



**Registration of a Charge**

Company name: **BANKUWAIT NOMINEES LIMITED**

Company number: **00937059**



X5YW4A41

Received for Electronic Filing: **25/01/2017**

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**Details of Charge**

Date of creation: **24/01/2017**

Charge code: **0093 7059 0015**

Persons entitled: **DEUTSCHE HYPOTHEKENBANK (ACTIEN-GESELLSCHAFT)**

Brief description: **ALL THAT FREEHOLD PROPERTY KNOWN AS 1-7 OLDLANDS WAY, BOGNOR REGIS, PO22 9SA AS REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER WSX26532. FOR MORE DETAILS, PLEASE REFER TO THE INSTRUMENT.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**TAYLOR WESSING LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 937059

Charge code: 0093 7059 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th January 2017 and created by BANKUWAIT NOMINEES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th January 2017 .

Given at Companies House, Cardiff on 26th January 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

DATED

24 JANUARY

2016/7 TW

(1) BANKUWAIT NOMINEES LIMITED  
and  
GRAVITAS HOLDINGS PCC LIMITED  
ACTING ON BEHALF OF AND SOLELY IN RELATION TO ITS CELL  
GRAVITAS HOLDINGS IV  
as Chargors

(2) DEUTSCHE HYPOTHEKENBANK  
(ACTIEN-GESELLSCHAFT) LONDON BRANCH  
as Security Trustee

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LEGAL CHARGE  
(Gravitas IV Portfolio)

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EXECUTION VERSION

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## Index

Clause No.	Page No.
1. Definitions and Interpretation .....	1
2. Fixed Security .....	6
3. Rental Income.....	6
4. Accounts.....	7
5. Representations and Warranties.....	8
6. Negative Covenants .....	10
7. Covenants Relating to the Charged Property .....	11
8. Enforcement of Security .....	14
9. Powers of Receiver and Security Trustee.....	15
10. Delegation of Powers by Security Trustee or Receiver .....	16
11. Exclusion of Liability .....	16
12. Reimbursement and Indemnity .....	17
13. Application of Sums Realised.....	18
14. Protection of Persons Dealing with Security Trustee or Receiver .....	18
15. Notice of Subsequent Charge .....	18
16. Further Assurance .....	18
17. Power of Attorney by Chargors .....	19
18. Protective clauses .....	19
19. Discharge of Security .....	21
20. Redemption .....	21
21. Communications.....	22
22. Assignment and Transfer .....	23
23. Payments.....	23
24. Set-off .....	23
25. Miscellaneous.....	24
26. Law .....	25
27. Jurisdiction.....	25
schedule 1 .....	27
schedule 2 .....	29

THIS LEGAL CHARGE is made on

24 JANUARY

2016/7 TW

**BETWEEN**

- (1) **BANKUWAIT NOMINEES LIMITED** (Company No. 937059) of 35 Portman Square, London W1H 6LR and **GRAVITAS HOLDINGS PCC LIMITED** ("**Gravitas PCC**") a protected cell company incorporated in Guernsey with registration number 48877 whose registered office is at Trafalgar Court, Les Banques, St Peter Port, Guernsey GY1 4BZ acting on behalf of and solely in relation to its cell, Gravitas Holdings IV (as "**Chargors**" and each a "**Chargor**"); and
- (2) **DEUTSCHE HYPOTHEKENBANK (ACTIEN-GESELLSCHAFT)** acting through its branch at One Wood Street, London EC2V 7WT as security trustee for the Finance Parties (the "**Security Trustee**").

**INTRODUCTION**

- (A) The Banks have agreed to make available a loan facility to Gravitas Holdings PCC Limited acting on behalf of and solely in relation to its cell Gravitas Holdings IV (the "**Borrower**") under the terms of a syndicated loan agreement dated on or around the date of this agreement (and as otherwise amended or varied from time to time) made between, amongst others, the Borrower (1), the Banks (2) and the Security Trustee (3) (the "**Agreement**").
- (B) It is a condition precedent to the availability of the loan facility that the Chargors enter into this deed which is a Legal Charge as referred to in the Agreement.

**AGREED TERMS**

**1. Definitions and Interpretation**

**1.1 Definitions**

In this deed:

"**Accounts**" has the meaning ascribed to it by the Agreement;

"**Account Bank**" has the meaning ascribed to it by the Agreement;

"**Assigned Agreement**" means, in relation to any Chargor, each agreement, charged or assigned by such Chargor by this deed and including those agreements listed in schedule 2;

"**Bank**" means:

- (a) any bank or financial institution listed in schedule 1 to the Agreement; and
- (b) any bank or financial institution which becomes a party to the Agreement in accordance with its terms,

which in each case has not ceased be a party to the Agreement in accordance with such terms;

"**Certificate of Title**" has the meaning ascribed to it by the Agreement;

"**Charged Property**" means all assets mortgaged, charged or assigned by this deed;

"**Default**" has the meaning ascribed to it by the Agreement;

"**Enforcement Event**" means the occurrence of a Default which is continuing;

"**Environmental Law**" has the meaning ascribed to it by the Agreement;

"**Facility Agent**" means Deutsche Hypothekenbank (Actien-Gesellschaft) or any other person from time to time acting as Facility Agent under the Agreement;

"**Finance Documents**" has the meaning ascribed to it by the Agreement;

"**Finance Party**" has the meaning ascribed to it by the Agreement;

"**Lease**" includes any underlease, tenancy, letting, licence, any document supplemental or collateral to any of them and any agreement to enter into any of them and the expression tenant will be construed accordingly;

"**LPA**" means the Law of Property Act 1925;

"**Net Rental Income**" has the meaning ascribed to it in the Agreement;

"**PIFSS**" has the meaning ascribed to it by the Agreement;

"**Property**" means each property described in schedule 1 or any part of any such property;

"**Receiver**" means any receiver appointed over any Charged Property whether under this deed or by order of the court on application by the Security Trustee and includes a receiver and manager;

"**Rent Account**" has the meaning ascribed to it by the Agreement;

"**Rental Income**" has the meaning ascribed to it in the Agreement;

"**Sale**" means in relation to any part of the Property the sale of the freehold or head leasehold interest in such Property or the grant of a Lease at a premium and "**Sold**" shall be construed accordingly;

"**Sale Proceeds**" means 100% of the gross proceeds of sale (including any premium in respect of the grant of a Lease) or of any other dealings in any interest in all or any part of the Property;

"**Sale Proceeds Account**" has the meaning ascribed to it by the Agreement;

"**Secured Liabilities**" means all liabilities of the Borrower or a Chargor owed or expressed to be owed to the Finance Parties under or in connection with the Finance Documents whether owed jointly or severally, as principal or surety or in any other capacity including, in the case of the Borrower, anything which would have been a liability but for the fact that it is or becomes void, voidable, invalid, unenforceable or otherwise irrecoverable and any cost, loss or liability suffered by any Finance Party if such liability is or becomes void, voidable, invalid, unenforceable or otherwise irrecoverable;

**"Security Documents"** means this deed and any other document which grants security rights or rights by way of guarantee and/or indemnity or other assurance against loss in respect of any liabilities of a Chargor or the Borrower under the Finance Documents; and

**"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).

## 1.2 *Incorporation*

This deed incorporates the terms of the Finance Documents and any side letters between the parties to the extent required to ensure the validity of any purported disposition under this deed of any freehold or leasehold property under s.2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## 1.3 *Interpretation*

- (a) References to the **"Security Trustee"** and the **"Finance Parties"** includes their successors, assigns and transferees.
- (b) The expression the **"Chargor"** includes a person deriving title under the Chargor or entitled to redeem the Encumbrances created by this deed and includes either or both of the Chargors as the context may require and whether acting in its or their own capacity or as nominee or trustee for PIFSS so that the liabilities and obligations of the Chargors under this deed are joint and several liabilities of those persons.
- (c) Any reference to a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated.
- (d) Any reference to a provision of law is a reference to that provision as amended or re-enacted from time to time.
- (e) The singular includes the plural and vice versa.
- (f) Any reference to clauses, paragraphs and schedules are to the clauses, paragraphs of and schedules to this deed.
- (g) Any reference to **"this clause"** is to the clause headed by a whole number in which such expression appears and includes each sub-clause with a decimal number beginning with the same whole number.
- (h) Any reference to any gender includes other genders.
- (i) The words **"including"** and **"in particular"** are to be construed as being by way of illustration or emphasis only and are not to be construed so as to limit the generality of any words preceding them.
- (j) The words **"other"** and **"otherwise"** are not to be construed as being limited by any words preceding them.
- (k) Clause and schedule headings are for ease of reference only.
- (l) References to **"liabilities"** includes present and future, actual and contingent liabilities.



- (m) References to "**assets**" includes present and future property, revenues and rights of every description.
- (n) References to any asset include any proceeds of sale of any such asset;
- (o) References to any freehold or leasehold property include:
  - (i) buildings and fixtures and fixed plant and machinery on such property (other than those owned by an occupational tenant); and
  - (ii) rights under any contract for the purchase of such property and damages payable in respect of any such contract;
- (p) Any covenant made by or obligation imposed on a Chargor in this deed will continue in force until the Security Trustee is satisfied that the Finance Parties have no further obligation to provide financial accommodation to the Borrower and all the Secured Liabilities have been irrevocably paid in full.

#### 1.4 *Nature of Obligations*

Subject as provided below, the Security Trustee agrees that in recovering any amount payable by the Borrower to the Security Trustee and the Banks under this deed the Security Trustee and the Banks shall only be entitled to resort to those assets subject to Security granted by each Security Document, including this deed. The Facility Agent shall be entitled to exercise its rights under clause 23.13 (*Acceleration*) of the Agreement but a Finance Party shall:

- (a) not instigate proceedings or otherwise claim against any Chargor for the repayment of the Secured Liabilities or any part thereof unless (and to the extent that) any such proceedings or claim are necessary to enable the Security Trustee to exercise its rights under the Security Documents;
- (b) seek recourse solely by the enforcement of the Security granted under each Security Document, including this deed (save for any provision of the Security which constitutes a covenant to pay by either Chargor for the repayment of the Secured Liabilities); and
- (c) to the extent that the proceeds of such enforcement are insufficient to repay the Secured Liabilities, have no recourse to any Chargor or any of its assets to recover the shortfall (the "**Enforcement Shortfall**").

If:

- (i) the Security is enforced in accordance with this clause 1.4 and clause 1.5 of the Agreement;
- (ii) the Security Trustee is satisfied that it has exhausted all of its enforcement options in respect of all of the Security; and
- (iii) the Security Trustee notifies the Borrower that following (i) and (ii) above there is an Enforcement Shortfall,

then without prejudice to the treatment of any such Enforcement Shortfall by each Finance Party for its own accounting purposes, the Borrower may regard such Enforcement Shortfall for its own accounting purposes as reduced to zero.

1.5 *Limited Recourse in respect of Gravitass PCC*

- (a) Notwithstanding any other provision of this deed each of the parties hereto agrees and acknowledges that Gravitass PCC is established as a protected cell company under the Companies (Guernsey) Law 2008 as amended and is acting on behalf of and solely in respect of its cell, Gravitass IV (the "Cell") and that in respect of:

- (i) all obligations of Gravitass PCC to the other parties hereto; and
- (ii) all rights whatsoever of the other parties arising under this deed,

each of the parties hereto shall have recourse solely to the Cell in accordance with and as determined by the Companies (Guernsey) Law, 2008 (as amended). Accordingly, any right or entitlement against Gravitass PCC in respect of the same will be restricted to the cellular assets of the Cell for the time being and the other parties hereto shall have no recourse against the cellular assets of any other cell of Gravitass PCC or any core assets of Gravitass PCC.

- (b) In this clause "**cellular assets**" means "the assets of Gravitass PCC attributable to a cell of Gravitass PCC comprising assets represented by the proceeds of cell share capital and reserves attributable to that cell and all other assets attributable to that Cell" and "**core assets**" means "the assets attributable to the core of Gravitass PCC and comprising assets represented by the proceeds of core share capital and reserves attributable to the core and all other assets attributable to the core".

1.6 The provisions of clause 1.4 shall not prejudice or affect the right of the Security Trustee to:

- (a) obtain an injunction, interdict or restraining order to restrain any breach of the Finance Documents or any of them or to obtain declaratory relief; or
- (b) enforce the Security granted under this deed (save for any provision of the Security which constitutes a covenant to pay by either Chargor for the repayment of the Secured Liabilities); or
- (c) apply Rental Income or other monies arising from the sale or disposal of assets subject to this deed in repayment of the Secured Liabilities; or
- (d) serve notice of demand on any Chargor for the purpose only of enabling the Security Trustee to declare amounts owing under the Finance Documents to be immediately due and payable pursuant to the terms of this deed; or
- (e) bring legal proceedings against any Chargor in respect of an act or omission by such Chargor which:
  - (i) is in breach of the express obligations of such Chargor under the Finance Documents other than its obligations to pay money; or
  - (ii) is so serious a breach that it constitutes bad faith; and

causes the Finance Parties to recover or realise less from the enforcement of the Security under this deed than they would have recovered or realised had the breach not occurred.

### 1.7 *Guernsey Provisions*

For the purposes of clause 18.1(i), a declaration that the affairs of a Chargor are en état de désastre and/or the making of a preliminary vesting order in saisie proceedings in Guernsey in respect of its realty, shall be deemed to be a similar proceeding."

## 2. **Fixed Security**

2.1 As continuing security for the payment of the Secured Liabilities each Chargor as nominee and trustee for PIFSS:

- (a) charges to the Security Trustee as trustee for the Finance Parties by way of legal mortgage the Property;
- (b) assigns to the Security Trustee as trustee for the Finance Parties its interest in the Rental Income;
- (c) charges to the Security Trustee as trustee for the Finance Parties by way of fixed charge its interest in:
  - (i) any money now or at any time after the date of this deed standing to the credit of any and all of the Accounts; and
  - (ii) any present and future insurances in respect of any Charged Property and the proceeds of such insurances; and
- (d) assigns to the Security Trustee as trustee for the Finance Parties by way of fixed security its rights and interest in any Assigned Agreement and any guarantee or security for the performance of any such agreements.

## 3. **Rental Income**

### 3.1 *Prohibited dealings*

No Chargor shall except with the prior written consent of the Security Trustee sell, assign, charge, discount, factor or otherwise deal with the Rental Income, or compound, release or do anything by virtue of which the collection and recovery of any of the Rental Income may be impeded, delayed or prevented.

### 3.2 *Notice of assignment of Rental Income and acknowledgement*

If requested to do so by the Security Trustee following the occurrence of an Enforcement Event, the Chargors shall give notice of assignment of the Rental Income to each tenant of the Property (and otherwise consent to the Security Trustee giving such notice on behalf of the Chargors) and shall procure that each such tenant executes and delivers to the Security Trustee an acknowledgement of such notice. Both such notice and acknowledgement must be in form and substance satisfactory to the Security Trustee. The Chargor shall, within 10 days of the date of this deed, provide the Security Trustee with signed notices of assignment addressed to each tenant, and such notices will be held by the Security Trustee and served only in accordance with this clause.

#### **4. Accounts**

##### **4.1 *Notice of charge of accounts***

The Chargors shall give notice of the charge of the Accounts to the relevant Account Bank (if not the Security Trustee) and shall use reasonable endeavours to procure that such Account Bank executes and delivers to the Security Trustee an acknowledgement of the rights of the Security Trustee in respect of each such Account. Both such notice and acknowledgement must be in form and substance satisfactory to the Security Trustee.

##### **4.2 *Sale Proceeds Account***

The Chargors shall open a Sale Proceeds Account, and maintain the same. The Chargors agree that, if required by the Security Trustee, it will open a replacement account with such other bank in such location as the Security Trustee directs and the Security Trustee may transfer the amount standing to the credit of the Sale Proceeds Account to such replacement account which will then be the Sale Proceeds Account for the purposes of this deed.

##### **4.3 *Proceeds of Sales***

In the event that the Property (or any part of the Property) is Sold, the Sale Proceeds of such Property or such part of such Property shall be paid into the Sale Proceeds Account with a deduction being made only in respect of solicitors and agents fees, disbursements, Value Added Tax and any other necessary expenses agreed by the Security Trustee in writing prior to completion of such Sale.

##### **4.4 *Rent Account***

The Chargors shall open and maintain a Rent Account. The Chargors agree that, if required by the Security Trustee, it will open a replacement account with such other bank in such location as the Security Trustee directs and the Security Trustee may transfer the amount standing to the credit of such Rent Account to such replacement account which will then be the Rent Account for the purposes of this deed.

##### **4.5 *Rental Income***

The Chargors shall pay or procure the payment of all Rental Income or, as relevant, Net Rental Income into the Rent Account immediately upon receipt in accordance with the terms of the Agreement.

##### **4.6 *Use of money in Rental and Sale Proceeds Accounts***

All money standing to the credit of the Rent Account or Sale Proceeds Account shall be applied by the Security Trustee (and the Chargors irrevocably authorise such application) in the manner prescribe by the Agreement and otherwise in or towards discharge of the Secured Liabilities.

##### **4.7 *Withdrawals from Accounts***

Other than as permitted pursuant to the Agreement, no Chargor will be entitled to withdraw money from any Accounts or require the Security Trustee to make any payment from an Account to a Chargor or any other person without first obtaining the consent in writing of the Security Trustee. Subject as provided in the Agreement, the Security Trustee alone may authorise withdrawal or payment from the Accounts.

## **5. Representations and Warranties**

### **5.1 *Representations and Warranties***

Each Chargor represents and warrants to the Security Trustee as set out in this clause.

### **5.2 *Duration and Scope***

The representations and warranties set out in this clause will be deemed to be repeated by the Chargors on the date of each Notice of Drawdown and the first day of each Interest Period until the Secured Liabilities have been paid in full in relation to the then existing circumstances.

### **5.3 *Status***

- (a) Bankuwait Nominees Limited is a limited liability company, duly incorporated and validly existing under the law of its jurisdiction of incorporation and Gravitas PCC is a protected cell company incorporated under the laws of Guernsey.
- (b) It has the power to own its assets and carry on its business in England as it is being conducted.

### **5.4 *Binding obligations***

The obligations expressed to be assumed by it in this deed are its legal, valid, binding and enforceable obligations.

### **5.5 *Non-conflict with other obligations***

The entry into and performance by it of, and the transactions contemplated by, this deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

### **5.6 *Power and authority***

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.

### **5.7 *Validity and admissibility in evidence***

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, registrations and notarisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this deed; and
- (b) to make this deed admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

5.8 *Deduction of Tax*

It is not required under the law of its jurisdiction of incorporation to make any deduction for or on account of tax from any payment it may make under this deed.

5.9 *No filing or stamp taxes*

Under the law of England it is not necessary that this deed be filed, recorded or enrolled with any court or other authority in England other than registration at the Land Registry and under the Companies Act 2006 or that any stamp, registration or similar tax be paid on or in relation to this deed or the transactions contemplated by this deed other than payment of a registration fee to the Land Registry and a registration fee to the Registrar of Companies.

5.10 *Security*

There is no Security over any of the Charged Property other than Permitted Security.

5.11 *Security Documents*

This deed creates valid first priority Security over the Charged Property.

5.12 *Ownership of Charged Property*

The Chargors are the joint legal owners of the Charged Property mortgaged, charged or assigned by the Chargors under this deed and hold such Charged Property on trust for PIFSS.

5.13 *The Property*

Save as to matters disclosed in the applicable Certificate of Title:

- (a) Each Property is free from any Lease.
- (b) No Chargor has received or acknowledged notice of any material adverse claim by any person in respect of any Property or any interest in it.
- (c) Each Property is in good and substantial repair save as disclosed in any building survey disclosed to the Security Trustee prior to the date of this deed.
- (d) There is no material breach of any law in respect of any Property.
- (e) There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever which materially adversely affect the Property.
- (f) No facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use.
- (g) Nothing has arisen or has been created or is subsisting which would be an overriding interest over any Property.
- (h) Save as disclosed in any building survey commissioned by the Security Trustee, no Chargor is aware of any high alumina cement, asbestos or asbestos-based products or other deleterious materials generally known at the time of use to be deleterious to health and safety or to the durability of the Property in the particular circumstances in which it is used or shall be used in the construction of or any alterations or additions to any Property.

- (i) Save as disclosed in any environmental assessment commissioned by, or produced to the Security Trustee, to the best of each Chargor's knowledge and belief having made due and proper enquiries no contaminative use has been or is being carried on at or within the vicinity of any Property.
- (j) No dangerous substance is being or shall be used, generated, stored, transported, treated, dumped, released, deposited, buried, emitted or disposed of at, on, from or under any Property in circumstances where this might result in any environmental claim on a Chargor or any occupier of any part of the Property or which might materially and adversely affect the open market realisable value or marketability of any Property.
- (k) Each Chargor has at all times complied in all material respects with all applicable Environmental Law except where a failure to comply would either be consistent with good estate management or would not adversely affect the interests of the Finance Parties.
- (l) So far as each Chargor is aware, any licences required under any Environmental Law have been obtained by it and are valid and subsisting.
- (m) No Chargor has had notice of any claim under any Environmental Law or of any circumstances which might result in such a claim applicable to the Property or any occupier of any Property or otherwise which might materially and adversely affect the open market realisable value or marketability of any Property.

#### 5.14 *Assigned Agreements*

To the best of each Chargor's knowledge and belief, each Assigned Agreement:

- (a) constitutes valid and binding obligations of the Chargor party to such agreement and each other person party to such agreement and is in full force and effect;
- (b) has not been amended other than as disclosed in writing to the Security Trustee;
- (c) has not been cancelled or rescinded or frustrated;
- (d) the relevant Chargor has not waived or released any obligation under the Assigned Agreement;
- (e) no arbitration or other legal proceedings have been commenced by any person in respect of any matter arising out of or in connection with any Assigned Agreement.

### 6. **Negative Covenants**

6.1 No Chargor shall except with the prior written consent of the Security Trustee:

- (a) sell, transfer, lease or otherwise dispose or purport or agree to sell, transfer, lease or otherwise dispose of any interest in or lend or grant any licence or other right over any Charged Property;
- (b) create, agree to create or allow to arise or remain outstanding any Security (other than a Permitted Security) over any Charged Property.

## **7. Covenants Relating to the Charged Property**

### **7.1 Repair**

The Chargors shall or (as appropriate) shall procure that:

- (a) the Property is kept in good and substantial repair and condition; and
- (b) without the prior written consent of the Security Trustee, no structural alterations or additions are made to or no development is carried out at or on the Property or no planning or similar application relating to the Property is made (save that the Security Trustee may not unreasonably withhold or delay such consent where the Chargors have provided evidence satisfactory to the Security Trustee (acting reasonably) that the Chargors (as landlord) are contractually obliged to issue an appropriate consent under the terms of the relevant Lease).

If a Chargor fails to comply with the covenants in this clause the Security Trustee will be entitled to repair and maintain the Property and carry out works of reinstatement at the cost of the Chargors and will for this purpose have the rights of entry set out in this clause.

### **7.2 Insurance**

- (a) The Chargors shall except as provided in clause 7.2(c) procure that each Property is insured (in the names of the Security Trustee and the Chargors as composite insureds with the Security Trustee being named as first loss payee for single claims in excess of £100,000) against all risks which an Owner would reasonably insure against (including terrorism cover) and against such other risks as the Security Trustee may from time to time specify:
  - (i) in the case of assets other than buildings to their full replacement value; and
  - (ii) in the case of buildings on a full reinstatement basis and against all professional fees, value added tax, demolition and site clearance charges and loss of rental and other income derived from such buildings for at least three years.
- (b) All such insurances shall be in amount and form and with an insurance office acceptable to the Security Trustee acting reasonably and the Chargors shall as soon as requested produce the policy and the last receipt for such insurances to the Security Trustee. If the Chargors fail to comply with this clause the Security Trustee will be entitled to effect any relevant insurance at the cost of the Chargors.
- (c) If a Property includes any leasehold property of which a Chargor is the tenant and the landlord under the lease (or any superior landlord) is responsible for the insurance of any buildings on such Property and if the terms of such insurance are satisfactory to the Security Trustee and the Chargors:
  - (i) procures that the interest of the Security Trustee is endorsed on every relevant policy;
  - (ii) procures that every relevant policy contains a clause of the type referred to in clause 7.2(d); and



- (iii) provides a full copy of every relevant policy to the Security Trustee once in every year together with a copy of the receipt for that year's premium,

then such insurance will be deemed to have been accepted by the Security Trustee in satisfaction of the obligation of the Chargors to procure the insurances of the relevant buildings.

- (d) The Chargors shall (to the extent reasonably available in the UK insurance market) ensure that every insurance policy contains a clause (in terms satisfactory to the Security Trustee (acting reasonably)) under which such insurance will not be prejudiced, vitiated or avoidable as against a mortgagee in the event of any misrepresentation, act or neglect or failure to disclose on the part of the insured party or parties and will not be invalidated as against a mortgagee for failure to pay any premium owing without the insurer giving to the Security Trustee ten Business Days prior written notice.
- (e) Promptly after the execution of this deed, the Chargors shall give notice of the Security Trustee's interest in the Charged Property to their insurer and shall request and thereafter use reasonable endeavours to procure that such insurer executes and delivers to the Security Trustee an acknowledgement of such notice. Both such notice and acknowledgement must be in form and substance satisfactory to the Security Trustee (acting reasonably).

### 7.3 *Proprietorship*

The Chargors shall not permit any person:

- (a) to be registered as proprietor under the Land Registration Act 2002 of the Property nor create or knowingly permit to arise any overriding interest (as defined in such Act) affecting the Property; or
- (b) to become entitled to any proprietary right or interest which might adversely affect the value of the Property.

### 7.4 *Powers of leasing*

The Chargors' statutory and any other powers of entering into Leases and accepting or agreeing to accept surrenders of Leases are excluded and shall not be exercisable by the Chargors in relation to the Property and, save as otherwise permitted pursuant to clause 22.6 of the Agreement, the Chargors shall not without the prior written consent of the Security Trustee (acting reasonably):

- (a) part with possession or occupation of, confer any licence or right to occupy nor confer any interest in the Property;
- (b) grant any permission to assign, underlet or part with possession or occupation of the Property (and the Security Trustee shall not withhold its consent where the Chargor provides evidence satisfactory to the Security Trustee that to do so would cause the Chargor to be in material breach of law or a Lease);
- (c) agree or permit any amendment to or waiver of the terms of any Lease (including any Lease under which a Chargor is tenant); or
- (d) exercise any power to determine any Lease,

and, for the avoidance of doubt, where an occupational tenant does not require the consent of the Chargor as landlord to take certain action under a Lease (including any

dispositions referred to in clauses 7.2(a) and 7.2(b)), the consent of the Security Trustee shall not be required in respect of such occupational tenant taking such action.

#### 7.5 *Power of entry*

The Chargors shall permit the Security Trustee, its agents and contractors at reasonable times and upon reasonable notice (or at any time without notice after the occurrence of an Enforcement Event or in case of emergency) to enter into or upon the Property without becoming liable as mortgagee in possession:

- (a) to view the state and condition of or to value it;
- (b) to comply with any direction or notice or other matter served upon a Chargor; and
- (c) to carry out at the expense of the Chargors any repairs or maintenance or to take any action which the Security Trustee considers necessary or desirable in connection with the Property to procure compliance with any covenant or obligation set out in this deed.

#### 7.6 *Compliance with obligations*

The Chargors shall in respect of the Property:

- (a) pay all rents, rates, outgoing and other sums payable and observe and comply with any covenants, stipulations and conditions binding on the Chargors;
- (b) enforce all tenant's obligations under any Lease over any part of the Property save to the extent that to do so would be contrary to the usual principles of good estate management and would adversely affect the Charged Property or the interests of the Finance Parties;
- (c) comply with or procure compliance by each occupational tenant with all obligations under any law other than where failure to so comply would be consistent with good estate management and would not adversely affect the interests of the Finance Parties and produce to the Security Trustee within seven days of receipt every notice, order or proposal given or made by any competent authority and make any obligations and representations against it as the Security Trustee may require or approve;
- (d) not commit any waste which injures or lessens the value of the Property;
- (e) save in respect of any fixture owned by a tenant, not detach or allow any fixture to be detached from the Property except for the purpose of replacing it by another of at least equal value.

#### 7.7 *Environmental Law*

Each Chargor shall properly discharge all duties of care and responsibilities placed upon it by Environmental Law and observe and perform all the requirements of Environmental Law both in the conduct of its general business and in the management possession or occupation of the Property and shall apply for and obtain all authorizations, licences and consents necessary to ensure that it does not breach Environmental Law.

## 7.8 *The Assigned Agreements*

Each Chargor undertakes to the Security Trustee:

- (a) to comply with the provisions of each Assigned Agreement to which it is a party and not to do or omit to do anything which might result in any impairment of any of the rights and benefits assigned by this deed;
- (b) to advise the Security Trustee promptly upon becoming aware of any default by any party to an Assigned Agreement in the performance of any of its obligations under such Assigned Agreement;
- (c) not, without first obtaining the consent in writing of the Security Trustee, to amend or vary the terms of any Assigned Agreement, nor waive or release any obligation under, or in connection with, an Assigned Agreement and the consent of the Security Trustee shall not be unreasonably withheld where such amendment, variation, waiver or release is made in accordance with the principles of good estate management;
- (d) not, without first obtaining the consent in writing of the Security Trustee, to exercise any right which it may have to cancel or rescind an Assigned Agreement or claim that an Assigned Agreement is frustrated (and the consent of the Security Trustee shall not be unreasonably withheld where such exercise is made in accordance with the principles of good estate management), and, if any such right arises, to notify the Security Trustee immediately and to exercise such right only if required so to do by the Security Trustee and at such time and in such manner as the Security Trustee may direct;
- (e) not, without first obtaining the consent in writing of the Security Trustee, to commence arbitration or other legal proceedings in respect of any matter arising out of or in connection with an Assigned Agreement (and the consent of the Security Trustee shall not be unreasonably withheld where the commencement of such proceedings would be in accordance with the principles of good estate management); and
- (f) whenever so required by the Security Trustee, to produce to the Security Trustee such information relating to an Assigned Agreement as the Security Trustee may from time to time reasonably require.

## 8. **Enforcement of Security**

### 8.1 *Powers arising*

Section 103 of the LPA will not apply to this deed and the power of sale and all other powers conferred by section 101 of the LPA as varied or extended by this deed will arise upon execution of this deed by the Chargors.

### 8.2 *Possession*

The Security Trustee shall be entitled by notice to the Chargors to end the Chargors' right to possession of all or any part of the Charged Property and enter into possession of all or such part of the Charged Property immediately upon or at any time after an Enforcement Event has occurred.

### 8.3 *Powers exercisable*

The power of sale and all other powers conferred by section 101 of the LPA as varied or extended by this deed will be exercisable immediately upon or at any time after an Enforcement Event has occurred.

### 8.4 *Appointment of Receiver*

- (a) At the request of the Chargors or at any time after the occurrence of an Enforcement Event the Security Trustee may appoint by writing a receiver and/or manager of any Charged Property upon such terms as to remuneration and otherwise as the Security Trustee thinks fit.
- (b) Any Receiver will be the agent of each Chargor for all purposes and the Chargors will be responsible for such Receiver's acts and defaults and for his remuneration, costs, fees, taxes and expenses to the exclusion of liability on the part of the Security Trustee.
- (c) Where two or more persons are appointed as Receivers under or pursuant to this deed any act authorised to be done by the Receivers may be done by all of them acting jointly or by any one or more of them acting severally.

### 8.5 *Removal of Receiver*

The Security Trustee may at any time by writing remove any Receiver (subject to the obtaining of any required order of the court in the case of an administrative receiver) whether or not the Security Trustee appoints any other person as Receiver in his place.

## 9. **Powers of Receiver and Security Trustee**

### 9.1 *Statutory powers*

A Receiver shall have and be entitled to exercise all the powers conferred on a receiver by the LPA and, whether or not such a Receiver is an administrative receiver, all the powers conferred upon an administrative receiver by Schedule 1 to the Insolvency Act 1986 provided that references in that Schedule to the "property of the Company" will be deemed to be references to the Charged Property for the purposes of this deed.

### 9.2 *Additional powers*

By way of addition to and without limiting any other powers referred to in this clause a Receiver shall have power (both before and after the commencement of any liquidation of a Chargor) to do every act and thing and exercise every power:

- (a) which a Chargor would have been entitled to do or exercise if no Receiver had been appointed; and
- (b) which such Receiver in his absolute discretion considers necessary or desirable for maintaining or enhancing the value of any Charged Property or for or in connection with the enforcement of the Encumbrances created by this deed or the realisation of any Charged Property,

and may use the name of each Chargor in connection with any exercise of such powers.

### 9.3 *Exercise of powers by Security Trustee*

After the occurrence of an Enforcement Event all the powers conferred on a Receiver by this deed, the LPA and the Insolvency Act 1986 may be exercised by the Security Trustee whether or not the Security Trustee goes into possession as mortgagee.

### 9.4 *Prior encumbrances*

At any time after the security given by this deed has become enforceable, the Security Trustee may redeem any prior Encumbrance against the Charged Property or procure a transfer of such Encumbrance to itself and may agree the accounts of the person entitled to that Encumbrance and any accounts so agreed will be binding on the Chargors. Any money paid by the Security Trustee in connection with a redemption or transfer of a prior encumbrance will form part of the Secured Liabilities.

## 10. **Delegation of Powers by Security Trustee or Receiver**

### 10.1 *Delegation*

The Security Trustee or any Receiver may from time to time delegate by power of attorney or in any other manner to any person the powers, authorities and discretions which are for the time being exercisable by the Security Trustee or a Receiver under this deed in relation to any Charged Property and any such delegation may be made upon such terms as the Security Trustee or such Receiver may think fit. Neither the Security Trustee nor any Receiver will be in any way liable or responsible to either Chargor for any loss or damage arising from any act or omission on the part of any such delegate.

### 10.2 *Possession*

If the Security Trustee, any Receiver or any delegate of the Security Trustee or any Receiver enters into possession of any Charged Property any of them may from time to time go out of possession.

## 11. **Exclusion of Liability**

### 11.1 *Liability to account*

The Security Trustee will not in any circumstances by reason of it taking possession of any Charged Property or for any other reason whatever, and whether as mortgagee in possession or on any other basis whatever, be liable to account to the Chargors for anything except the Security Trustee's own actual receipts or be liable to the Chargors for any loss or damage arising from any realisation of any Charged Property or from any act, default or omission of the Security Trustee in relation to any Charged Property or from any exercise or non-exercise by the Security Trustee of any power, authority or discretion conferred upon it in relation to any Charged Property by or pursuant to this deed or by the LPA unless such loss or damage is caused by the Security Trustee's own fraud.

### 11.2 *Losses on enforcement*

Upon the sale of any Charged Property on enforcement of the Encumbrances created by this deed, no Chargor will have any right or claim against the Security Trustee in respect of any loss arising out of such sale however such loss may have been caused and whether or not a better price could or might have been obtained on the sale of

such Charged Property by either deferring or advancing the date of such sale or for any other reason.

**11.3** *No obligation to recover*

The Security Trustee is not under any obligation to take action to collect any money or enforce any rights comprised in the Charged Property.

**11.4** *Application to Security Trustee and Receiver*

The provisions of this clause will apply in relation to the liability of any Receiver and any delegate of the Security Trustee or any Receiver in all respects as though every reference in this clause to the Security Trustee were reference to such Receiver or (as the case may be) to such delegate.

**12. Reimbursement and Indemnity**

**12.1** *Reimbursement*

Any sums paid or expended by the Security Trustee or any Receiver either:

- (a) as a result of the Security Trustee or any Receiver taking action which the Security Trustee or any Receiver considers necessary or desirable in connection with any Charged Property or to procure compliance with any covenant or obligation on the part of a Chargor contained in any Security Document; or
- (b) which is in respect of any action or thing expressed in this deed to be done at the cost of a Chargor,

and all costs, fees, taxes and expenses incurred by the Security Trustee or any Receiver under or in connection with this deed or its enforcement and/or the preservation of the Security Trustee's rights under this deed shall be reimbursed by the Chargors to the Security Trustee on demand. The Security Trustee will also be entitled to charge the Chargors a reasonable fee to recover the cost of management time spent in connection with the preservation of its rights under this deed which will be payable by the Chargors on demand.

**12.2** *Indemnity*

Each Chargor shall indemnify the Security Trustee (whether or not acting as mortgagee in possession) and any Receiver against all liabilities, claims and expenses whether arising out of contract or in tort or in any other way (including any liability of the Security Trustee or any Receiver under any Environmental Law) which may at any time be incurred by either of them (or by any person for whom they may be vicariously liable) in connection with this deed or for anything done or omitted to be done in the exercise or purported exercise of their powers pursuant to this deed.

**12.3** *Secured Liabilities*

All monies payable by the Chargors under this clause will form part of the Secured Liabilities and if unpaid will bear interest (both before and after judgment) at a rate equal to the default rate specified in the Agreement and will form part of the Secured Liabilities.

### **13. Application of Sums Realised**

13.1 Subject to claims having priority to the Encumbrances created by this deed all monies received by the Security Trustee or any Receiver will be applied in the following order:

- (a) in payment of all costs, fees, taxes and expenses incurred by the Security Trustee or any Receiver in or pursuant to the exercise of the powers set out in this deed and of all other outgoings properly payable by any Receiver;
- (b) in payment of remuneration to any Receiver;
- (c) in or toward payment of the Secured Liabilities as provided for by the terms of the Agreement; and
- (d) the balance (if any) will be applied as required by law.

### **14. Protection of Persons Dealing with Security Trustee or Receiver**

14.1 No person dealing with the Security Trustee or any Receiver will be concerned to enquire:

- (a) whether any event has happened upon which any of the powers contained in this deed may have arisen or be exercisable;
- (b) otherwise as to the propriety or regularity of any exercise of the powers conferred by this deed or of any act purporting or intended to be in exercise of such powers; or
- (c) whether any Secured Liabilities remain owing.

### **15. Notice of Subsequent Charge**

15.1 If the Security Trustee or any Bank receives notice of any subsequent Encumbrance or other interest affecting any Charged Property it may open a new account for the relevant Chargor in its books and may transfer any outstanding balance owing by such Chargor to such new account. If the Security Trustee or that Bank does not do so then, unless it gives express written notice to the contrary to the relevant Chargor, all payments made by such Chargor to the Security Trustee or that Bank will as from the time of receipt of such notice by the Security Trustee or that Bank be treated as having been credited to a new account of such Chargor and not as having been applied in reduction of the Secured Liabilities.

### **16. Further Assurance**

16.1 *Execution of further documents*

As and when required by the Security Trustee or any Receiver each Chargor, at its own cost, shall:

- (a) execute such further legal or other mortgages, charges or assignments in favour of the Security Trustee as the Security Trustee or any Receiver from time to time requires over any Charged Property to secure the Secured Liabilities such further mortgages, charges or assignments to be prepared at the cost of the Chargors and to contain a power of sale which arises immediately upon execution, a clause excluding section 93 of the LPA and the

restrictions contained in section 103 of the LPA and such other clauses for the benefit of the Security Trustee as the Security Trustee may reasonably require;

- (b) execute and do all such assurances, deeds, documents, acts and things as the Security Trustee or any Receiver may require for perfecting or protecting the mortgages, charges and assignments created by this deed or any Security Document and for facilitating or effecting any dealing by the Security Trustee or any Receiver under any authorities or powers granted under any Security Document; and
- (c) upon or with a view to assisting in any enforcement of any mortgage, charge or assignment created by this deed convey, transfer, assign or otherwise deal with any Charged Property in such manner as the Security Trustee or any Receiver may require.

#### **16.2 Documents of title**

The Chargors shall either deposit with the Security Trustee the deeds and documents of title relating to the Charged Property or procure that such deeds and documents are held to the order of the Security Trustee by the Chargors' solicitors on terms approved by the Security Trustee.

### **17. Power of Attorney by Chargors**

17.1 Each Chargor irrevocably and by way of security appoints each of the Security Trustee, any person authorised in writing by or on behalf of the Security Trustee and any Receiver its attorney in each case (with full power to appoint substitutes and to delegate) severally in its name and on its behalf to execute any document or do any act or thing which such Chargor is entitled to execute or do in relation to the Charged Property including giving a receipt for any money and exercising any rights or remedies forming part of the Charged Property or which such Chargor is obliged to execute or do under any Security Document or which the Security Trustee or the Receiver (or any substitute or delegate) may in their absolute discretion consider appropriate:

- (a) in connection with the exercise of any of their rights or powers arising under or by virtue of any Security Document, the LPA or the Insolvency Act 1986; or
- (b) to perfect, vest in or assure to the Security Trustee any security for the Secured Liabilities granted to the Security Trustee or which the Security Trustee may require to have granted to it under any Security Document.

### **18. Protective clauses**

#### **18.1 Waiver of defences**

The obligations of the Chargors under this deed and the security constituted by this deed will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of such obligations or security including (whether or not known to it or any Finance Party):

- (a) any time, waiver or consent granted to, or composition with, the Borrower or other person;
- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any creditor of the Borrower;



- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over property of, the Borrower or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower or any other person;
- (e) any amalgamation, merger or reconstruction of any Finance Party with any other person or any sale or transfer of the whole or any part of the assets of any Finance Party to any other person;
- (f) the existence of any claim, set-off or other rights which the Borrower may have at any time against any Finance Party, whether in connection with the Finance Documents or otherwise;
- (g) any novation, amendment (however fundamental) or replacement of a Finance Document or any other document or security;
- (h) any obligation of any person under any Finance Document or any other document or security being void, voidable, invalid, unenforceable or otherwise irrecoverable; or
- (i) any insolvency or similar proceedings.

#### 18.2 *Immediate recourse*

Each Chargor waives any right it may have of first requiring the Security Trustee to proceed against or enforce any other rights or security or claim payment from any person before enforcing the security constituted by this deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

#### 18.3 *Appropriations*

Until the Secured Liabilities have been irrevocably paid in full, the Security Trustee may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Security Trustee in respect of the Secured Liabilities, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any money received under this deed.

#### 18.4 *Deferral of Chargors' rights*

Until the Secured Liabilities have been irrevocably paid in full and unless the Security Trustee otherwise directs, no Chargor will exercise any rights which it may have by reason of the enforcement of this deed:

- (a) to be indemnified by the Borrower;
- (b) to claim any contribution from any other person in respect of any obligations of that person under the Finance Documents; and/or

- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

#### 18.5 *Turnover*

Each Chargor shall hold on trust for the Security Trustee any money or other benefit which it may receive in breach of this clause and will pay or transfer the same to the Security Trustee for application by the Security Trustee in or towards discharge of the Secured Liabilities.

#### 18.6 *Droit de discussion and droit de division*

For the avoidance of doubt, each Chargor abandons all and every right which it may have at any time under any existing or future laws of Guernsey including, but not limited to the "droit de discussion" or the "droit de division" or otherwise to require that recourse be had to the assets of some other person (including another Chargor) nor shall any Chargor be entitled to claim that any other person be made a party to any legal proceedings for the enforcement of obligations owed to, or the recovery of amounts due or owing to, any Finance Party, or to require that any liability of such Chargor be divided or apportioned amongst any other person (including another Chargor) or reduced in any manner whatsoever, and whether the formalities required by the laws of Guernsey, in regard to the rights or obligations of sureties shall or shall not have been observed.

### 19. **Discharge of Security**

#### 19.1 *Discharge conditional*

Any discharge of a Chargor made by the Security Trustee in reliance on a payment or Security Document given by another person will be of no effect if that payment or Security Document is avoided, reduced or invalidated for any reason and the Security Trustee will be entitled to recover from such Chargor on demand the amount of such payment or the value of any such Security Document.

#### 19.2 *Retention of Security*

Following any discharge of a Chargor made by the Security Trustee in reliance on a payment or Security Document given by another person the Security Trustee may retain the security constituted by this deed until the expiry of the maximum period within which such payment or Security Document can be avoided, reduced or invalidated for any reason provided that if such other person goes into liquidation or administration within that period the Security Trustee may retain the security constituted by this deed for as long as it thinks fit.

### 20. **Redemption**

- 20.1 After the repayment in full of the Secured Liabilities and provided that the Security Trustee is satisfied that the Finance Parties are not under any obligation to provide financial accommodation to the Borrower the Security Trustee will at the request and cost of the Chargors release the Charged Property from the Encumbrances created by this deed.

## **21. Communications**

### **21.1 Method of giving notices**

Any demand, notice, consent or communication made or given to a party under or in connection with this deed must be in writing and may be left at or sent by first class post to any address for service of that party or sent by fax to any fax number for service of that party referred to in this clause. Any such demand will be validly made whether or not it contains a statement as to the amount of the liabilities of the Borrower or the Chargors under any Finance Document or an inaccurate or incomplete statement of such liabilities.

### **21.2 Addresses for service**

The addresses and fax numbers of the parties are:

(a) in the case of the Chargors:

Henderson Real Estate Asset Management Limited

Address: 201 Bishopsgate  
London  
EC2M 3BN

Fax number: +44 20 7818 1819

For the attention of Mr Darren Downs/Ms Farrah Brown

(b) in the case of the Security Trustee:

Address: One Wood Street  
London  
EC2V 7WT

Fax number: +44 20 7429 4701

For the attention of Ms Silke Kues/Mr Walter W. Love

or any substitute address or fax number or officer or department as the addressee shall have notified to the party giving the notice for this purpose. In the case of each Chargor the address of its registered office or of any place where it carries on business shall also be addresses of such Chargor for the purpose of this clause.

### **21.3 Effectiveness**

A notice, demand or other communication made by the Security Trustee under this deed will be effective:

- (a) if left at an address referred to in this clause, when so left;
- (b) if posted by first class post to an address referred to in this clause, on the next working day in the place of receipt following the day when it was posted; or
- (c) if transmitted by fax to a fax number referred to in this clause, when the sending fax machine produces a print out which confirms that transmission has taken place.

#### **21.4**    *Security Trustee*

A communication to the Security Trustee will be effective only when actually received by the Security Trustee and then only if it is expressly marked for the attention of any department or officer specified in this clause (or any substitute department or officer as the Security Trustee shall have specified for this purpose).

### **22.    Assignment and Transfer**

#### **22.1**    *Security Trustee*

The Security Trustee may at any time, without the consent of the Chargors, assign or transfer the whole of the Security Trustee's rights under this deed to any successor to the Security Trustee as agent and trustee under the Agreement.

#### **22.2**    *Chargors*

No Chargor may assign any of its rights or transfer any of its obligations under this deed or enter into any transaction which would result in any of these rights or obligations passing to another person.

#### **22.3**    *Disclosure*

The Security Trustee may disclose any information about the Chargors to any person connected to or associated with it, and to any person to whom it proposes to assign or transfer (or has assigned or transferred) any of its rights under this deed.

### **23.    Payments**

#### **23.1**    *Payments to Security Trustee*

All payments to be made by the Chargors in respect of this deed shall be made to the Security Trustee in immediately available funds to the credit of such account as the Security Trustee may designate (in its capacity as Security Trustee under the Agreement).

#### **23.2**    *Deductions*

All payments by the Chargors under this deed will be made without set-off or counterclaim.

#### **23.3**    *Tax gross-up*

The provisions of Clause 12.2 (Tax gross-up) of the Agreement shall apply to all payments to be made by the Chargors under this deed.

### **24.    Set-off**

**24.1**    The Security Trustee may set off any obligation whether or not matured due from a Chargor under this deed against any obligation whether or not matured owed by the Security Trustee to such Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security Trustee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

**25. Miscellaneous**

**25.1 Trust**

The benefit of this deed will be held by the Security Trustee as trustee for the Finance Parties.

**25.2 Possession**

The Chargors shall be entitled to possession of the Charged Property until termination of such right by the Security Trustee under clause 8.2.

**25.3 Certificates and Determinations**

Any certification or determination by the Security Trustee of the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence of such amount.

**25.4 Illegality**

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 nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**25.5 Rights and remedies of the Security Trustee**

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

**25.6 Counterparts**

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.

**25.7 Third Party Rights**

A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this deed.

**25.8 Continuing Security**

This deed is a continuing security and extends to the balance from time to time of the Secured Liabilities irrespective of any intermediate payment of monies due to the Security Trustee.

**25.9 Other Security**

This deed is in addition to and will not in any way be prejudiced or affected by the holding or release by the Security Trustee or any other person of any other security at any time held by the Security Trustee.

#### 25.10 Consolidation

The restrictions on the right of consolidating mortgage securities contained in section 93 of the LPA will not apply to this deed.

#### 25.11 Land Registry Application

By executing this deed each Chargor consents to the entry of the following restriction against any registered titles (and any unregistered properties subject to compulsory first registration) which are at any time subject to this deed:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated \_\_\_\_\_ in favour of Deutsche Hypothekenbank (Actien-Gesellschaft), London Branch referred to in the charges register."

#### 26. Law

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

#### 27. Jurisdiction

##### 27.1 Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed and a dispute regarding a non-contractual obligation referred to in clause 26 (Law)) (a "**Dispute**").
- (b) The Security Trustee and the Chargors agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly neither of them will argue to the contrary.
- (c) This clause is for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.

##### 27.2 Service of process

Without prejudice to any other mode of service allowed under any relevant law, each Chargor incorporated in a jurisdiction other than England and Wales:

- (a) irrevocably appoints Henderson Real Estate Asset Management Limited whose registered office is at 201 Bishopsgate, London EC2M 3BN (attention: Darren Downs/Farrah Brown) as its agent for service of process in relation to any proceedings before the English courts in connection with this deed; and
- (b) agrees that failure by a process agent to notify such Chargor of the process will not invalidate the proceedings concerned.

This deed has been executed and delivered as a deed on the date shown at the beginning of this deed.

# **SCHEDULE 1**

## **The Property**

	<b>Property Description</b>	<b>Title Number</b>
1.	1-7 Oldlands Way, Bognor Regis, PO22 9SA	Freehold WSX26532
2.	9 and 11 Market Place and 6 and 8 Knifsmithgate, Chesterfield; and 13 Market Place, Chesterfield (S40 1PJ)	Freehold DY359684 and P207913 Leasehold DY5199
3.	11 Blackwellgate, Darlington; and Land at Blackwellgate, High Row and Mechanics Yard	Freehold DU163180 and DU26753
4.	7-9 Upper Market Square, Hanley, Stoke on Trent, ST1 1NS	Freehold SF284968
5.	Wickes Building Supplies Ltd, Mansfield Road, Daybrook, Nottingham (NG5 6GY)	Freehold NT265042
6.	Land lying to the north of Milton Lane, Portsmouth  Land on the east side of Jimmy Dickinson Way, Portsmouth  Land at Anson Road, Southsea  57 Frogmore Road, Southsea (PO4 8RD)	Freehold PM9586, PM9661, PM28790 and PM28798
7.	90 Pydar Street, Truro TR1 2BD	Freehold CL33983
8.	Land lying to the west of High Street, Uttoxeter	Freehold SF588997
9.	41 St George's Street, Canterbury CT1 2DW	Leasehold K591715 and K592146



10.	Land and buildings on the east side of Weddington Road, Nuneaton	Freehold WK324370
11.	137/143 Commercial Road, Portsmouth PO1 1BU  Unit C, Cascades Centre, Meadow Walk, Portsmouth	Leasehold  PM11507 and HP480026
12.	180-190 High Street, Lewisham	Freehold  SGL22887
13.	Land lying to the East of Lenton Lane, Nottingham  Land and buildings on the East side of Lenton Lane, Nottingham	Freehold  NT211434  Leasehold  NT406026
14.	131 Broadway, Bexleyheath DA6 7HE	Freehold  SGL519434

## **SCHEDULE 2**

### **Charged Agreements**

1. Any agreement entered into by the Chargor under or in connection with the Agreement for the purpose of hedging a rate of interest payable by the Chargor.
2. Any agreement to which the Chargor is a party of under which the Chargor has rights relating to the acquisition, development, operation, maintenance, management, refurbishment or use of any Property.
3. Any rights which the Chargor has against any person providing services to or for the benefit of the Chargor in connection with the acquisition, development, operation, maintenance, management, refurbishment or use of any Property.

EXECUTION PAGE

EXECUTED by )  
BANKUWAIT NOMINEES LIMITED )  
acting by a director in the presence )  
of: )

Director

Witness:

Witness name:

Witness address:

Witness Occupation:

OR

EXECUTED by )  
BANKUWAIT NOMINEES LIMITED )  
acting by Kevin Hunter its duly )  
appointed attorney in the presence of: )

Attorney

Witness:

Name:

Address:

Occupation:

Hogan Lovells  
International LLP  
Atlantic House  
Holborn Viaduct  
London  
EC1A 2FG

EXECUTED for and on behalf of )  
GRAVITAS HOLDINGS PCC )  
LIMITED (a company incorporated )  
In Guernsey) transacting solely )  
In respect of and on behalf of its )  
Cell Gravitas Holdings IV by )  
MOHAMMED AL QASSAR )  
(being a person who, in accordance )  
with the laws of that jurisdiction is )  
acting under the authority of the )  
company) in the presence of: )

Authorised signatory:

Witness:

Witness name:

Witness address:

Witness Occupation:

Hogan Lovells  
International LLP  
Atlantic House  
Holborn Viaduct  
London  
EC1A 2FG

EXECUTED by )  
DEUTSCHE HYPOTHEKENBANK )  
(ACTIEN-GESELLSCHAFT) )  
LONDON BRANCH acting by )

Authorised signatory:

Authorised signatory: