

# MR01

## Particulars of a charge

2344 60/13

# Laserform

A fee is payable with this form.  
Please see 'How to pay' on the  
last page

You can use the WebFiling service to file this form online  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR08

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form must be delivered to the Registrar for registration within  
21 days beginning with the day after the date of creation of the charge. If  
delivered outside of the 21 days it will be rejected unless it is accompanied  
court order extending the time for delivery

☒ You must enclose a certified copy of the instrument with this form. This will  
be scanned and placed on the public record. Do not send the original.

TUESDAY



\*A3IGJR81\*

A06

14/10/2014

#301

COMPANIES HOUSE

1

### Company details

Company number

0 2 5 2 2 2 7 1

Company name in full

CALA Homes (Thames) Limited

2 2

For official use

→ Filing in this form  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

2

### Charge creation date

Charge creation date

d 0 d 9 m 1 m 0 y 2 y 0 y 1 y 4

3

### Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name

BANK OF SCOTLAND PLC (as Lender)

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ Yes Continue

☐ No Go to Section 7

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement <sup>1</sup>

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X Allen + Overy LLP on behalf of Chargee X

This form must be signed by a person with an interest in the charge

# MR01

## Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name JOCELYN BUCHANAN

Company name ALLEN & OVERY LLP

Address ONE BISHOPS SQUARE

Post town LONDON

County/Region

Postcode E 1 6 A D

Country UNITED KINGDOM

DX

Telephone 02030882210



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- [x] The company name and number match the information held on the public Register
- [x] You have included a certified copy of the instrument with this form
- [x] You have entered the date on which the charge was created
- [x] You have shown the names of persons entitled to the charge
- [x] You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- [x] You have given a description in Section 4, if appropriate
- [x] You have signed the form
- [x] You have enclosed the correct fee
- [x] Please do not send the original instrument, it must be a certified copy



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales:  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

For companies registered in Scotland:  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland:  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

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

Company number: 2522271

Charge code. 0252 2271 0022

The Registrar of Companies for England and Wales hereby certifies that a charge dated 9th October 2014 and created by CALA HOMES (THAMES) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th October 2014.

P

Given at Companies House, Cardiff on 17th October 2014



**Companies House**



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

**EXECUTION VERSION**

DATED

9 OCTOBER

2014

**DEBENTURE**

between

**The companies listed in Schedule 1 (*The Chargors*) as Chargors**

and

**BANK OF SCOTLAND PLC  
as Security Trustee for each of the Senior Creditors**

ALLEN & OVERY LLP  
ONE BISHOPS SQUARE  
LONDON E1 6AD  
[www.allenoverly.com](http://www.allenoverly.com)

EXCEPT FOR MATERIAL REDACTED  
PURSUANT TO s859G OF THE COMPANIES  
ACT 2006 I CERTIFY THAT THIS IS A CORRECT  
COPY OF THE ORIGINAL DOCUMENT

Allen and overly LLP  
13 OCTOBER 2014



**Berwin Leighton Paisner LLP**  
Adelaide House London Bridge London EC4R 9HA  
Tel +44 (0)20 3400 1000 Fax +44 (0)20 3400 1111

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THIS DEBENTURE is made as a deed on

9 OCTOBER

2014

## PARTIES

- (1) **THE COMPANIES** listed in Schedule 1 (*The Chargors*) as the chargors (the "**Chargors**"); and
- (2) **BANK OF SCOTLAND PLC** as agent and security trustee for each of the Senior Creditors (the "**Security Trustee**")

## BACKGROUND

- (A) CALA Group Limited (the "**Parent**"), as borrower and guarantor, had entered into a senior facility agreement dated 8 November 2007 as amended and restated on 21 December 2009, 25 January 2011, 23 December 2011, 18 March 2013, 18 December 2013 and 21 March 2014 with Bank of Scotland Plc as arranger, agent, security trustee, original lender, ancillary lender and issuing bank, certain subsidiaries of the Parent as borrowers and certain subsidiaries of the Parent as guarantors (the "**Facilities Agreement**")
- (B) The Chargors have acceded to the Facilities Agreement, Intercreditor Agreement and Guarantee as Borrowers and Guarantors on or about the date of this Deed.
- (C) Furthermore it is a condition of the accession of the Chargors to the Facilities Agreement that the Chargors must enter into this Deed

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Incorporation of definitions

Terms defined in the Facilities Agreement, unless otherwise defined in this Deed or unless a contrary intention appears, bear the same meaning when used in this Deed

#### 1.2 Additional definitions

In this Deed.

"**Administrator**" means any person appointed as an administrator pursuant to paragraph 26 of Schedule B1 to the Insolvency Act.

"**Charged Assets**" means the assets, rights and undertaking of the Chargors from time to time mortgaged, charged or assigned to the Security Trustee by or pursuant to this Deed.

"**Chargor**" means each of the companies listed in Schedule 1 (*The Chargors*) and references to the Chargor shall include each and every such company.

"**Deed**" means this debenture.

"**Enforcement Event**" means:

- (a) an Event of Default has occurred and is continuing,

- (b) any step is taken (including, without limitation, the making of an application or the giving of any notice) by any Chargor or by any other person to appoint an administrator in respect of any Chargor;
- (c) any step is taken (including, without limitation, the making of an application or the giving of any notice) by any Chargor or by any other person to wind up or dissolve any Chargor or to appoint a liquidator, (whether provisional, interim or otherwise) trustee, receiver, administrative receiver or similar officer of any Chargor or any part of its undertaking or assets, or
- (d) the making of a request by any Chargor for the appointment of a receiver or administrator.

**"Insolvency Act"** means the Insolvency Act 1986

**"Insurance Policy"** means any policy of insurance or assurance in which the Chargor may at any time have an interest, excluding, in each case, contracts and policies of insurance and assurance which relate to liabilities to third parties;

**"Intellectual Property Rights"** means:

- (a) all patents, trademarks, service marks, designs, business names, copyrights, design rights, moral rights, inventions, confidential information, know-how and other intellectual property rights and any interests including by way of licence in any of the foregoing in each case whether registered or not; and
- (b) the benefit of all applications for and rights to use any such assets.

**"Investments"** means all shares and stock in the capital of any company, debentures, securities, certificates or deposits, interests in collective investment schemes, warrants, options and any other rights to subscribe for or acquire any such investments hereafter owned by the Chargors or in which a Chargor has an interest together in all cases with all Related Rights.

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

**"Planning Acts"** means the Town and Country Planning Act 1990, the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) Act 1990, the Planning (Hazardous Substances) (Scotland) Act 1997 and the Planning (Consequential Provisions) Act 1990 and all regulations made thereunder together with all other statutes governing or controlling the use or development of land and property.

**"Real Property"** means any present or future freehold or leasehold property in which the Chargor has an interest and includes all buildings and fixtures on that property, the proceeds of sale of any part of that property, any licence, agreement for sale or agreement for lease in relation to that property, the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property and any monies paid or payable in respect of those covenants.

**"Receiver"** means a receiver or receiver and manager or of the whole or any part of the Charged Assets, which term will include joint receivers and any substitute



receiver, receiver and manager whether appointed under this Deed or pursuant to statute.

**"Related Rights"** means, in relation to any Investments, all rights derived from those Investments including rights to dividends, interest and other distributions paid or payable after the date of this Deed on all or any of those Investments and all stocks, shares or other securities (and dividends, interest and other distributions thereon) or other rights accruing or offered at any time by way of redemption, bonus, pre-emption or otherwise to or in respect of all or any of those Investments or in substitution or exchange for all or any of the Investments.

**"Secured Obligations"** means all present and future liabilities and obligations at any time due, owing or incurred by any Obligor to any Secured Party under the Finance Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

**"Secured Parties"** means the Security Trustee and each of the Senior Creditors from time to time but, in the case of each Senior Creditor, only if it is a party to the Intercreditor Agreement or has acceded to the Intercreditor Agreement, in the appropriate capacity, pursuant to the Intercreditor Agreement.

**"Senior Creditors"** means together the Finance Parties as defined in the Facilities Agreement

### **1.3 Implied covenants for title**

The obligations of each Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

### **1.4 Modification of Law of Property (Miscellaneous Provisions) Act 1994**

The following provisions of the Law of Property (Miscellaneous Provisions) Act 1994 will not apply to Clause 3 (*Creation of Security*), being:

- (a) the words "other than any charges, encumbrances or rights which that person does not and would not reasonably be expected to know about" in Section 3(1);
- (b) the words "except to the extent that" and all the words thereafter in Section 3(2); and
- (c) Section 6(2).

### **1.5 Effect as a deed**

This Deed is intended to take effect as a deed notwithstanding that the Security Trustee may have executed it under hand only.

### **1.6 Law of Property (Miscellaneous Provisions) Act 1989**

To the extent necessary for any agreement for the disposition of the Charged Assets in this Deed to be a valid agreement under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the other Finance Documents and of any side letters between the parties to this Deed are incorporated into this Deed

1.7 **Security trust provisions**

The Security Trustee holds the benefit of this Deed on trust for the Senior Creditors in accordance with clause 2.1.2, 2.2.2. and 2.3 to 2.5 (inclusive) (Appointment of Security Trustee) of the Intercreditor Agreement.

1.8 **Construction**

1.8.1 Unless a contrary indication appears, any reference in this Deed to:

- (a) any **"Chargor"**, **"Security Trustee"**, **"Senior Creditor"**, **"Secured Party"** and **"Obligor"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and in the case of the Security Trustee, any person for the time being appointed as Security Trustee or Security Trustee in accordance with the relevant Finance Documents,
- (b) **"assets"** Includes present and future properties, revenues and rights of every description;
- (c) a Default or an Event of Default is **"continuing"** if it has not been remedied to the satisfaction of the Agent acting in good faith or waived and shall cease to be **"continuing"** when so remedied or waived;
- (d) the **"Facilities Agreement"**, a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, replaced, extended or restated in whole or in part;
- (e) 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 a separate legal personality),
- (f) 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 regulatory, self-regulatory or other authority or organisation,
- (g) a provision of law is a reference to that provision as amended or re-enacted;
- (h) **"disposal"** Includes a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary (and **"dispose"** shall be construed accordingly);
- (i) **"document"** Includes any deed, instrument (including negotiable instrument) or other document of any kind;
- (j) any matter **"including"** specific instances or examples of such matter shall be construed without limitation to the generality of that matter (and references to **"include"** shall be construed accordingly);
- (k) the **"winding-up"**, **"dissolution"** or **"administration"** of a person shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such person is incorporated or established, or any jurisdiction in which such person carries on business

including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, arrangement, adjustment, protection or relief of debtors; and

(l) Clauses and Schedules are to the clauses and schedules to this Deed.

1.8.2 Clause headings are for ease of reference only

1.8.3 Words in the singular shall import the plural and vice versa.

1.8.4 Words defined in the Companies Act 2006 have the same meanings in this Deed.

1.8.5 Where there is more than one Chargor, the obligations undertaken by the Chargors in this Deed shall be joint and several.

## **2 COVENANT TO PAY**

### **2.1 Covenant to pay**

Each Chargor, as principal debtor and not just as surety, covenants with the Security Trustee to pay, discharge and satisfy the Secured Obligations in the manner provided for in the Finance Documents, when the same become due pursuant to the Finance Documents.

### **2.2 Interest**

Each Chargor shall pay interest on any amount demanded from it in accordance with this Deed from the date such interest is due and payable until such amount is irrevocably discharged and paid in full (such interest to accrue on a daily basis after as well as before judgment or the liquidation or administration of a Chargor and to be payable on demand) at the rate from time to time applicable to unpaid sums specified in the relevant Finance Documents, save to the extent that such interest is charged on such amount pursuant to the relevant Finance Document and itself constitutes a Secured Obligation.

## **3 CREATION OF SECURITY**

### **3.1 General**

All the security created under this Deed.

- (a) Is created in favour of the Security Trustee as agent and security trustee for each of the Senior Creditors;
- (b) Is created over present and future assets of each Chargor;
- (c) Is security for the payment of the Secured Obligations; and
- (d) subject to any Permitted Security, is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

### **3.2 Fixed charges**

To the extent not validly or effectively assigned pursuant to Clause 3.4 (*Assignment by way of security*), each Chargor charges by way of first fixed charge:

- (a) all estates or interests in any Real Property now or hereafter belonging to it,
- (b) all its rights under any agreement relating to the purchase of any freehold or leasehold property;
- (c) all its rights under any occupational lease, licence or other right of occupation,
- (d) all plant, machinery, computers, office equipment or vehicles owned by it and its interests in any plant, machinery or other items in its possession;
- (e) all its right, title, and interest in any Investment including all rights which a Chargor may have at any time against any clearance or settlement system or any custodian in respect of any Investment,
- (f) all monies standing to the credit of any account maintained by it with any person or (to the extent of its interest) in which it has an interest and the debts represented by them and all its rights in such accounts;
- (g) all of its book debts and other debts, the proceeds of the same and all other monies due and owing to it and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any of the foregoing;
- (h) all its rights under any interest rate hedging arrangements,
- (i) its goodwill;
- (j) its uncalled capital;
- (k) to the extent they are capable of being charged, by way of first fixed charge all its right, title and interest in any Intellectual Property Rights belonging to it or (to the extent of its interest) in which it has an interest;
- (l) the benefit of all licenses, consents and authorisations (statutory or otherwise) held by it in connection with its business or the use of any Charged Asset specified in any other sub-paragraph in this Clause and the right to recover and receive all compensation which may be payable to it in respect of them, and
- (m) any beneficial interest, claim or entitlement it has to any assets of any pension fund.

### 3.3 **Exceptions to fixed security**

The fixed security from time to time created by this Deed does not extend to any asset situated outside England and Wales or the rights to which are governed by any law other than the laws of England and Wales to the extent that and for so long as any such fixed security would be unlawful or ineffective under the laws of the jurisdiction in which such asset is situated.

### 3.4 **Assignment by way of security**

Each Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all of its right, title and interest in

- (a) the benefit of any agreement to which it is a party, any letter of credit issued in its favour and any bill of exchange or other negotiable instrument held by it; and
- (b) all Insurance Policies taken out by it or on its behalf or (to the extent of its interest) in which it has an interest and the right to all claims and returns of premiums in respect of any such Insurance Policies

### 3.5 **Floating charge**

Each Chargor charges by way of first floating charge the whole of its property (including uncalled capital) comprised from time to time in its property and undertaking and all other property, assets and rights of whatever nature and wherever situated which are not otherwise effectively charged or assigned pursuant to the foregoing provisions of this Clause 3.5 (*Floating charge*).

### 3.6 **Automatic crystallisation of floating charge**

The floating charge created by Clause 3.5 (*Floating charge*) shall (other than in respect of any Charged Assets situated in Scotland if and to the extent that a Receiver would not be capable of exercising his powers in Scotland in relation thereto under Section 72 of the Insolvency Act 1986 by reason of automatic conversion) immediately upon the occurrence of the relevant event convert into a fixed charge in respect of:

- (a) any Charged Asset which shall without the prior written consent of the Security Trustee become subject to a fixed charge in favour of any person other than the Security Trustee;
- (b) any Charged Asset in respect of which any person shall levy, or attempt to levy, any distress, diligence, execution, sequestration or other similar process; or
- (c) all Charged Assets if an Administrator is appointed by the Security Trustee or the Security Trustee receives notice of an intention to appoint an Administrator (as contemplated by the Insolvency Act 1986); or
- (d) all Charged Assets on the convening of any meeting of the members of any Chargor to consider a resolution to wind up the Chargor (or not to wind up the Chargor).

### 3.7 **Crystallisation on notice of floating charge**

The Security Trustee may at any time.

- (a) after the security created by this Deed has become enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*); or
- (b) if a Chargor fails to comply or takes or threatens to take any action which in the reasonable opinion of the Security Trustee is likely to result in it failing to comply with its obligations under Clause 6 (*Restriction On Dealings*); or
- (c) if the Security Trustee considers that any of the Charged Assets are in danger of being seized or sold as a result of any legal process, or are otherwise in jeopardy; or

- (d) if the Security Trustee considers that steps are being taken or have been taken are likely to lead to the appointment of an Administrator or the presentation of a petition for the winding up of a Chargor,

by giving notice in writing to that effect to a Chargor convert the floating charge created by Clause 3.5 (*Floating charge*) into a fixed charge as regards any asset specified in such notice. The conversion shall take effect immediately upon the giving of the notice.

### **3.8 Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by Clause 3.5 (*Floating charge*) so that the floating charge created by Clause 3.5 (*Floating charge*) shall be a "qualifying floating charge" for the purposes of that paragraph.

### **3.9 Restrictions on the creation of security**

If security cannot be created in respect of any asset of a Chargor without the consent of any third party:

- (a) a Chargor must notify the Security Trustee as soon as reasonably practicable upon becoming aware of the same,
- (b) this Deed shall not create any security in respect of that asset except to the extent permitted without the consent of any third party but will secure all amounts which a Chargor may receive in respect of that asset;
- (c) unless the Security Trustee otherwise agrees, each Chargor must use reasonable endeavours to obtain the consent of the third party to the creation of security over that asset pursuant to this Deed, and
- (d) on and from the date on which such consent is obtained, the security created by this Deed shall extend to and include that asset.

## **4 PROVISIONS AS TO SECURITY**

### **4.1 Continuing security**

4.1.1 The security from time to time created by this Deed is a continuing security and will remain in full force and effect as a continuing security until released or discharged by the Security Trustee.

4.1.2 No part of the security from time to time created by this Deed will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations

### **4.2 Additional security**

This Deed shall be without prejudice and in addition to any other security which may at any time be held by the Security Trustee or any other Senior Creditor from a Chargor or any other person in respect of the whole or any part of the Secured Obligations and may be enforced independently of any such other security.

#### **4.3 No obligation to take other enforcement proceedings**

The Security Trustee shall not be obliged before exercising any of the rights conferred on it by this Deed or by law:

- (a) to make any demand of any Chargor or any other person other than that required by the terms of the Finance Documents,
- (b) to take any action, enforce any security, exercise any right of compensation or set-off or to obtain or enforce any judgement, decree or order in any court against any Chargor or any other person;
- (c) to make or file any claim or proof in a winding up, liquidation, administration or other insolvency proceedings of any Chargor or any other person; or
- (d) to enforce or seek to enforce any other security taken in respect of any of the obligations of any Chargor or any other person under the Finance Documents

### **5 PERFECTION OF SECURITY**

#### **5.1 Registration of Intellectual Property**

Each Chargor hereby agrees and, if so requested by the Security Trustee, to execute all such documents and do all acts that the Security Trustee may reasonably require to record the interest of the Security Trustee in any registers relating to any other Intellectual Property Rights in which the Chargor has an interest.

#### **5.2 Investments**

Each Chargor shall, as soon as reasonably practicable following the acquisition of any Investment deposit with the Security Trustee, or as the Security Trustee may direct, all certificates and other documents of title or evidence of ownership in relation to any Investment and shall.

- 5.2.1 execute and deliver to the Security Trustee transfers (executed in blank and left undated and duly stamped if applicable) and such other documents as the Security Trustee may reasonably require in order to enable the Security Trustee (or its nominee) to be registered as the owner or otherwise obtain legal title to any Investment; or

- 5.2.2 in the case of any Investment which is held in any clearance or settlement system or by custodian, execute and deliver such documents as the Security Trustee may reasonably require to perfect the security conferred over that Investment by this Deed

#### **5.3 Further assurance**

- 5.3.1 Each Chargor will promptly do all such acts and execute all such documents as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require) to.

- (a) perfect or enhance the security created or intended to be created by this Deed (which may include the execution by any Chargor of a mortgage, charge, assignment or other form of fixed security over all or any of the

Charged Assets) or for the exercise of the rights, powers and remedies of the Security Trustee or any Receiver provided by or pursuant to this Deed or by law, and/or

- (b) confer on the Security Trustee security over any property or assets of any Chargor located in any jurisdiction outside England and Wales equivalent or similar to the security intended to be conferred by or pursuant to this Deed, and/or
- (c) after the security created by this Deed has become enforceable pursuant to Clause 10 (*When Security Becomes Enforceable*) facilitate the realisation of the Charged Assets.

5.3 2 The obligations of each Chargor under this Clause 5.3 (*Further assurance*) are in addition to and not in substitution for the covenants for further assurance deemed to be included herein by virtue of the Law of Property (Miscellaneous Provisions) Act 1994

#### 5 4 **Waiver of defences**

The obligations of each Chargor under this Deed will not be affected by any act, omission or circumstances which, but for this Clause 5 4 (*Waiver of defences*), might operate to discharge, impair or otherwise affect any of the obligations of a Chargor under this Deed or any of the rights, powers or remedies conferred upon the Security Trustee and the other Senior Creditors or any of them by the relevant Finance Documents or by law, including (but without limitation) and whether or not known to a Chargor or any Senior Creditor.

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person from its obligations under any Finance Document or any security or guarantee granted in connection therewith,
- (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, any Obligor 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 an Obligor or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any Insolvency or similar proceedings.



## 5.5 **Non-competition**

Until the security created by this Deed has been discharged, no Chargor will, after a claim has been made or by virtue of any payment or performance by it of the Secured Obligations:

- (a) be subrogated to any rights, security or monies held, received or receivable by any Senior Creditor or any Obligor nor be entitled to any right of contribution or indemnity in respect of any payment made or monies received on account of the Secured Obligations;
- (b) claim, rank, prove or vote as a creditor of any Obligor; or
- (c) receive, claim or have the benefit of any payment, distribution or security from or on account of an Obligor, or exercise any right of set-off as against an Obligor and each Chargor shall forthwith pay or transfer to the Security Trustee an amount equal to the amount of any dividend, distribution, contribution or benefit (including without limitation any amount set-off) actually received by it and in the meantime shall hold the same in trust for the Security Trustee to the extent required to pay or discharge the Secured Obligations.

## 6 **RESTRICTION ON DEALINGS**

Save as permitted by the Finance Documents, no Chargor will create or permit to subsist any Security on any part of the Charged Assets or dispose of or otherwise deal with any part of the Charged Assets

## 7 **BOOK DEBTS**

### 7.1 **Collection of Book debts**

Each Chargor shall get in and realise.

- (a) any securities to the extent held by way of temporary investment;
- (b) book and other debts and other monies; and
- (c) royalties, fees and income of like nature in relation to Intellectual Property Rights,

in each case in the ordinary course of business and hold the proceeds of such getting in and realisation (until payment into the Collateral Account referred to below) upon trust for the Security Trustee.

### 7.2 **Collateral Account**

7.2.1 Each Chargor shall pay the proceeds of such getting in and realisation into such separate and denominated account or accounts as may be specified by the Security Trustee in writing (collectively the "**Collateral Account**") and (until payment into the Collateral Account) hold the proceeds of such getting in and realisation on trust for the Security Trustee.

7.2.2 After the security created by this Deed has become enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*) no Chargor shall be entitled to withdraw from the Collateral Account all or any of the monies standing to the credit of the Collateral Account except with the prior consent of the Security Trustee and

the Security Trustee may, at any time thereafter, apply all monies standing to the credit of the Collateral Account and interest thereon in and towards satisfaction of the Secured Obligations

## **8 INVESTMENTS**

### **8.1 Voting prior to an Event of Default**

Prior to the security created by this Deed becoming enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*), a Chargor shall be entitled to exercise all voting rights and other rights (including, but not limited to, the right to collect dividends, interest, principal or other payments of money) in relation to the Investments provided that no Chargor shall exercise such voting rights in any manner which would alter the rights attached to the Investments or which, in the reasonable opinion of the Security Trustee would prejudice the value of, or the ability of the Security Trustee to realise, the security created by this Deed

### **8.2 Voting after an Event of Default**

After the security created by this Deed becoming enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*), the Security Trustee may (without any further consent or authority from the Chargors):

- (a) register all or any of the Investments in the name of the Security Trustee or its nominee and each Chargor shall, as and when required by the Security Trustee, procure such registration;
- (b) exercise (or refrain from exercising) any voting rights in respect of the Investments; and
- (c) exercise (or refrain from exercising) the power and rights conferred on or exercisable by the legal or beneficial owner of the Investments,

in such manner and on such terms as the Security Trustee may think fit (acting reasonably).

### **8.3 Performance by Security Trustee**

If a Chargor fails to perform any of the obligations relating to the Investments (including the payment of any call or other payment due in respect of any of the Investments), the Security Trustee may, at its sole discretion, do so on its behalf and any cost or expenses incurred by the Security Trustee in doing so shall be repaid by that Chargor to the Security Trustee on demand together with accrued interest thereon at the rate from time to time applicable to unpaid sums specified in the Facilities Agreement from the time or respective times of the same having been paid or incurred until payment thereof (as well as after as before judgement)

### **8.4 No liability for Security Trustee**

Notwithstanding the provisions of Clause 8.3 (*Performance by Security Trustee*) the Security Trustee shall not be obliged to perform any of the obligations of a Chargor in relation to the Investments nor shall it have any liability in respect of the Investments as a result of the grant of this Deed, the transfer of the Investments to it or its nominee or as a result of the performance or non-performance of any such obligation (except in the case of fraud or wilful deceit).

**9 UNDERTAKINGS**

**9.1 Conflict with Facilities Agreement**

In the case of any conflict between the provisions of this Clause 9 (*Undertakings*) and the provisions of the Facilities Agreement, the provisions of the Facilities Agreement shall prevail

**9.2 Property undertakings**

Each Chargor shall:

- (a) comply with all covenants, obligations and conditions relating to the freehold, heritable or leasehold property owned or occupied by the Chargor and indemnify the Senior Creditors in respect of any breach of those obligations, covenants and conditions;
- (b) at all reasonable times permit the Security Trustee and its representatives access to any freehold, heritable or leasehold property owned by the Chargor from time to time and to take any action the Security Trustee may reasonably consider necessary or desirable to prevent or remedy any breach of any covenant, stipulation or term of this Deed;
- (c) perform all terms on its part in any lease, agreement for lease or other agreement or document which gives the Chargor a right to occupy or use any property;
- (d) not agree to the terms of any rent review or agree to or permit any alteration, variation or addition to the terms of any lease of the Real Property without the prior written consent of the Security Trustee (such consent not to be unreasonably withheld or delayed);
- (e) not do or allow to be done any act which would have a material adverse effect on the value of any freehold, heritable or leasehold property owned by the Chargor from time to time or as a result of which any lease of any property may become liable to forfeiture or otherwise be terminated;
- (f) deposit with the Security Trustee all deeds and documents of title relating to any freehold, heritable or leasehold property owned by the Chargor from time to time and all local land charges, land charges and Land Registry search certificates and similar documents received by it or on its behalf;
- (g) notify the Security Trustee promptly of the acquisition of any freehold, heritable or leasehold property;
- (h) grant the Security Trustee and its representatives all facilities within its power to enable the Security Trustee or its representatives to carry out investigations of title into any freehold, heritable or leasehold property owned by the Chargor from time to time,
- (i) not make or permit to make any application for planning permission in respect of any part of its freehold, heritable or leasehold property to carry out or permit to be carried out on any part of its freehold, heritable or leasehold property any development within the meaning of that expression in the Planning Acts and being a development for which the permission of the local planning authority is required;

- (j) use any freehold, heritable or leasehold property owned or occupied by the Chargor only for such purposes as may be authorised as the permitted use thereof under or by virtue of the Planning Acts;
- (k) as soon as reasonably practicable after receipt of any notice or order given, issued or made to the Chargor by any planning authority under or by virtue of the Planning Acts give full particulars thereof to the Security Trustee and (without delay and at the cost of the Chargor) take all reasonable or necessary steps to comply with any such notice or order and/or make or join with the Security Trustee in making such objections or representations against or in respect of any such notice or order as the Security Trustee shall reasonably require;
- (l) promptly pay all rates, rents, taxes and other outgoings in respect of any freehold, heritable or leasehold property owned or occupied by the Chargor,
- (m) not agree to the compulsory purchase of the whole or any part of the freehold, heritable or leasehold property owned by the Chargor without the prior written consent of the Security Trustee; and
- (n) not grant or enter into any easements, wayleaves, servitudes or similar arrangements in respect of any of the freehold, heritable or leasehold property owned by the Chargor without the prior written consent of the Security Trustee

## 10 **WHEN SECURITY BECOMES ENFORCEABLE**

The security created by this Deed will become immediately enforceable upon the occurrence of an Enforcement Event.

## 11 **ENFORCEMENT OF SECURITY**

### 11.1 **Enforcement**

After the security created by this Deed has become enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*), the Security Trustee may in its absolute discretion without prior notice to any Chargor enforce all or any part of the security created by this Deed and take possession of or dispose of all or any of the Charged Assets in any manner it sees fit or as the Majority Lenders direct.

### 11.2 **Powers of Security Trustee**

Any right, power or discretion conferred by this Deed or by law on a Receiver may after the security created by this Deed has become enforceable, to the extent permitted by law, be exercised by the Security Trustee in relation to any Charged Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver

### 11.3 **Statutory Provisions**

- 11.3.1 The rights, powers, privileges and immunities conferred on mortgagees or receivers by the LPA, the Insolvency Act, the Insolvency Rules 1986 or by any other enactment now or at any time in force shall apply to the Security Trustee and any Receiver except in so far as they are expressly or impliedly excluded and where there is any ambiguity or conflict between powers conferred by that legislation and those contained in this Deed the terms of this Deed shall prevail

- 11.3.2 No Chargor shall exercise or agree to exercise any of the powers of leasing or of accepting surrenders of leases conferred by sections 99 and 100 of the LPA or by common law or otherwise or grant or accept or agree to grant or accept any lease, tenancy or licence or share or agree to share possession or occupation of the Charged Assets but the Security Trustee shall be entitled to grant and make agreements for leases at a premium or otherwise and accept surrenders of leases and grant options on such terms as the Security Trustee shall consider expedient and without statutory or other restrictions.
- 11 3.3 For the purposes of Section 99 of the LPA, the expression "**Mortgagor**" will include any encumbrancer deriving title under the Chargor and Sub-section (18) of Section 99 of the LPA will not apply.
- 11 3 4 Section 93 of the LPA shall not apply to this Deed or to any sale made under it. The Security Trustee shall have the right after the security created by this Deed has become enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*) to consolidate all or any of the security created by or pursuant to this Deed with any other security in existence at any time.
- 11.3.5 The Secured Obligations shall be deemed to have become due and payable on the date of this Deed for the purposes of section 101 of the LPA and the power of sale and other powers conferred by section 101 of the LPA (as varied or extended by this Deed) and all other powers shall be deemed to arise immediately after execution of this Deed.
- 11.3 6 Section 103 of the LPA (restricting the exercise of the power of sale) shall not apply to this Deed
- 11.4 **Protection of third parties**
- 11 4 1 No purchaser from, or other person dealing with, the Security Trustee or a Receiver shall be concerned to enquire whether any of the powers exercised or purported to be exercised has arisen or become exercisable, whether any of the Secured Obligations remains outstanding, whether Security Trustee or a Receiver is authorised to act or as to the propriety or validity of the exercise or purported exercise of any power and a certificate in writing by an officer or agent of the Security Trustee or any Receiver that the power of sale or other disposal has arisen and is exercisable shall be conclusive evidence of that fact in favour of a purchaser of all or any of the Charged Assets.
- 11 4 2 The receipt of Security Trustee or a Receiver shall be an absolute discharge to a purchaser from, or other person dealing with, the Security Trustee or a Receiver and shall relieve that purchaser of any obligation to see to the application of any monies paid to or at the discretion of Security Trustee or a Receiver and in making any sale or disposal the Security Trustee or a Receiver may do so for such consideration, in such manner and on such terms (including payment by instalments) as it thinks fit.
- 11.5 **Protection of the Security Trustee and Receiver**
- Neither the Security Trustee nor any Receiver shall be liable to account to any Chargor as mortgagee in possession in respect of any Charged Asset or be liable to any Chargor in respect of any loss or damage which arises out of the exercise, the attempted or purported exercise or the failure to exercise any of their respective powers or for any other loss of any nature whatsoever

## **11.6 Delegation**

- 11.6.1 The Security Trustee and any Receiver may from time to time delegate by power of attorney or otherwise to any person or corporation any of the powers and discretions of the Security Trustee or the Receiver under this Deed whether arising by statute, the provisions hereof or otherwise upon such terms and for such periods of time as it may think fit and may determine any such delegation
- 11.6.2 Neither the Security Trustee nor any Receiver will be liable to any Chargor for any loss or damage arising from any act, default, omission or misconduct of any such delegate, and references in this Deed to the Security Trustee or to any Receiver will where the context so admits include references to any delegates so appointed.

## **11.7 Prior charges**

- 11.7.1 In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking security in case of exercise by the Security Trustee or any Receiver of any power of sale under this Charge the Security Trustee may redeem such prior security or procure the transfer thereof to itself.
- 11.7.2 The Security Trustee may settle and pass the accounts of the prior mortgagee, chargee or encumbrancer and any accounts so settled and passed will be conclusive and binding on any Chargor.
- 11.7.3 All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the relevant Chargor to the Security Trustee on demand together with accrued interest thereon at the rate from time to time applicable to unpaid sums specified in the Facilities Agreement from the time or respective times of the same having been paid or incurred until payment thereof (as well as after as before judgement).

## **12 RECEIVERS AND ADMINISTRATORS**

### **12.1 Appointment and Removal**

Without prejudice to the provisions of the Insolvency Act, at any time after having been requested to do so by a Chargor or after the security created by this Deed has become enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*), the Security Trustee may by instrument in writing (under seal, by deed or otherwise under hand), without prior notice to any Chargor:

- (a) (subject to section 72A of the Insolvency Act) appoint one or more persons to be a Receiver of the whole or any part of the Charged Assets;
  - (b) remove (so far as it is lawfully able) any Receiver so appointed;
  - (c) appoint another person(s) as an additional or replacement Receiver(s); and
  - (d) appoint one or more persons to be an Administrator in accordance with paragraph 14 of Schedule B I to the Insolvency Act 1986.
- 12.1.2 Any restriction imposed by law on the right of the Security Trustee or a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed

## **12.2 Receiver as agent of a Chargor**

A Receiver shall be the agent of a Chargor and, except as otherwise required by the Insolvency Act, the Chargor shall be solely responsible for his acts and defaults (save for gross negligence or wilful misconduct) and liable on any contract or engagements made or entered into or adopted by him.

## **12.3 Remuneration of Receiver**

The Security Trustee may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by law (including Section 109(6) of the LPA) shall not apply. The amount of such remuneration shall be paid in accordance with the terms and conditions and in the manner agreed from time to time between the Security Trustee and the Receiver.

## **12.4 Powers of Receiver**

A Receiver shall have (and be entitled to exercise in such manner and on such terms as he may in his absolute discretion think fit) in relation to the Charged Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Deed).

- (a) all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act (whether or not the Receiver is an administrative receiver);
- (b) all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;
- (c) power to sell (whether by public auction or private contract or otherwise) all or any of the Charged Assets on any terms and for any consideration (including without limitation for deferred consideration or a consideration payable wholly or partly in instalments or consisting in whole or in part of shares or securities of any other company or of any other non-cash asset);
- (d) power to grant any lease or tenancy or right of or affecting the Charged Assets for any term or terms of years at any or no rent and with or without any premium and accept the surrender of any lease or tenancy or right and give a valid receipt for any premium payable on any such grant or surrender and to amend or vary any lease, licence agreement or other arrangement in any way relating to or affecting the Charged Assets;
- (e) power to grant options to sell, lease, licence or dispose of the Charged Assets,
- (f) power to enter on or otherwise take possession of the Charged Assets to repair, convert, manufacture, process, decorate, alter, renew, improve, add to or develop or to complete any development or building which may be unfinished and to settle, compound, compromise or submit to arbitration any accounts or claims arising out of the commencement, carrying on or completion of any such development or building,
- (g) power to redeem any mortgage, charge or other encumbrance on, over or affecting the Charged Assets or any part of it;
- (h) power to repair, renew or improve plant, machinery, implements, furniture, equipment and other effects of a Chargor in or on the Charged Assets;

- (i) power to settle or compromise or submit to arbitration any claim or claims on or against the Charged Assets or claim or dispute arising out of the Charged Assets;
- (j) power to disclaim, abandon or disregard all or any of the outstanding contracts of a Chargor and to allow time for payment by or to a Chargor of any debts either with or without security;
- (k) power to manage and carry on or concur in managing or carrying on upon the Charged Assets any type of trade or business and to enter and perform such contracts and arrangements and incur any obligations in relation thereto;
- (l) power to make or exercise an election pursuant to paragraphs 2 and 3 of Schedule 10 to the Value Added Tax Act 1994 in relation to the Charged Assets or exercise any option or right of election available to a Chargor or the Security Trustee or the Receiver that the supplies made in respect of any lease or tenancy of any part of the Charged Assets shall be supplies chargeable or taxable for value added tax purposes at the standard or other applicable rate provided always that neither the Security Trustee nor the Receiver shall be liable for any loss suffered by a Chargor as a result and to execute all documents, and perform such acts or things as a result and to execute all documents, and perform such acts or things as maybe necessary to permit any disposal of the Charged Assets to be zero-rated for the purposes of value added tax;
- (m) power to exercise all voting and other rights attaching to stocks, shares and other securities comprising or comprised within the Charged Assets;
- (n) power to exercise in relation to any Charged Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Charged Asset; and
- (o) power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Deed or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, a Chargor, the preservation, improvement, collection and/or realisation of Charged Assets; and the execution of documents in the name of a Chargor (whether under hand, or by way of deed or by utilisation of the company seal of a Chargor).

## 12.5 Discretions

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

## 12.6 Powers may be restricted

The powers granted to a Receiver pursuant to this Deed may be restricted by the instrument (signed by the Security Trustee) appointing him but they shall not be restricted by any winding-up or dissolution of a Chargor.



**12.7 Actions of any Administrators**

Save as provided for in statute or otherwise agreed in writing by that Senior Creditor, no Senior Creditor shall have any liability for the acts or omissions of an Administrator.

**13 SET OFF**

A Finance Party may set-off any matured obligation due from a Chargor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owned by that Finance Party to a Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

**14 EXPENSES**

The Chargors shall pay to the Security Trustee and each Receiver, attorney or delegate duly appointed by the Security Trustee under this Deed the amount of all reasonable costs and expenses (including legal fees and together with any applicable value added tax) properly incurred by it in connection with:

- (a) the preparation, negotiation and execution of this Deed,
- (b) the perfection of any security created or purported to be created pursuant to this Deed; and
- (c) the enforcement and preservation of its rights under this Deed.

**15 RELEASE OF SECURITY**

**15.1 Release of security**

When the Secured Obligations have been irrevocably paid or discharged in full to the satisfaction of the Security Trustee and no Senior Creditor has any further obligation to provide credit facilities or other accommodation to any Obligor or, if the Security Trustee so agrees, at any other time, the Security Trustee shall, subject to the provisions of Clause 16 (*Avoidance of Payments*), at the request and cost of the Chargors and without unreasonable delay, execute such documents as may be required to release this Deed and any other security created over the Charged Assets or any of them by this Deed and return all deeds and documents of title delivered to the Security Trustee.

**15.2 Entitlement to retain security**

If any payment or discharge of the Secured Obligations is, in the reasonable opinion of the Security Trustee, liable to be avoided or invalidated under any enactment relating to bankruptcy or insolvency, the Security Trustee may refuse to grant any release of the security created by this Deed for such further period as the risk of such avoidance or invalidity continues.

**16 AVOIDANCE OF PAYMENTS**

No assurance, security or payment which may be avoided or adjusted under the law, including under any statute relating to bankruptcy or insolvency and no release, settlement or discharge given or made by the Security Trustee on the faith

of any such assurance, security or payment, shall prejudice or affect the right of the Security Trustee to recover the Secured Obligations from a Chargor (including any monies which any Senior Creditor may be compelled to pay or refund under the provisions of the Insolvency Act and any costs payable by it pursuant to or otherwise incurred in connection therewith) or to appoint a Receiver and enforce the security created by this Deed to the full extent of the Secured Obligations.

**17 CUMULATIVE REMEDIES AND WAIVERS**

The rights of the Security Trustee and the Receiver may be exercised as often as necessary, are cumulative and are in addition to its respective rights under general law and may be waived only in writing and specifically. Delay in the exercise or non-exercise of any right shall not be a waiver of that right.

**18 SEVERABILITY**

If any of the provisions of this Deed is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality and enforceability of any other provision in this Deed.

**19 EVIDENCE AND CALCULATIONS**

Any certificate or determination by the Security Trustee as to the amount of the Secured Obligations shall, in the absence of manifest error, be conclusive and binding on a Chargor for all purposes.

**20 APPLICATION OF PROCEEDS**

**20.1 Application of proceeds**

Any moneys received by the Security Trustee or any Receiver after the security created by this Deed has become enforceable in accordance with Clause 10 (*When Security Becomes Enforceable*) shall be applied in accordance with the provisions of the Intercreditor Agreement.

**20.2 Other claims**

The provisions of Clause 20.1 (*Application of proceeds*) are subject to the payment of any claims having priority over the security created by this Deed. This Clause 20 (*Application of Proceeds*) does not prejudice the right of any Senior Creditor to recover any shortfall from a Chargor.

**21 NEW ACCOUNTS**

**21.1 New Accounts**

If the Security Trustee at any time becomes aware of any subsequent security or other like Interest, matter, event or transaction affecting any Charged Asset, the Security Trustee may open a new account or accounts for a Chargor in its books.

**21.2 Ruling off**

If the Security Trustee does not open any such new account then, unless it gives express written notice to the relevant Chargor to the contrary, the Security Trustee will be treated as if it had in fact opened such account or accounts at the time when it became so aware and as from that time all payments by or on behalf of that Chargor to the Security Trustee will be credited or treated as having been

credited to a new account of that Chargor and not as having been applied in reduction of the Secured Obligations then outstanding

**22 SUSPENSE ACCOUNTS**

All monies received, recovered or realised by the Security Trustee under this Deed (including the proceeds of any conversion of currency) may in the discretion of the Security Trustee be credited to any interest bearing suspense or Impersonal account maintained with any bank, building society or financial Institution as it considers appropriate and may be held in such account for so long as the Security Trustee may think fit pending their application from time to time (as the Security Trustee is entitled to do in its discretion) in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above

**23 POWER OF ATTORNEY**

**23.1 Appointment and powers**

By way of security for the obligations of the Chargors under this Deed, each Chargor irrevocably appoints the Security Trustee and every Receiver to be its attorney on its behalf or in its name or otherwise, to execute and do all such assurances, acts and things which a Chargor is required to do under this Deed and generally in its name and on its behalf to exercise all or any of the powers, conferred by or pursuant to this Deed or by statute on the Security Trustee or any Receiver and to sign, execute, seal and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it or he may reasonably deem proper in or for the purpose of exercising any such powers, authorities and discretions

**23.2 Ratification**

Subject to Clause 23.1 (*Appointment and powers*), each Chargor ratifies and confirms whatever any such attorney mentioned in Clause 23.1 (*Appointment and powers*) shall do or purport to do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in such Clause.

**24 TRANSFERS**

**24.1 Transfer by Chargor**

No Chargor may assign or otherwise transfer its rights and obligations under this Deed.

**24.2 Transfer by Security Trustee**

The Security Trustee may (without prejudice to its right to appoint any joint trustee) assign and transfer all or any of its rights and obligations under this Deed to any person appointed as its successor as Security Trustee (or any joint trustee) The Security Trustee shall be entitled to disclose such information concerning a Chargor and this Deed as the Security Trustee considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

25        **NOTICES**

Any communication to be made under or in connection with this Deed shall be made in accordance with clause 32 of the Facilities Agreement.

26        **LAND REGISTRY**

26.1      **Request to the Land Registry**

Where the whole or any part of the Real Property is registered under the Land Registration Act 1925 each Chargor hereby applies to the Chief Land Registrar for registration against the registered title of the following restriction:

*"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated • in favour of [ ] referred to in the charges register or, if appropriate, signed on behalf of such proprietor by its authorised signatory."*

26.2      **Further advances**

If any Senior Creditor is obliged to make further advances under the relevant Finance Documents, that obligation is deemed to be incorporated in this Deed and the Chargor applies to the Chief Land Registrar for the registration against the registered title of such of the Assets (if any) as is registered under the Land Registration Act 1925 of a note that the Security Trustee is under an obligation to make further advances to the Chargor.

27        **THIRD PARTIES**

Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed or a Senior Creditor may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999

28        **PERPETUITY PERIOD**

The perpetuity period for the trusts in this Deed is 80 years.

29        **FINANCIAL COLLATERAL**

29.1      **Right to appropriate**

To the extent that the Charged Assets constitute "**financial collateral**" and this Deed and the obligations of a Chargor constitute a "**security financial collateral arrangement**" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003 No. 3226) (the "**Regulations**")) the Security Trustee shall have the right after the security created by this Deed has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations

29.2      **Value of financial collateral**

For the purpose of Clause 29.1 (*Right to appropriate*), the value of the financial collateral appropriated shall be such amount as the Security Trustee reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it and each Chargor agrees that the method of valuation provided for in this Deed shall

constitute a commercially reasonable method of valuation for the purposes of the Regulations

30 **STAMP DUTY**

Each Chargor shall pay all stamp duties and other similar taxes or duties payable on or arising out of or in consequence of:

- (a) the creation of the security constituted by this Deed; and
- (b) the execution and delivery of this Deed and any documents executed pursuant hereto.

31 **COUNTERPARTS**

This Deed may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

32 **GOVERNING LAW AND JURISDICTION**

32.1 **Governing law**

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England

32.2 **Jurisdiction**

32.2.1 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) (a "**Dispute**").

32.2.2 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

32.2.3 This Clause 32.2 (*Jurisdiction*) is for the benefit of the Senior Creditors only. As a result, no Senior Creditor shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Senior Creditors may take concurrent proceedings in any number of jurisdictions.

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

**Schedule 1**  
**The Chargors**

<b>Name</b>	<b>Country of Incorporation</b>	<b>Registered No.</b>
CALA Homes (Midlands) Limited	England and Wales	00682410
CALA Homes (Thames) Limited	England and Wales	02522271
CALA Homes (North Home Counties) Limited	England and Wales	08800064
CALA Homes (South Home Counties) Limited	England and Wales	08800163
CALA Homes (Chiltern) Limited	England and Wales	09088106


**EXECUTION PAGE**

**THE CHARGORS**

**EXECUTED** as a **DEED**, but not delivered )  
until the date stated at the beginning of )  
this Deed, by **CALA HOMES** )  
**(MIDLANDS) LIMITED** acting by its duly ) .....  
authorised signatory in the presence of: ) Signature

**Witness details:**

Signature of witness.



Name of witness: JENNIFER WYLIE

Address: ADAM HOUSE,

ET11 4DN.

Occupation: SOLICITOR

**EXECUTED** as a **DEED**, but not delivered  
until the date stated at the beginning of  
this Deed, by **CALA HOMES (THAMES)**  
**LIMITED** acting by its duly authorised  
signatory in the presence of:

)  
)  
)  
)  
) ... ..  
) Signature

[Redacted Signature]

**Witness details:**

Signature of witness:

[Redacted Signature]

Name of witness: JENNIFER WYLIE

Address: ADAM HOUSE  
EH11 4DN

Occupation: SOLICITOR

**EXECUTED** as a **DEED**, but not delivered  
until the date stated at the beginning of  
this Deed, by **CALA HOMES (NORTH**  
**HOME COUNTIES) LIMITED** acting by  
its duly authorised signatory in the  
presence of:

)  
)  
)  
)  
) .....  
) Signature

[Redacted Signature]

**Witness details:**

Signature of witness:

[Redacted Signature]

Name of witness: JENNIFER WYLIE

Address: ADAM HOUSE,  
EH11 4DN.

Occupation: SOLICITOR



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**Figure 1.**

1. *Chlorophyll a* (Chl *a*)

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[REDACTED]

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**THE SECURITY TRUSTEE**

**EXECUTED** as a **DEED**, but not delivered  
until the date stated at the beginning of  
this Deed, by **BANK OF SCOTLAND PLC**  
acting by its duly authorised signatory in  
the presence of:

)  
)  
)  
)  
)



Signature

**Witness details:**

Signature of witness:



Name of witness: JENNIFER ESPINER

Address: CITYMARK, 150 FOUNTAINBRIDGE,  
EDINBURGH, EH3 9PE

Occupation: MANAGER