



Registration of a Charge

Company Name: **BMC PROPERTIES AND MANAGEMENT LIMITED**

Company Number: **02547981**



Received for filing in Electronic Format on the: **31/01/2023**

XBWCUOAG

Details of Charge

Date of creation: **27/01/2023**

Charge code: **0254 7981 0024**

Persons entitled: **DEUTSCHE BANK (SUISSE) S.A.**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS 179 CROMWELL ROAD,
LONDON SW5 0SE AND REGISTERED AT THE LAND REGISTRY WITH
TITLE NUMBER LN68872**

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 SAVE FOR MATERIAL REDACTED PURSUANT
TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC
COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION
FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by: **HARRY REID, SOLICITOR, FARRER & CO LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2547981

Charge code: 0254 7981 0024

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th January 2023 and created by BMC PROPERTIES AND MANAGEMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st January 2023 .

Given at Companies House, Cardiff on 1st February 2023

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**

Execution Version

Mortgage

between

BMC Properties and Management Limited
as Chargor

and

Deutsche Bank (Suisse) S.A.
as Lender

relating to

179 Cromwell Road, London SW5 0SE

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THIS DEED is dated

27 January 2023 and made

BETWEEN:

- (1) **BMC PROPERTIES AND MANAGEMENT LIMITED** (the "Chargor"), a company registered in England and Wales with company number 02547981 and having its registered office at Flat 5, 11 Queens Gate, London, SW7 5EL; and
- (2) **DEUTSCHE BANK (SUISSE) S.A.** (the "Lender"), registered in Switzerland with registered number CH-660.0.537.980-4 and having its registered office at Place des Bergues 3, 1201 Geneva, Switzerland.

BACKGROUND:

- (A) The Chargor is entering into this Deed in connection with the Finance Documents.
- (B) It is intended that this document takes effect as a deed even though a Party may only execute it under hand.

IT IS AGREED as follows:

1. **Definitions and Interpretation**

1.1 **Definitions**

In this Deed:

"Act" means the Law of Property Act 1925.

"Affiliate" means, in relation to any person, a Subsidiary or a Holding Company of that person or any other Subsidiary of that Holding Company.

"Assigned Contracts" means, in relation to the Chargor:

- (A) any Licences;
- (B) any Occupational Leases;
- (C) any Reports; and
- (E) any other agreement to which the Chargor is a party and which the Lender has designated as an Assigned Contract.

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration (in each case statutory or otherwise).

"Business Day" means any day (other than a Saturday or Sunday) on which banks are generally open in London and Geneva for the conduct of Sterling banking business.

"Charged Assets" means all of the assets of the Chargor which from time to time are, or are expressed to be, subject to the Security Interests created or expressed to be created in favour of the Lender pursuant to this Deed.

"Collateral Rights" means all rights, powers and remedies of the Lender provided by this Deed or by law.

"Default" means a default as defined in the Facility Agreement or an equivalent event under any other Finance Document.

"Delegate" means any delegate or sub delegate appointed under clause 15.18 (*Delegation*).

"Event of Default" means an event of default as defined in the Facility Agreement or an equivalent event under any other Finance Document.

"Facility Agreement" means the facility agreement dated on or about the date of this Deed between the Chargor and the Lender and any agreement entered into under or supplemental to it or amending, restating or novating it and any other document evidencing liabilities of the Chargor owed to the Lender and/or any Affiliate of the Lender.

"Finance Documents" means the Finance Documents under and as defined in the Facility Agreement.

"Holding Company" means as defined by section 1159 of the Companies Act 2006.

"Liabilities" means all monies, obligations and liabilities which shall from time to time (and whether on or at any time after any demand or judgment) be due, owing or incurred from the Chargor to the Lender or any Affiliate of the Lender.

"Licences" means each and all of the grants, authorities, licences, quota, certificates and justices and excise licences, now or in the future attached to the Property and/or the business carried out on or from the Property.

"Obligor" means an obligor as defined in the Facility Agreement and any other Finance Document.

"Occupational Lease" means each lease, agreement for lease, licence and/or other occupational interest subject to which the Chargor's interest in the Property is held now or in the future including any related guarantee and rent deposit arrangements.

"Party" means a party to this Deed.

"Property" means the freehold property known as 179 Cromwell Road, London SW5 0SE and registered at the Land Registry with title number LN68872.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Assets.

"Regulations" means the Financial Collateral Arrangements (No2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements.

"Related Rights" means, in relation to any asset:

- (A) the proceeds of sale of any part of that asset;
- (B) all rights under any licence, contracts, deeds, appointments, undertakings, warranties, representations, including all awards, damages or judgments paid or payable to the Chargor agreements for sale or agreements for lease in respect of that asset;
- (C) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset or accruing, offered or deriving at any time from such asset by way of redemption, exchange, option or otherwise; and

- (D) all dividends, interest, Collateral Rights, monies and proceeds paid or payable in respect of that asset,

(including all rights against any trustee, nominee, fiduciary, custodian or clearing system).

"Report" means any building, measurement, environmental, purchase survey summary, sustainability review, structural survey, development appraisal and valuation, or other report relating to a Property and addressed to the Chargor or on which the Chargor may rely, including, without limitation, each of those detailed in Schedule 1 (*The Reports*) to this Deed.

"Security Interest" means any mortgage, pledge, lien, charge, security assignment, hypothecation, security trust, encumbrance or security interest and any other agreement or arrangement entered into to create or confer security over any asset.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that all the Liabilities have been irrevocably paid in full and that all facilities which might give rise to any Liabilities have been terminated.

"Subsidiary" means any of a subsidiary (as defined by section 1159 of the Companies Act 2006) and a subsidiary undertaking (defined by section 1162 of the Companies Act 2006).

"VAT" means value added tax or any similar or substitute tax.

1.2 Interpretation

- (A) Each of the undertakings given by the Chargor in this Deed remain in force from the date of this Deed until the end of the Security Period.
- (B) Each representation and warranty expressed to be made by the Chargor in this Deed is made by the Chargor on the date of this Deed and is deemed to be repeated on each day during the Security Period by reference to the facts and circumstances then existing.
- (C) Unless a contrary indication appears, any reference in this Deed to:
- (a) this **Deed**, a **Finance Document** or any other agreement or instrument is a reference to this Deed, that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced and includes any change in the purpose of, any extension of or any increase in any facility under that Finance Document or other agreement or instrument is a reference to this Deed, that Finance Document or other agreement as amended, varied, novated, supplemented and replaced from time to time;
 - (b) this **Security** means any Security created by this Deed;
 - (c) a **Chargor**, the **Lender** or a **Receiver** includes any one or more of its assigns, transferees and successors in title (in the case of a Chargor so far as any are permitted);
 - (d) the **Lender** or a **Receiver** includes its duly appointed nominees, attorneys, correspondents, trustees, advisers, agents, delegates and sub-delegates;

- (e) any party to any Finance Document shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (f) a time of day is a reference to Geneva time.
 - (g) an obligation of the Chargor to do something shall include an obligation to procure that it is done and an obligation not to do something shall include an obligation not to permit, suffer or allow it; and
 - (h) a provision of law is a reference to that provision as amended or re-enacted and includes subordinate legislation.
- (D) An Event of Default or a Default is "continuing" if it has not been waived in writing by the Lender or remedied to the satisfaction of the Lender.

1.3 **Disposition of property**

The terms of the other Finance Documents and of any agreement, document or side letter between the Parties are incorporated into this Deed to the extent required for any purported disposition of all or any part of any freehold or leasehold property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.4 **Related Rights**

A reference in this Deed to any Charged Asset includes any part of that Charged Asset and all Related Rights in respect of that Charged Asset and a reference in this Deed to any mortgage, charge or assignment of any Charged Asset shall include all Related Rights in respect of that Charged Asset.

2. **Covenant to pay**

The Chargor covenants to pay the Liabilities when due or if they do not specify a time, on demand.

3. **Creation of security**

3.1 **Security generally**

Each Security Interest created, or expressed to be created, under this Deed:

- (A) is created in favour of the Lender;
- (B) is created over the present and future assets of the Chargor;
- (C) is security for the payment of all the Liabilities; and
- (D) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.2 **Land**

- (A) The Chargor charges:
 - (1) by way of a first legal mortgage the Property and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use that property; and

- (2) (to the extent that they are not the subject of a legal mortgage under clause 3.2(A)(1)) by way of first fixed charge all estates or interests in any freehold or leasehold property now or in the future owned by it and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use that property; and
 - (3) all Related Rights in respect of the above.
- (B) A reference in this Deed to a mortgage or charge of any freehold or leasehold property includes:
- (1) each and every part of that property, including the buildings, structures, fixtures and fittings (including trade fixtures and fittings, furnishings and equipment) and fixed plant and machinery now or in the future on that property and all easements and rights attaching to it; and
 - (2) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

3.3 Insurances

- (A) The Chargor assigns absolutely to the Lender all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest.
- (B) To the extent that any such right described in clause 3.3(A) is not capable of assignment, the assignment of that right purported to be effected by clause 3.3(A) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.
- (C) To the extent that they do not fall within any other part of this clause or are not effectively assigned under clauses 3.3(A) or 3.3(B) above, the Chargor charges by way of first fixed charge all of its rights under each agreement or document to which it is a party.

3.4 Equipment

The Chargor charges by way of first fixed charge all fixed and moveable Equipment owned by it, its interest in any Equipment in its possession and the benefit of all related authorisations, agreements and warranties.

3.5 Reports and surveys

The Chargor charges by way of first fixed charge all of its rights, title, interest and benefit in and to each Report.

3.6 Assigned Contracts

- (A) The Chargor assigns absolutely to the Lender all of its rights and interests under each Assigned Contract.
- (B) To the extent that any such right or interest is not capable of assignment, the purported assignment of that right or interest under clause 3.6(A) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or

income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.

- (C) To the extent that they do not fall within any other part of this clause or are not effectively assigned under clause 3.6(A) or 3.6(B), the Chargor charges by way of first fixed charge all of its rights and interest under each agreement or document to which it is a party.
- (D) The Chargor must notify the Lender immediately if an assignment or charge under this Deed breaches a term of the relevant agreement because a third party's consent has not been obtained. Unless the Lender requires otherwise, the Chargor shall obtain, and promptly supply to the Lender, any such third party consent as soon as practicable.

3.7 **Authorisations**

The Chargor charges by way of first fixed charge the benefit of all Authorisations held by it in relation to any Charged Asset, together with the right to recover and receive compensation which may be payable to it in respect of any Authorisation.

4. **Right to use**

The Lender, any Receiver and any Delegate shall have a free irrevocable right to use all items within the Property, including, without limitation, the right to lease or sell such items upon any enforcement action being taken in respect of the Charged Assets, the Lender, any Receiver or any Delegate may sell any of such items as it shall select, provided that it pays the proceeds of the sale of such items to the Chargor.

5. **Continuing security**

5.1 **Continuing security**

The Security Interests created, or expressed to be created, by this Deed is a continuing Security Interest and will extend to the ultimate balance of the Liabilities, regardless of any intermediate payment or discharge in whole or in part.

5.2 **Notices of charge**

The Chargor shall deliver to the Lender a signed notice of charge substantially in the form as set out in the relevant schedule to this Deed, addressed to the counterparty to the Reports and following the occurrence of an Event of Default which is continuing, the Lender may elect to serve such notices on the relevant counterparty.

5.3 **Additional security**

The Security Interests created, or expressed to be created, by this Deed:

- (A) is in addition to, and is not in any way prejudiced by, any other security or other right now or subsequently held by the Lender; and
- (B) may be enforced against the Chargor without having recourse to any other rights of the Lender.

6. **Perfection**

6.1 **Land**

In the case of the Property, the Chargor shall:

- (A) promptly and in any event within any applicable priority period, apply to the Land Registry to register the Security Interests created or expressed to be created by this Deed;
- (B) promptly submit to the Land Registry the duly completed form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction on the register of title to the Property

“No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Deutsche Bank (Suisse) S.A. referred to in the Charges Register (or its conveyancer).”
- (C) promptly submit to the Land Registry a duly completed application to enter the obligation to make further loans or advances on the charges register of the Property; and
- (D) promptly pay all appropriate registration fees.

6.2 Notices of charge or assignment

- (A) The Chargor shall immediately serve a notice of charge or assignment, substantially in the applicable form as set out in the relevant schedule to this Deed, on:
 - (1) if requested by the Lender, any tenant of any Property;
 - (2) each counterparty to an Assigned Contract; and
 - (3) each of its insurers.
- (B) The Chargor shall use reasonable endeavours to ensure that each person on whom notice is served under clause 6.2(A) above acknowledges receipt of that notice, substantially in the applicable form as set out in the relevant schedule to this Deed.

7. 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 Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)):
 - (1) to perfect the Security Interests 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 this Deed) or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to the Finance Documents or by law;
 - (2) to confer on the Lender security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Deed; and/or

- (3) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Interests created or expressed to be created by this Deed.

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

8. **Restrictions on dealing**

8.1 **Security**

The Chargor shall not create or permit to subsist any Security Interest over any Charged Assets, nor do anything else prohibited by the Facility Agreement.

8.2 **Disposals**

The Chargor shall not (nor agree to) enter into a single transaction or series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any Charged Assets except as permitted by the Finance Documents.

9. **Representations**

The Chargor represents and warrants to the Lender that:

- (A) this Deed:
 - (1) creates (or, once entered into, will create) in favour of the Lender, the Security Interests which it is expressed to create fully perfected and with the ranking and priority it is expressed to have;
 - (2) is not subject to any prior or pari passu ranking Security Interest; and
 - (3) is not liable to be avoided or set aside on its liquidation, administration or otherwise of the Chargor;
- (B) it is the absolute legal and beneficial owner of all the assets over which it purports to create any Security Interest pursuant to this Deed; and
- (C) in any proceedings taken in its jurisdiction of incorporation in relation to the Finance Documents to which it is a party, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

10. **Enforcement**

10.1 **Enforcement**

- (A) The Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.
- (B) The enforcement powers of the Lender in connection with this Deed shall be immediately exercisable:
 - (1) on and at any time after an Event of Default; or
 - (2) at the Lender's discretion, at the request of the Chargor.

- (C) The restrictions imposed by section 103 of the Act shall not apply to the Security Interests created by this Deed.
- (D) In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with the Lender or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred and that the Liabilities are outstanding and have become due.

10.2 Lender's and Receiver's powers and rights

- (A) The Lender shall have the power:
 - (1) to the extent permitted by applicable law, to appoint a Receiver of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee;
 - (2) to appropriate any Charged Assets in accordance with clause 10.3 (*Right of appropriation*); and
 - (3) if this Deed contains a qualifying floating charge for the purposes of the Insolvency Act 1986, to appoint an administrator of the Chargor, and paragraph 14 of schedule B1 of the Insolvency Act 1986 shall apply to this Deed.
- (B) The Lender (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to exercise:
 - (1) all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency Act 1986 whether or not the Lender and/or any Receiver is an administrative receiver; and
 - (2) the powers and rights in Schedule 2 (*Lender's and Receiver's powers*),and may exercise them in the name of the Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

10.3 **Right of appropriation**

- (A) To the extent that any of the Charged Assets constitutes “financial collateral” and this Deed and the obligations of the Chargor under it constitute a “financial collateral arrangement” (in each case as defined in, and for the purposes of, the Regulations), the Lender shall have the right to appropriate all or any part of it in or towards discharge of the Liabilities and transfer title in and to it to the Lender. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be in the case of cash, the amount standing to the credit of each account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised.
- (B) The Parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

10.4 **Receiver as agent**

So far as the law allows, a Receiver shall be the agent of the Chargor, who shall be solely liable for his acts, defaults and remuneration, but the Lender shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver.

10.5 **Further powers**

If the Chargor defaults in the observance and performance of any obligation to the Lender, the Lender or its agents (without any of them becoming a mortgagee in possession) may at any time do such things as it considers necessary to remedy the default.

10.6 **Power of attorney**

- (A) The Chargor by way of security irrevocably appoints the Lender and every Receiver jointly and severally to be its attorney (with full power of substitution) in its name and on its behalf to execute and deliver any documents and do or perfect anything which the Lender and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the Security Interests created by this Deed and/or the value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.
- (B) The Chargor ratifies and confirms all things done and all documents executed by any attorney in the lawful exercise or purported exercise of all or any of its powers.

11. **Application of receipts**

11.1 **Priority of payment**

Subject to sums secured by charges having priority to the charges created by this Deed, all monies received by the Lender and/or any Receiver in the enforcement of this Deed shall (subject as follows) be applied in the following order, in payment:

- (A) firstly, of all fees, costs, charges, taxes, liabilities and expenses in relation to any enforcement of this Deed (including in relation to any Receiver whether on its own behalf or on behalf of the Chargor or otherwise); and
- (B) secondly, (in so far as not contemplated by clause 11.1(A)) of all fees, costs, charges, taxes, liabilities and expenses and other sums of the Lender in relation to the Finance Documents.

11.2 Crediting to suspense account

The Lender or any Receiver may credit any monies received from the enforcement of this Deed to any suspense account in any manner and for such period as the Lender or that Receiver thinks fit and the Chargor shall not be entitled to the benefit of the same on account of the Chargor's liability under this Deed.

12. Notices

12.1 Any communication in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by letter or electronic mail to:

(A) The Lender:

Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland

Attention: Anton Hoelzl

Email: Anton.Hoelzl@db.com

(B) The Chargor:

Address: 3 Gallery Road, East Dulwich, London, SE21 7AB

Att: Burhan Mahmood Al-Chalabi

or any substitute details notified to the other parties on not less than 5 Business Days' notice.

12.2 Any communication under the Finance Documents will only be effective:

(A) if by way of letter, when it has been delivered personally or two Business Days after being properly posted by first class prepaid post. Any communication with the Lender shall be effective when actually received by the correct department or officer of the Lender; or

(B) if by way of electronic mail when actually received in readable form by the Lender and addressed appropriately. Any electronic mail which becomes effective after 5 p.m. shall be deemed to become effective on the following Business Day.

13. Discharge

13.1 If the Lender is satisfied that the Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Lender will, at the request and cost of the Chargor, discharge this Deed.

13.2 No discharge will be of any effect if any security or payment given or made in respect of the Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any insolvency or otherwise.

14. Assignment and transfer

14.1 Assignment by the Chargor

The Chargor may not assign transfer or otherwise part with its rights or obligations under this Deed.

14.2 **Assignment by the Lender**

The Lender may at any time transfer, assign or novate all or any part of its rights, benefits or obligations under this Deed in accordance with the provisions of the Facility Agreement.

15. **General**

15.1 **Trust provisions**

The covenants, undertakings and representations made by the Chargor under this Deed are made in favour of the Lender.

15.2 **Partial invalidity**

If any provision of this Deed is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions will not in any way be affected or impaired.

15.3 **Immediate recourse**

It shall not be necessary for the Lender before taking any enforcement under this Deed to enforce or seek to enforce any guarantee or other security or other rights whether from or against the Chargor or any other person.

15.4 **Exercise of powers and liability**

- (A) This Deed is in addition to and will not merge in or in any way be prejudiced or affected by the holding or release by the Lender of any other security at any time held by the Lender.
- (B) The Lender may, at any time after this Deed has become enforceable, redeem or transfer to itself any prior Security Interest against the Charged Assets and may settle and pay the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to the Lender on demand.
- (C) None of the provisions of this Deed shall be deemed to impose on the Lender or imply any obligation or other liability in relation to the Charged Assets.

15.5 **Tacking**

The Lender must perform its obligations under the Finance Documents (including any obligation to make further advances).

15.6 **New Accounts**

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security Interest or disposed of:

- (A) the Lender may close the Chargor's then subsisting account and open a new account with the Chargor, and shall be deemed to have done so;
- (B) all payments made to the Lender after that date will be credited (or be treated as having been credited) to the new account; and
- (C) no money credited or treated as credited to the new account shall reduce the Liabilities.

15.7 Consolidation

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to the Security Interests created by this Deed.

15.8 Enforcement expenses

The Chargor shall, within three Business Days of demand, pay to the Lender the amount of all costs, losses, liabilities and expenses (including legal fees) incurred by the Lender, any Receiver or any Delegate in connection with the enforcement of or the preservation of any right under this Deed or the Security Interests created or expressed to be created in favour the Lender by this Deed and any proceedings instituted by or against the Lender as a consequence of taking or holding the Security Interests created or expressed to be created in favour of the Lender by this Deed or enforcing these rights.

15.9 VAT

If VAT is chargeable on any supply made by the Receiver or Delegate to the Chargor, then the Chargor shall, within three Business Days of demand, pay the Receiver or Delegate an additional amount equal to such VAT.

15.10 Acknowledgment of risk

The Chargor acknowledges that:

- (A) the Property will be at risk if payments under the Finance Documents are not made on their due date;
- (B) it is its responsibility to obtain its own advice in respect of legal investment and taxation matters relating to this Deed and that it is not relying on the Lender for the same; and
- (C) it is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereunder. The Chargor acknowledges and agrees that (i) the Lender is acting solely as a principal and not the agent or fiduciary of any Obligor, (iii) the Lender has not assumed an advisory or fiduciary responsibility in favour of the Obligors with respect to the facility available under the Facility Agreement or any other obligation to the Obligors except the obligations expressly set forth in the Finance Documents. The Obligors agree that the Lender has not and the Obligors will not claim that the Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Obligors, in connection with such transactions or the process leading thereto.

15.11 Rights of third parties

- (A) Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.
- (B) The Parties and any Receiver may (if they agree) rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

15.12 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand.

15.13 Counterparts

This Deed may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

15.14 Chargor's obligations

Neither the Security Interests created under this Deed nor the obligations of the Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this clause, would reduce, release or prejudice that security or any of its obligations under this Deed (without limitation and whether or not known to it or the Lender) including:

- (A) any time, waiver or consent granted to, or composition with, any person;
- (B) the release of any person under the terms of any composition or arrangement with any creditor of the Chargor;
- (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 Interest over assets of, Lender 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 Interest;
- (D) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (E) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and whether or not more onerous), or replacement, assignment, assignation, avoidance or termination of any Finance Document or any other document or Security Interest including 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 Interest;
- (F) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security Interest; or
- (G) any insolvency or similar proceedings.

15.15 Chargor intent

Without prejudice to the generality of clause 15.14 (*Chargor's obligations*), the Chargor expressly confirms that it intends that the Security Interests created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (A) business acquisitions of any nature;
- (B) increasing working capital;
- (C) enabling investor distributions to be made;
- (D) carrying out restructurings;
- (E) refinancing existing facilities;
- (F) refinancing any other indebtedness;

- (G) making facilities available to new borrowers;
- (H) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and/or
- (I) any fees, costs and/or expenses associated with any of the foregoing.

15.16 Appropriations

Until the Liabilities have been irrevocably paid in full, the Lender may:

- (A) refrain from applying or enforcing any other moneys, security, or rights held or received by the Lender in respect of these 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 monies received from the Chargor or on account of the Chargor's liability under this Deed.

15.17 Deferral of Chargor's rights

- (A) Until the Liabilities have been irrevocably paid in full and unless the Lender otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:
 - (1) to be indemnified by any person;
 - (2) to claim any contribution from any other person;
 - (3) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;
 - (4) to bring legal or other proceedings for an order requiring any person to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under this Deed;
 - (5) to exercise any right of set-off against any person; and/or
 - (6) to claim or prove as a creditor of any person in competition with the Lender.
- (B) If the Chargor receives any benefit or distribution in relation to any rights referred to in clause 15.17(A) it shall hold that benefit or distribution on trust for the Lender and shall promptly pay the same to the Lender or as the Lender may direct for application in accordance with clause 11 (*Application of receipts*).

15.18 Delegation

The Lender and any Receiver may appoint a delegate of its choice in order to perform certain functions as provided for under this Deed.

16. **Governing law and enforcement**

16.1 **Governing law**

This Deed and any non-contractual obligations arising out of or in relation to this Deed shall be governed by English law.

16.2 **Jurisdiction**

- (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.

17. **Waiver of immunity**

- (A) The Chargor waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:
 - (1) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and
 - (2) the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues.
- (B) The Chargor agrees that in any proceedings in England this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of the English State Immunity Act 1978.

THIS DEED has been entered into and delivered as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1: REPORTS

NONE.

SCHEDULE 2: LENDER'S AND RECEIVER'S POWERS

1. Conduct of business

1.1 Carry on business

To carry on, manage, develop, reconstruct, amalgamate, diversify and/or conduct the business of the Chargor in all respects and for such purpose to:

(A) enter upon and take possession, get in, collect or otherwise assume control in respect of all or any of the Charged Assets; and/or

(B) acquire any property, chattels, plant, machinery and materials.

1.2 Formation of companies

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Assets and to arrange for such companies to trade or cease to trade in all cases.

1.3 Compromise claims

To compromise any claim relating to the Charged Assets.

1.4 Borrowing and advancing

To borrow, raise or advance money whether or not in priority to the Liabilities and with or without security.

1.5 VAT

To assume and exercise all or any of the power and rights conferred on the Chargor in respect of its value added tax status, liabilities, advantages or arrangements.

1.6 Employees

To:

(A) enter into, adopt and/or terminate any contract of employment; and

(B) employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others.

2. Dealing with the Chargor's assets

2.1 Possession

To enter upon and take possession of, get in, use and/or collect any Charged Asset.

2.2 Payments

To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership, occupation or use.

2.3 Receipts

To give receipts and releases for any sums received.

2.4 **Carry on works**

To undertake any works, demolition, building, reconstruction, improvement, repair or decoration in respect of any of the Charged Assets which consist of property, buildings, structures, plant, machinery or equipment as it thinks fit and whether or not in accordance with any obligations imposed by the Facility Agreement.

2.5 **Assumption of rights**

To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any Charged Asset.

2.6 **Insurance**

To effect insurances on such terms as it thinks fit.

2.7 **Planning permissions and consents**

To obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences in relation to any development or use of the Charged Assets.

2.8 **Acquisition of property**

To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights.

2.9 **Negotiation**

To negotiate and conclude reviews of rent and otherwise deal in relation to the Occupational Leases and the tenants' and guarantors' respective obligations under them.

3. **Disposals**

3.1 **Selling**

To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:

- (A) for immediate or deferred consideration;
 - (B) in return for a single payment or instalments; and
 - (C) for consideration wholly or partly in cash, property or securities in whatever form,
- and in all cases the terms of which shall bind any subsequent mortgagee.

3.2 **Leasing**

To grant, create or surrender any lease, tenancy, licence or other agreement relating to the disposal of or other dealing with the Charged Assets on such terms as it thinks fit and:

- (A) with or without any rent, review of rent, fine or premium; and
- (B) whether absolutely or for a term,

and in all cases the terms of which shall bind any subsequent mortgagee.

4. **General**

4.1 **General powers**

To do or abstain from doing all such things as it considers necessary or desirable for perfecting, maintaining preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the security and charges created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Agreement, including:

- (A) executing, delivering and completing all or any deeds or other documents;
- (B) using the name of the Chargor in connection with any of the purposes in this Schedule 2 (*Lender's and Receiver's powers*);
- (C) commencing, carrying out and completing any acts, matters, proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- (D) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

4.2 **General**

All its powers and discretions under this Deed shall be:

- (A) exercisable on such terms and conditions and otherwise as it may think fit; and
- (B) as if it were the absolute and beneficial owner.

SCHEDULE 3: NOTICE TO COUNTERPARTY TO ASSIGNED CONTRACT

To: [Counterparty]

Address: [•]

[Date]

Dear Sirs,

[Description of relevant Assigned Contract[s]] (the "Contract")

We refer to:

- (A) the Contract; and
- (B) the mortgage (the "Mortgage") dated [•] between BMC Properties and Management Limited as chargor and Deutsche Bank (Suisse) S.A. as lender (the "Lender").

We give you notice that pursuant to the Mortgage, we have assigned to the Lender all of our present and future right, title and interest in and to the Contract.

We will remain liable under the Contract to perform all the obligations assumed by us under the Contract. None of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.

We will be entitled to exercise all of our rights, powers and discretions under the Contract, and you should continue to give notices under the Contract to us, unless and until you receive notice from the Lender to the contrary. In this event, all the rights, powers and discretions under the Contract will be exercisable by, and notices must be given to, the Lender or as it directs.

Please note that we have agreed not to amend, waive or vary any provision of or terminate the Contract without the prior consent of the Lender.

We confirm that you may comply with the instructions in this letter without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice, and confirm that you will pay all moneys in respect of the Contract as directed by or pursuant to this notice, by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

.....

For and on behalf of
BMC Properties and Management Limited

as Chargor

SCHEDULE 4: NOTICE TO INSURERS

To: [The Insurers]

Address: [•]

[Date]

Dear Sirs

[Description of relevant Policy] (the “Insurances”)

We refer to:

- (A) the Insurances; and
- (B) the mortgage (the “Mortgage”) dated [•] between BMC Properties and Management Limited as chargor (the “Chargor”) and Deutsche Bank (Suisse) S.A. as Lender (the “Lender”).

We give you notice that pursuant to the Mortgage, we have assigned to the Lender all of our present and future right, title and interest in and to the Insurances.

1. All moneys payable by you to the Chargor in respect of the Insurances other than third party Insurances shall be paid as directed by the Chargor, unless and until you receive written notice from the Lender to the contrary, in which event you should make all future payments as then directed by the Lender.
2. Subject to any applicable legislation and despite the assignments referred to above, all sums in respect of any claim under any third party Insurance by an insured party shall be paid:
3. directly to the person whose claim(s) constitute(s) the risk or liability insured against, provided that such person has executed a discharge of all claims against each insured party in respect of the risk or liability in relation to which the claim was made; or
4. (despite any policy term to the contrary) to the extent that insurers accept liability to indemnify the insured party in respect of the claims or liabilities which the insured party has settled directly with the claimant, to the relevant insured party, unless the insured party is us, in which case such sums shall be paid as directed by the Lender.
5. This authority and instruction is irrevocable without the prior written consent of the Lender.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice, and confirm that you will pay all moneys in respect of the Insurances as directed by or pursuant to this notice, by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

.....

For and on behalf of
BMC Properties and Management Limited
as Chargor

[On duplicate]

We acknowledge receipt of the Notice of Assignment of which this is a copy and agree to comply with its terms. We confirm that we have not received any other notice of assignment or notice that any other person claims any rights in respect of the Insurances.

.....

For and on behalf of
[The Insurer]

Date:

SCHEDULE 5: NOTICE TO TENANTS

[On the letterhead of the Chargor]

To: [Tenant]

[Date]

Dear Sirs,

Re: [Property]

This letter constitutes notice to you that under a mortgage (the "Mortgage") dated [•] between BMC Properties and Management Limited as chargor (the "Chargor") and Deutsche Bank (Suisse) S.A. as Lender (the "Lender") we have assigned to the Lender all of our present and future right, title and interest in and to [describe lease] (the "Lease").

We will remain liable under the Lease to perform all the obligations assumed by us under the Lease. None of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Lease.

Please note that we have agreed not to amend, waive or vary any provision of or terminate the Lease without the prior consent of the Lender.

We confirm that you may comply with the instructions in this letter without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions.

The instructions in this letter apply until you receive notice from the Lender to the contrary and notwithstanding any previous instructions given by us.

The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

Yours faithfully,

.....
For and on behalf of
BMC Properties and Management Limited
as Chargor

[On duplicate]

We acknowledge receipt of the notice of which this is a copy and agree to comply with its terms. We confirm that we have not received any other notice of assignment or charge or notice that any other person claims any rights in respect of the Lease.

We accept the instructions contained in the notice.

We confirm that we have not received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Chargor under or in respect of the Lease (as defined in the notice).

.....
For and on behalf of
[]

Date:

SCHEDULE 6: NOTICE TO COUNTERPARTY TO REPORTS

To: [•]

Address: [•]

[Date]

Dear Sirs,

The Reports listed in the schedule attached to this Notice (the “Reports”)

1. We refer to:

(A) the Reports; and

(B) the mortgage (the “Mortgage”) dated [•] between BMC Properties and Management Limited as Chargor and Deutsche Bank (Suisse) S.A. as Lender (the “Lender”).

We give you notice that pursuant to the Mortgage, we have assigned to the Lender all of our present and future right, title and interest in and to the Reports.

2. We irrevocably and unconditionally instruct and authorise you to disclose to the Lender any information relating to the Reports which the Lender may request. None of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Reports.

3. The instructions in this letter:

(A) may be complied with without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions;

(B) apply until you receive notice from the Lender to the contrary, notwithstanding any previous instructions given by us; and

(C) may not be revoked or amended without the prior written consent of the Lender.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by, and shall be construed in accordance with, English law.

Please acknowledge receipt of this notice by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

.....
As authorised signatory
For and on behalf of

BMC Properties and Management Limited
as Chargor

EXECUTION PAGE OF MORTGAGE

The Chargor

EXECUTED as a DEED by **BMC PROPERTIES
AND MANAGEMENT LIMITED** acting by a
director in the presence of:

)
)
)

Director

Witness Signature

Witness Name: Vishaile Patel

Address: 25 Ibbetson Path,
Loughton,
Essex,
IG10 2AS

Occupation: PA

The Lender

EXECUTED as a DEED by
DEUTSCHE BANK (SUISSE) S.A.
acting by

)
)
)
)

Authorised Signatory's Name

)
)
)

Authorised Signatory's Name

Execution Version

Mortgage

between

BMC Properties and Management Limited

as Chargor

and

Deutsche Bank (Suisse) S.A.

as Lender

relating to

179 Cromwell Road, London SW5 0SE

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THIS DEED is dated

27 January 2023

and made

BETWEEN:

- (1) **BMC PROPERTIES AND MANAGEMENT LIMITED** (the "Chargor"), a company registered in England and Wales with company number 02547981 and having its registered office at Flat 5, 11 Queens Gate, London, SW7 5EL; and
- (2) **DEUTSCHE BANK (SUISSE) S.A.** (the "Lender"), registered in Switzerland with registered number CH-660.0.537.980-4 and having its registered office at Place des Bergues 3, 1201 Geneva, Switzerland.

BACKGROUND:

- (A) The Chargor is entering into this Deed in connection with the Finance Documents.
- (B) It is intended that this document takes effect as a deed even though a Party may only execute it under hand.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Deed:

"Act" means the Law of Property Act 1925.

"Affiliate" means, in relation to any person, a Subsidiary or a Holding Company of that person or any other Subsidiary of that Holding Company.

"Assigned Contracts" means, in relation to the Chargor:

- (A) any Licences;
- (B) any Occupational Leases;
- (C) any Reports; and
- (E) any other agreement to which the Chargor is a party and which the Lender has designated as an Assigned Contract.

"Authorisation" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration (in each case statutory or otherwise).

"Business Day" means any day (other than a Saturday or Sunday) on which banks are generally open in London and Geneva for the conduct of Sterling banking business.

"Charged Assets" means all of the assets of the Chargor which from time to time are, or are expressed to be, subject to the Security Interests created or expressed to be created in favour of the Lender pursuant to this Deed.

"Collateral Rights" means all rights, powers and remedies of the Lender provided by this Deed or by law.

"Default" means a default as defined in the Facility Agreement or an equivalent event under any other Finance Document.

"Delegate" means any delegate or sub delegate appointed under clause 15.18 (*Delegation*).

"Event of Default" means an event of default as defined in the Facility Agreement or an equivalent event under any other Finance Document.

"Facility Agreement" means the facility agreement dated on or about the date of this Deed between the Chargor and the Lender and any agreement entered into under or supplemental to it or amending, restating or novating it and any other document evidencing liabilities of the Chargor owed to the Lender and/or any Affiliate of the Lender.

"Finance Documents" means the Finance Documents under and as defined in the Facility Agreement.

"Holding Company" means as defined by section 1159 of the Companies Act 2006.

"Liabilities" means all monies, obligations and liabilities which shall from time to time (and whether on or at any time after any demand or judgment) be due, owing or incurred from the Chargor to the Lender or any Affiliate of the Lender.

"Licences" means each and all of the grants, authorities, licences, quota, certificates and justices and excise licences, now or in the future attached to the Property and/or the business carried out on or from the Property.

"Obligor" means an obligor as defined in the Facility Agreement and any other Finance Document.

"Occupational Lease" means each lease, agreement for lease, licence and/or other occupational interest subject to which the Chargor's interest in the Property is held now or in the future including any related guarantee and rent deposit arrangements.

"Party" means a party to this Deed.

"Property" means the freehold property known as 179 Cromwell Road, London SW5 0SE and registered at the Land Registry with title number LN68872.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Assets.

"Regulations" means the Financial Collateral Arrangements (No2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements.

"Related Rights" means, in relation to any asset:

- (A) the proceeds of sale of any part of that asset;
- (B) all rights under any licence, contracts, deeds, appointments, undertakings, warranties, representations, including all awards, damages or judgments paid or payable to the Chargor agreements for sale or agreements for lease in respect of that asset;
- (C) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset or accruing, offered or deriving at any time from such asset by way of redemption, exchange, option or otherwise; and

- (D) all dividends, interest, Collateral Rights, monies and proceeds paid or payable in respect of that asset,

(including all rights against any trustee, nominee, fiduciary, custodian or clearing system).

"Report" means any building, measurement, environmental, purchase survey summary, sustainability review, structural survey, development appraisal and valuation, or other report relating to a Property and addressed to the Chargor or on which the Chargor may rely, including, without limitation, each of those detailed in Schedule 1 (*The Reports*) to this Deed.

"Security Interest" means any mortgage, pledge, lien, charge, security assignment, hypothecation, security trust, encumbrance or security interest and any other agreement or arrangement entered into to create or confer security over any asset.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that all the Liabilities have been irrevocably paid in full and that all facilities which might give rise to any Liabilities have been terminated.

"Subsidiary" means any of a subsidiary (as defined by section 1159 of the Companies Act 2006) and a subsidiary undertaking (defined by section 1162 of the Companies Act 2006).

"VAT" means value added tax or any similar or substitute tax.

1.2 Interpretation

- (A) Each of the undertakings given by the Chargor in this Deed remain in force from the date of this Deed until the end of the Security Period.
- (B) Each representation and warranty expressed to be made by the Chargor in this Deed is made by the Chargor on the date of this Deed and is deemed to be repeated on each day during the Security Period by reference to the facts and circumstances then existing.
- (C) Unless a contrary indication appears, any reference in this Deed to:
- (a) this **Deed**, a **Finance Document** or any other agreement or instrument is a reference to this Deed, that Finance Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced and includes any change in the purpose of, any extension of or any increase in any facility under that Finance Document or other agreement or instrument is a reference to this Deed, that Finance Document or other agreement as amended, varied, novated, supplemented and replaced from time to time;
 - (b) this **Security** means any Security created by this Deed;
 - (c) a **Chargor**, the **Lender** or a **Receiver** includes any one or more of its assigns, transferees and successors in title (in the case of a Chargor so far as any are permitted);
 - (d) the **Lender** or a **Receiver** includes its duly appointed nominees, attorneys, correspondents, trustees, advisers, agents, delegates and sub-delegates;

- (e) any party to any Finance Document shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (f) a time of day is a reference to Geneva time.
 - (g) an obligation of the Chargor to do something shall include an obligation to procure that it is done and an obligation not to do something shall include an obligation not to permit, suffer or allow it; and
 - (h) a provision of law is a reference to that provision as amended or re-enacted and includes subordinate legislation.
- (D) An Event of Default or a Default is "continuing" if it has not been waived in writing by the Lender or remedied to the satisfaction of the Lender.

1.3 **Disposition of property**

The terms of the other Finance Documents and of any agreement, document or side letter between the Parties are incorporated into this Deed to the extent required for any purported disposition of all or any part of any freehold or leasehold property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.4 **Related Rights**

A reference in this Deed to any Charged Asset includes any part of that Charged Asset and all Related Rights in respect of that Charged Asset and a reference in this Deed to any mortgage, charge or assignment of any Charged Asset shall include all Related Rights in respect of that Charged Asset.

2. **Covenant to pay**

The Chargor covenants to pay the Liabilities when due or if they do not specify a time, on demand.

3. **Creation of security**

3.1 **Security generally**

Each Security Interest created, or expressed to be created, under this Deed:

- (A) is created in favour of the Lender;
- (B) is created over the present and future assets of the Chargor;
- (C) is security for the payment of all the Liabilities; and
- (D) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.2 **Land**

(A) The Chargor charges:

- (1) by way of a first legal mortgage the Property and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use that property; and

- (2) (to the extent that they are not the subject of a legal mortgage under clause 3.2(A)(1)) by way of first fixed charge all estates or interests in any freehold or leasehold property now or in the future owned by it and all rights under any licence or other agreement or document which gives the Chargor a right to occupy or use that property; and
 - (3) all Related Rights in respect of the above.
- (B) A reference in this Deed to a mortgage or charge of any freehold or leasehold property includes:
- (1) each and every part of that property, including the buildings, structures, fixtures and fittings (including trade fixtures and fittings, furnishings and equipment) and fixed plant and machinery now or in the future on that property and all easements and rights attaching to it; and
 - (2) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants.

3.3 Insurances

- (A) The Chargor assigns absolutely to the Lender all of its rights in respect of any contract or policy of insurance taken out by it or on its behalf or in which it has an interest.
- (B) To the extent that any such right described in clause 3.3(A) is not capable of assignment, the assignment of that right purported to be effected by clause 3.3(A) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.
- (C) To the extent that they do not fall within any other part of this clause or are not effectively assigned under clauses 3.3(A) or 3.3(B) above, the Chargor charges by way of first fixed charge all of its rights under each agreement or document to which it is a party.

3.4 Equipment

The Chargor charges by way of first fixed charge all fixed and moveable Equipment owned by it, its interest in any Equipment in its possession and the benefit of all related authorisations, agreements and warranties.

3.5 Reports and surveys

The Chargor charges by way of first fixed charge all of its rights, title, interest and benefit in and to each Report.

3.6 Assigned Contracts

- (A) The Chargor assigns absolutely to the Lender all of its rights and interests under each Assigned Contract.
- (B) To the extent that any such right or interest is not capable of assignment, the purported assignment of that right or interest under clause 3.6(A) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or

income which the Chargor may derive from that right or be awarded or entitled to in respect of that right.

- (C) To the extent that they do not fall within any other part of this clause or are not effectively assigned under clause 3.6(A) or 3.6(B), the Chargor charges by way of first fixed charge all of its rights and interest under each agreement or document to which it is a party.
- (D) The Chargor must notify the Lender immediately if an assignment or charge under this Deed breaches a term of the relevant agreement because a third party's consent has not been obtained. Unless the Lender requires otherwise, the Chargor shall obtain, and promptly supply to the Lender, any such third party consent as soon as practicable.

3.7 Authorisations

The Chargor charges by way of first fixed charge the benefit of all Authorisations held by it in relation to any Charged Asset, together with the right to recover and receive compensation which may be payable to it in respect of any Authorisation.

4. Right to use

The Lender, any Receiver and any Delegate shall have a free irrevocable right to use all items within the Property, including, without limitation, the right to lease or sell such items upon any enforcement action being taken in respect of the Charged Assets, the Lender, any Receiver or any Delegate may sell any of such items as it shall select, provided that it pays the proceeds of the sale of such items to the Chargor.

5. Continuing security

5.1 Continuing security

The Security Interests created, or expressed to be created, by this Deed is a continuing Security Interest and will extend to the ultimate balance of the Liabilities, regardless of any intermediate payment or discharge in whole or in part.

5.2 Notices of charge

The Chargor shall deliver to the Lender a signed notice of charge substantially in the form as set out in the relevant schedule to this Deed, addressed to the counterparty to the Reports and following the occurrence of an Event of Default which is continuing, the Lender may elect to serve such notices on the relevant counterparty.

5.3 Additional security

The Security Interests created, or expressed to be created, by this Deed:

- (A) is in addition to, and is not in any way prejudiced by, any other security or other right now or subsequently held by the Lender; and
- (B) may be enforced against the Chargor without having recourse to any other rights of the Lender.

6. Perfection

6.1 Land

In the case of the Property, the Chargor shall:

- (A) promptly and in any event within any applicable priority period, apply to the Land Registry to register the Security Interests created or expressed to be created by this Deed;
- (B) promptly submit to the Land Registry the duly completed form RX1 (or such other form as may be prescribed from time to time) to enter the following restriction on the register of title to the Property

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Deutsche Bank (Suisse) S.A. referred to in the Charges Register (or its conveyancer)."
- (C) promptly submit to the Land Registry a duly completed application to enter the obligation to make further loans or advances on the charges register of the Property; and
- (D) promptly pay all appropriate registration fees.

6.2 Notices of charge or assignment

- (A) The Chargor shall immediately serve a notice of charge or assignment, substantially in the applicable form as set out in the relevant schedule to this Deed, on:
 - (1) if requested by the Lender, any tenant of any Property;
 - (2) each counterparty to an Assigned Contract; and
 - (3) each of its insurers.
- (B) The Chargor shall use reasonable endeavours to ensure that each person on whom notice is served under clause 6.2(A) above acknowledges receipt of that notice, substantially in the applicable form as set out in the relevant schedule to this Deed.

7. 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 Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)):
 - (1) to perfect the Security Interests 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 this Deed) or for the exercise of any rights, powers and remedies of the Lender provided by or pursuant to the Finance Documents or by law;
 - (2) to confer on the Lender security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the security intended to be conferred by or pursuant to this Deed; and/or

- (3) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Interests created or expressed to be created by this Deed.

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

8. Restrictions on dealing

8.1 Security

The Chargor shall not create or permit to subsist any Security Interest over any Charged Assets, nor do anything else prohibited by the Facility Agreement.

8.2 Disposals

The Chargor shall not (nor agree to) enter into a single transaction or series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, licence, transfer or otherwise dispose of any Charged Assets except as permitted by the Finance Documents.

9. Representations

The Chargor represents and warrants to the Lender that:

- (A) this Deed:

- (1) creates (or, once entered into, will create) in favour of the Lender, the Security Interests which it is expressed to create fully perfected and with the ranking and priority it is expressed to have;
- (2) is not subject to any prior or pari passu ranking Security Interest; and
- (3) is not liable to be avoided or set aside on its liquidation, administration or otherwise of the Chargor;

- (B) it is the absolute legal and beneficial owner of all the assets over which it purports to create any Security Interest pursuant to this Deed; and

- (C) in any proceedings taken in its jurisdiction of incorporation in relation to the Finance Documents to which it is a party, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

10. Enforcement

10.1 Enforcement

- (A) The Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.

- (B) The enforcement powers of the Lender in connection with this Deed shall be immediately exercisable:

- (1) on and at any time after an Event of Default; or
- (2) at the Lender's discretion, at the request of the Chargor.

- (C) The restrictions imposed by section 103 of the Act shall not apply to the Security Interests created by this Deed.
- (D) In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with the Lender or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred and that the Liabilities are outstanding and have become due.

10.2 Lender's and Receiver's powers and rights

- (A) The Lender shall have the power:
 - (1) to the extent permitted by applicable law, to appoint a Receiver of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee;
 - (2) to appropriate any Charged Assets in accordance with clause 10.3 (*Right of appropriation*); and
 - (3) if this Deed contains a qualifying floating charge for the purposes of the Insolvency Act 1986, to appoint an administrator of the Chargor, and paragraph 14 of schedule B1 of the Insolvency Act 1986 shall apply to this Deed.
- (B) The Lender (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to exercise:
 - (1) all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency Act 1986 whether or not the Lender and/or any Receiver is an administrative receiver, and
 - (2) the powers and rights in Schedule 2 (*Lender's and Receiver's powers*),

and may exercise them in the name of the Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

10.3 Right of appropriation

- (A) To the extent that any of the Charged Assets constitutes "financial collateral" and this Deed and the obligations of the Chargor under it constitute a "financial collateral arrangement" (in each case as defined in, and for the purposes of, the Regulations), the Lender shall have the right to appropriate all or any part of it in or towards discharge of the Liabilities and transfer title in and to it to the Lender. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be in the case of cash, the amount standing to the credit of each account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised.
- (B) The Parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

10.4 Receiver as agent

So far as the law allows, a Receiver shall be the agent of the Chargor, who shall be solely liable for his acts, defaults and remuneration, but the Lender shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver.

10.5 Further powers

If the Chargor defaults in the observance and performance of any obligation to the Lender, the Lender or its agents (without any of them becoming a mortgagee in possession) may at any time do such things as it considers necessary to remedy the default.

10.6 Power of attorney

- (A) The Chargor by way of security irrevocably appoints the Lender and every Receiver jointly and severally to be its attorney (with full power of substitution) in its name and on its behalf to execute and deliver any documents and do or perfect anything which the Lender and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the Security Interests created by this Deed and/or the value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.
- (B) The Chargor ratifies and confirms all things done and all documents executed by any attorney in the lawful exercise or purported exercise of all or any of its powers.

11. Application of receipts

11.1 Priority of payment

Subject to sums secured by charges having priority to the charges created by this Deed, all monies received by the Lender and/or any Receiver in the enforcement of this Deed shall (subject as follows) be applied in the following order, in payment:

- (A) firstly, of all fees, costs, charges, taxes, liabilities and expenses in relation to any enforcement of this Deed (including in relation to any Receiver whether on its own behalf or on behalf of the Chargor or otherwise); and
- (B) secondly, (in so far as not contemplated by clause 11.1(A)) of all fees, costs, charges, taxes, liabilities and expenses and other sums of the Lender in relation to the Finance Documents.

11.2 Crediting to suspense account

The Lender or any Receiver may credit any monies received from the enforcement of this Deed to any suspense account in any manner and for such period as the Lender or that Receiver thinks fit and the Chargor shall not be entitled to the benefit of the same on account of the Chargor's liability under this Deed.

12. Notices

12.1 Any communication in connection with the Finance Documents shall be made in writing and, unless otherwise stated, may be made by letter or electronic mail to:

(A) The Lender:

Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland

Attention: Anton Hoelzl

Email: Anton.Hoelzl@db.com

(B) The Chargor:

Address: 3 Gallery Road, East Dulwich, London, SE21 7AB

Att: Burhan Mahmood Al-Chalabi

or any substitute details notified to the other parties on not less than 5 Business Days' notice.

12.2 Any communication under the Finance Documents will only be effective:

(A) if by way of letter, when it has been delivered personally or two Business Days after being properly posted by first class prepaid post. Any communication with the Lender shall be effective when actually received by the correct department or officer of the Lender; or

(B) if by way of electronic mail when actually received in readable form by the Lender and addressed appropriately. Any electronic mail which becomes effective after 5 p.m. shall be deemed to become effective on the following Business Day.

13. Discharge

13.1 If the Lender is satisfied that the Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Lender will, at the request and cost of the Chargor, discharge this Deed.

13.2 No discharge will be of any effect if any security or payment given or made in respect of the Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any insolvency or otherwise.

14. Assignment and transfer

14.1 Assignment by the Chargor

The Chargor may not assign transfer or otherwise part with its rights or obligations under this Deed.

14.2 Assignment by the Lender

The Lender may at any time transfer, assign or novate all or any part of its rights, benefits or obligations under this Deed in accordance with the provisions of the Facility Agreement.

15. General

15.1 Trust provisions

The covenants, undertakings and representations made by the Chargor under this Deed are made in favour of the Lender.

15.2 Partial invalidity

If any provision of this Deed is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining provisions will not in any way be affected or impaired.

15.3 Immediate recourse

It shall not be necessary for the Lender before taking any enforcement under this Deed to enforce or seek to enforce any guarantee or other security or other rights whether from or against the Chargor or any other person.

15.4 Exercise of powers and liability

- (A) This Deed is in addition to and will not merge in or in any way be prejudiced or affected by the holding or release by the Lender of any other security at any time held by the Lender.
- (B) The Lender may, at any time after this Deed has become enforceable, redeem or transfer to itself any prior Security Interest against the Charged Assets and may settle and pay the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to the Lender on demand.
- (C) None of the provisions of this Deed shall be deemed to impose on the Lender or imply any obligation or other liability in relation to the Charged Assets.

15.5 Tacking

The Lender must perform its obligations under the Finance Documents (including any obligation to make further advances).

15.6 New Accounts

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security Interest or disposed of:

- (A) the Lender may close the Chargor's then subsisting account and open a new account with the Chargor, and shall be deemed to have done so;
- (B) all payments made to the Lender after that date will be credited (or be treated as having been credited) to the new account; and
- (C) no money credited or treated as credited to the new account shall reduce the Liabilities.

15.7 Consolidation

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to the Security Interests created by this Deed.

15.8 Enforcement expenses

The Chargor shall, within three Business Days of demand, pay to the Lender the amount of all costs, losses, liabilities and expenses (including legal fees) incurred by the Lender, any Receiver or any Delegate in connection with the enforcement of or the preservation of any right under this Deed or the Security Interests created or expressed to be created in favour the Lender by this Deed and any proceedings instituted by or against the Lender as a consequence of taking or holding the Security Interests created or expressed to be created in favour of the Lender by this Deed or enforcing these rights.

15.9 VAT

If VAT is chargeable on any supply made by the Receiver or Delegate to the Chargor, then the Chargor shall, within three Business Days of demand, pay the Receiver or Delegate an additional amount equal to such VAT.

15.10 Acknowledgment of risk

The Chargor acknowledges that:

- (A) the Property will be at risk if payments under the Finance Documents are not made on their due date;
- (B) it is its responsibility to obtain its own advice in respect of legal investment and taxation matters relating to this Deed and that it is not relying on the Lender for the same; and
- (C) it is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereunder. The Chargor acknowledges and agrees that (i) the Lender is acting solely as a principal and not the agent or fiduciary of any Obligor, (iii) the Lender has not assumed an advisory or fiduciary responsibility in favour of the Obligors with respect to the facility available under the Facility Agreement or any other obligation to the Obligors except the obligations expressly set forth in the Finance Documents. The Obligors agree that the Lender has not and the Obligors will not claim that the Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Obligors, in connection with such transactions or the process leading thereto.

15.11 Rights of third parties

- (A) Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.
- (B) The Parties and any Receiver may (if they agree) rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

15.12 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand.

15.13 Counterparts

This Deed may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

15.14 Chargor's obligations

Neither the Security Interests created under this Deed nor the obligations of the Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this clause, would reduce, release or prejudice that security or any of its obligations under this Deed (without limitation and whether or not known to it or the Lender) including:

- (A) any time, waiver or consent granted to, or composition with, any person;
- (B) the release of any person under the terms of any composition or arrangement with any creditor of the Chargor;
- (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 Interest over assets of, Lender 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 Interest;
- (D) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (E) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and whether or not more onerous), or replacement, assignment, assignation, avoidance or termination of any Finance Document or any other document or Security Interest including 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 Interest;
- (F) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security Interest; or
- (G) any insolvency or similar proceedings.

15.15 Chargor intent

Without prejudice to the generality of clause 15.14 (*Chargor's obligations*), the Chargor expressly confirms that it intends that the Security Interests created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (A) business acquisitions of any nature;
- (B) increasing working capital;
- (C) enabling investor distributions to be made;
- (D) carrying out restructurings;
- (E) refinancing existing facilities;
- (F) refinancing any other indebtedness;

- (G) making facilities available to new borrowers;
- (H) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and/or
- (I) any fees, costs and/or expenses associated with any of the foregoing.

15.16 Appropriations

Until the Liabilities have been irrevocably paid in full, the Lender may:

- (A) refrain from applying or enforcing any other moneys, security, or rights held or received by the Lender in respect of these 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 monies received from the Chargor or on account of the Chargor's liability under this Deed.

15.17 Deferral of Chargor's rights

- (A) Until the Liabilities have been irrevocably paid in full and unless the Lender otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed:
 - (1) to be indemnified by any person;
 - (2) to claim any contribution from any other person;
 - (3) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;
 - (4) to bring legal or other proceedings for an order requiring any person to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under this Deed;
 - (5) to exercise any right of set-off against any person; and/or
 - (6) to claim or prove as a creditor of any person in competition with the Lender.
- (B) If the Chargor receives any benefit or distribution in relation to any rights referred to in clause 15.17(A) it shall hold that benefit or distribution on trust for the Lender and shall promptly pay the same to the Lender or as the Lender may direct for application in accordance with clause 11 (*Application of receipts*).

15.18 Delegation

The Lender and any Receiver may appoint a delegate of its choice in order to perform certain functions as provided for under this Deed.

16. **Governing law and enforcement**

16.1 **Governing law**

This Deed and any non-contractual obligations arising out of or in relation to this Deed shall be governed by English law.

16.2 **Jurisdiction**

- (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.

17. **Waiver of immunity**

- (A) The Chargor waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:
 - (1) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and
 - (2) the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues.
- (B) The Chargor agrees that in any proceedings in England this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of the English State Immunity Act 1978.

THIS DEED has been entered into and delivered as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1: REPORTS

NONE.

SCHEDULE 2: LENDER'S AND RECEIVER'S POWERS

1. Conduct of business

1.1 Carry on business

To carry on, manage, develop, reconstruct, amalgamate, diversify and/or conduct the business of the Chargor in all respects and for such purpose to:

- (A) enter upon and take possession, get in, collect or otherwise assume control in respect of all or any of the Charged Assets; and/or
- (B) acquire any property, chattels, plant, machinery and materials.

1.2 Formation of companies

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Assets and to arrange for such companies to trade or cease to trade in all cases.

1.3 Compromise claims

To compromise any claim relating to the Charged Assets.

1.4 Borrowing and advancing

To borrow, raise or advance money whether or not in priority to the Liabilities and with or without security.

1.5 VAT

To assume and exercise all or any of the power and rights conferred on the Chargor in respect of its value added tax status, liabilities, advantages or arrangements.

1.6 Employees

To:

- (A) enter into, adopt and/or terminate any contract of employment; and
- (B) employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others.

2. Dealing with the Chargor's assets

2.1 Possession

To enter upon and take possession of, get in, use and/or collect any Charged Asset.

2.2 Payments

To pay any rent or other outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership, occupation or use.

2.3 Receipts

To give receipts and releases for any sums received.

2.4 Carry on works

To undertake any works, demolition, building, reconstruction, improvement, repair or decoration in respect of any of the Charged Assets which consist of property, buildings, structures, plant, machinery or equipment as it thinks fit and whether or not in accordance with any obligations imposed by the Facility Agreement.

2.5 Assumption of rights

To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any Charged Asset.

2.6 Insurance

To effect insurances on such terms as it thinks fit.

2.7 Planning permissions and consents

To obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences in relation to any development or use of the Charged Assets.

2.8 Acquisition of property

To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights.

2.9 Negotiation

To negotiate and conclude reviews of rent and otherwise deal in relation to the Occupational Leases and the tenants' and guarantors' respective obligations under them.

3. Disposals

3.1 Selling

To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:

- (A) for immediate or deferred consideration;
- (B) in return for a single payment or instalments; and
- (C) for consideration wholly or partly in cash, property or securities in whatever form,

and in all cases the terms of which shall bind any subsequent mortgagee.

3.2 Leasing

To grant, create or surrender any lease, tenancy, licence or other agreement relating to the disposal of or other dealing with the Charged Assets on such terms as it thinks fit and:

- (A) with or without any rent, review of rent, fine or premium; and
- (B) whether absolutely or for a term,

and in all cases the terms of which shall bind any subsequent mortgagee.

4. General

4.1 General powers

To do or abstain from doing all such things as it considers necessary or desirable for perfecting, maintaining preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the security and charges created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Agreement, including:

- (A) executing, delivering and completing all or any deeds or other documents;
- (B) using the name of the Chargor in connection with any of the purposes in this Schedule 2 (*Lender's and Receiver's powers*);
- (C) commencing, carrying out and completing any acts, matters, proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- (D) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

4.2 General

All its powers and discretions under this Deed shall be:

- (A) exercisable on such terms and conditions and otherwise as it may think fit; and
- (B) as if it were the absolute and beneficial owner.

SCHEDULE 3: NOTICE TO COUNTERPARTY TO ASSIGNED CONTRACT

To: [Counterparty]

Address: [•]

[Date]

Dear Sirs,

[Description of relevant Assigned Contract[s]] (the "Contract")

We refer to:

- (A) the Contract; and
- (B) the mortgage (the "Mortgage") dated [•] between BMC Properties and Management Limited as chargor and Deutsche Bank (Suisse) S.A. as lender (the "Lender").

We give you notice that pursuant to the Mortgage, we have assigned to the Lender all of our present and future right, title and interest in and to the Contract.

We will remain liable under the Contract to perform all the obligations assumed by us under the Contract. None of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Contract.

We will be entitled to exercise all of our rights, powers and discretions under the Contract, and you should continue to give notices under the Contract to us, unless and until you receive notice from the Lender to the contrary. In this event, all the rights, powers and discretions under the Contract will be exercisable by, and notices must be given to, the Lender or as it directs.

Please note that we have agreed not to amend, waive or vary any provision of or terminate the Contract without the prior consent of the Lender.

We confirm that you may comply with the instructions in this letter without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice, and confirm that you will pay all moneys in respect of the Contract as directed by or pursuant to this notice, by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

For and on behalf of
BMC Properties and Management Limited

as Chargor

SCHEDULE 4: NOTICE TO INSURERS

To: [The Insurers]

Address: [•]

[Date]

Dear Sirs

[Description of relevant Policy] (the "Insurances")

We refer to:

- (A) the Insurances; and
- (B) the mortgage (the "Mortgage") dated [•] between BMC Properties and Management Limited as chargor (the "Chargor") and Deutsche Bank (Suisse) S.A. as Lender (the "Lender").

We give you notice that pursuant to the Mortgage, we have assigned to the Lender all of our present and future right, title and interest in and to the Insurances.

- 1. All moneys payable by you to the Chargor in respect of the Insurances other than third party Insurances shall be paid as directed by the Chargor, unless and until you receive written notice from the Lender to the contrary, in which event you should make all future payments as then directed by the Lender.
- 2. Subject to any applicable legislation and despite the assignments referred to above, all sums in respect of any claim under any third party Insurance by an insured party shall be paid:
- 3. directly to the person whose claim(s) constitute(s) the risk or liability insured against, provided that such person has executed a discharge of all claims against each insured party in respect of the risk or liability in relation to which the claim was made; or
- 4. (despite any policy term to the contrary) to the extent that insurers accept liability to indemnify the insured party in respect of the claims or liabilities which the insured party has settled directly with the claimant, to the relevant insured party, unless the insured party is us, in which case such sums shall be paid as directed by the Lender.
- 5. This authority and instruction is irrevocable without the prior written consent of the Lender.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice, and confirm that you will pay all moneys in respect of the Insurances as directed by or pursuant to this notice, by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

For and on behalf of
BMC Properties and Management Limited
as Chargor

[On duplicate]

We acknowledge receipt of the Notice of Assignment of which this is a copy and agree to comply with its terms. We confirm that we have not received any other notice of assignment or notice that any other person claims any rights in respect of the Insurances.

For and on behalf of
[The Insurer]

Date:

SCHEDULE 5: NOTICE TO TENANTS

[On the letterhead of the Chargor]

To: [Tenant]

[Date]

Dear Sirs,

Re: [Property]

This letter constitutes notice to you that under a mortgage (the "Mortgage") dated [•] between BMC Properties and Management Limited as chargor (the "Chargor") and Deutsche Bank (Suisse) S.A. as Lender (the "Lender") we have assigned to the Lender all of our present and future right, title and interest in and to [describe lease] (the "Lease").

We will remain liable under the Lease to perform all the obligations assumed by us under the Lease. None of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Lease.

Please note that we have agreed not to amend, waive or vary any provision of or terminate the Lease without the prior consent of the Lender.

We confirm that you may comply with the instructions in this letter without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions.

The instructions in this letter apply until you receive notice from the Lender to the contrary and notwithstanding any previous instructions given by us.

The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by English law.

Please acknowledge receipt of this notice by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

Yours faithfully,

.....
For and on behalf of
BMC Properties and Management Limited
as Chargor

[On duplicate]

We acknowledge receipt of the notice of which this is a copy and agree to comply with its terms. We confirm that we have not received any other notice of assignment or charge or notice that any other person claims any rights in respect of the Lease.

We accept the instructions contained in the notice.

We confirm that we have not received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Chargor under or in respect of the Lease (as defined in the notice).

.....
For and on behalf of
[]

Date:

SCHEDULE 6: NOTICE TO COUNTERPARTY TO REPORTS

To: [•]

Address: [•]

[Date]

Dear Sirs,

The Reports listed in the schedule attached to this Notice (the "Reports")

1. We refer to:

(A) the Reports; and

(B) the mortgage (the "Mortgage") dated [•] between BMC Properties and Management Limited as Chargor and Deutsche Bank (Suisse) S.A. as Lender (the "Lender").

We give you notice that pursuant to the Mortgage, we have assigned to the Lender all of our present and future right, title and interest in and to the Reports.

2. We irrevocably and unconditionally instruct and authorise you to disclose to the Lender any information relating to the Reports which the Lender may request. None of the Lender, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Reports.

3. The instructions in this letter:

(A) may be complied with without any further permission from us and without enquiry by you as to the justification for or validity of any notice, request or instructions;

(B) apply until you receive notice from the Lender to the contrary, notwithstanding any previous instructions given by us; and

(C) may not be revoked or amended without the prior written consent of the Lender.

This notice and any non-contractual obligations and other matters arising from or in connection with it are governed by, and shall be construed in accordance with, English law.

Please acknowledge receipt of this notice by signing the acknowledgement on the attached copy of this notice and returning that copy to the Lender at Deutsche Bank (Suisse) S.A., Place des Bergues 3, 1201 Geneva, Switzerland, marked for the attention of Anton Hoelz.

As authorised signatory
For and on behalf of

BMC Properties and Management Limited
as Chargor

EXECUTION PAGE OF MORTGAGE

The Chargor

EXECUTED as a DEED by **BMC PROPERTIES**)
AND MANAGEMENT LIMITED acting by a)
director in the presence of:)

Director

Witness Signature:

Witness Name:

Address:

Occupation:

The Lender

EXECUTED as a DEED by
DEUTSCHE BANK (SUISSE) S.A.
acting by

)
)
)
)

Francisco Rancano
Director

Authorised Signatory's Name

)
)
)
)

Carlos Dolz
Associato

Authorised Signatory's Name