



Registration of a Charge

Company Name: **AVIVA GROUP HOLDINGS LIMITED**

Company Number: **01555746**



Received for filing in Electronic Format on the: **02/08/2022**

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Details of Charge

Date of creation: **29/07/2022**

Charge code: **0155 5746 0017**

Persons entitled: **FRIENDS PROVIDENT PENSION SCHEME TRUSTEES LIMITED**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **RHONA SIM, COMPANY SECRETARY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1555746

Charge code: 0155 5746 0017

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th July 2022 and created by AVIVA GROUP HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd August 2022 .

Given at Companies House, Cardiff on 4th August 2022

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**

SECURITY AGREEMENT

dated 29 July 2022

created by

AVIVA GROUP HOLDINGS LIMITED
(registration number 1555746)
as the Chargor

in favour of

FRIENDS PROVIDENT PENSION SCHEME TRUSTEES LIMITED
acting as Secured Party

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THIS DEED is dated 29 July 2022 and made between:

- (1) Aviva Group Holdings Limited, registration number 01555746, as chargor (the "**Chargor**"); and
- (2) Friends Provident Pension Scheme Trustees Limited, registration number 4101345 as the secured party (the "**Secured Party**").

Background

- (A) The Chargor is entering into this Deed in connection with a framework agreement dated 29 July 2022 between the Chargor, the Secured Party, Aviva plc and AESL (the "**Framework Agreement**").
- (B) The Secured Party and the Chargor intend this document to take effect as a deed (even though the Secured Party may only execute it under hand).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"Account Control Agreement" means the account control agreement dated the date of this Deed between the Chargor, the Secured Party and the Custodian.

"AESL" means Aviva Employment Services Limited, a company registered in England and Wales with registration number 3280551.

"Assigned Agreement" means all the Chargor's right, title and interest from time to time in and to the Custody Agreement and all Related Rights.

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

"Aviva Group" means Aviva plc and its Subsidiaries.

"Cash" means any cash, whether representing capital or income (and whether arising out of or in connection with the Securities or otherwise), from time to time credited to the Custodian Cash Account and all Related Rights.

"Clearing System" means the clearance and settlement systems operated by Euroclear Bank S.A./N.V., Euroclear UK & Ireland Limited and Clearstream Banking Luxembourg S.A. and any other generally recognised market clearance facility, settlement system, dematerialised book entry system, centralised custodial depository, foreign exchange settlement system or similar facility, system or depository.

"Custodian" means HSBC Bank plc or any successor custodian appointed by the Chargor with the consent of the Secured Party.

"Custodian Accounts" means the Custodian Cash Account or the Custodian Securities Account.

"Custodian Cash Account" means all the Chargor's right, title and interest from time to time in and to the cash account with sort code 40-05-15 and account number 89677516 and designated

"Aviva Group Holdings Pledged to Friends Provident Pension Scheme Trustees Ltd" (or as redesignated or renumbered from time to time, or such other substituted or additional accounts as may be established from time to time with the consent of the Secured Party) held in the name of the Chargor with the Custodian under the Custody Agreement, all balances credited to such account from time to time and all Related Rights.

"Custodian Securities Account" means all the Chargor's right, title and interest from time to time in and to the client account with the account number 500066 and designated "Aviva Group Holdings Pledged to Friends Provident Pension Scheme Trustees Ltd" (or as redesignated or renumbered from time to time, or such other substituted or additional accounts as may be established from time to time with the consent of the Secured Party) held in the name of the Chargor with the Custodian under the Custody Agreement and all Related Rights.

"Custody Agreement" means the custody agreement dated on or about the date of this Deed between the Custodian and the Chargor or any replacement custody agreement entered into between the Chargor and the Custodian with the consent of the Secured Party.

"Delegate" means a delegate or sub-delegate appointed by the Secured Party or a Receiver in accordance with this Deed.

"Enforcement Event" means a failure by the Chargor to pay the Secured Liabilities when the same become due and payable.

"Existing Guarantee" means the guarantee dated 4 January 2016 and amended on 30 September 2016, 18 December 2018 and 29 July 2022 given by the Chargor in favour of the Secured Party in relation to the Scheme.

"Insolvency Act" means the Insolvency Act 1986.

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

"Manager" has the meaning given to it in the Custody Agreement.

"Party" means a party to this Deed.

"Perfection Requirements" means the making of the appropriate registrations of this Deed with the Registrar of Companies to perfect the Security granted by this Deed.

"Receiver" means a receiver and manager or other receiver appointed in respect of all or any part of the Security Assets and shall, if allowed by law, include an administrative receiver.

"Related Rights" means, in relation to a Security Asset:

- (a) any proceeds of sale, transfer or other disposal, lease, licence, sub-licence, or agreement for sale, transfer or other disposal, lease, licence or sub-licence, of that Security Asset;
- (b) any moneys or proceeds paid or payable in respect of that Security Asset;
- (c) any rights, claims, guarantees, indemnities, Security or covenants for title in relation to that Security Asset;
- (d) any rights of action in relation to that Security Asset;

- (e) any rights to receive damages or obtain relief under or in connection with that Security Asset;
- (f) any awards or judgments in favour of the Chargor in relation to that Security Asset; and
- (g) any other assets deriving from, or related to, that Security Asset.

"Relevant Documents" means this Deed, the Account Control Agreement and the Assigned Agreement.

"Scheme" means the Friends Provident Pension Scheme.

"Scheme Employer" means AESL in its capacity as a participating employer in the Scheme.

"Section 75 Debt" means in relation to a Scheme Employer, all obligations and liabilities of that Scheme Employer under section 75 and/or section 75A of the Pensions Act 1995, and regulations made thereunder (as amended from time to time) by reason of the occurrence of an insolvency event for the purposes of section 121(3) of the Pensions Act 2004.

"Secured Liabilities" means all present and future liabilities and obligations of the Chargor, arising under the Existing Guarantee (whether alone or jointly, or jointly and severally, with any other person, whether actually or contingently and whether as principal, surety or otherwise) in the event of a Section 75 Debt.

"Securities" means the securities recorded or held in or standing to the credit of the Custodian Securities Account from time to time and all Related Rights, including, without limitation, any right to delivery of those Securities or to delivery of an equivalent number or nominal value of those Securities, which arises in connection with the Securities being held in any Clearing System.

"Security" means a mortgage, charge, pledge, lien, assignment (whether or not expressed to be by way of security) or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Assets" means the assets which from time to time are, or expressed to be, the subject of the Security Interests or any part of those assets.

"Security Interests" means all or any of the Security created or expressed to be created in favour of the Secured Party by or pursuant to this Deed.

"Subsidiary" has the meaning given to it under Section 1159 of the Companies Act 2006 (as amended from time to time).

"Termination Event" has the meaning given to that term in Appendix D (*CCA Terms*) to the Framework Agreement.

1.2 Construction of particular terms

- (a) Unless a contrary indication appears, any reference in this Deed to:
 - (i) the **"Chargor"**, the **"Secured Party"**, the **"Custodian"**, the **"Scheme Employer"** or any **"Party"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (ii) **"assets"** includes present and future properties, revenues and rights of every description;

- (iii) any agreement or instrument (including, for the avoidance of doubt, the Existing Guarantees and the documents governing the Scheme) is a reference to that agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced from time to time;
 - (iv) "**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;
 - (v) 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);
 - (vi) 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;
 - (vii) a provision of law is a reference to that provision as amended or re-enacted; and
 - (viii) a time of day is a reference to London time.
- (b) Section, Clause and Schedule headings are for ease of reference only.

1.3 **Third Party Rights**

- (a) A person who is not a Party 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.
- (b) The consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

2. **CREATION OF SECURITY INTERESTS**

- (a) The Chargor, with full title guarantee and as security for the payment of all Secured Liabilities, charges in favour of the Secured Party the Securities, the Cash and the Custodian Accounts.
- (b) The Chargor, with full title guarantee and as security for the payment of all Secured Liabilities, equitably assigns to the Secured Party the Assigned Agreement (in so far as it relates to or concerns the Custodian Accounts and/or the Security Assets).

3. **RESTRICTIONS ON DEALING WITH SECURITY ASSETS**

3.1 **Negative pledge**

The Chargor shall not create or permit to subsist any Security over any Security Asset, except for the Security created pursuant to this Deed and except for any lien in favour of a Clearing System in which Securities are held, pursuant to the standard terms and conditions of that Clearing System.

3.2 **Disposals**

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, lease, transfer or otherwise dispose of any Security Asset or withdraw any Security Asset from a Custody Account, except as permitted by the Account Control Agreement.

4. **FURTHER ASSURANCE**

- (a) The Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Secured Party may reasonably specify (and in such form as the Secured Party may reasonably require in favour of the Secured Party or its nominee(s)):
- (i) to perfect the Security created or intended to be created under or evidenced by this Deed (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Security Interests) or for the exercise of any rights, powers and remedies of the Secured Party provided by or pursuant to this Deed, the Account Control Agreement or by law; or
 - (ii) to facilitate the realisation, after the occurrence of an Enforcement Event, of the assets which are, or are intended to be, the subject of the Security Interests.
- (b) The Chargor shall take all such reasonable 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 Secured Party by or pursuant to this Deed.

5. **ASSIGNED AGREEMENT**

5.1 **Documents**

The Chargor shall promptly deliver to the Secured Party, and the Secured Party shall be entitled to hold, an executed copy of the Assigned Agreement and shall promptly deliver such other documents relating to the Assigned Agreement as the Secured Party reasonably requires.

5.2 **Notice of Security**

The Chargor shall on the date of this Deed give notice to the Custodian of the Security created pursuant to this Deed by entering into the Account Control Agreement with the other parties thereto.

5.3 **Chargor still liable**

The Chargor shall remain liable to perform all its obligations under the Assigned Agreement. Neither the Secured Party, any Receiver nor any Delegate shall be under any obligation or liability to the Chargor or any other person under or in respect of the Assigned Agreement.

5.4 **No variation etc.**

The Chargor shall not without prior written consent of the Secured Party:

- (a) amend, supplement, vary or waive (or agree to amend, supplement, vary or waive) any provision of the Assigned Agreement;
- (b) exercise any right to rescind, cancel or terminate the Assigned Agreement;
- (c) release any counterparty from any obligations under the Assigned Agreement;
- (d) waive any breach by any counterparty or consent to any act or omission which would otherwise constitute such a breach; or

- (e) except as provided in this Deed, novate, transfer or assign any of its rights under the Assigned Agreement.

5.5 **Breach**

The Chargor shall notify the Secured Party of:

- (a) any breach of or default under the Assigned Agreement by it or the Custodian;
- (b) any right of it or the Custodian arising to rescind, cancel or terminate the Assigned Agreement; and
- (c) any claim made or to be made by it or the Custodian under or in connection with the Assigned Agreement,

promptly upon becoming aware of the same. The Chargor shall provide the Secured Party with reasonable details of any such claim to the extent of its awareness of the same.

6. **AUTOMATIC RELEASE**

If any Security Assets are withdrawn from the Custodian Accounts in accordance with the Account Control Agreement, those Security Assets shall (unless otherwise agreed by the Chargor and the Secured Party) automatically be released from the Security Interests created by this Deed on that withdrawal being made.

7. **GENERAL UNDERTAKINGS**

7.1 **Perfection Requirements**

The Chargor shall promptly comply with the Perfection Requirements.

7.2 **Information**

The Chargor shall notify the Secured Party of the occurrence of an Enforcement Event promptly upon becoming aware of it.

7.3 **No other prejudicial conduct**

The Chargor shall not do, or permit to be done, anything which could prejudice the Security Interests.

8. **REPRESENTATIONS AND WARRANTIES**

The Chargor makes the representations and warranties set out in this Clause 8 to the Secured Party on the date of this Deed (or in the case of Clauses 8.7 (*Security Assets*) and 8.8 (*Valid and binding security interest*) on each day that the Cash or Securities are held in the Custodian Accounts).

8.1 **Status**

It is a limited company, duly incorporated and validly existing under the laws of England and Wales.

8.2 **Binding obligations**

Its obligations under the Relevant Documents constitute its legal, valid, binding and enforceable obligations subject, in the event of insolvency or analogous proceedings, to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws relating to creditors' rights or the Perfection Requirements and subject, as to enforceability, to equitable principles of general application.

8.3 **Non-conflict with other obligations**

The entry into, execution, delivery and performance by it of, and the transactions contemplated by, the Relevant Documents do not in any material respect violate or conflict with:

- (a) any law or regulation of England and Wales applicable to it;
- (b) any provision of its constitutional documents; or
- (c) any material contractual restriction binding on or affecting it or any of its assets,

nor (except for the Security Interests) result in the existence of, or oblige it to create, any Security over any of its assets.

8.4 **Power and authority**

It has the power to execute, deliver and perform its obligations and to create the Security hereunder and has taken all necessary action to authorise its entry into, performance and delivery of the Relevant Documents.

8.5 **Validity and admissibility in evidence**

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, create the Security hereunder, exercise its rights under and comply with its obligations under the Relevant Documents; and
- (b) to make this Deed admissible in evidence in the courts of England,

have been obtained or effected and are in full force and effect save for the Perfection Requirements.

8.6 **No existing Security**

Except for the Security Interests and any other Security referred to in Clause 3.1 (*Negative pledge*), no Security exists on or over the Security Assets or any part thereof.

8.7 **Security Assets**

The Chargor is the beneficial owner of the Security Assets and other than pursuant to the Relevant Documents and any other Security referred to in Clause 3.1 (*Negative pledge*), no other person has any interest, legal or beneficial, in the Security Assets.

8.8 **Valid and binding security interest**

Upon the crediting of any Cash or Securities by it to the Custodian Accounts, the Secured Party will (subject to the Perfection Requirements) have a first-ranking, valid and binding security interest in such Cash or Securities, as the case may be, other than the Security referred to in Clause 3.1 (*Negative pledge*).

9. **ENFORCEMENT OF SECURITY INTERESTS**

9.1 **When enforceable**

The Security Interests shall be immediately enforceable on and at any time after the occurrence of an Enforcement Event.

9.2 **Enforcement action**

At any time after the Security Interests have become enforceable, the Secured Party may in its absolute discretion: (i) take any action contemplated in the Account Control Agreement; and/or (ii) enforce all or any part of the Security Interests in any manner it sees fit, provided that the Secured Party agrees to use its reasonable endeavours to enforce only such part of the Security Interests as is reasonably necessary to discharge the Secured Liabilities. For the avoidance of doubt, nothing in this Clause 9.2 shall prevent the Secured Party from enforcing such Security Interests as it requires to discharge the Secured Liabilities in full.

9.3 **Law of Property Act powers**

At any time after the Security Interests have become enforceable, the powers, authorities and discretions conferred by the Law of Property Act on mortgagees, including the power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act, as varied and extended by this Deed, shall be immediately exercisable.

10. **LAW OF PROPERTY ACT**

10.1 **Section 101**

The power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act on mortgagees, as varied and extended by this Deed, shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on the date of this Deed and shall be exercisable in accordance with Clause 9.3 (*Law of Property Act powers*).

10.2 **Section 103**

Section 103 (*Regulation of exercise of power of sale*) of the Law of Property Act shall not apply to this Deed.

10.3 **Section 93**

Section 93 (*Restriction on consolidation of mortgages*) of the Law of Property Act shall not apply to this Deed.

11. **APPOINTMENT OF RECEIVERS**

11.1 **Appointment of Receivers**

If the Security Interests have become enforceable, without any notice or further notice, the Secured Party may, by deed or otherwise in writing signed by the Secured Party or any person authorised for this purpose by the Secured Party, appoint one or more persons to be a Receiver of all or any part of the Security Assets. The Secured Party may similarly remove any Receiver and appoint any person instead of any Receiver. If the Secured Party appoints more than one person as Receiver, the Secured Party may give those persons power to act either jointly or severally.

11.2 **Agent of Chargor**

Any Receiver shall be the agent of the Chargor for all purposes. The Chargor alone shall be responsible for the Receiver's contracts, engagements, acts, omissions and defaults.

11.3 **Remuneration of Receivers**

The Secured Party may determine the remuneration of any Receiver and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the Law of Property Act shall not apply. The Secured Party may direct payment of that remuneration out of moneys it receives as Receiver. The Chargor alone shall be liable for the remuneration and all other costs, losses, liabilities and expenses of the Receiver.

12. **RIGHTS AND LIABILITIES OF SECURED PARTY**

12.1 **Rights of Receivers**

Any Receiver appointed pursuant to Clause 11 (*Appointment of Receivers*) shall have:

- (a) the rights set out in Schedule 1 (*Rights of Receivers*); and
- (b) the rights, powers, privileges and immunities conferred by law, including the rights, powers, privileges and immunities conferred by the Law of Property Act and the Insolvency Act on receivers or receivers and managers.

12.2 **Rights of Secured Party**

At any time after the Security Interests have become enforceable, to the fullest extent permitted by law, any rights conferred by the Account Control Agreement or this Deed or by law upon a Receiver may be exercised by the Secured Party, whether or not the Secured Party shall have appointed a Receiver of all or any part of the Security Assets.

12.3 **Delegation**

The Secured Party may delegate in any manner to any person any rights exercisable by the Secured Party under the Account Control Agreement or this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Secured Party thinks fit and the Secured Party may pass confidential information to any such delegate.

12.4 **Financial collateral arrangement**

- (a) To the extent that this Deed constitutes a "financial collateral arrangement" (as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended (the "**Financial Collateral Regulations**")) the Secured Party shall have the right, at any time after the Security Interests have become enforceable (in addition to the rights set out elsewhere in this Deed), to appropriate any Security Asset which constitutes "financial collateral" (as defined in the Financial Collateral Regulations ("**Financial Collateral**")) in such manner as it sees fit in or towards satisfaction of the Secured Liabilities in accordance with the Financial Collateral Regulations.

Neither Party will assert or claim that this Deed does not constitute a "financial collateral arrangement" as aforesaid.

- (b) If the Secured Party is required to value any equivalent financial collateral or Financial Collateral for the purpose of paragraph 12.4(a) above at any time after the Security Interests have become enforceable, the value shall be:
 - (i) in the case of Cash, its face value at the time of appropriation; and

- (ii) in the case of financial instruments or other Financial Collateral, their market value at the time of appropriation as determined by the Secured Party by reference to a public index or other applicable generally recognised source or such other process as the Secured Party may acting reasonably select, including an independent arm's length valuation carried out by an independent investment bank, firm of accountants or other valuers appointed by the Secured Party,

as converted, where necessary, into the currency in which the Secured Liabilities are denominated at a market rate of exchange prevailing at the time of appropriation or set-off selected by the Secured Party. The Parties agree that the methods of valuation set out in this paragraph (b) are commercially reasonable for the purpose of the Financial Collateral Regulations.

- (c) The Chargor authorises the Secured Party to transfer any Security Asset which constitutes Financial Collateral in accordance with the Financial Collateral Regulations, at any time after the Security Interests have become enforceable.

12.5 **Possession**

If the Secured Party, any Receiver or any Delegate takes possession of the Security Assets, it may at any time relinquish possession.

12.6 **Secured Party's liability**

Neither the Secured Party, any Receiver nor any Delegate shall, either by reason of taking possession of the Security Assets or for any other reason and whether as mortgagee in possession or otherwise, be liable for:

- (a) any costs, losses, liabilities or expenses relating to the realisation of any Security Assets; or
- (b) any act or omission of the Secured Party, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Security Assets or in connection with the Account Control Agreement or this Deed, unless directly caused by its fraud, gross negligence or wilful misconduct.

13. **ORDER OF APPLICATION**

All amounts received or recovered by the Secured Party, any Receiver or any Delegate pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or any part of the Security Interests shall be applied in such order as the Secured Party, in its discretion shall determine, to the extent permitted by applicable law, in or towards (i) the payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or any Delegate and the exercise of any of his rights, including his remuneration and all outgoings paid by him; and (ii) the payment of the Secured Liabilities. Any surplus remaining thereafter shall be paid to the Chargor or to any other person entitled to it.

14. **POWER OF ATTORNEY**

14.1 **Appointment**

The Chargor by way of security irrevocably appoints the Secured Party, each Receiver and each Delegate severally to be its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit:

- (a) to do anything which the Chargor is obliged to do under this Deed but has failed to do (including to do all such acts or execute all such documents, assignments, transfers, mortgages, charges, notices, instructions, filings and registrations as the Secured Party may reasonably specify (and in such form as the Secured Party may reasonably require in favour of the Secured Party or its nominee(s))); and
- (b) to exercise any of the rights conferred on the Secured Party, any Receiver or any Delegate in relation to the Security Assets or this Deed or under any law.

14.2 **Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 14.1 (*Appointment*).

15. **PROTECTION OF THIRD PARTIES**

No purchaser or other person dealing with the Secured Party, any Receiver or its agents shall be concerned to enquire:

- (a) whether the powers conferred on the Secured Party, any Receiver or its agents have arisen;
- (b) whether the powers conferred on the Secured Party, any Receiver or its agents have become exercisable;
- (c) whether any consents, regulations, restrictions or directions relating to such powers have been obtained or complied with;
- (d) whether the Secured Party, any Receiver or its agents is acting within such powers;
- (e) whether any money remains due under the Secured Liabilities and the receipt in writing of the Secured Party, any Receiver or its agents shall be sufficient discharge to that purchaser or other person;
- (f) as to the propriety or validity of acts purporting or intended to be in exercise of any such powers; or
- (g) as to the application of any money paid to the Secured Party, any Receiver or its agents.

16. **SAVING PROVISIONS**

16.1 **Continuing Security**

Subject to Clause 17 (*Discharge of Security*), the Security Interests are continuing Security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

16.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made by the Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation or otherwise, without limitation, then the liability of the Chargor and the Security Interests will continue or be reinstated as if the discharge, release or arrangement had not occurred.

16.3 Waiver of defences

Neither the obligations of the Chargor under this Deed nor the Security Interests will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under the Existing Guarantee, the Account Control Agreement or this Deed or any of the Security Interests (without limitation and whether or not known to it or the Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, the Chargor or other person;
- (b) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor;
- (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 assets of, the Chargor 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 Chargor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the Existing Guarantee, the Account Control Agreement or this Deed;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under the Account Control Agreement or this Deed or any other document or security; or
- (g) any insolvency or similar proceedings.

16.4 Immediate recourse

The Chargor waives any right it may have of first requiring the Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of any agreement between the Parties to the contrary.

16.5 Appropriations

Until all amounts which may be or become payable by the Chargor under or in connection with Secured Liabilities have terminated, the Secured Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or

apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and

- (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed.

16.6 **Deferral of Chargor's rights**

Until all amounts which may be or become payable by the Chargor under or in connection with the Secured Liabilities have terminated and unless the Secured Party otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- (a) to be indemnified by any Scheme Employer;
- (b) to claim any contribution from any other provider of Security or guarantor of any person's obligations in respect of the Secured Liabilities;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Party under any agreement or instrument or of any other guarantee or security taken pursuant to, or in connection with, the Secured Liabilities by the Secured Party; or
- (d) to bring legal or other proceedings for an order requiring any Scheme Employer to make any payment, or perform any obligation, in respect of which the Chargor had given a guarantee, undertaking or indemnity in this Deed.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Party under or in connection with the Secured Liabilities to be repaid in full on trust for the Secured Party and shall promptly pay or transfer the same to the Secured Party or as the Secured Party may direct for application in accordance with Clause 13 (*Order of application*).

16.7 **Additional security**

The Security Interests are in addition to and are not in any way prejudiced by any other guarantee or security now or subsequently held by the Secured Party.

17. **DISCHARGE OF SECURITY**

17.1 **Final redemption**

Subject to Clause 17.2 (*Retention of security*), if the Secured Party is satisfied that a Termination Event has occurred and that any Secured Liabilities which became due and payable prior to such Termination Event have been irrevocably paid in full, the Secured Party shall at the request and cost of the Chargor release, reassign or discharge (as appropriate) the Security Assets from the Security Interests, without recourse to, or any representation or warranty by, the Secured Party or any of its nominees.

17.2 Retention of security

If the Secured Party considers that any amount paid or credited to it in respect of the Secured Liabilities is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Liabilities have been irrevocably paid.

18. COSTS AND EXPENSES**18.1 Expenses**

The Chargor shall, within thirty days of demand, pay to the Secured Party the amount of all costs, losses, liabilities and expenses (including legal fees) reasonably incurred by the Secured Party or any Receiver in relation to this Deed (including the administration, protection, realisation, enforcement or preservation of any rights under or in connection with this Deed, or any consideration by the Secured Party as to whether to realise or enforce the same, and/or any amendment, waiver, consent or release of any other document referred to in this Deed).

19. INDEMNITY

The Chargor shall, within thirty days of demand, indemnify the Secured Party and any Receiver against any cost, loss, liability or expense reasonably incurred by it or them as a result of:

- (a) any breach by the Chargor of this Deed; or
- (b) the exercise or purported exercise of any of the rights, powers, discretions, authorities and remedies conferred on it or them by this Deed or otherwise relating to the Security Assets.

20. PAYMENTS**20.1 Undertaking to pay**

The Chargor shall pay each of the Secured Liabilities when due in accordance with its terms.

20.2 Payments

All payments by the Chargor under this Deed shall be made to such account, with such financial institution and in such other manner as the Secured Party may direct.

20.3 Continuation of accounts

- (a) At any time after the Secured Party has received or is deemed to have received notice of any subsequent Security affecting all or any part of the Security Assets of the Chargor, it may open a new account in the name of the Chargor (whether or not it permits any existing account to continue).
- (b) If the Secured Party does not open such a new account, it shall be treated as if it had done so when the relevant notice was received or deemed to have been received and as from that time all payments made by or on behalf of the Chargor to it shall be credited or be treated as having been credited to the relevant new account and not as having been applied in reduction of the Secured Liabilities as at the time the relevant notice was received or deemed to have been received.

21. **REMEDIES, WAIVERS AND DETERMINATIONS**

21.1 **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Secured Party, Receiver or Delegate, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No waiver or election to affirm this Deed on the part of the Secured Party, Receiver or Delegate shall be effective unless in writing. No single or partial exercise of any right or remedy shall 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.

21.2 **Certificates and Determinations**

Any certification or determination by the Secured Party or any Receiver of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

22. **SEPARATE AND INDEPENDENT OBLIGATIONS**

The Security created by the Chargor by or in connection with this Deed is separate from and independent of any Security created or intended to be created by any other person in connection with the Secured Liabilities.

23. **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.

24. **GOVERNING LAW**

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

25. **ENFORCEMENT**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This Clause 25 is for the benefit of the Secured Party only. As a result, the Secured Party shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Party may take concurrent proceedings in any number of jurisdictions.

This Deed has been delivered on the date stated at the beginning of this Deed.

SCHEDULE 1

RIGHTS OF RECEIVERS

Any Receiver appointed pursuant to Clause 11 (*Appointment of Receivers*) shall have the right, either in its own name or in the name of the Chargor or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit, and either alone or jointly with any other person:

(a) **Custodian Cash Account**

to apply, transfer or set-off any or all of the credit balances from time to time on the Custodian Cash Account in or towards payment or other satisfaction of all or part of the Secured Liabilities;

(b) **Deal with Security Assets**

to sell, transfer, assign, exchange, hire out, lend, licence or otherwise dispose of or realise all or any part of the Security Assets to any person either by public offer or auction, tender or private contract and for a consideration of any kind (which may be payable or delivered in one amount or by instalments or deferred);

(c) **Borrow money**

to borrow or raise money either unsecured or on the security of all or any part of the Security Assets (either in priority to the Security Interests or otherwise);

(d) **Rights of ownership**

to manage and use all or any part of the Security Assets and to exercise and do all such rights and things as the Receiver would be capable of exercising or doing if it were the absolute beneficial owner of all or any part of the Security Assets;

(e) **Legal actions**

to bring, prosecute, enforce, defend and abandon actions, suits and proceedings relating to all or any part of the Security Assets;

(f) **Claims**

to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or relating to all or any part of the Security Assets;

(g) **Redemption of Security**

to redeem any Security (whether or not having priority to the Security Interests) over all or any part of the Security Assets and to settle the accounts of any person with an interest in all or any part of the Security Assets;

(h) **Delegation**

to delegate in any manner to any person any rights exercisable by the Receiver under this Deed, and any such delegation may be made upon such terms and conditions (including power to sub-delegate) as it thinks fit, and to pass confidential information to any such delegate;

(i) **Insolvency Act**

to exercise all powers set out in Schedule 1, Schedule B1 or (in the case of a Scottish Receiver) Schedule 2 to the Insolvency Act as now in force (whether or not in force at the date of exercise) and any powers added to Schedule 1 or Schedule 2, as the case may be, after the date of this Deed;

(j) **Receipts**


to give a valid receipt for any moneys and do anything which may be necessary or desirable for realising all or any part of Security Assets; and

(k) **Other powers**

to do anything else it may think fit for the realisation of all or any part of the Security Assets or incidental to the exercise of any of the rights conferred on the Receiver under or by virtue of this Deed, the Law of Property Act or the Insolvency Act.

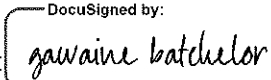
EXECUTED AS A DEED

by Roy Tooley

DocuSigned by:

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AS AUTHORISED SIGNATORY FOR **AVIVA GROUP HOLDINGS LIMITED**

In the presence of:

Signature of Witness: 
9E48F09D28F54CD...
Name of Witness: **gawaine batchelor**

Address of Witness: **St Helen's 1 Undershaft London EC3P 3DQ**


Occupation of Witness: **Solicitor**

Address: St Helen's, 1 Undershaft, London EC3P 3DQ

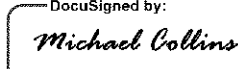
Attention: Alex Amberson / Brid-Marie Starr

SECURED PARTY

SIGNED as a **DEED** by **FRIENDS PROVIDENT PENSION SCHEME TRUSTEES LIMITED** acting by
Brian Buswell a Director and
Michael Collins a director or
its secretary

DocuSigned by:

E80E51EBF341473...

Director

DocuSigned by:

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Director or Secretary