfied that the giving of the security contained or provided for in this Deed is in the interests of the Chargor and has passed a resolution to that effect.

NOW IT IS AGREED as follows:

1. Definitions and Interpretation

Definitions

- 1.1 Terms defined in the Development Loan Agreement shall, unless otherwise defined in this Deed, have the same meanings when used in this Deed and in addition in this Deed:

"**Authorisation**": means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Business Day**": means a day (other than a Saturday or Sunday) on which banks are open for general business in London and in the island of Guernsey.

"**Charged Property**": means all the assets of the Chargor which from time to time are the subject of any security created or expressed to be created in favour of the Lender by or pursuant to this Deed.

"**Delegate**": means any person appointed by the Lender or any Receiver pursuant to Clauses 11.2 to 11.4 (*Delegation*) and any person appointed as attorney of the Lender and/or any Receiver or Delegate.

"**Deposit Moneys**": means all monies from time to time deposited in or standing to the credit of the Escrow Account, all interest from time to time accrued or accruing on all such monies or in respect of the Escrow Account (including but without limitation all Interest) and in each case the debts represented thereby.

"**Developer**": means St Modwen Development Limited.

"**Development Documents**": means all contracts, guarantees, bonds, appointments, warranties and other documents to which the Chargor is a party or which are entered into in favour of the Chargor or of which the Chargor has the benefit, relating to the Development or any letting, sale, purchase, or the operation of the Property.

"Escrow Account": means the account held with the Escrow Account Bank in the name of the Escrow Agent at HSBC Bank plc with account 71358138 and sort code 40-02-50 opened in the name of the Escrow Agent : Prudential Re Swansea Navitas (as the same may be re-designated and/or re-numbered from time to time) and operated by the Escrow Agent in accordance with the Escrow Agreement.

"Escrow Account Bank": means HSBC Bank Plc or such other bank or financial institution where the Escrow Account is opened and operated by the Escrow Agent in accordance with the Escrow Agreement.

"Escrow Agent": Prudential Trustee Company Limited (registration number 01863305) of Laurence Pountney Hill London EC4R 0HH or such alternate security trustee or escrow agent as may be proposed by the Lender and approved by the Chargor.

"Escrow Agreement": means the escrow agreement dated on or around the date hereof and made between, the Lender, the Chargor and the Escrow Agent or any other Escrow Agreement as defined in the Development Loan Agreement.

"Expenses": means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Lender or any Receiver or Delegate at any time in connection with the Charged Property or the Secured Liabilities or in taking, holding or perfecting this Deed or in protecting, preserving, defending or enforcing the security constituted by this Deed or in exercising any rights, powers or remedies provided by or pursuant to this Deed (including any right or power to make payments on behalf of the Chargor under the terms of this Deed) or by law in each case on a full indemnity basis.

"Interest": means any applicable interest which accrues from time to time in respect of the Deposit Moneys held in the Escrow Account as the same may be more particularly described in the Escrow Agreement.

"Legal Reservations": means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim; and
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction.

"Liability Period": means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied, acting in good faith, that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

"Limitation Acts": means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

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

"Receiver": means a receiver or receiver and manager of the whole or any part or parts of the Charged Property.

"Related Rights": means, in relation to any Relevant Agreement:

- (a) the right to receive all moneys payable to or for the benefit of the Chargor under or in connection with that Relevant Agreement;

- (b) the right to make demands under, or compel or require performance of, that Relevant Agreement or otherwise exercise all rights, remedies and discretions arising under or in connection with that Relevant Agreement or available at law or in equity; and
- (c) all other rights, interests and benefits whatsoever accruing to or for the benefit of the Chargor arising under or in connection with that Relevant Agreement.

"Relevant Agreements": means (i) the Development Documents and (ii) the Escrow Agreement as the same may from time to time be restated, varied, amended, supplemented, substituted, novated or assigned, together with all documents which are supplemental to, or are expressed to be collateral with, or are entered into pursuant to or in connection with, any such agreements.

"Secured Liabilities": means all present and future indebtedness, moneys, obligations and liabilities of the Chargor to the Lender under the Development Loan Agreement and the other Finance Agreements (including this Deed), in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability in respect of any further advances made under the Finance Agreements, together with all Expenses and all interest under Clause 2.2 (*Interest*).

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

"Tax": means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"Termination Event": means any event specified in Clause 18.1 of the Development Loan Agreement.

"Trust": the M&G Secured Lease Income Fund.

Construction

1.2 Any reference in this Deed to:

- 1.2.1 the **"Lender"** or the **"Chargor"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.2 **"assets"** includes present and future properties, revenues and rights of every description;
- 1.2.3 **"benefit"** includes the right to demand or receive money, to exercise all or any rights available at law or in equity, to compel performance and/or to give any notice;
- 1.2.4 **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.5 a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.6 a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and

- 1.2.7 a provision of law is a reference to that provision as amended or re-enacted.
- 1.3 Clause and Schedule headings are for ease of reference only.
- 1.4 Any reference in this Deed to a mortgage, charge or assignment of any asset shall be construed so as to include:
- 1.4.1 all rights under any agreement for sale in respect of that asset;
- 1.4.2 all warranties, guarantees, indemnities, security, covenants for title and/or representations and undertakings in respect of that asset; and
- 1.4.3 the proceeds of sale of any part of that asset and any other moneys paid or payable in respect of or in connection with that asset.
- 1.5 Any reference in this Deed to any Finance Agreement or any other agreement or other document shall be construed as a reference to that Finance Agreement or that other agreement or document as the same may have been, or may from time to time be, restated, varied, amended, supplemented, substituted, novated or assigned, whether or not as a result of any of the same:
- 1.5.1 there is an increase or decrease in any facility made available under that Finance Agreement or other agreement or document or an increase or decrease in the period for which any facility is available or in which it is repayable;
- 1.5.2 any additional, further or substituted facility to or for such facility is provided;
- 1.5.3 any rate of interest, commission or fees or relevant purpose is changed;
- 1.5.4 the identity of the parties is changed;
- 1.5.5 the identity of the providers of any security is changed;
- 1.5.6 there is an increased or additional liability on the part of any person; or
- 1.5.7 a new agreement is effectively created or deemed to be created.
- 1.6 Any reference in this Deed to "this Deed" shall be deemed to be a reference to this Deed as a whole and not limited to the particular Clause, Schedule or provision in which the relevant reference appears and to this Deed as amended, novated, assigned, supplemented, extended or restated from time to time and any reference in this Deed to a "Clause" or a "Schedule" is, unless otherwise provided, a reference to a Clause or a Schedule of this Deed.
- 1.7 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.8 Where any provision of this Deed is stated to include one or more things that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision.
- 1.9 It is intended that this document shall take effect as and be a deed of the Chargor notwithstanding the fact that the Lender may not execute this document as a deed.
- 1.10 Any change in the constitution of the Lender or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Deed.

Third Party Rights

- 1.11 Nothing in this Deed is intended to confer on any person any right to enforce or enjoy the benefit of any provision of this Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

2. Covenant to Pay

Covenant to Pay

- 2.1 The Chargor covenants with the Lender that it shall pay perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with the terms of the Finance Agreements.

Interest

- 2.2 The Chargor covenants with the Lender that, save to the extent that interest is paid thereon under the Development Loan Agreement, to pay interest on any amounts due under Clause 2.1 (*Covenant to Pay*) from the relevant due date until full discharge (whether before or after judgment, liquidation, winding-up or administration of any person) at the rate and in the manner specified in Clauses 13.18 and 13.19 (*Default Interest*) of the Development Loan Agreement, provided that, in the case of any Expense, such interest shall accrue and be payable as from the date on which the relevant Expense arose without the necessity for any demand being made for payment.

3. Grant of Fixed Security

- 3.1 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Lender by way of first fixed charge all of its present and future right, title and interest in and to:

- 3.1.1 the Deposit Moneys;
- 3.1.2 the Escrow Account;
- 3.1.3 the Relevant Agreements; and
- 3.1.4 the Related Rights.

4. Perfection of Security

Notice of Grant of Security

- 4.1 The Chargor shall, promptly following the written request of the Lender, give or join the Lender in giving a notice of charge in the form set out in either Part 1 (*Form of Notice (Relevant Agreements)*) or Part 2 (*Form of Notice (Bank Accounts)*) of Schedule 1 (*Form of Notice of Grant of Security*) or in such other form as the Lender may reasonably require, duly signed by or on behalf of the Chargor, to all or any of the persons (as the Lender shall specify) party to the Relevant Agreements and/or to the Escrow Account Bank in respect of the Escrow Account and the Deposit Moneys and shall use all reasonable endeavours to procure that each person on whom any such notice is served promptly provides to the Lender a duly signed acknowledgement of that notice in the relevant form set out in either Part 1 (*Form of Notice (Relevant Agreements)*) or Part 2 (*Form of Notice (Bank Accounts)*) of Schedule 1 or in such other form as the Lender may reasonably require. The Lender agrees that it shall not make any such requests in respect of the Relevant Agreements unless the Development Loan Agreement has been terminated in accordance with clause 18 thereof (notwithstanding that certain provisions of the Development Loan Agreement continue after such occurrence).

Documents

- 4.2 The Chargor shall, promptly upon the request of the Lender from time to time, deliver to the Lender a copy of each Relevant Agreement as is then in effect and all such other documents relating to the Charged Property as the Lender may reasonably require.

5. Further Assurance

Further Assurance

- 5.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender or any Receiver may reasonably specify (and in such form as the Lender or any Receiver may reasonably require in favour of the Lender or its nominee(s)) to:
- 5.1.1 perfect the security created or intended to be created in respect of the Charged Property;
 - 5.1.2 facilitate the exercise of any rights, powers and remedies of the Lender or any Receiver or Delegate provided by or pursuant to this Deed or by law;
 - 5.1.3 facilitate the realisation of the assets which form part of, or are intended to form part of, the Charged Property; and/or
 - 5.1.4 if required in connection with 5.1.2 or 5.1.3 above, create (to the extent capable of being legally assigned), any legal assignment by way of security of any of the Charged Property referred to in Clause 3.1 (*Grant of Fixed Security*).

Necessary Action

- 5.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Lender by or pursuant to this Deed.

Implied Covenants for Title

- 5.3 The security granted by the Chargor under this Deed is granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994, save that the covenants set out in Section 2(1)(a), Section 3 and Section 4 of that Act shall extend to the Chargor without, in each case, the benefit of Section 6(2) of that Act.

6. Representations

General

- 6.1 The Chargor makes the representations and warranties set out in this Clause 6 to the Lender on the date of this Deed.

Status

- 6.2 It is a limited liability company, duly incorporated and validly existing under the laws of England and it has the power to own its assets and carry on its business as it is being conducted.

Binding Obligations

- 6.3 Subject to the Legal Reservations, the obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations and (without limiting the generality of the

foregoing) this Deed creates the security which it purports to create and that security is valid and effective.

Power and Authority

- 6.4 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.
- 6.5 No limit on its powers will be exceeded as a result of the grant of security contemplated by this Deed.

Non-conflict with Other Obligations

- 6.6 The entry into and performance by it of, and the transactions contemplated by, this Deed and the granting of the security under this Deed do not and will not conflict with:
- 6.6.1 any law or regulation applicable to it;
- 6.6.2 its constitutional documents; or
- 6.6.3 any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument,

nor (except as provided in this Deed) result in the existence or imposition of, or oblige it to create, any Security in favour of any person over all or any of its assets.

Insolvency and Centre of Main Interests and Establishments

- 6.7 No corporate action, legal proceeding or other formal procedure or formal step in relation to:
- 6.7.1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);
- 6.7.2 a composition, compromise, assignment or arrangement with any creditor; or
- 6.7.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer,
- (or any analogous procedure or step in any jurisdiction) has been taken or, to its knowledge, threatened in relation to it or any of its assets.
- 6.8 No expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affecting any material part of its assets has been taken or, to its knowledge, threatened in relation to it.
- 6.9 It is not unable and has not admitted its inability to pay its debts as they fall due (and has not been deemed to or declared to be unable to pay its debts under applicable law) and it has not suspended or threatened to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commenced negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness and the value of its assets is not less than its liabilities (taking into account contingent and prospective liabilities).
- 6.10 For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "Regulation"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in England and it has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

Validity and Admissibility in Evidence

- 6.11 All authorisations, consents, approvals, resolutions, licences, exemptions, filings, notarisations or registrations required to:
- 6.11.1 enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed;
 - 6.11.2 make this Deed admissible in evidence in its jurisdiction of incorporation; and
 - 6.11.3 enable it to create any security expressed to be created by it by or pursuant to, or, as the case may be, any security expressed to have been created by it and to be evidenced in, this Deed and to ensure that such security has the priority and ranking it is expressed to have,

have been obtained or effected and are in full force and effect, except for any registrations and filings referred to in Clause 6.12 (*No Filing or Stamp Taxes*).

No Filing or Stamp Taxes

- 6.12 Under the law of its jurisdiction of incorporation it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar taxes or fees be paid on or in relation to this Deed or the transactions contemplated by this Deed, except registration of particulars of this Deed at the Companies Registration Office in England and Wales under Section 859A of the Companies Act 2006 and payment of associated fees, which registration and fees will be made and paid promptly after the date of this Deed.

No Breach of Law or Default

- 6.13 It has not breached any law or regulation which breach might reasonably be expected to result in any material adverse change in its financial condition, business or assets.
- 6.14 It is not in material breach under any agreement to which it is a party nor is it in default in respect of any material financial commitment or liability.

No Misleading Information

- 6.15 All written financial and other information provided by it to the Lender was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any material respect.

No Proceedings Pending or Threatened

- 6.16 No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, might reasonably be expected to result in any material adverse change in its financial condition, business or assets have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it.

Creation of Security

- 6.17 This Deed creates or, as applicable, evidences in favour of the Lender the security which it purports to create or evidence with the ranking and priority which it is expressed to have.
- 6.18 Without limiting Clause 6.17 above, its payment obligations under this Deed rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

- 6.19 No Security (other than any Security constituted by this Deed) exists over all or any of the Charged Property and no arrangement or transaction as described in Clause 7.2 below has been entered into by it and is outstanding.

Good Title to Assets

- 6.20 It has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as it is being conducted.
- 6.21 It is the sole legal and beneficial owner of the assets over which it purports to grant security under this Deed.

Continuing Representations

- 6.22 The Chargor undertakes with the Lender that the representations and warranties in Clauses 6.1 to 6.6 (inclusive), 6.10 to 6.11 (inclusive), 6.13, 6.15 to 6.21 (inclusive) will be true and accurate throughout the continuance of this Deed by reference to the facts and circumstances existing from time to time.

7. Undertakings

General

- 7.1 The undertakings in this Clause 7 remain in force from the date of this Deed for so long as any amount is outstanding under this Deed.

Negative Pledge

- 7.2 The Chargor shall not create or extend or permit to arise or subsist any Security (other than any Security constituted by this Deed) over the whole or any part of the Charged Property or enter into any arrangement or transaction as described in Clause 21.4 of the Development Loan Agreement in respect of any asset forming part of, or intended to form part of, the Charged Property without the prior written consent of the Lender.
- 7.3 The Chargor will not enter into any arrangement under which all or any of the Deposit Moneys or the benefit of the Escrow Account may be applied, set-off or made subject to a combination of accounts or enter into any other preferential arrangement having a similar effect in circumstances where the arrangement is entered into primarily as a method of raising finance, except in any case with the prior written consent of the Lender or as expressly permitted under the Development Loan Agreement and/or any applicable Relevant Agreement.

Restriction on Disposals

- 7.4 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, assign, transfer or otherwise dispose of the whole or any part of the Charged Property, except in any case with the prior written consent of the Lender or as expressly permitted under the Development Loan Agreement and/or any applicable Relevant Agreement.
- 7.5 The Chargor shall not, except in any case with the prior written consent of the Lender or as expressly permitted under the Development Loan Agreement and/or any applicable Finance Agreement, permit or agree to any variation of the rights attaching to the Escrow Account or to close the Escrow Account.
- 7.6 The Chargor shall promptly:
- 7.6.1 notify the Lender of any change in the details of the Escrow Account; and

- 7.6.2 upon receipt from the Escrow Account Bank forward copies of all statements showing the balance from time to time standing on the Escrow Account to the Lender.

Restriction on Withdrawals

- 7.7 Notwithstanding any term express or implied to which any of the Deposit Moneys are or may be deposited in or paid to the credit of the Escrow Account, the Chargor undertakes and agrees with the Lender that it shall not:

- 7.7.1 make any request or demand to the Escrow Agent or the Escrow Account Bank for the payment or repayment of all or any part of the Deposit Moneys; and/or

- 7.7.2 withdraw all or any part of the Deposit Moneys

except in any case with the prior written consent of the Lender or as expressly permitted under the Development Loan Agreement and/or any applicable Relevant Agreement.

Performance of Relevant Agreements

- 7.8 The Chargor shall observe and perform all of the obligations assumed by it under or in connection with the Relevant Agreements and to the extent commercially reasonable, shall diligently enforce the observance and performance by each person or party to any Relevant Agreement of all such obligations assumed by it under or in connection with that Relevant Agreement (including, without limitation, the payment of all amounts due from that person or party).

Payment of Proceeds into Accounts

- 7.9 Except in any case with the prior written consent of the Lender or as expressly permitted under the Development Loan Agreement and/or any applicable Relevant Agreement, the Chargor shall not at any time deal with any monetary debts or claims (including any chose in action which may give rise to a monetary debt or claim) owing to it under or in connection with the Relevant Agreements except by getting in and realising them in the ordinary and usual course of its business and paying all proceeds of such monetary debts or claims to such account as the Lender may, acting reasonably, direct from time to time. The Chargor shall, pending such payment in, hold all such proceeds upon trust for the Lender.

Relevant Agreements

- 7.10 The Chargor undertakes that it shall not, without the prior written consent of the Lender:
- 7.10.1 amend, vary, supplement, substitute, replace or novate any Relevant Agreement;
- 7.10.2 waive any breach of the terms of any Relevant Agreement;
- 7.10.3 release, rescind or abandon any Relevant Agreement;
- 7.10.4 exercise any right to terminate any Relevant Agreement or repudiate any Relevant Agreement or otherwise treat itself as discharged or relieved from further performance of any of the obligations or liabilities assumed by it under or in connection with any Relevant Agreement; and/or
- 7.10.5 except in any case with the prior written consent of the Lender or as expressly permitted under the Development Loan Agreement and/or any applicable Relevant Agreement, exercise any right of set-off against any person or party to any Relevant Agreement or suffer to arise any right of set-off or other adverse rights against the whole or any part of the Charged Property; and/or

- 7.10.6 grant any time or other indulgence to, or waive, release, settle, compromise or abandon any liability of or claim against, any person in connection with the Charged Property or do or omit to do any other act or thing whereby the recovery in full of any moneys payable under or in connection with the Relevant Agreements or for the time being comprised in the Charged Property may be delayed or impeded.

Defence of Charged Property

- 7.11 The Chargor shall take all such steps as are necessary or reasonably expedient (including bringing or defending proceedings) to keep the Charged Property in full force and effect and to protect or preserve the interests of the Chargor and the Lender in the Charged Property against the claims and demands of any person, all such steps to be taken at the expense of the Chargor.

Information and Notification

- 7.12 The Chargor shall promptly supply to the Lender a copy of every material notice or other such communication given, made or, as the case may be, received by it concerning the Charged Property promptly after its despatch or receipt.
- 7.13 The Chargor shall promptly supply to the Lender such information as the Lender may reasonably require about the Charged Property and its compliance with the terms of this Deed and such further information regarding its financial condition, assets and operations as the Lender may reasonably request.
- 7.14 The Chargor shall promptly notify the Lender in writing of:
- 7.14.1 any default under any Relevant Agreement by itself or by any person party to any Relevant Agreement or if a serious risk of such a default occurs;
 - 7.14.2 any release, rescission or abandonment of any Relevant Agreement by itself or by any person party to any Relevant Agreement;
 - 7.14.3 any matter or event which may lead or cause any Relevant Agreement to be terminated or repudiated or which might reasonably be expected to make any Relevant Agreement ineffective or unenforceable; and/or
 - 7.14.4 any action, dispute, claim or demand made by or against it in connection with all or any part of the Charged Property or of any fact, matter or circumstance which may with the passage of time reasonably be expected to give rise to such an action, dispute, claim or demand, together with its proposals for settling, liquidating, compounding or contesting the same and shall, subject to the approval of such proposals by the Lender, acting reasonably, implement them at its own expense.

Authorisations

- 7.15 The Chargor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect, and supply certified copies to the Lender (if requested) of, any Authorisation required under any law or regulation of its jurisdiction of incorporation:
- 7.15.1 to enable it to perform its obligations under this Deed and subject to the Legal Reservations, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of this Deed; and
 - 7.15.2 to enable it to properly operate its business or to preserve or maintain any Charged Property.

Compliance with Laws and Regulations

- 7.16 The Chargor shall comply in all respects with all laws and regulations to which it or its business or any Charged Property may be subject, if failure so to comply would materially impair its ability to perform its obligations under this Deed.

Not Jeopardise Security

- 7.17 Except, and for the avoidance of doubt, for the proper operation of the Escrow Account in accordance with the Escrow Agreement the Chargor undertakes that it shall not do or cause or permit to be done anything which might reasonably be expected to in any way depreciate, jeopardise or otherwise prejudice the value to the Lender of the security constituted or intended to be constituted by this Deed. In particular, but without limitation, the Chargor will not suffer to arise any right of set-off (other than as expressly permitted under the Development Loan Agreement or with the prior written consent of the Lender) or other adverse rights against the whole or any part of the Charged Property or release, grant time or indulgence or compound with any third party or do or omit to do any other act or thing which may delay or prejudice the right of the Lender to receive payment of all or any part of the Deposit Moneys or any right or benefit under the Relevant Agreements.

8. Enforcement of Security

When Security becomes Enforceable

- 8.1 At any time after a notice by the Lender demanding payment of any Secured Liabilities shall have been served by the Lender on the Chargor or the occurrence of a Termination Event, the security constituted by this Deed shall become immediately enforceable and the Lender shall be entitled, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:
- 8.1.1 to demand and receive or recover by legal process all or any part of the Deposit Moneys and on payment to give an effectual discharge of them; and
 - 8.1.2 to 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 or exercise all or any of the powers, rights, remedies and discretions or any benefit in respect of all or any part of the Charged Property; and
 - 8.1.3 whether or not it has appointed a Receiver, to exercise all or any of the powers, rights, remedies and discretions conferred by the LPA (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

Financial Collateral

- 8.2 To the extent that any of the Charged Property constitutes "financial collateral" and this Deed and the obligations of the Chargor under this Deed constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No.2) Regulations 2003 (the "FCA Regulations")), the Lender shall have, in addition, the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any part of such financial collateral in or towards satisfaction of the Secured Liabilities in accordance with Clause 14.1 (*Order of Application*). For this purpose, the parties agree that the value of such financial collateral shall be, in the case of cash, the amount standing to the credit of the Escrow Account, together with all interest accrued but unposted, at the time that the right of appropriation is exercised. The parties further agree that the manner of valuation provided for in this Clause 8.2 shall constitute a commercially reasonable manner of valuation for the purposes of the FCA Regulations.

Timed Deposits

- 8.3 The rights and powers of the Lender contained in this Clause 8.3 shall apply notwithstanding that:
- 8.3.1 all or any part of the Deposit Moneys may have been or may be deposited for a fixed or minimum period or be subject to a period of notice;
 - 8.3.2 any interest on the Deposit Moneys is calculated by reference to a fixed or minimum period; and/or
 - 8.3.3 any such fixed or minimum period or period of notice may or may not have expired or been given.
- 8.4 The Chargor authorises the Lender at any time after the security constituted by this Deed has become enforceable to break or determine the Deposit Moneys in whole or in part and/or to renew all or any of the Deposit Moneys for such fixed periods as the Lender may (in its absolute discretion) from time to time think fit.

Statutory Powers and Restrictions

- 8.5 The power of sale and disposal conferred on and the rights and powers of the Lender or any Receiver conferred by this Deed shall operate as a variation and extension of the statutory power of sale and other powers conferred by Section 101 of the LPA. For the purposes of all powers implied by the LPA, such powers shall arise (and the Secured Liabilities shall be deemed to have become due and payable for that purpose) on the date of this Deed.
- 8.6 Section 103 of the LPA (restricting the power of sale) and Section 93 of the LPA (restricting the right of consolidation) shall not apply to the security constituted by this Deed.

Redemption of Prior Mortgages

- 8.7 At any time after the security constituted by this Deed has become enforceable, the Lender or any Receiver may:
- 8.7.1 redeem any prior Security over any Charged Property; or
 - 8.7.2 procure the transfer of that Security to the Lender; or
 - 8.7.3 settle and pass the accounts of the person or persons entitled to such Security (and any accounts so settled and passed shall be conclusive and binding on the Chargor).
- 8.8 All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption or transfer shall be paid by the Chargor to the Lender and every Receiver on demand and shall be secured by this Deed.

9. Appointment of Receiver

Appointment

- 9.1 At any time after the security constituted by this Deed has become enforceable or if the Chargor so requests the Lender in writing (in which case, in each such case, the security constituted by this Deed shall become immediately enforceable), the Lender may without prior notice to the Chargor appoint free from the restrictions imposed by Section 109(1) of the LPA either under seal or in writing under its hand any one or more persons to be a Receiver of the whole or any part or parts of the Charged Property in like manner in every respect as if the Lender had become entitled under the LPA to exercise the power of sale conferred under the LPA.

Removal of Receiver

- 9.2 The Lender may by writing under its hand (or by an application to the court where required by law):
- 9.2.1 remove any Receiver appointed by it; and
 - 9.2.2 may, whenever it deems it expedient, appoint any one or more persons to be a new Receiver in the place of or in addition to any Receiver.

Statutory Powers of Appointment

- 9.3 The powers of appointment of a Receiver conferred by this Deed shall be in addition to all statutory and other powers of appointment of the Lender under the LPA (as extended by this Deed) or otherwise and such powers shall be and remain exercisable from time to time by the Lender in respect of any part or parts of the Charged Property.

Capacity of Receiver

- 9.4 Each Receiver shall be deemed to be the agent of the Chargor which shall be solely responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for the payment of his remuneration.
- 9.5 The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal. No Receiver shall at any time act as agent for the Lender.
- 9.6 If there is more than one Receiver holding office at the same time, each Receiver shall (unless the document appointing him states otherwise) be entitled to act (and to exercise all of the powers conferred on a Receiver under this Deed) individually or together with any other person appointed or substituted as Receiver.

Remuneration of Receiver

- 9.7 The Lender may fix the remuneration of any Receiver appointed by it without any restriction imposed by Section 109(6) of the LPA and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately upon its being paid by the Lender.

10. Powers of Receiver

General

- 10.1 Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Property (and any assets of the Chargor which, when got in, would be Charged Property) in respect of which he was appointed, and as varied and extended by the provisions of this Deed (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):
- 10.1.1 all the powers, rights and discretions conferred by the LPA on mortgagors and on mortgagees in possession and on receivers appointed under the LPA;
 - 10.1.2 all the powers, rights and discretions of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 and any of the same added to that Schedule after the date of this Deed (whether or not the Receiver is an administrative receiver);
 - 10.1.3 all other powers, rights and discretions conferred on receivers, or receivers and managers, under the provisions of the Insolvency Act 1986 or by any other law;

- 10.1.4 all the powers and rights of an absolute beneficial owner of the Charged Property and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- 10.1.5 the power to do all acts and things (including bringing or defending proceedings in the name of or on behalf of the Chargor) which he may consider incidental or conducive to any of the functions, rights, powers, authorities or discretions conferred on or vested in him or to the exercise of any of the rights, powers and remedies of the Lender provided by or pursuant to this Deed (including realisation of all or any part of the Charged Property) or which he may consider desirable or necessary for bringing to his hands any assets of the Chargor constituting, or which when got in would constitute, Charged Property.

Lender's Powers

- 10.2 To the fullest extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) upon a Receiver may after the security constituted by this Deed has become enforceable be exercised by the Lender in relation to any Charged Property, irrespective of whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

11. Discretions and Delegation

Discretion

- 11.1 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Lender or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

Delegation

- 11.2 Each of the Lender and 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).
- 11.3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Lender or any Receiver (as the case may be) shall think fit. Any such delegation shall not preclude either the subsequent exercise of any right, power, authority or discretion by the Lender or any Receiver itself or any subsequent delegation or revocation of any delegation.
- 11.4 Neither the Lender nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

12. Power of Attorney

Appointment and Powers

- 12.1 The Chargor, by way of security, irrevocably appoints the Lender, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:
- 12.1.1 carrying out any obligation imposed on the Chargor by this Deed; and
- 12.1.2 enabling the Lender or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or

pursuant to this Deed or by law (including the exercise of any right of an absolute legal or beneficial owner of the Charged Property);

provided that neither the Lender nor any Receiver or Delegate shall exercise any of its powers under this Clause 12 unless a Termination Event has occurred.

Ratification

- 12.2 The Chargor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under Clause 12.1 (*Appointment and Powers*).

13. Protection of Purchasers

Consideration

- 13.1 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 Charged Property (including a disposal by a Receiver or Delegate to any subsidiary of the Chargor) or in making any acquisition in the exercise of their respective powers, the Lender, every Receiver and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

Protection of Third Parties

- 13.2 No person (including a purchaser) dealing with the Lender, any Receiver or any Delegate shall be bound to enquire:

- 13.2.1 whether the Secured Liabilities have become payable; or
 - 13.2.2 whether any power which the Lender or any Receiver or Delegate is purporting to exercise has arisen or become exercisable; or
 - 13.2.3 whether any money remains due under the Finance Agreements; or
 - 13.2.4 how any money paid to the Lender or to any Receiver or Delegate is to be applied,
- or shall be concerned with any propriety, regularity or purpose on the part of the Lender or any Receiver or Delegate in such dealings or in the exercise of any such power.

14. Application of Proceeds

Order of Application

- 14.1 All moneys received or recovered by the Lender, any Receiver or any Delegate pursuant to this Deed, after the security constituted by this Deed has become enforceable, shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied in the following order (but without prejudice to the right of the Lender to recover any shortfall from the Chargor):
- 14.1.1 in or towards payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of his rights and powers, including his remuneration, and all outgoings paid by him;
 - 14.1.2 in or towards payment of all other Secured Liabilities or such part of them as is then due and payable to the Lender in such order as the Lender may select; and
 - 14.1.3 in payment of the surplus (if any) to the Chargor or other person entitled to it.

- 14.2 Clause 14.1 (*Order of Application*) will override any appropriation made by the Chargor.

New Accounts

- 14.3 If the Lender at any time receives, or is deemed to have received, notice of any subsequent Security or other interest affecting all or any of the Charged Property or of any disposal of any Charged Property which is prohibited by the terms of this Deed or the Development Loan Agreement or of any other matter which may cause the security constituted by this Deed to cease to be a continuing security, the Lender may open a new account with the Chargor.
- 14.4 If the Lender does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, such notice. As from that time all payments made by or on behalf of the Chargor to the Lender shall be credited or be treated as having been credited to the new account of the Chargor and not as having been applied in reduction of the Secured Liabilities.

Currency Conversion

- 14.5 For the purpose of or pending the discharge of any of the Secured Liabilities, the Lender may (in its absolute discretion) convert any moneys received or recovered by the Lender or any Receiver or Delegate pursuant to this Deed or any moneys subject to application by the Lender or any Receiver or Delegate pursuant to this Deed from one currency to another and any such conversion shall be made at the Lender's spot rate of exchange for the time being for obtaining such other currency with the first currency and the Secured Liabilities shall be discharged only to the extent of the net proceeds of such conversion realised by the Lender. Nothing in this Deed shall require the Lender to make, or shall impose any duty of care on the Lender in respect of, any such currency conversion.

15. No Liability

- 15.1 Neither the Lender nor any Receiver or Delegate shall in any circumstances (either by reason of taking possession of any Charged Property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to the Chargor for anything, except actual receipts, or be liable to the Chargor for any costs, charges, losses, liabilities or expenses arising from the realisation of any Charged Property or from any act, default or omission of the Lender, any Receiver, any Delegate or any of their respective officers, agents or employees in relation to the Charged Property or from any exercise or purported exercise or non-exercise by the Lender or any Receiver or Delegate of any power, authority or discretion provided by or pursuant to this Deed or by law or for any other loss of any nature whatsoever in connection with the Charged Property, the Development Loan Agreement or the Relevant Agreements.

16. Set-Off

- 16.1 Without limiting any other rights conferred on the Lender by law or by any other agreements entered into with the Chargor, the Lender may (but shall not be obliged to) set off any matured obligation due from the Chargor under this Deed (to the extent beneficially owned by the Lender) against any obligation (whether matured or not) owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If the obligation owed by the Lender is unliquidated or unascertained, the Lender may set off in an amount estimated by it in good faith to be the amount of that obligation.

17. **Effectiveness of Security**

Continuing Security

- 17.1 The security constituted by this Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, unless and until discharged by the Lender, and will extend to the ultimate balance of all the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

Cumulative Rights

- 17.2 The security constituted by this Deed and all rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law shall be cumulative, in addition to and independent of any other guarantee or Security now or subsequently held by the Lender for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Lender over the whole or any part of the Charged Property shall be superseded by, supersede or merge into, the security constituted by this Deed.

Reinstatement

- 17.3 If any discharge, release or arrangement (whether in respect of the obligations of the Borrower or the Chargor or any Security for those obligations or otherwise) is made by the Lender in whole or in part on the faith of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under, the security constituted by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

- 17.4 The Lender may concede or compromise any claim that any payment or any discharge is liable to avoidance or restoration.

Immediate Recourse

- 17.5 The Chargor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or Security or claim payment from any person or file any proof or claim in any insolvency, administration, winding up or liquidation proceedings relating to any person before claiming from it under this Deed. This waiver applies irrespective of any law or any provision of any Finance Agreement to the contrary.

Appropriations

- 17.6 Until all the Secured Liabilities which may be or become payable by the Chargor under or in connection with this Deed have been irrevocably paid, performed and discharged in full, the Lender may:

- 17.6.1 without affecting the liability of the Chargor under this Deed:

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by it in respect of the Secured Liabilities; or
- (b) apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to direct the appropriation of any such moneys, Security or rights or to enjoy the benefit of the same; and/or

- 17.6.2 hold in a suspense account any moneys received from the Chargor or on account of the Chargor's liability in respect of the Secured Liabilities. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Lender to be a fair market rate.

No Security held by Chargor

- 17.7 The Chargor shall not take or receive any Security from any person in connection with its liability under this Deed. However, if any such Security is so taken or received by the Chargor:

17.7.1 it shall be held by the Chargor on trust for the Lender, together with all moneys at any time received or held in respect of such Security, for application in or towards payment and discharge of the Secured Liabilities; and

17.7.2 on demand by the Lender, the Chargor shall promptly transfer, assign or pay to the Lender all Security and all moneys from time to time held on trust by the Chargor under this Clause 17.7.

18. Payments

Manner of Payments

- 18.1 The Chargor shall make all payments required to be made by it under this Deed available to the Lender (unless a contrary indication appears in this Deed) for value on the due date at the time and in such funds specified by the Lender as being customary at the time for settlement of transactions in the relevant currency in the place of payment. Payment shall be made in the currency in which the relevant indebtedness is denominated or, if different, is expressed to be payable and to such account in the principal financial centre of the country of that currency with such bank as the Lender specifies.

No Set-off by Chargor

- 18.2 All payments to be made by the Chargor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

Withholding Tax

- 18.3 The Chargor shall make all payments to be made by it under this Deed without any deduction or withholding for or on account of Tax, unless such a deduction or withholding is required by law. The Chargor, promptly upon becoming aware that it must make such a deduction or withholding (or that there is any change in the rate or the basis of such a deduction or withholding), shall notify the Lender accordingly.

- 18.4 If the Chargor is required to make a deduction or withholding for or on account of Tax from a payment under this Deed, the Chargor shall make that deduction or withholding and any payment required in connection with that deduction or withholding within the time allowed and in the minimum amount required by law. Within thirty days of making such a deduction or withholding or any payment required in connection with that deduction or withholding, the Chargor shall deliver to the Lender evidence reasonably satisfactory to the Lender that the deduction or withholding has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

19. Expenses, Stamp Taxes and Indemnities

Expenses

- 19.1 The Chargor shall promptly on demand pay to the Lender and each Receiver or Delegate the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and perfection of this Deed and any other documents referred to in this Deed and in responding to, evaluating, negotiating or complying with any request for an amendment, waiver or consent made by the Chargor in relation to this Deed.

- 19.2 The Chargor shall, within three business days of demand, pay to the Lender and each Receiver or Delegate the amount of all costs and expenses (including legal fees) incurred by any of them in connection with the enforcement of, or the defence, protection and/or preservation of, any rights, remedies and powers under this Deed or the security constituted, or intended to be constituted, by this Deed and any proceedings instituted by or against the Lender as a consequence of taking or holding the security constituted, or intended to be constituted, by this Deed or enforcing any such rights, powers and remedies.

Stamp Taxes

- 19.3 The Chargor shall pay, and shall promptly on demand indemnify the Lender and every Receiver or Delegate against any cost, loss or liability any of them incurs in relation to, all stamp duty, registration and similar Taxes payable in connection with the entry into, performance or enforcement, of this Deed, the security constituted by this Deed or any judgment given in connection with this Deed.

General Indemnity

- 19.4 The Chargor shall, notwithstanding the release or discharge of all or any part of the security constituted by this Deed, promptly indemnify the Lender and every Receiver and Delegate against any cost, loss, liability or damage incurred by any of them as a result of:
- 19.4.1 any default or delay by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed;
 - 19.4.2 the taking, holding, protection or enforcement of the security constituted by this Deed; and
 - 19.4.3 the exercise of any of the rights, powers, discretions and remedies vested in the Lender and each Receiver and Delegate by this Deed or by law in respect of the Charged Property.

Lender may Debit Account

- 19.5 The Lender may, without prejudice to any other right, power or remedy, at any time and from time to time and without further authority from or notice to the Chargor debit and charge any account of the Chargor with any cost or expense referred to in this Clause 19.

Value Added Tax

- 19.6 Any cost or expense referred to in this Clause 19 is exclusive of any VAT that might be chargeable in connection with that cost or expense. If any VAT is so chargeable, it shall be paid by the Chargor at the same time as it pays the relevant cost or expense.

20. Certificates and Determinations

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

21. Partial Invalidity

- 21.1 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired and, if any part of the security constituted, or intended to be constituted, by this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

22. Remedies and Waivers

22.1 No failure to exercise, nor any delay in exercising, on the part of the Lender, any right, remedy or power under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right, remedy or power prevent any further or other exercise or the exercise of any other right, remedy or power. The rights, remedies and powers provided in this Deed are cumulative and not exclusive of any rights, remedies or powers provided by law.

22.2 Any amendment, waiver or consent by the Lender under this Deed must be in writing and may be given subject to any conditions thought fit by the Lender. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

23. Notices

23.1 Any notice or other document to be given or sent hereunder shall be in writing and may be delivered personally or sent by first class registered post facsimile transmission or telex to the party to be served (at that party's address appearing in this agreement or such other address as that party shall notify in writing to the other) Any such notice or document shall be deemed to have been served if:-

23.1.1 delivered at the time of delivery

23.1.2 posted at the expiration of 48 hours after the envelope containing the same shall have been put into the post or

23.1.3 sent by facsimile transmission or telex on despatch

23.2 In proving such service it shall be sufficient to prove (as the case may be) that delivery was made or that the envelope containing such notice or document was properly addressed and posted as a prepaid first class registered letter or that the sender of the facsimile transmission has his copy and can show it was duly transmitted or that the sender of the telex has his copy showing the recipient's answerback code.

24. Counterparts

24.1 This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed. Delivery of an electronic counterpart of this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

25. Assignment

25.1 The Chargor may not assign, charge or transfer all or any of its rights under this Deed.

25.2 Lender may assign, charge or transfer all or any of its rights under this Deed without the consent of the Chargor. The Lender may disclose any information about the Chargor and this Deed as the Lender shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation.

26. Releases

Upon the expiry of the Liability Period (but not otherwise) and subject to clauses 17.3 and 17.4 (*Reinstatement*), the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Deed.

27. **Governing Law**

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

27.2 The Lender irrevocably appoints CMS Cameron McKenna Nabarro Olswang, LLP (ref: JAMM) of Cannon Place, 78 Cannon Street, London EC4N 6AF as its agent to accept service of process in England on behalf of the Lender in any legal action or proceedings arising out of or in connection with this Deed service upon whom shall be deemed completed whether or not forwarded to or recovered by the Lender

27.3 If the service agent referred to in clause 27.2 shall cease to be able to act or shall cease to have an address in England the Lender irrevocably agrees to appoint a new processing agent in England and to deliver to the parties within five working days confirmation of the appointment of the new process agent and the provisions of clause 27.3 shall apply mutatis mutandis to such new process agent.

28. **The Trust**

28.1 The Trustee is entering into this Deed as trustee of the Trust and, as such, any liability on the part of the Trustee pursuant to this Deed is limited to the assets held on trust from time to time of the Trust which are in its possession or under the Trustee's control as sole trustee of the Trust.

28.2 Notwithstanding any other provision of this Deed the Fund has no obligation to meet any claim or liability under this Deed except to the extent that assets from time to time in the hands of the Trustee as trustee of the Trust are sufficient for that purpose.

28.3 The Chargor acknowledges that:

28.3.1 the effect of clauses 28.1 and 28.2 above is that the Chargor shall have no recourse to any assets of the Lender other than those assets from time to time comprising the trust fund of the Trust

28.3.2 if there is a retirement and/or replacement of the Trustee and/or Nominee (including a replacement or substitution to the trustees) for and on behalf of the Trust then the provisions of clauses 28.1-28.3 shall apply *mutatis mutandis* to the new or substitute trustee and/or nominee and/or trustees

IN WITNESS of which this Deed has been entered into as a deed and is intended to be and is delivered on the day and year first before written.

will
to no
Chargor.

and the Nominee is entering into this
deed as nominee or the Trustee of
the Trust.

or no Nominee

Schedule 1 – Part 1

Form of Notice of Grant of Security

Form of Notice (Relevant Agreements)

To: [Name of party to Relevant Agreement]

Address: [] [Date]

Dear Sirs

Kleinwort Benson (Guernsey) Limited as trustee of the M&G Secured Lease Income Fund and its nominee Borrowdale Nominees Limited (the "Lender") and St. Modwen Developments Limited (the "Company") HEREBY GIVE NOTICE that by a charge contained in a security deed dated [] and made between the Company and the Lender (the "Security Deed"), the Company charged to the Lender all of its present and future right, title and interest in and to the following:

[describe Relevant Agreement] (the "Agreement") including, but not limited to:

- (a) the right to receive all moneys payable to or for the benefit of the Company under or in connection with the Agreement;
- (b) the right to make demands under, or compel or require performance of, the Agreement or otherwise exercise all rights, remedies and discretions arising under or in connection with the Agreement or available at law or in equity in relation to the Agreement; and
- (c) all other rights, interests and benefits whatsoever accruing to or for the benefit of the Company arising under or in connection with the Agreement.

Any moneys payable by you to the Company pursuant to the Agreement shall be paid to such account as directed by the Lender from time to time and you should notify the Lender prior to making any payment.

The Company shall remain entitled to exercise all its rights, powers and discretions under or in connection with the Agreement and you should continue to give notices under the Agreement to the Company, in each case, unless and until you receive notice from the Lender to the contrary when all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Lender or as it directs.

Please note that, pursuant to the Security Deed, the Company and the Lender have agreed that the Company will not, without the prior written consent of the Lender or except as expressly permitted by the terms of the Security Deed:

- (i) amend, vary, supplement, substitute, replace or novate the Agreement;
- (ii) waive any breach of the terms of the Agreement; and/or
- (iii) exercise any right to terminate the Agreement.

The Company confirms that:

- (A) in the event of any conflict between communications received from it and from the Lender, the communication from the Lender shall prevail;

- (B) none of the instructions, authorisations or confirmations in this Notice of Charge (the "Notice") can be revoked or varied in any way except with the Lender's specific written consent; and
- (C) any written notice or instructions given to you by the Lender in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Lender at [address] for the attention of [officer/department].

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

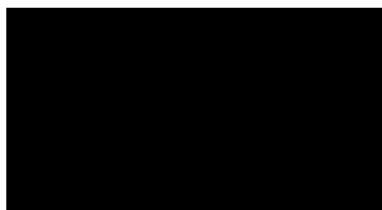
Yours faithfully

.....
for and on behalf of
St. Modwen Developments Limited

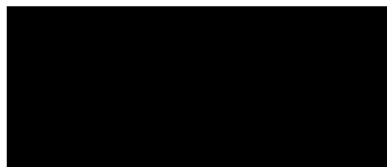
.....
for and on behalf of
**Kleinwort Benson (Guernsey) Limited as trustee of
the M&G Secured Lease Income Fund**

.....
for and on behalf of
**Borrowdale Nominees Limited acting in
its capacity a nominee of Kleinwort
Benson (Guernsey) Limited as trustee
of the M&G Secured Lease Income Fund**

.....
for and on behalf of
**Borrowdale Nominees Limited acting in
its capacity a nominee of Kleinwort
Benson (Guernsey) Limited as trustee
of the M&G Secured Lease Income Fund**



.....
for and on behalf of
**Borrowdale Nominees Limited acting in
its capacity a nominee of Kleinwort
Benson (Guernsey) Limited as trustee
of the M&G Secured Lease Income Fund**



Form of Acknowledgement

[on duplicate]

To: Kleinwort Benson (Guernsey) Limited as trustee of the M&G Secured Lease Income Fund and its nominee Borrowdale Nominees Limited

Address: []

Attention: []

[Date]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We give any consent to the creation of the charge required pursuant to the Agreement and agree to and confirm that:

- (a) we will pay all moneys hereafter becoming due to the Company in respect of the Agreement as directed in the Notice and accept and will comply with the terms of the Notice;
- (b) we will send to you copies of any notices which we may give to the Company under the Agreement at the same time as we send them to the Company;
- (c) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over, or affecting, the Agreement or any other notice relating to the Agreement; and
- (d) this acknowledgement is freely assignable or transferable by you, by any subsequent assignee, transferee or successor in title in accordance with the terms of the Agreement ("Subsequent Party") and by any receiver appointed by you or by any Subsequent Party pursuant to the Security Deed.

Yours faithfully

.....
for and on behalf of

[Name of party to Relevant Agreement]

Schedule 1 – Part 2

Form of Notice of Grant of Security

Form of Notice (Bank Accounts)

To: [Name of Escrow Account Bank]

Address: []

[Date]

Dear Sirs

Kleinwort Benson (Guernsey) Limited as trustee of the M&G Secured Lease Income Fund and its nominee Borrowdale Nominees Limited (the "Lender") and St. Modwen Developments Limited (the "Company") **HEREBY GIVE NOTICE** that by a charge contained in a security deed dated [•] and made between the Company and the Lender (the "Security Deed"), the Company charged to the Lender all of its present and future right, title and interest in and to all moneys in any currency from time to time deposited in or standing to the credit of the following account held with you:

[specify account: account name, account number, details of branch etc]

(the "Account") (including all moneys in any currency representing the renewal or replacement of or for any such deposits), all interest from time to time accrued or accruing on all such moneys, all or any moneys payable or repayable pursuant to such deposits or in respect of the Account [(including but without limitation all interest as defined in the Escrow Agreement)] and in each case the debts represented thereby (the "Deposit Moneys").

Accordingly, the Company hereby irrevocably and unconditionally instructs and authorises you:

- (a) to disclose to the Lender, without any reference to or further authority from the Company and without any enquiry by you as to the justification for such disclosure, such information relating to the Account and the Deposit Moneys as the Lender may at any time and from time to time request you to disclose to it;
- (b) to hold the Deposit Moneys to the order of the Lender;
- (c) not to permit any withdrawal by the Company of all or any part of the Deposit Moneys without the prior written consent of the Lender;
- (d) to pay or release all or any part of the Deposit Moneys in accordance with the written instructions of the Lender at any time and from time to time; and
- (e) to comply with the terms of any other written notice or instructions that you receive at any time and from time to time from the Lender in any way relating to the Security Deed, the Account or the Deposit Moneys without any reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instructions.

The Company confirms that:

- (i) in the event of any conflict between communications received from it and from the Lender, the communication from the Lender shall prevail;

- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the "Notice") can be revoked or varied in any way except with the Lender's specific written consent; and
- (iii) any written notice or instructions given to you by the Lender in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Lender at [address] for the attention of [officer/department].

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

Yours faithfully,

.....
for and on behalf of
St. Modwen Developments Limited

.....
for and on behalf of
**Kleinwort Benson (Guernsey) Limited as trustee of
the M&G Secured Lease Income Fund and its
nominee Borrowdale Nominees Limited**

[on duplicate]

Address: []

Date _____

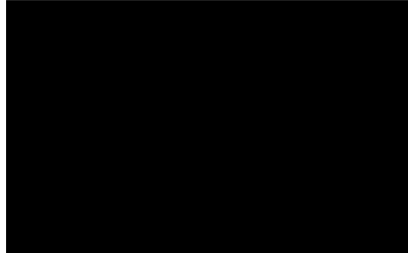
- (a) we accept and will comply with the terms of the Notice;
- (b) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of or affecting the Agreement, the Account or the Deposit Moneys;
- (c) we have not claimed or exercised and will not claim or exercise (except with the Lender's prior written consent) any security interest, right of set-off, consolidation or counterclaim or any other right against or in respect of the Account or the Deposit Moneys or under the Agreement, except in respect of our usual administrative and transactional fees and charges in relation to the Account; and
- (d) we shall not permit the Company to make any withdrawal of the Deposit Moneys without your prior written consent.

.....
for and on behalf of
[Name of Escrow Account Bank]

EXECUTION PAGE

THE CHARGOR

EXECUTED AS A DEED by)
ST. MODWEN DEVELOPMENTS)
LIMITED)
on being signed by)
two Directors or a Director and the)
Company Secretary)
pursuant to a resolution of the Board)



THE LENDER

SIGNED as a DEED on behalf of **KLEINWORT**)
BENSON (GUERNSEY) LIMITED as trustee of)
the M&G Secured Lease Income Fund incorporated)
in Guernsey by)
and being persons)
who, in accordance with the laws of that)
territory, are acting under the authority of that)
company:)

Authorised Signatory

Authorised Signatory

SIGNED as a DEED on behalf of **BORROWDALE**)
NOMINEES LIMITED as nominee for Kleinwort Benson)
(Guernsey) Limited in its capacity as trustee of the M&G)
Secured Lease Income Fund incorporated in Guernsey by)
and)
being persons who, in accordance with the laws of)
that territory, are acting under the authority of that)
company:)

Authorised Signatory

Authorised Signatory

Authorised Signatory