

026174113

In accordance with
Sections 859A and
859J of the Companies
Act 2006

MR01**Particulars of a charge****Companies House**

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

You can use the WebFiling
Please go to www.companieshouse.gov.uk

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

☐ **What this form is NOT for**
You may not use this form to
register a charge where there is
an instrument. Use form MR08.



A26 *A51NWHKH* #231
27/02/2016
COMPANIES HOUSE

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

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

1 Company details

Company number 0 2 6 7 0 2 7 3

Company name in full Berkley Estates London Limited

12 For official use

→ Filing in this form

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 1 1 0 2 2 0 1 6

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

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

Name Sanne Fiduciary Services Limited

Name

Name

Name

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

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

MR01

Particulars of a charge

4

Brief description

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

Brief description

N/A

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

Please limit the description to the available space

5

Other charge or fixed security

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

☒ **Yes**

☐ **No**

6

Floating charge

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

☐ **Yes** Continue

☒ **No** Go to **Section 7**

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

☐ **Yes**

7

Negative Pledge

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

☒ **Yes**

☐ **No**

8

Trustee statement ^①

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

☐

^① This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X

Gateley (Scotland) LLP

X

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

MR01

Particulars of a charge



Presenter information

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

Contact name James Whiteside

Company name Gateley (Scotland) LLP

Address Exchange Tower

19 Canning Street

Post town Edinburgh

County/Region

Postcode E H 3 8 E H

Country Scotland

DX

Telephone



Certificate

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



Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

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



Important information

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



How to pay

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

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



Where to send

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

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

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

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



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2670273

Charge code: 0267 0273 0012

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th February 2016 and created by BERKLEY ESTATES LONDON LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th February 2016.

Given at Companies House, Cardiff on 4th March 2016



Companies House



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

HBJ•Gateley

DATED 11 February 2016

- (1) **BERKLEY ESTATES LONDON LIMITED**
- (2) **SANNE FIDUCIARY SERVICES LIMITED**

ASSIGNMENT IN SECURITY OF LOANS

Ref INT116 1

Exchange Tower
19 Canning Street
Edinburgh
EH3 8EH

DX ED 27 Edinburgh

T +44 (0) 131 228 2400
F +44 (0) 131 222 9800

www.gateleyuk.com

Certified as a true copy of
the original subject to the
exclusion of personal
information permitted by
Section 859G of the
Companies Act 2006

Gateley (Scotland) LLP

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DATE: 11 February 2016

PARTIES:

- (1) **BERKLEY ESTATES LONDON LIMITED** a company incorporated and registered in England and Wales (registered number 02670273) whose registered address is at 55 Baker Street, London, W1U 7EU (the "**Chargor**"), and
- (2) **SANNE FIDUCIARY SERVICES LIMITED** a company incorporated in Jersey whose registered office is 13 Castle Street, St Helier, Jersey, JE4 5UT (as agent and security trustee for and on behalf of the Finance Parties which expression shall include all successor agents and/or security trustees appointed from time to time) (the "**Chargee**").

1 Definitions and interpretation

1.1 In this assignment the following definitions will apply

"Administrator"	any person appointed to be an administrator of the Chargor pursuant to paragraph 14 of Schedule B1 Insolvency Act,
"Agent"	has the meaning given to it in the Facility Agreement,
"Agreements"	the agreements specified in schedule 1,
"Assigned Assets"	<p>The Subordinated Debt, the Agreements, the Authorisations and the Collateral Instruments including, in each case</p> <ol style="list-style-type: none">(a) the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them,(b) all remedies provided for in any of them or available at law or in equity in relation to any of them,(c) the right to compel performance of any of them, and(d) all other rights, interests and benefits whatsoever accruing to or for the Chargor's benefit arising from any of them <p>together with the Proceeds,</p>
"Authorisations"	all authorisations (statutory or otherwise) held or required in connection with the Subordinated Debt or any Agreement, and all rights in connection with them,
"Business Day"	any day (other than a Saturday, Sunday or public holiday) during which clearing banks in the City of London are open for normal business,
"Collateral Instruments"	all other contracts, guarantees, indemnities, undertakings, appointments, warranties, bonds, Security and other documents in connection with the Subordinated Debt and/or any Agreements to

	which the Chargor is a party, or which are in the Chargor's favour or of which the Chargor (directly or indirectly) has the benefit,
"Collections Accounts"	has the meaning given to that term in clause 14.1.4,
"Companies Act"	the Companies Act 2006,
"Company"	Topland (HG 2) Limited;
"Cost of Funds"	has the meaning given to it in the Facility Agreement,
"Default Interest"	any interest accruing in accordance with clause 4,
"Default Rate"	means the rate of interest payable in accordance with the terms of any agreements or letters setting out the terms of or constituting the Secured Liabilities in relation to any amount which is not paid on the due date therefor,
"Delegate"	any delegate, agent, attorney or trustee appointed by the Chargee,
"Event of Default"	has the meaning given to that term in the Facility Agreement,
"Facility Agreement"	the facility agreement dated on or about the date of this assignment and made between (1) the Company (as borrower) and (2) Longbow (as lender) pursuant to which Longbow has agreed to make certain facilities available to the Company;
"Finance Documents"	has the meaning given to that term in the Facility Agreement,
"Finance Party"	Has the meaning given to it in the Facility Agreement,
"Insolvency Act"	the Insolvency Act 1986,
"Interest Payment Date"	has the meaning given to that term by the Facility Agreement,
"Lender"	has the meaning given to that term by the Facility Agreement,
"Lenders' Representative"	has the meaning given to that term by the Facility Agreement,
"Longbow"	ICG Longbow Senior Debt Investments No 1 LLP
"LPA"	the Law of Property Act 1925,
"Margin"	Has the meaning given to it in the Facility Agreement,

"Party"	a party to this assignment,
"Proceeds"	under or in connection with any Assigned Asset <ul style="list-style-type: none"> (a) all present and future debts, rentals, royalties, fees, VAT and monetary claims due or owing to the Chargor and all other amounts recoverable or receivable by the Chargor from other persons or due or owing to the Chargor (whether actual or contingent and whether arising under contract or in any other manner whatsoever), (b) the benefit of all rights and remedies of any nature relating to any of the foregoing including claims for damages and other remedies for non-payment of the same, all entitlements to interest, negotiable instruments, guarantees, indemnities, Security, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights, and (c) all proceeds of any of the foregoing,
"Receiver"	any receiver, manager or receiver and manager appointed by the Chargee under this assignment,
"Reservations"	has the meaning given to that term by the Facility Agreement,
"Secured Liabilities"	all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or as principal debtor, guarantor, surety or in any other capacity whatsoever or as the equivalent obligor under the laws of any other jurisdiction) of the Company to the Chargee under any of the Finance Documents and including any obligations and liabilities of the Company to third parties assigned, novated or otherwise vested in the Chargee pursuant to the Finance Documents (all such obligations and liabilities the "Obligations") together with <ul style="list-style-type: none"> (a) all costs, charges and expenses incurred by the Chargee in connection with the protection, preservation or enforcement of the Chargee's rights under any of the Finance Documents, (b) any refinancing, novation, refunding, deferral or extension of any of the Obligations under the Finance Documents,

- (c) any further advances and additional facilities which may be made by Longbow to the Company under any agreement expressed to be supplemental to any of the Finance Documents and all interest, fees and costs in connection with the same,
- (d) any claim for damages or restitution in the event of rescission of any of the Obligations or otherwise in connection with any of the Finance Documents,
- (e) any claim against the Company flowing from the recovery by the Company of a payment or discharge in respect of any of the Obligations under the Finance Documents on grounds of preference or otherwise,
- (f) all interest (including Default Interest) accruing in respect of the Obligations under the Finance Documents, and
- (g) any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings

provided that no obligation or liability shall be included in this definition of "Secured Liabilities" to the extent that, if it were so included, this assignment (or any part of it) would constitute unlawful financial assistance within the meaning of sections 678 and 680 of the Companies Act,

"Security"

a mortgage, charge, pledge, trust, assignment by way of security, lien, hypothecation or other encumbrance, arrangement or security interest securing any obligation of any person or any other agreement or arrangement having a similar effect or any title retention rights or set-off rights created by agreement,

"Spot Rate of Exchange"

on a particular day, the spot rate of exchange of the Chargee, for the purchase of the relevant currency in the London foreign exchange market with sterling at or about 10 00am (London time) on such day,

"Subordinated Debt"

means all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing due or incurred by the Company to the Chargor,

"Taxes"

any tax, levy, impost, duty or other charge or withholding of a similar nature (including any

- penalty or interest payable in connection with any failure to pay or any delay in paying any of the same),
- "Unpaid Sum"** has the meaning given to it in the Facility Agreement, and
- "VAT"** value added tax provided for in the Value Added Tax Act 1994 and any other Tax of a similar nature
- 1 2 In this assignment, a reference to
- 1 2 1 a clause or a schedule is, unless otherwise stated, a reference to a clause of, or a schedule to, this assignment,
- 1 2 2 a paragraph is, unless otherwise stated, a reference to a paragraph of a schedule,
- 1.2 3 a provision of law includes a reference to that provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this assignment,
- 1 2.4 a person includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality),
- 1 2 5 a **"Party"**, the **"Chargor"**, or the **"Chargee"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees,
- 1 2 6 **"disposal"** includes any sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and **"dispose"** will be construed accordingly,
- 1.2 7 a company shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established,
- 1.2 8 this assignment or any provision of this assignment or any other agreement, document or instrument is to this assignment, that provision or that agreement, document or instrument as amended, novated, supplemented, extended or restated, and
- 1 2 9 a time of day is a reference to London time
- 1 3 The schedules form part of this assignment and have the same effect as if expressly set out in the body of this assignment and shall be interpreted and construed as though they were set out in this assignment
- 1 4 The contents table and headings in this assignment are for convenience only and do not affect the interpretation or construction of this assignment
- 1 5 Words importing the singular include the plural and vice versa and words importing a gender include every gender
- 1 6 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible

- 1.7 Unless a contrary intention appears, sub-clause 1.2 (*Construction*) of the Facility Agreement shall apply to this assignment, and shall be deemed to be incorporated into this assignment, mutatis mutandis, as though set out in full in this assignment, with any reference to "this Agreement" being deemed to be a reference to "this assignment", subject to any necessary changes
- 1.8 "£" and "sterling" denotes lawful currency of the United Kingdom
2. **Covenant to pay**
- The Chargor covenants with the Chargee that it will pay or discharge on demand the Secured Liabilities when the same fall due for payment
3. **Limited Recourse**
- 3.1 Notwithstanding clause 2 (*Covenant to pay*) or any other provision of this assignment,
- 3.1.1 the liability of the Chargor to the Chargee, any Receiver, any Delegate and the Finance Parties under this assignment (including without limitation clause 2 (*Covenant to pay*)) shall be
- 3.1.2 limited in aggregate to an amount equal to that recovered by the Chargee, any Receiver, any Delegate or the Finance Parties as a result of the enforcement of this assignment with respect to the Assigned Assets, and
- 3.2 satisfied only from the proceeds of sale or other disposal or realisation of the Assigned Assets pursuant to this assignment, and
- 3.3 the Chargee, any Receiver, any Delegate and the Finance Parties shall not have any recourse under this assignment (including without limitation clause 2 (*Covenant to pay*)) to any assets of the Chargor other than the Assigned Assets
- 4 **Default Interest**
- 4.1 Any amount which is not paid under this assignment when due shall bear interest in accordance with the terms of the Facility Agreement, save that the Chargor shall not be required to pay interest at the Default Rate pursuant to this sub-clause 4.1 on any amount on which the Company is required to pay interest at the Default Rate pursuant to the Facility Agreement
- 4.2 Default Interest will be calculated on the basis of the actual number of days elapsed and a year of 365 days and will be compounded at quarterly intervals
- 5 **Assignment**
- 5.1 As a continuing security for the payment of the Secured Liabilities, the Chargor hereby, with full title guarantee, **assigns and agrees to assign** absolutely (subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities) in favour of the Chargee all the rights, title, interest and benefit of the Chargor in and to the Assigned Assets
- 5.2 Following execution of this assignment, the Chargor will promptly execute and deliver to each other party to the Agreements a notice substantially in the form set out in part I of schedule 2 and that the Chargee receives an acknowledgement from each such party substantially in the form set out in part II of schedule 2
- 6 **Continuing security**
- 6.1 This assignment shall be in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security which the Chargee may at any time hold in respect of any of the Secured Liabilities and this assignment may be enforced against the Chargor without the Chargee first having recourse to any other right, remedy, guarantee or Security held or available to it

6 2 This assignment shall remain in full force and effect as a continuing security until the Chargee shall have certified in writing that the Secured Liabilities have been discharged in full

7 **Clawback**

7 1 Any release, discharge, reassignment or settlement between the Chargor and the Chargee shall be deemed conditional upon no payment or Security received by the Chargee in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration or receivership and, notwithstanding any such release, discharge, reassignment or settlement

7 1 1 where any Security is held by the Chargee or its nominee in respect of this assignment and/or the Secured Liabilities, the Chargee may retain such Security for such period as the Chargee shall, in its absolute discretion, deem necessary; and

7 1 2 the Chargee shall be entitled to recover the value or amount of such Security or payment from the Chargor as if such release, discharge or settlement had not occurred

7 2 If any claim of the kind referred to in clause 7 1 is made against the Chargee under insolvency laws, the Chargee may agree the claim or settle it on any terms it chooses without asking for the Chargor's agreement. If the Chargee does agree or settle the claim, the Chargor will be liable under this assignment as if a court order had been made containing the terms the Chargee has agreed. The Chargor will be responsible for all costs and expenses the Chargee properly incurs defending such a claim

8 **Waiver of rights**

8 1 The obligations of the Chargor under this assignment will not be affected by:

8 1 1 any time, waiver or consent granted to, or composition with the Chargor or any other person;

8 1 2 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor,

8 1 3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights or remedies against, or Security over assets of the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument,

8 1 4 the Chargee failing to realise the full value of any Security held by it,

8 1 5 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person or any defective or excessive exercise of the Chargor's powers or authority,

8 1 6 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) termination or replacement of the Secured Liabilities or any document, guarantee or Security related to the Secured Liabilities including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility or other document or Security,

8 1 7 any unenforceability, illegality, invalidity, irregularity or frustration of any obligation (actual or purported) of any person under this assignment or

- any other document, guarantee or Security held in connection with the Secured Liabilities,
 - 8 1.8 any claim or enforcement of payment from any Chargor or any other person;
 - 8 1 9 any insolvency, bankruptcy, liquidation, administration, winding-up, incapacity, dissolution, limitation, disability, the discharge by operation of law or any similar proceedings in respect of the Chargor or any other person, or
 - 8 1 10 any change in the constitution, name or style of the Chargor or any other person, or if the Chargor or such other person is a partnership or other unincorporated organisation, its dissolution or any change in its status or membership.
- 9 Chargee's protections**
 - 9 1 The Chargee may make one or more demands under this assignment.
 - 9 2 This assignment shall be in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security which the Chargee may at any time hold in respect of any of the Secured Liabilities and this assignment may be enforced without the Chargee first having
 - 9 2 1 recourse to any other right, remedy, guarantee or Security held or available to it;
 - 9 2 2 to take action or obtain judgment in any court against the Chargor or any other person,
 - 9.2 3 to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Chargor or any other person, or
 - 9 2 4 to make demand, enforce or seek to enforce any claim, right or remedy against the Chargor or any other person
- 10 Negative pledge**

The Chargor covenants with the Chargee that, during the continuance of the Security created by this assignment, it shall not without the prior written consent of the Chargee

 - 10 1 create, purport to create or permit to subsist any Security upon any of the Assigned Assets, or
 - 10 2 sell, transfer, lease, licence, lend, part possession with, grant any interest in, or otherwise dispose of, whether by a single transaction or a number of transactions and whether related or not, the whole or any part of the Assigned Assets
- 11 Further assurance and power of attorney**
 - 11 1 Further assurance**
 - 11 1 1 The Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Chargee may reasonably specify (and in such form as the Chargee may reasonably require in favour of the Chargee or its nominee(s))
 - 11 1 1 1 to perfect the Security created or intended to be created under or evidenced by this assignment (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 assignment) or for the exercise of any rights, powers and remedies of the Chargee provided by or pursuant to the Finance Documents or by law,

11.1.1.2 to confer on the Chargee 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 assignment, and/or

11.1.1.3 to facilitate the realisation of the assets which are, or are intended to be, the subject of this assignment

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

11.1.3 To the extent that any Assigned Assets have not been validly assigned to the Chargee under clause 5, the Assignor shall hold each of the Assigned Assets on trust for the Assignee and shall comply with the terms of this assignment as if such Assigned Assets had been validly assigned to the Chargee.

11.2 Power of attorney

11.2.1 The Chargor by way of security irrevocably appoints the Chargee and any Receiver or Delegate (in writing under hand signed by an officer of the Chargee or any Receiver or Delegate) severally to be its agents and attorneys in its name and on its behalf to

11.2.1.1 do all things which the Chargor may be required to do under this assignment but which the Chargor fails to do within reasonable time following request,

11.2.1.2 sign, execute (using the company seal where appropriate), deliver and otherwise perfect any Security required to be signed or executed pursuant to the terms of this assignment, and

11.2.1.3 sign, execute (using the company seal where appropriate), deliver and complete any deeds, instruments or other documents and to do all acts and things which may be reasonably required by the Chargee or any Receiver or Delegate in the exercise of any of their powers under this assignment, or to perfect or vest in the Chargee, any Receiver or Delegate, its nominees or any purchaser, title to any Assigned Assets or which they may deem expedient in connection with the getting in, disposal, or realisation of any Assigned Assets in accordance with their powers under this assignment

11.2.2 Each agent and attorney may appoint a substitute or delegate his authority. The Chargor ratifies and confirms (and agrees to ratify and confirm) anything which an attorney does under the power of attorney conferred by clause 11.2.1

12. Representations and warranties

12.1 The Chargor represents and warrants to the Chargee that

12 1 1 Status

12 1 1 1 it is a limited company duly organised, validly existing and registered under the relevant laws of its jurisdiction of incorporation,

12 1 1 2 it has the power and all necessary governmental and other consents, approvals, licences and authorities to own its assets and carry on its business as it is being conducted,

12 1 2 Authority

it is empowered to enter into and perform its obligations contained in this assignment and has taken all necessary action to authorise the execution, delivery and performance of this assignment, to create the Security to be constituted by this assignment and to observe and perform its obligations under this assignment,

12.1 3 Binding obligations

the obligations expressed to be assumed by it in this assignment are legal, valid, binding and (subject to the Reservations) enforceable obligations,

12 1 4 Non-conflict with other obligations

the entry into and performance by it of, and the transactions contemplated by, this assignment and the granting of this assignment and Security constituted by this assignment do not and will not conflict with

12 1 4 1 any law or regulation applicable to it,

12 1.4.2 its constitutional documents, or

12 1 4 3 any agreement or instrument binding upon it or any of its material assets or constitute a default or termination event (however described) under any such agreement or instrument,

12 1.5 Entire agreement

the counterparts and instruments or other documents comprising the Agreements as provided to the Chargee before the date of this assignment evidence all terms of the Agreements, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of any Assigned Asset,

12 1 6 Enforceability

no Assigned Asset is void, voidable or otherwise unenforceable and no Security expressed to be created by this assignment is liable to be avoided or otherwise set-aside, on the liquidation or administration of the Chargor or otherwise,

12 1 7 Authority to assign

it is entitled as against the other parties to the Agreements and each of them to enter into and effect this assignment and any consents to and approvals of this assignment which are required have been obtained prior to the date of this assignment,

12 1 8 No waiver

it has not granted any waiver of rights nor any allowance of time nor any forbearance or forgiveness in or in respect of any matter or thing concerning any of the Agreements,

12 1 9 No variation

it has not varied, departed from or altered the terms or conditions of any of the Agreements and no such variation or departure is contemplated,

12 1 10 No claim

has not made any claim under any of the Agreements whether in reliance on the obligations in any of the Agreements or in respect of any breach of any of the Agreements and has not received or acknowledged notice of any adverse claim by any person in respect of the Assigned Assets or any interest in them,

12 1 11 Due performance and no breach

12 1 11 1 it has fully and duly performed all duties and undertakings falling to be performed by it under the Agreements prior to and up to the date of this assignment and is not in breach of any of its obligations under the Agreements,

12.1 11 2 nothing has occurred which is or would constitute an event of default (howsoever described) under any Agreement or other document or agreement comprising the Assigned Assets or which would entitle a party to such Assigned Asset to terminate or rescind such Assigned Asset,

12 1 12 No Security

it is the sole legal and beneficial owner of the Assigned Assets and the Assigned Assets are free from any Security

12 2 Matters represented

Each of the representations and warranties in clause 12 1 will be correct and complied with in all material respects on each Interest Payment Date during the continuance of the Security constituted by this assignment

13 General covenants of the Chargor

The Chargor hereby covenants with the Chargee that it will:

13 1 Authorisations and statutes

in relation to the Assigned Assets, procure and maintain in effect all approvals, authorisations, consents and registrations necessary or appropriate and comply with all obligations under any present or future statute, regulation, order and instrument or under any by-laws, regulations or requirements of any competent authority or other approvals, licences or consents and, if requested by the Chargee, produce to the Chargee, within 14 days of receipt of the same, every material notice, order or proposal given or made in relation to the Assigned Assets by any competent authority and either comply with the same or make such objections and representations against the same as the Chargee may require or approve,

13 2 Notify breach

notify the Chargee of any breach of an Assigned Asset by a counterparty and furnish to the Chargee all particulars relating thereto available to them and inform the Chargee of the steps taken or proposed to be taken by way of compliance,

13 3 No variation or waiver

not to make or agree to any material variation, cancellation, waiver or termination of any an Assigned Asset or compromise or settle any claim in relation to the Assigned Assets or release any party to the Agreements from any of its obligations in respect of the Assigned Assets or waive any breach of the same or any of the Chargor's rights under the Assigned Assets, except as (in any such case) otherwise approved by the Chargee,

13 4 Exercise of rights

not at any time exercise any right or power conferred on it by the Assigned Assets in any manner which the Chargee believes is adverse to the interests of the Chargee under the Finance Documents and to exercise any such right or power in the manner directed by the Chargee and allow its name to be used as and when required by the Chargee for these purposes,

13 5 Performance of obligations

13 5.1 at all times observe and perform all its obligations under the Assigned Assets and shall use all reasonable endeavours to secure compliance by each counterparty to the Assigned Assets of their respective obligations under the Assigned Assets,

13 5 2 remain liable to perform the obligations assumed by it in respect of the Assigned Assets and the Chargee shall be under no obligation of any kind whatsoever or be under any liability whatsoever in relation to the Assigned Assets by reason of this assignment or as a result of the Chargor failing to observe, perform or fulfil any of its obligations or liabilities under any Finance Document or in respect of any Assigned Asset,

13 6 Preservation of Assigned Assets

save as permitted pursuant to the Finance Documents, not do or permit to be done any act or thing which would or might depreciate, jeopardise or otherwise prejudice the Security held by the Chargee pursuant to this assignment or diminish the value of any Assigned Asset or the effectiveness of the Security created by this assignment,

13.7 Deposit of documents and provision of information

13 7 1 unless the Chargee otherwise confirms in writing, immediately on entering into this assignment deposit with the Chargee all Agreements and all certificates, deeds and documents of title relating to the Assigned Assets,

13 7 2 immediately on entering into this assignment or, if later, promptly on receipt of the same, provide the Chargee with a copy of any report, notices, circulars, accounts, invoice, certificate, valuation, variation notice, order, direction, permission or other communication received in respect of or in connection with any of the Agreements, and

13 7 3 promptly following request by the Chargee, provide the Chargee with such other information as the Chargee may request in relation to the Assigned Assets

14 Proceeds

14 1 Dealings with and realisation of Proceeds

The Chargor hereby covenants and undertakes

14 1 1 without prejudice to clause 10 but in addition to the restrictions in that clause, not, without the prior written consent of the Chargee or as

otherwise permitted pursuant to the Finance Documents, exercise (or allow any other person to exercise) set-off against any Proceeds nor to sell, assign, charge, factor or discount or in any other manner deal with any of the Proceeds,

- 14 1 2 to collect all Proceeds in the ordinary course of trading as agent for the Chargee in accordance with any directions given by the Chargee from time to time,
- 14 1 3 not to extend the due date for payment of any Proceeds nor to waive any right of recovery or do or omit to do anything which may delay or prejudice recovery of any Proceeds,
- 14 1 4 if requested by the Chargee and following enforcement of this assignment pursuant to clause 15 (*Enforcement of Security*) below, to open such bank accounts (including separate designated accounts, blocked accounts or trust accounts) in the name of the Chargor with such mandates as the Chargee may specify (such account(s) together with all additions to or renewals or replacements of such accounts (in whatever currency) being the "**Collections Accounts**") and to procure that all monies which it may receive in respect of the Proceeds are paid into such Collections Accounts as the Chargee may specify from time to time and pending such payment, to hold all such monies so received upon trust for the Chargee and only deal with the monies in any Collections Account in accordance with the written directions of the Chargee from time to time (subject only to such rights as the bank at which the account is held may have), and
- 14 1 5 following enforcement of this assignment pursuant to clause 15 (*Enforcement of Security*) below and where any Collections Account is not maintained with the Chargee deliver to the bank with which the relevant Collections Account is maintained a notice to that bank and procure that that bank has signed and delivered to the Chargee a letter of acknowledgement of such notice in each case in form and content acceptable to the Chargee

14 2 **Collections Accounts**

The Chargor may withdraw (or direct any transfer of) all or any part of the monies in the Collections Accounts for its general working capital purposes until notified otherwise by the Chargee, provided that the Chargee may only give such notification following enforcement of this assignment pursuant to clause 15 (*Enforcement of Security*) below. Immediately on receipt of such notification and thereafter, the Chargor will not attempt or be entitled to withdraw (or direct any transfer of) all or any part of the monies in the Collections Accounts without the prior written consent of the Chargee and the Chargee shall be entitled in its absolute discretion to refuse to permit any such withdrawal or transfer. If there shall from time to time be any credit balance on any other account of the Chargor with the Chargee into which any Proceeds are paid or transferred, the Chargee shall be entitled in its absolute discretion to refuse to permit such credit balance to be utilised or withdrawn by the Chargor (whether in whole or in part) for so long as any of the Secured Liabilities are outstanding.

14 3 **Particulars of Proceeds**

The Chargor will deliver to the Chargee such information as to the amount and nature of the Proceeds as the Chargee may from time to time reasonably require, taking into account the requirements of the Finance Documents.

15 Enforcement of Security

15 1 The Security constituted by this assignment shall become immediately enforceable at any time when an Event of Default is continuing and the power of sale and other powers conferred by section 101 LPA, as varied or amended by this assignment, shall be immediately exercisable without further notice upon and at any time after the occurrence of an Event of Default. After the Security constituted by this assignment has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the Security constituted by this assignment in such manner as it sees fit.

15 2 For the purposes of all powers implied by statute, the Secured Liabilities shall be deemed to have become due and payable on the date of this assignment and sections 93 and 103 LPA shall not apply to the Security constituted by this assignment.

16 Redemption of prior Security

At any time after the Security created under this assignment has become enforceable, the Chargee may, at the sole cost of the Chargor (payable to the Chargee on demand) redeem any prior Security over any Assigned Asset and/or procure the transfer of that Security to itself and/or settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor. All money paid by the Chargee to such prior mortgagee, chargee or encumbrancer in accordance with such accounts shall form part of the Secured Liabilities.

17 Appointment and powers of Receiver

17 1 At any time after the Security constituted by this assignment becomes enforceable, or if so requested by the Chargor by written notice at any time, the Chargee (or any Delegate on its behalf) may

17 1 1 without further notice appoint any person (or persons) to be a Receiver of all or any part of the Assigned Assets and/or of the income from any Assigned Asset, and/or

17 1 2 exercise in respect of all or any of the Assigned Assets all or any of the powers and remedies given to mortgagees by the LPA, including the power to take possession of, receive the benefit of, or sell any of the Assigned Assets.

17 2 The Chargee may remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated for whatever reason.

17 3 If at any time and by virtue of any such appointment there is more than one Receiver of all or any part of the Assigned Assets and/or the income from such Assigned Assets, such persons shall have power to act individually (unless the contrary shall be stated in the deed(s) or other instrument(s) appointing them).

17 4 If the Chargee enforces this assignment itself pursuant to clause 17 1 2 it will have the same powers as a Receiver in respect of those Assigned Assets which are the subject of the enforcement.

17 5 Any Receiver shall (in addition to the powers conferred by the LPA and (notwithstanding that he is not an administrative receiver) schedule 1 of the Insolvency Act or any other statute from time to time in force but without any of the restrictions imposed upon the exercise of those powers by such statutes) have the following powers.

17 5 1 the same powers to do, or to omit to do, in the name of and on behalf of the Chargor, anything which the Chargor itself could have done or omitted

- to do with such Assigned Assets were they not the subject of this assignment and the Chargor were not in insolvency proceedings,
- 17 5 2 to take possession of, collect and get in all or any part of the Assigned Assets and/or income in respect of which he was appointed,
- 17 5 3 to manage the Assigned Assets,
- 17 5 4 to redeem any Security and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise,
- 17 5 5 to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which the Chargor is concerned or interested prior to his appointment, being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land,
- 17 5 6 to sell or concur in selling or otherwise disposing of all or any part of the Assigned Assets in respect of which he was appointed without the need to observe any restriction imposed by section 103 or 109 LPA,
- 17 5 7 to carry out any sale, lease or other disposal of all or any part of the Assigned Assets by conveying, transferring, assigning or leasing the same in the name of the Chargor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, the Chargor,
- 17 5 8 to take any such proceedings, in the name of the Chargor or otherwise, as he shall think fit in respect of the Assigned Assets and/or income in respect of which he was appointed, including proceedings for recovery of monies in arrears at the date of his appointment,
- 17 5 9 to enter into or make any such agreement, arrangement or compromise as he shall think fit,
- 17 5 10 to insure, and renew any insurances in respect of, the Assigned Assets as he shall think fit, or as the Chargee shall direct,
- 17 5 11 to appoint and employ such managers and officers and engage such professional advisers as he shall think fit, including, without prejudice to the generality of the foregoing power, to employ his partners and firm, and
- 17 5 12 to do all such other things as may seem to him to be incidental or conducive to any other power vested in him in the realisation of the Security constituted by this assignment
- 17 6 In making any sale or other disposal in the exercise of their respective powers, the Receiver or the Chargee or any Delegate may accept, as and by way of consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including consideration fluctuating according to or dependent upon profit or turnover and consideration the amount whereof is to be determined by a third party Any such consideration may be receivable in a lump sum or by instalments and upon receipt by the Receiver, Chargee or any Delegate shall *ipso facto* be and become charged with the payment of the Secured Liabilities Any contract for any such sale or other disposal by the Receiver or the Chargee or any Delegate may contain conditions excluding or restricting the personal liability of the Receiver, the Chargee and any Delegate

- 17 7 Any Receiver appointed hereunder shall be the agent of the Chargor and (subject to the provisions of the Companies Act and the Insolvency Act) the Chargor shall be solely responsible for his acts and defaults and for his remuneration
- 17 8 Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Chargee (or failing such agreement to be fixed by the Chargee) without the restrictions contained in section 109 LPA
- 17 9 Only monies actually paid by a Receiver to the Chargee in satisfaction or discharge of the Secured Liabilities shall be capable of being applied by the Chargee in satisfaction of the Secured Liabilities
- 17 10 Neither the Chargee nor any Receiver or Delegate shall be liable in respect of all or any part of the Assigned Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless such loss or damage is caused by its or his gross negligence or wilful misconduct
- 17 11 Neither the Chargee nor any Receiver or Delegate is obliged to take any particular action to collect the Proceeds and neither shall be liable to the Chargor for the manner in which it collects or fails to collect any Proceeds.
- 17 12 Without prejudice to the generality of clause 17 10, entry into possession of the Assigned Assets shall not render the Chargee or the Receiver or any Delegate liable to account as mortgagee in possession and if and whenever the Chargee or any Receiver or Delegate enters into possession of the Assigned Assets, it shall be entitled to any time at its discretion to go out of such possession
- 17 13 All or any of the powers which are conferred by this assignment on a Receiver may be exercised by the Chargee or any Delegate without first appointing a Receiver or notwithstanding the appointment of any Receiver
- 17 14 Except to the extent provided by law, none of the powers described in this clause 17 will be affected by an insolvency event in relation to the Chargor
- 18 Application of proceeds**
- 18 1 All monies received by the Chargee or any Receiver or Delegate appointed under this assignment shall (subject to the rights and claims of any person having a Security ranking in priority to the Security constituted by this assignment) be applied in the following order
- 18 1 1 in payment of the costs, charges and expenses of and incidental to the appointment of the Receiver and the payment of his remuneration,
- 18 1 2 in payment and discharge of any liabilities incurred by the Receiver on the behalf of the Chargor in the exercise of any of the powers of the Receiver,
- 18 1 3 in providing for the matters (other than the remuneration of the Receiver) specified in the first three paragraphs of section 109(8) LPA,
- 18 1 4 in or towards the satisfaction of the Secured Liabilities, and
- 18 1 5 any surplus shall be paid to the Chargor or other person entitled to it
- 18 2 The provisions of clause 18 1 shall take effect as and by way of variation and extension to the provisions of section 109 LPA, which provisions as so varied and extended shall be deemed incorporated in this assignment
- 19 Protection of third parties**
- No purchaser from or other person dealing with the Chargee or with any Receiver or Delegate shall be obliged or concerned to enquire whether the right of the Chargee to appoint a Receiver or Delegate or the right of the Chargee or any Receiver or

Delegate to exercise any of the powers conferred by this assignment in relation to the Assigned Assets or any part of the Assigned Assets have arisen or become exercisable by the Chargee or by any such Receiver or Delegate, nor be concerned with notice to the contrary, nor with the propriety of the exercise or purported exercise of any such powers and the title of such a purchaser and the position of such a person shall not be impeachable by reference to any of those matters

20 Notice of subsequent Security – new accounts

20 1 If the Chargee receives notice (whether actual or otherwise) of any subsequent Security affecting any part of the Assigned Assets and/or the proceeds of sale of the Assigned Assets, it may open a new account or accounts for the Chargor in its books

20 2 If the Chargee does not open a new account immediately on receipt of notice under clause 20 1, then (unless the Chargee gives express written notice to the contrary to the Chargor) all payments made by the Chargor to the Chargee shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Chargee

21 Consolidation of accounts and set-off

21 1 The Chargee shall be entitled without notice to the Chargor (both before and after demand)

21 1 1 to combine or consolidate all or any sums of money now or hereafter standing to the credit of the then existing accounts (including each of the Collections Accounts) of the Chargor with the Chargee with the liabilities to the Chargee of the Chargor, and

21 1 2 to set-off or transfer any sum or sums standing to the credit of any one or more of such accounts (including each of the Collections Accounts) in or towards satisfaction of any of the liabilities of the Chargor to the Chargee on any other account or in any other respect

21 2 The liabilities referred to in this clause 21 may be actual, contingent, primary, collateral, several or joint liabilities, and the accounts, sums and liabilities referred to in this clause 21 may be denominated in any currency

21 3 If the amounts concerned are expressed in a different currency then the Chargee may exercise all such rights and is authorised to effect any necessary conversions at the Spot Rate of Exchange

21 4 If the relevant obligation or liability is unliquidated or unascertained the Chargee may set-off the amount it estimates (in good faith) will be the final amount of such obligation or liability once it becomes liquidated or ascertained

22 Currency

22 1 All monies received or held by the Chargee or any Receiver or Delegate under this assignment may be converted from their existing currency into such other currency as the Chargee considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency at the Spot Rate of Exchange

22 2 No payment to the Chargee (whether under any judgment or court order or in the liquidation or dissolution of the Chargor or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made, unless and until the Chargee shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that

currency, the Chargee shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security constituted by this assignment to recover the amount of the shortfall

- 22 3 Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then

22 3 1 any reference in this assignment to, and any obligations arising under this assignment in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Chargee (after consultation with the Chargor), and

22 3 2 any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Chargee (acting reasonably)

- 22 4 If a change in any currency of a country occurs, this assignment will, to the extent the Chargee (acting reasonably and after consultation with the Chargor) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency

23 Appropriation and suspense account

- 23 1 Subject to clause 23 2, the Chargee may apply all payments received for the Secured Liabilities to reduce any part of those liabilities as it thinks fit

- 23 2 All monies received, recovered or realised by the Chargee under this assignment may at the discretion of the Chargee be credited to any suspense account for so long as the Chargee determines (with interest accruing thereon at such rate, if any, as the Chargee may determine for the account of the Chargor) without the Chargee having any obligation to apply such monies or any part of them in or towards the discharge of any of the Secured Liabilities

24 Payments

- 24 1 Subject to clause 24 2, all payments to be made by the Chargor in respect of this assignment, shall be made in immediately available funds to the credit of such account as the Chargee may designate. All such payments shall be made free and clear of, and without any deduction for, or on account of, any set-off or counterclaim or, except to the extent compelled by law, any deduction on account of any Taxes

- 24 2 If the Chargor is compelled by law to withhold or deduct any Taxes from any sum payable hereunder to the Chargee, the sum so payable by the Chargor shall be increased so as to result in the receipt by the Chargee of a net amount equal to the full amount expressed to be payable hereunder

- 24 3 Any demand, notification or certificate given by the Chargee specifying amounts due and payable under or in connection with any of the provisions of this assignment shall, in the absence of manifest error, be conclusive and binding on the Chargor

25 Costs and expenses

- 25 1 The Chargor shall within three Business Days' of demand pay the Finance Parties the amount of all costs and expenses (including legal and other professional fees) reasonably incurred by any of them (and, in the case of the Chargee, any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution and perfection of

- 25 1 1 this assignment in security, the other Finance Documents and any other documents referred to in the Facility Agreement or in a Security Document, and
- 25 1 2 any other Finance Documents executed after the date of this assignment in security and the Facility Agreement
- 25 2 If the Chargor requests an amendment, waiver or consent the Chargor shall, within three Business Days of demand, reimburse each Finance Party for the amount of all costs and expenses (including valuation and legal fees) reasonably incurred by each Finance Party (and, in the case of the Chargee, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement
- 25 3 The Chargor shall, within three Business Days of demand, pay to each Finance Party the amount of all costs and expenses (including legal fees, valuers' fees and consulting fees) incurred by that Finance Party (or any Receiver or Delegate on behalf of the Chargee) in connection with the enforcement of, or the preservation of any rights under, any Finance Document and any proceedings instituted by or against the Chargee as a consequence of taking or holding the Security constituted by the Security Documents or enforcing or preserving such rights
- 25 4 The Chargor shall, within three Business Days of written demand by the Chargee, pay the Chargee the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the administration and/or release of any Security constituted or intended to be constituted by the Security Documents
- 25 5 In the event of
- 25 5 1 an Event of Default which is continuing, and/or
- 25 5.2 the Chargee being requested by the Chargor, the Lenders or the Lenders' Representative to undertake duties of an exceptional nature and/or outside the scope of the normal duties of the Chargee under the Finance Documents,
- 25 5 3 then, in each case, the Chargor shall pay to the Chargee any additional remuneration requested or determined by the Chargee (which remuneration must be reasonably incurred in the case of Clause 25 5 2
- 25 6 The Chargee may, at any time (and shall at the request of the Lenders' Representative), require the Valuer to prepare a Valuation of the Property The Chargor shall be liable to bear the cost of that valuation
- 25 6 1 once in each 12 month period (commencing on the first anniversary of the date of this Agreement);
- 25 6 2 where a Default is outstanding and the Valuation undertaken then shows a Default is outstanding, or
- 25 6 3 if a significant part of the Property is subject to a compulsory purchase notice
- 25 7 The Chargor undertakes with each Finance Party that it will do all things reasonably necessary to assist the Agent in obtaining a Valuation (including allowing the Valuer access to the Property at all times (on reasonable notice, unless an Event of Default is continuing) during normal office hours and subject to compliance with the provisions of any Occupational Lease and any health and safety regulations)
- 26 **Assignment and transfer**
- The Chargee may assign or transfer all or any part of its rights under this assignment in accordance with and subject to the provisions of the Facility Agreement The Chargor may not assign, transfer, charge, make the subject of a trust or deal in any other manner with this assignment or any of its rights under this assignment or purport to do any of the same without the prior written consent of the Chargee

27. Third party rights

- 27 1 Subject to clauses 27 2 and 27 3, a person who is not a Party shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or rely upon a provision of this assignment. No Party may hold itself out as trustee of any rights under this assignment for the benefit of any third party unless specifically provided for in this assignment. This clause 27 1 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 27 2 Any person to whom the benefit of any provision of this assignment is assigned in accordance with the terms of this assignment is entitled under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this assignment which confers (expressly or impliedly) any benefit on any such person.
- 27 3 Any Receiver or Delegate may, subject to the Contracts (Rights of Third Parties) Act 1999 rely on any clause of this assignment which expressly confers rights on it.
- 27 4 Notwithstanding any other provision of this assignment the Chargee and the Chargor may, by agreement in writing, rescind, terminate or vary any of the provisions in this assignment or waive or settle any right or claim under it in any way without the consent of any third party and, accordingly, section 2(1) of the Contracts (Rights of Third Parties) Act 1999 shall not apply.

28 Notices

The provisions of clause 29 of the Facility Agreement shall be deemed to be incorporated into this assignment, *mutatis mutandis*, as if the same were set out in full herein.

29 General

- 29 1 No variation to this assignment shall be effective unless made in writing and signed by or on behalf of all the parties to this assignment. A waiver given or consent granted by the Chargee under this assignment will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
- 29 2 Each provision of this assignment is severable and distinct from the others. If at any time any provision of this assignment is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this assignment but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this assignment shall not be affected in any way.
- 29 3 If any provision of this assignment is found to be illegal, invalid or unenforceable in accordance with clause 29 2 but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it legal, valid or enforceable.
- 29 4 The failure or delay in exercising a right or remedy provided by this assignment or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this assignment or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.
- 29 5 The Chargee's rights and remedies contained in this assignment are cumulative and not exclusive of any rights or remedies provided by law.
- 29 6 This assignment may be executed in any number of counterparts each of which when executed and delivered shall be an original. All the counterparts together shall constitute one and the same document.

30 Governing law

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

31 Jurisdiction

31 1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this assignment (including a dispute relating to the existence, validity or termination of this assignment or any non-contractual obligation arising out of or in connection with this assignment) (a "Dispute")

31 2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

31 3 This clause 31 is for the benefit of the Chargee only. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.

IN WITNESS whereof the Chargor has duly executed this assignment as a deed and it is delivered on the date first set out above.

SCHEDULE 2
Notice and Acknowledgement
Part I
Form of Notice of Assignment

[To be printed on the letterhead of the Chargor]

[name of counterparty]
[address of counterparty]

[date]

Dear Sirs

Security assignment (the "Assignment") dated *[date of assignment]* between *[Chargor]* and *[Chargee]* (the "Chargee") in respect of *[insert description of the subordinated debt]* (the "Subordinated Debt")

We refer to the Agreement. By this letter we give you notice that under the Assignment (a copy of which is attached) we have assigned to the Chargee, by way of security, all our rights, title, interest and benefit in and to the Subordinated Debt.

We irrevocably instruct and authorise you to

- comply with the terms of any written instructions received by you from the Chargee from time to time relating to the Subordinated Debt, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions (including in relation to the payment of any sums constituting the Subordinated Debt),
- on receipt of notice from the Chargee that the Assignment has been enforced, hold all sums from time to time due and payable by you to us in respect of the Subordinated Debt to the order of the Chargee,
- on receipt of notice from the Chargee that the Assignment has been enforced, pay, or release, all monies to which we are entitled in respect of the Subordinated Debt to the Chargee, or to such persons as the Chargee may direct, and
- disclose information in relation to the Subordinated Debt to the Chargee on request by the Chargee.

Neither the Assignment nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Subordinated Debt.

Subject to the above, you may continue to deal with us in relation to the Subordinated Debt until you receive written notice to the contrary from the Chargee that the Assignment has been enforced. Thereafter, we will cease to have any right to deal with you in relation to the Subordinated Debt and you must deal only with the Chargee.

Please note that we have agreed that we will not amend or waive any provision of or terminate any terms relating to the Subordinated Debt without the prior written consent of the Chargee.

The instructions in this notice may only be revoked or amended with the prior written consent of the Chargee

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by sending the attached acknowledgement to the Chargee at [address of Chargee] marked for the attention of [●], with a copy to us

This notice, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law

Yours faithfully

[name of Chargor]

Part II
Form of Acknowledgment of Assignment

[To be printed on the letterhead of the Counterparty]

[name of Chargee]
[address of Chargee]

Attention [•]

[date]

Dear Sirs

Security assignment (the "Assignment") dated *[date of assignment]* between *[Chargor]* (the "Chargor") and *[Chargee]* (the "Chargee") in respect of *[insert description of relevant agreement]* (the "Agreement")

We confirm receipt from the Chargor of a notice (the "Notice") dated *[date of notice]* of an assignment, by way of security, of all the Chargor's rights, title, interest and benefits in and to the Subordinated Debt

We confirm that

- we accept the instructions and authorisations contained in the Notice and agree to comply with the Notice and note that these instructions and authorisations cannot be revoked or varied without the Chargee's prior written consent,
- upon receipt from the Chargee of any instruction, such instruction may not be countermanded by any instruction received from the Chargor or any third party unless the Chargee has given its prior written consent,
- there has been no amendment, waiver or release of any rights or interests in the Subordinated Debt since the date the Subordinated Debt was first advanced,
- we will not cancel, avoid, release or otherwise allow any term relating to the Subordinated Debt to lapse without giving the Chargee at least 30 days' prior written notice,
- we do not have and have not claimed, exercised or attempted to exercise against the Chargor any right of set-off, counter-claim or other right relating to the Subordinated Debt, save for those rights permitted pursuant to the Finance Documents,
- we have not, as at the date of this acknowledgement, received notice that the Chargor has assigned its rights under the Subordinated Debt to a third party, or created any other interest (whether by way of security or otherwise) in the Subordinated Debt in favour of a third party,

- the Chargee will not in any circumstances have any liability in relation to the Subordinated Debt, and
- the Subordinated Debt shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Chargee

This letter, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law

Yours faithfully

[name of counterparty]

CHARGOR

EXECUTED and **DELIVERED** as a)
DEED by **BERKLEY ESTATES**)
LONDON LIMITED acting by a director)
in the presence of

[Redacted Signature]

Director

Witness Signature

[Redacted Signature]

Witness Name

LIONEL BENJAMIN

Address

[Redacted Address]

Occupation

Director

CHARGE

SIGNED by

on behalf of **SANNE FIDUCIARY**
SERVICES LIMITED

)
)



~~Director~~

) **AUTHORISED SIGNATORY**

Beejadhursingh Surnam
Authorised Signatory

James Saout
Authorised Signatory

OR

SIGNED by
attorney for **SANNE FIDUCIARY**
SERVICES LIMITED under a power of
attorney dated

)
)
)
)

Attorney for **SANNE FIDUCIARY**
SERVICES LIMITED