



**Registration of a Charge**

Company Name: **NYK INVESTMENTS LIMITED**

Company Number: **02767722**



XCE9YKDU

Received for filing in Electronic Format on the: **16/10/2023**

**Details of Charge**

Date of creation: **13/10/2023**

Charge code: **0276 7722 0017**

Persons entitled: **THE ROYAL BANK OF SCOTLAND PLC (AS SECURITY AGENT)**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

Certification statement: **I CERTIFY THAT 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: **DWF LAW LLP**



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

Company number: 2767722

Charge code: 0276 7722 0017

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th October 2023 and created by NYK INVESTMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th October 2023 .

Given at Companies House, Cardiff on 19th October 2023

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006

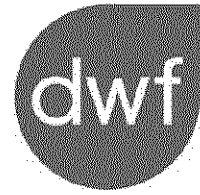


**Companies House**



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

**Execution version**



13 October 2023

**(1) NYK INVESTMENTS LIMITED**  
**as Chargor**

**(2) THE COMPANIES LISTED IN THE SCHEDULE HERETO**  
**as Companies**

**and**

**(3) THE ROYAL BANK OF SCOTLAND PLC**  
**as Security Agent**

**ASSIGNMENT OF SUBORDINATED DEBT**

**DWF Law LLP**  
**20 Fenchurch Street**  
**London**  
**EC3M 3AG**

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**THIS DEED** is made on 13 October 2023

**BETWEEN**

- (1) **NYK INVESTMENTS LIMITED** (company number 02767722) whose registered office is 16 Tinworth Street, London SE11 5AL (the **Chargor**);
- (2) **THE COMPANIES LISTED IN THE SCHEDULE HERETO** (the **Companies**); and
- (3) **THE ROYAL BANK OF SCOTLAND PLC** as security trustee for the Secured Parties (as defined in the Facility Agreement defined below).

**TERMS AGREED**

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:

<b>Act</b>	means the Law of Property Act 1925;
<b>Administrator</b>	means an administrator appointed under Schedule B1 of the Insolvency Act 1986;
<b>Assigned Loans</b>	means the rights and assets expressed to be assigned pursuant to clause 3.1 ( <i>Assignment of Loans</i> );
<b>Charged Assets</b>	means each of the assets and undertaking of the Chargor which from time to time are the subject of any Security created or expressed to be created by it in favour of the Security Agent by or pursuant to this Deed;
<b>Facility Agreement</b>	means the revolving credit facility agreement dated on or around the date of this Deed between (among others) the Companies and the Security Agent (as the same may be amended, varied, supplemented, restated and/or novated from time to time);
<b>Party</b>	means a party to this Deed;
<b>Related Rights</b>	means, in relation to any asset: <ol style="list-style-type: none"> <li>(a) the proceeds of sale of any part of that asset;</li> <li>(b) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants of title in respect of that asset; and</li> <li>(c) all moneys and proceeds paid or payable in respect of that asset;</li> </ol>

<b>Relevant Loan Agreements</b>	means any subordinated loan agreement entered into between the Chargor and each Company;
<b>Relevant Loans</b>	means the aggregate of any loans made available or to be made available by the Chargor to the Companies from time to time whether pursuant to the Relevant Loan Agreements or otherwise;
<b>Secured Liabilities</b>	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document; and
<b>Security Period</b>	means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

## 1.2 Interpretation

- (a) Unless a contrary indication appears in this Deed the provisions of clause 1.2 (*Construction*) of the Facility Agreement apply to this Deed as though they were set out in full in this Deed, except that references to this **Agreement** will be construed as references to this Deed.
- (b) Unless a contrary indication appears, any reference in this Deed to:
  - (i) the Chargor, the **Security Agent** or any other **Secured Party** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;
  - (ii) **this Deed**, the **Facility Agreement**, any other **Finance Document** or any other agreement or instrument is a reference to this Deed, the Facility Agreement, that other Finance Document, or that other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of any Transaction Obligor or provides for further advances);
  - (iii) **Secured Liabilities** includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting any Transaction Obligor;
  - (iv) **reasonable endeavours** includes payment by the relevant person of all its own and any third party's reasonable costs, fees and expenses;
  - (v) **including** or **includes** means including or includes without limitation; and
  - (vi) **this Security** means the Security created or evidenced by or pursuant to this Deed.
- (c) Each undertaking of the Chargor (other than a payment obligation) contained in this Deed:

- (i) must be complied with at all times during the Security Period; and
- (ii) is given by the Chargor for the benefit of the Security Agent.
- (d) The terms of the other Finance Documents, and of any side letters between any of the parties to them in relation to any Finance Document, are incorporated in this Deed to the extent required to ensure that any disposition of the Real Property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (e) If the Security Agent reasonably considers that an amount paid by any Transaction Obligor to a Secured Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of such Transaction Obligor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (f) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

### 1.3 **Trust**

All Security and dispositions made or created, and all obligations and undertakings contained, in this Deed to, in favour of or for the benefit of the Security Agent are made, created and entered into in favour of the Security Agent as trustee for the Secured Parties from time to time on the terms of the Facility Agreement.

### 1.4 **Third party rights**

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

### 1.5 **Delivery**

The Parties intend this Deed to be delivered on the first date specified on page 1 of this Deed.

## 2. **COVENANT TO PAY**

### 2.1 **Covenant**

- (a) Subject to the provisions of clause 2.3 (Limited Recourse), the Chargor covenants with the Security Agent that it will pay to the Secured Parties and discharge all the Secured Liabilities when the same shall be or become due in accordance with the terms of the Finance Documents.
- (b) Every payment by the Chargor of a Secured Liability which is made to or for the benefit of a Secured Party to which that Secured Liability is due and payable in accordance with the Finance Document under which such sum is payable to that Secured Party, shall operate in satisfaction to the same extent of the covenant contained in clause 2.1(a).

### 2.2 **Interest**

Following any demand for payment of moneys due under this Deed, the Chargor shall pay to the Security Agent interest on the amount demanded to the date of actual payment or discharge

(whether before or after judgment) at the rate set out in the Facility Agreement from time to time and shall be payable as well after as before any judgment is obtained against the Chargor.

### 2.3 **Limited Recourse**

The recourse of the Security Agent against the Chargor in respect of the Secured Liabilities is limited to the Security Agent's rights of enforcement and recovery against the Charged Assets charged under this Deed and, accordingly, the Security Agent agrees that the total amount recoverable against the Chargor under this Deed shall be limited to the proceeds received by the Security Agent in realising the Charged Assets in accordance with this Deed.

## 3. **FIXED SECURITY**

### 3.1 **Assignment of Loans**

As a continuing security for the payment of all Secured Liabilities, the Chargor charges in favour of the Security Agent by way of assignment and with full title guarantee all its benefits, rights, titles, claims and interests in and to each of the Relevant Loan Agreements, the Relevant Loans and all Related Rights together with all present and future claims, causes of action, payments and proceeds in respect thereof, subject to a proviso for re-assignment on redemption.

### 3.2 **Fixed charge**

To the extent not validly and effectively assigned pursuant to clause 3.1 (*Assignment of Loans*) and as a continuing security for the payment of all Secured Liabilities, the Chargor charges in favour of the Security Agent by way of first fixed charge and with full title guarantee all its benefits, rights, titles, claims and interests in and to each of the Relevant Loan Agreements, the Relevant Loans and all Related Rights together with all present and future claims, causes of action, payments and proceeds in respect thereof.

### 3.3 **Priority**

The Security created by this Deed:

- (a) is created in favour of the Security Agent for the benefit of itself and the other Secured Parties;
- (b) ranks as a first charge; and
- (c) is given with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

### 3.4 **Negative pledge**

- (a) The Chargor shall not, without the prior written consent of the Security Agent, other than in accordance with the Facility Agreement, create or permit to subsist or arise any Security over the Charged Assets.
- (b) Subject to paragraph (a) above, any Security on the Charged Assets created in the future by the Chargor (otherwise than in favour of the Security Agent) shall be expressed to be subject to this Deed.



### 3.5 **Restrictions on dealings**

The Chargor shall not, without the prior written consent of the Security Agent, other than in accordance with the Facility Agreement, sell, transfer, assign, lease, lend, factor, pledge, charge or exchange or otherwise dispose of any of the Charged Assets or the equity of redemption therein or permit any person to do any such thing.

### 3.6 **Release**

Subject to clause 14.2 (*Reinstatement and avoidance of payments*), the Chargor shall be entitled, after the expiry of the Security Period, to require at its cost and request the release, discharge or retransfer of any of the Charged Assets charged or transferred under this Deed.

## 4. **GENERAL OBLIGATIONS**

### 4.1 **Duration**

The covenants in this clause 4 remain in force during the Security Period.

### 4.2 **Payment obligations**

The Chargor shall punctually pay and indemnify the Security Agent against all existing and future taxes, duties, charges, assessments, impositions and outgoings now or at any time payable in respect of the Charged Assets.

### 4.3 **Information**

The Chargor shall produce to the Security Agent such documents or information relating to the Charged Assets as the Security Agent (acting reasonably) may from time to time request and shall promptly deliver to the Security Agent a copy of any notice or proceedings served by any person on the Chargor concerning the Charged Assets or alleging any breach of its obligations relating to the Charged Assets.

### 4.4 **Assigned Loans**

The Chargor shall not take, or omit to take, any action which might result in:

- (a) the alienation or impairment of any rights in the Assigned Loans; or
- (b) any right to terminate a Relevant Loan Agreement becoming exercisable by any party to that agreement.

## 5. **NOTICE OF ASSIGNMENT**

Each Company enters into this Deed to:

- (a) acknowledge to the Security Agent that it has notice of the assignment of all the Chargor's benefits, rights, titles, claims and interests in and to each of the Relevant Loan Agreements, the Relevant Loans and all Related Rights;

- (b) confirm to the Security Agent that it has not claimed or exercised, has no outstanding right to claim or exercise and will not exercise, any right of set-off, counterclaim or other right relating to any payments to be made by it in respect of the Relevant Loans; and
- (c) acknowledge that the Security Agent shall not be under any obligation in relation to any Relevant Loan or any Relevant Loan Agreement as a consequence of this Deed and the Chargor shall at all times remain liable to perform all obligations expressed to be assumed by it in respect of the Relevant Loans and the Relevant Loan Agreements.

## 6. REPRESENTATIONS AND WARRANTIES

### 6.1 Representations and Warranties

The Chargor makes the representations and warranties set out in this clause 6 to each Finance Party on the date of this Deed and in accordance with clause 6.14 (*Repetition*).

### 6.2 Status

- (a) It is a limited liability company and validly existing under the laws of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

### 6.3 Binding obligations

The obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations, its legal, valid, binding and enforceable obligations.

### 6.4 No conflict with other obligations

The entry into and performance by it of, exercise of its rights and/or performance of or compliance with its obligations under, and the transactions contemplated by, this Deed do not conflict with:

- (a) any law or regulation applicable to it; or
- (b) its constitutional documents

or any other document or agreement which is binding upon it or any of the Relevant Loans to an extent which would be reasonably expected to have a Material Adverse Effect.

### 6.5 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed.

### 6.6 Validity and admissibility in evidence

All Authorisations required to:

- (a) enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed;

- (b) make this Deed admissible in evidence in its Relevant Jurisdictions; and
- (c) create the Security constituted by this Deed and to ensure that such Security has the ranking specified herein,

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

**6.7 No immunity**

It does not enjoy any immunity from any legal process, actions, claims or proceedings in respect of itself or any of its Charged Assets.

**6.8 Acting as principal**

It is acting in all matters relating to this Deed as principal for its own account and not as agent or trustee or in any other capacity whatsoever on behalf of any third party.

**6.9 Governing law and enforcement**

Subject to the Legal Reservations:

- (a) The choice of English law as the governing law of this Deed will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in England and Wales in relation to this Deed will be recognised and enforced in its Relevant Jurisdictions.

**6.10 No filing or stamp taxes**

Save for registration of this Deed at the Companies Registry in England and Wales, it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in any jurisdiction or that any stamp, registration or similar tax be paid on or in relation to this Deed or the transactions contemplated by this Deed.

**6.11 Nature of Security**

Subject to the Legal Reservations, this Deed creates those security interests it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration (or any analogous proceedings) of the Chargor or otherwise.

**6.12 Ownership of Charged Assets**

It is the sole legal and beneficial owner of the Charged Assets free from any Security (other than under the Finance Documents), it is lawfully entitled (with full power under its constitutional documents) to create Security over the Charged Assets in favour of the Security Agent and has not sold, transferred or otherwise disposed of the benefit of or agreed to sell, transfer or otherwise dispose of the benefit of its (or any part of its) rights, title and interest in and to the Charged Assets.

**6.13 Relevant Loans**

Each Relevant Loan Agreement is in full force and effect in accordance with its terms and is enforceable (subject to the Finance Documents) by the Chargor against the Companies. There are no restrictions on the Chargor's ability to assign or charge the Relevant Loans, whether contained in a Relevant Loan Agreement or otherwise.

#### 6.14 **Repetition**

The representations and warranties set out in this clause 6 are deemed to be repeated by the Chargor, by reference to the facts and circumstances then existing, on the date of the Utilisation Request, on the Utilisation Date and on each Interest Payment Date.

### 7. **ENFORCEMENT OF SECURITY**

#### 7.1 **Enforcement**

All rights of the Security Agent and any Receiver under and in respect of this clause 7 and clause 8 (*Receivers*) (including, without limitation, the power of sale and other rights, powers and protections conferred by section 101 of the Act as varied or extended by this Deed) shall become immediately exercisable and the Security created by this Deed shall become immediately enforceable:

- (a) upon the occurrence of an Event of Default which is continuing;
- (b) if a resolution is passed or a petition is presented for the winding up, dissolution, administration or re-organisation of the Chargor;
- (c) if a receiver, an administrative receiver or a receiver and manager is appointed over the Charged Assets (or any of them) or, if any person entitled to do so, gives notice of its intention to appoint a receiver, an administrative receiver or a receiver and manager or files such a notice with the court;
- (d) if an Administrator is appointed in respect of the Chargor or the Security Agent receives notice of an intention to appoint an Administrator pursuant to paragraphs 15 or 26 of Schedule B1 of the Insolvency Act 1986 in respect of the Chargor, or
- (e) upon any request by the Chargor for such exercise or enforcement.

#### 7.2 **General**

- (a) For the purposes of all powers implied by statute (including, without limitation, the Act), the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Sections 93 (restricting the right of consolidation) and 103 of the Act (restricting the power of sale) shall not apply to this Deed.
- (c) Neither the Security Agent nor any Receiver will be liable, by reason of taking possession of the Charged Assets (or any of them), to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

- (d) The Chargor shall provide the Security Agent and/or any Receiver and their respective representatives all assistance requested by such party to enforce all or any rights in or in respect of the Charged Assets.

### 7.3 **Prior charges**

The Security Agent may at any time after this Deed has become enforceable redeem any prior mortgage, charge or other Security over all or any of the Charged Assets or procure the transfer thereof to itself and may settle and pass the accounts of the prior mortgagee, chargee or security holder. Any accounts so settled and passed shall (save in respect of any manifest error) be conclusive and binding on the Chargor. All principal moneys, interest, costs, charges and expenses of and incidental to the redemption and transfer shall be Secured Liabilities payable by the Chargor to the Security Agent on demand.

## 8. **RECEIVERS**

### 8.1 **Appointment of Receivers**

- (a) At any time after the Security created by this Deed becomes enforceable in accordance with clause 7.1 (*Enforcement*), the Security Agent may from time to time without prior notice to the Chargor by writing under the hand of any officer of the Security Agent appoint any person (whether or not an employee of the Security Agent) to be a Receiver of the Charged Assets (and none of the restrictions imposed by the Act in relation to the appointment of a Receiver or to the giving of notice or otherwise shall apply).
- (b) An appointment over part only of the Charged Assets shall not preclude the Security Agent from making any subsequent appointment of a Receiver over any other part of the Charged Assets
- (c) If at any time and by virtue of any appointment under this clause 8.1 any two or more persons shall hold office as a Receiver, each such person shall be jointly or severally entitled (unless the contrary shall be stated in any of the deed(s) or other instrument(s) appointing them) to exercise all the powers and discretions conferred by this Deed on a Receiver individually and to the exclusion of the other or others of them.

### 8.2 **Removal**

The Security Agent may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any such Receiver.

### 8.3 **Remuneration**

The Security Agent may either at the time of appointment of any Receiver or at any time thereafter and from time to time fix the remuneration of such Receiver and the maximum rate specified in section 109(6) of the Act will not apply.

### 8.4 **Receiver as agent**

- (a) Any Receiver so appointed shall so far as the law permits be the agent of the Chargor for all purposes, and the Chargor shall be solely responsible for such Receiver's acts, omissions, defaults, losses, liabilities, remuneration, costs, charges and expenses and liable on any contracts or engagements made or entered into by such Receiver (save in the case of fraud, wilful misconduct or gross negligence), failing which he shall act as principal and shall not be or become agent for the Security Agent.
- (b) The Security Agent will not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason (save in the case of fraud, wilful misconduct or gross negligence).

#### 8.5 **Exercise of Receiver powers by Security Agent**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may (after the Security created by this Deed becomes enforceable) be exercised by the Security Agent in relation to the Charged Assets without appointing a Receiver and notwithstanding the appointment of a Receiver.

#### 8.6 **Powers of Receiver**

Any Receiver so appointed shall have power, whether immediately or at any later time, in addition to any powers conferred upon it by statute or common law:

- (a) to take possession of, appropriate, collect and get in the Charged Assets and for that purpose to take any proceedings in the name of the Chargor (or any of them) or otherwise;
- (b) to raise or borrow money from any person (including, without limitation, the Security Agent) to rank for payment in priority to this Security or otherwise and with or without a charge on the Charged Assets;
- (c) to sell, transfer, assign, exchange, lend or otherwise dispose of, convert into money or realise all or any of the Charged Assets (whether by public auction or private contract or otherwise) on such terms and for such consideration (including a consideration consisting wholly or partly of shares or securities of any other company) payable at such time or times as he may think fit (and any consideration other than cash shall on receipt be and become charged with the payment and discharge of all Secured Liabilities) in the name of and on behalf of the Chargor (or any of them) and generally exercise all the powers and rights of an absolute owner of the Charged Assets and do or omit to do anything which the Chargor could do or omit to do;
- (d) to settle, arrange, compromise and submit to arbitration any accounts, claims, questions, disputes or demands whatsoever which may arise in connection with the Charged Assets (or any of them) or in any way relating to this Security and to bring, prosecute, enforce, take, defend, compromise, submit to arbitration and discontinue any actions, suits or proceedings whatsoever whether civil or criminal in relation to the matters aforesaid, to disclaim, abandon or disregard all or any of the outstanding contracts of the Chargor and to allow time for payment of any debts, either with or without Security;

- (e) to give valid receipts for all moneys and execute all documents, assurances and things which may be necessary or desirable for realising the Charged Assets (or any of them);
- (f) to do all such other acts and things as he may consider necessary or desirable in his absolute discretion for the realisation of any of the Charged Assets or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (g) generally to exercise all or any of the powers set out in the Insolvency Act 1986 over such part of the Charged Assets over which he shall have been appointed (whether or not he is an administrative receiver); and
- (h) generally to use the name of the Chargor in the exercise of all or any of the powers conferred by this clause 8.6,

provided that any Receiver shall in the exercise of his powers, authority and discretions conform to any directions from time to time given and made by the Security Agent and shall not be responsible nor shall the Security Agent or any other Finance Party be responsible for any loss thereby occasioned.

#### 8.7 **Application of proceeds**

- (a) All moneys received by the Security Agent or any Receiver after the Security created by this Deed becomes enforceable shall be applied (subject to any liabilities having priority to the Secured Liabilities) in the following order:
  - (i) in or toward payment of the costs, losses, liabilities, charges and expenses incurred in connection with this Deed by the Security Agent or any Receiver and the exercise of all or any of such party's powers and of all outgoings paid by such party (including preferential debts) and in payment to any Receiver of such remuneration as may be agreed between such Receiver and the Security Agent at or at any time and from time to time after the Receivers appointment in accordance with the terms of this Deed;
  - (ii) in or towards satisfaction of the Secured Liabilities in accordance with the Facility Agreement; and
  - (iii) in payment of the surplus (if any) to the Chargor pro rata or any other person entitled to it.
- (b) This clause 8.7 does not prejudice the right of any Finance Party to recover any shortfall from the Chargor.

#### 8.8 **Statutory powers**

The powers conferred on mortgagees or receivers by the Act shall apply to any Receiver appointed under this Deed as if such powers were incorporated into this Deed except in so far as they are expressly or impliedly excluded and, where there is any ambiguity or conflict between the powers contained in the Act and those contained in this Deed, the terms of this Deed shall prevail.

## 9. **PROTECTION OF THIRD PARTIES**

### 9.1 **Deemed right to enforce**

In favour of any purchaser (as defined in section 205 of the Act) or person dealing in good faith, the Secured Liabilities shall be deemed to become due and all rights of enforcement conferred upon the Security Agent by the Act, as varied and extended by this Deed, shall be deemed to arise, immediately after the execution of this Deed.

### 9.2 **No enquiry required**

No purchaser, mortgagor, mortgagee or other person dealing with the Security Agent or a Receiver shall be bound or concerned to enquire whether any power exercised or purported to be exercised under this Deed becomes exercisable or whether any money is due on the Security created by this Deed or as to the propriety or regularity of any sale by or other dealing with the Security Agent or such Receiver or be concerned with notice to the contrary. Any such sale or dealing shall be deemed to be within the powers conferred by this Deed and to be valid and effective accordingly.

## 10. **FURTHER ASSURANCE**

The Chargor undertakes to the Security Agent that it shall, at its own expense, at any time on written demand by the Security Agent or any Receiver

- (a) take whatever action the Security Agent or any Receiver (acting reasonably) may require for creating, perfecting, protecting or maintaining all or any of the Security created or intended to be created by or under this Deed or any other Finance Document; and
- (b) while an Event of Default has occurred and is continuing, facilitate the realisation of any Charged Assets, or the exercise of any right, power or discretion exercisable, by the Security Agent or any Receiver in respect of any Charged Assets, including, without limitation, the execution of any transfer, conveyance, assignment of any property to the Security Agent or its nominee and the giving of any notice, order or direction and the making of any registration, in each case which the Security Agent (acting reasonably) considers expedient.

## 11. **POWER OF ATTORNEY AND DELEGATION**

### 11.1 **Power of Attorney**

The Chargor irrevocably and by way of security appoints the Security Agent and any Receiver and any Delegate acting jointly and also severally as attorney of the Chargor for the Chargor and in its name and on its behalf and as its act and deed to execute, seal and deliver and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which the Chargor is required and legally able to do under this Deed or in the Facility Agreement, including without limitation, under clause 10 (*Further Assurance*) but has failed to do for a period of 5 Business Days after receiving notice from the Security Agent requiring it to do so. The Chargor undertakes to ratify and confirm whatever any attorney appointed under this clause 11.1 does



or purports to do under this clause 11.1 (save in the case of fraud, wilful misconduct or gross negligence).

## 11.2 **Delegation**

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed upon any terms (including power to sub-delegate) which the Security Agent or any Receiver may think fit. Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate (save in the case of fraud, wilful misconduct or gross negligence).

## 12. **INDEMNITIES**

- (a) The Chargor shall indemnify the Security Agent and each of the other Secured Parties and any other person duly appointed by the Security Agent under this Deed immediately on demand against:
  - (i) any losses, liabilities, costs and expenses (including, without limitation, legal fees) incurred, directly or indirectly, by any of them as a result of:
    - (A) the taking, holding, protection or enforcement of the Security created pursuant to this Deed;
    - (B) the exercise or execution of or purported exercise or execution of any of the rights, powers, discretions or remedies vested in them under this Deed or by law;
    - (C) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed; and
  - (ii) all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Assets, and the Security Agent and each of the other Secured Parties may retain and pay all sums in respect of the same out of any moneys received under this Deed.
- (b) All moneys received or held by the Security Agent or any Receiver under this Deed may be converted from their existing currency into such other currency as the Security Agent or any Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Liabilities in that other currency. The Chargor shall indemnify the Security Agent and any Receiver against all losses, liabilities, costs and expenses (including, without limitation, legal fees) incurred, directly or indirectly, in relation to such conversion. Neither the Security Agent nor any Receiver shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion. The Chargor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

### 13. **NEW ACCOUNT**

If any Secured Party receives or is deemed to be affected by actual or constructive notice of any subsequent mortgage, charge, assignment or other disposition affecting the Charged Assets (or any of them), such Secured Party may open a new account for the Chargor. If a Secured Party does not open a new account then, unless it gives express written notice to the contrary to the Chargor, it shall nevertheless be treated as if it had done so at the time when it received any such notice. As from that time all payments made by or on behalf of the Chargor shall be credited or be treated as having been credited to the new account and shall not operate to reduce the Secured Liabilities.

### 14. **PRESERVATION OF SECURITY**

#### 14.1 **Continuing security**

The Security constituted by this Deed shall be a continuing security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or satisfaction of the whole or any part of the Secured Liabilities.

#### 14.2 **Reinstatement and avoidance of payments**

- (a) Any settlement or discharge between any Secured Party and the Chargor in respect of the Secured Liabilities shall be conditional upon no Security of, or payment to, such Secured Party (whether by the Chargor or otherwise) being avoided or reduced or required to be paid away by virtue of any requirement (whether or not having the force of law) or enactment, whether relating to bankruptcy, insolvency, liquidation, administration or otherwise, at any time in force or by virtue of any obligation to give effect to any preference or priority.
- (b) If any settlement or discharge is so avoided or reduced, the liability of the Chargor under this Deed shall continue as if the settlement or the discharge had not occurred and any Secured Party shall be so entitled to recover the value or amount of any such Security or payment from the Chargor as if such settlement or discharge had not occurred.
- (c) Each Secured Party may concede or compromise any claim that any payment, Security or other disposition is liable to avoidance or restoration.

#### 14.3 **Appropriations**

Each Secured Party (or any party appointed on its behalf) may at any time during the Security Period:

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and

- (b) hold in an interest bearing suspense account any moneys received from the Chargor or on account of the Secured Liabilities.

#### 14.4 **Additional security**

The Security created by this Deed is in addition to and is not in any way prejudiced by any other Security now or in the future held by any Secured Party for any of the Secured Liabilities.

#### 14.5 **Waiver of defences**

The obligations of the Chargor under this Deed and the Security created pursuant to this Deed will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed or the Security created pursuant to this Deed or prejudice or diminish those obligations or the Security created pursuant to this Deed in whole or in part, including (whether or not known to the Chargor or any Secured Party):

- (a) any time or waiver granted to, or composition with, any Transaction Obligor or any other person;
- (b) the release of any Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any Transaction Obligor or any other person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Transaction Obligor or any other person or any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, any Transaction Obligor or any other person;
- (e) any variation, replacement, amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security so that references to that Finance Document in this clause 14 shall include each variation or replacement;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security, to the intent that the Chargor's obligations under this Deed shall remain in full force and be construed accordingly, as if there were no unenforceability, illegality or invalidity; or
- (g) any insolvency, liquidation, dissolution or similar proceedings.

#### 14.6 **Immediate recourse**

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

#### 14.7 **Non-competition**

The Chargor shall not, at any time during the Security Period (unless the Security Agent otherwise directs), exercise any rights which it may have by reason of performance by it of its obligations under this Deed or any other Finance Document in order that it may:

- (a) be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Chargor's liability under this Deed;
- (b) take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Agent or the other Secured Parties under the Finance Documents or any other guarantee or security taken or moneys held received or receivable pursuant to, or in connection with, the Finance Documents by any Secured Party (or any trustee or agent on its behalf);
- (c) claim, rank, prove or vote as a creditor of any Transaction Obligor or its estate in competition with any Secured Party (or any trustee or agent on its behalf); or
- (d) receive, claim or have the benefit of any payment, distribution or security from or on account of any Transaction Obligor, or exercise any right of set-off as against any Transaction Obligor.

If the Chargor receives any benefit, payment or distribution contrary to this clause 14.7, it shall hold that benefit, payment or distribution on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may otherwise direct for application in accordance with clause 8.7 (*Application of proceeds*).

### 15. **NOTICES**

#### 15.1 **Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or by letter.

#### 15.2 **Addresses**

The address and the fax number (and the department or officer if any for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of the Companies and the Chargor, that identified with its name below; and
- (b) in the case of the Security Agent, that identified with its name below.

or any substitute address, fax number or department or officer as the Chargor may notify to the Security Agent (or the Security Agent may notify to the Chargor if a change is made by the Security Agent) by not less than five Business Days' notice.

### 15.3 **Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:
  - (i) if by way of fax, when transmitted (and production of a transmission report in respect of such fax shall be conclusive evidence of its transmission) provided that if a fax is transmitted at a time which is after 5:00 pm in the place of receipt then such fax shall be deemed to have been received and effective on the next Business Day thereafter; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 15.2 (*Addresses*), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Security Agent shall specify for this purpose).
- (c) All notices from or to the Chargor shall be sent through the Security Agent.
- (d) A communication made on a day which is not a Business Day or after 5.00 p.m. on a Business Day at the place of receipt will be deemed to be made on the next Business Day.

## 16. **GENERAL**

### 16.1 **Certificates**

A certificate, determination, notification or opinion of the Security Agent or any other Secured Party as to the amount of the Secured Liabilities or any other matter connected with this Deed (or the Security created by this Deed) shall, in the absence of manifest error, be conclusive evidence of the matters to which it relates.

### 16.2 **Costs and expenses**

All costs, charges and expenses (including, without limitation, legal fees) incurred by any Secured Party in the creation or discharge of or otherwise in connection with this Deed (including, without limitation, the remuneration of any Receiver) or in respect of the Charged Assets and all costs (including, without limitation, legal fees) of any Secured Party of all proceedings for the preservation or enforcement (or attempted preservation or enforcement) of this Security or for obtaining or attempting to obtain payment of any Secured Liabilities shall be

recoverable on a full indemnity basis as a debt due from the Chargor and shall form part of the Secured Liabilities.

### 16.3 **Partial invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

### 16.4 **Remedies and waivers**

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

### 16.5 **Counterparts**

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

### 16.6 **Third party rights**

Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed (other than the Secured Parties and their permitted successors and assignees) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

### 16.7 **Deed**

It is intended that this Deed takes effect as a deed notwithstanding the fact that a Party may only execute it under hand.

## 17. **GOVERNING LAW**

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

## 18. **JURISDICTION**

18.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligations arising out of or in connection with it) (a **Dispute**)

18.2 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.

18.3 This clause 18 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction

to the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS** of which this Deed has been duly executed as a deed by the Chargor and the Companies and is intended to be delivered on the date first above written.

**SCHEDULE**  
**THE COMPANIES**

<b>Name</b>	<b>Company number</b>	<b>Registered Address</b>
CLS UK Property Finance 3 Limited	15088483	16 Tinworth Street, London, England, SE11 5AL
16 Tinworth Street (Residential) Limited	11470835	16 Tinworth Street, London, England, SE11 5AL
Cassini Pascal Limited	09888844	16 Tinworth Street, London, England, SE11 5AL
Spring Gardens III Limited	02118847	16 Tinworth Street, London, England, SE11 5AL
Spring Mews (Block D) Limited	09474143	16 Tinworth Street, London, England, SE11 5AL
Wandsworth Road Limited	02892695	16 Tinworth Street, London, England, SE11 5AL

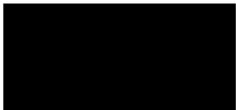


SIGNATURE PAGES

CHARGOR

EXECUTED AS A DEED by  
**NYK INVESTMENTS LIMITED**  
acting by a director

)  
)  
)



Andrew Kirkman

In the presence of  
Name: Dean Tufts

Signature: 

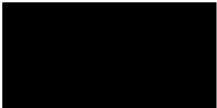
Address: 

Occupation: Finance Director

THE COMPANIES

EXECUTED AS A DEED by  
**CLS UK PROPERTY FINANCE 3 LIMITED**  
acting by a director

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)  
)



In the presence of  
Name: Dean Tufts

Signature: 

Address: 

Occupation: Finance Director

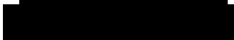
EXECUTED AS A DEED by  
**WANDSWORTH ROAD LIMITED**  
acting by a director

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)  
)

In the presence of

Name: Dean Tufts

Signature: 

Address: 

Occupation: Finance Director

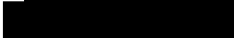
EXECUTED AS A DEED by  
**SPRING GARDENS III LIMITED**  
acting by a director

)  
)  
)

In the presence of

Name: Dean Tufts

Signature: 

Address: 

Occupation: Finance Director

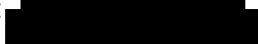
EXECUTED AS A DEED by  
**SPRING MEWS (BLOCK D) LIMITED**  
acting by a director

)  
)  
) Andrew Kirkman

In the presence of

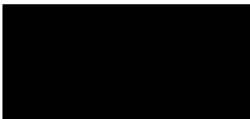
Name: Dean Tufts

Signature: 

Address: 

Occupation: Finance Director

EXECUTED AS A DEED by )  
**16 TINWORTH STREET (RESIDENTIAL)** )  
**LIMITED** )  
acting by a director )



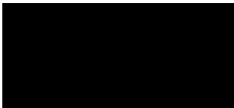
In the presence of

Name: Dean Tufts

Signature:   
Address: 



Occupation: Finance Director

EXECUTED AS A DEED by )  
**CASSINI PASCAL LIMITED** )  
acting by a director )



In the presence of

Name: Dean Tufts

Signature:   
Address: 

Occupation: Finance Director

**THE SECURITY AGENT**

Signed for **THE ROYAL BANK OF SCOTLAND PLC**

Signature: 

Name:           Nyama Sethi-Walsh  
.....

Function:           Associate Director, Transaction Management & Advisory, NatWest  
.....