



Registration of a Charge

Company name: **BRIPARK LIMITED**

Company number: **03414388**

Received for Electronic Filing: **06/08/2018**



X7BRZ4EI

Details of Charge

Date of creation: **31/07/2018**

Charge code: **0341 4388 0003**

Persons entitled: **PRS OPERATIONS LIMITED (IN ITS CAPACITY 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: **BURGES SALMON LLP (ES04)**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3414388

Charge code: 0341 4388 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st July 2018 and created by BRIPARK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th August 2018 .

Given at Companies House, Cardiff on 8th August 2018

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

SUBORDINATED CREDITOR'S SECURITY AGREEMENT

BRIPARK LIMITED as the Chargor	(1)
BRIPARK 2 LTD as the Borrower	(2)
PRS OPERATIONS LIMITED as the Security Agent	(3)

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THIS AGREEMENT is made on

31 July

2018

BETWEEN:

- (1) **BRIPARK LIMITED**, a company incorporated under the laws of England and Wales with registered number 03414388 (the "**Chargor**");
- (2) **BRIPARK 2 LTD**, a company incorporated under the laws of England and Wales with registered number 11317646 (the "**Borrower**") and
- (3) **PRS OPERATIONS LIMITED** (registered in England & Wales under number 09280030) in its capacity as the Security Agent.

1 INTERPRETATION

1.1 Expressly defined terms

In this Agreement, the following words and phrases have the specified meanings.

"**Associated Rights**" means, in relation to any asset, all proceeds of sale of such asset, all rights, powers, benefits, covenants, warranties, guarantees or Security given or implied in respect of such asset, all rights under any agreement for sale, agreement for lease or licence of or in respect of such asset, and any monies and proceeds paid or payable in respect of such asset.

"**Collateral Liabilities**" in relation to any of the Subordinated Debt means: (i) any claim for damages or restitution in the event of rescission of any such liabilities or otherwise in connection with the Subordinated Debt; (ii) any claim against the Borrower flowing from any recovery by the Borrower of a payment or discharge in respect of the Subordinated Debt on the grounds of preference or otherwise; and (iii) any amounts (including post-insolvency interest) which would be included in any of the above but for any discharge, non-provability or unenforceability of the same in any insolvency or other proceedings.

"**COMI**" means centre of main interests (as that term is used in Article 3(1) of the EC Regulation).

"**Companies Act**" means the Companies Act 2006.

"**Delegate**" means any delegate, agent, attorney or trustee appointed by the Security Agent.

"**Discharge Date**" means the date with effect from which the Security Agent confirms to the Chargor that all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all relevant commitments of the Secured Parties cancelled.

"EC Regulation" means The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings.

"Enforcement Party" means any of the Security Agent, a Receiver or a Delegate.

"Establishment" means, in relation to the Chargor, an establishment as that term is defined in relation to a debtor in Article 2(h) of the EC Regulation.

"Facility Agreement" means a facility agreement dated on or around the date of this Agreement between, amongst others, the Borrower and the Security Agent, as amended, restated, supplemented or varied from time to time.

"Insolvency Act" means the Insolvency Act 1986.

"Party" means any party to this Agreement.

"Receiver" means any one or more receivers and managers or (if the Security Agent so specifies in the relevant appointment) receivers appointed by the Security Agent pursuant to this Agreement in respect of the Chargor or in respect of the Secured Assets of the Chargor.

"Secured Assets" means all 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 Agreement.

"Secured Obligations" 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 and each grantor of Security to the Secured Parties (or any of them) under each or any of the Finance Documents together with all costs, charges and expenses incurred by any Secured Party in connection with the protection, preservation or enforcement of its respective rights under the Finance Documents or any other document (in each case as such documents may be varied, amended, waived, released, novated, supplemented, extended, restated or replaced from time to time, in each case, however fundamentally) evidencing or securing any such liabilities.

"Secured Parties" means each Finance Party, the Security Agent and any Receiver or Delegate and **"Secured Party"** means any of the Secured Parties.

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Agent" means PRS Operations Limited acting in its capacity as trustee for the Secured Parties (including itself) in relation to the Security Documents for the

purpose of and in accordance with the terms of the Finance Documents, any successors in title or such other or additional trustee or trustees as may from time to time be appointed in that capacity in accordance with the Facility Agreement.

"Security Documents" shall bear the same meaning as such term is given in the Facility Agreement.

"Security Period" means the period beginning on the date of this Agreement and ending on the Discharge Date.

"Subordinated Debt" means all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing due or incurred by the Borrower to the Chargor together with any Collateral Liabilities relating thereto and any Associated Rights in respect of the foregoing.

"Subordinated Debt Document" means any document evidencing or recording the terms of any Subordinated Debt.

"Third Parties Act" means the Contracts (Rights of Third Parties) Act 1999.

1.2 Definitions contained in Facility Agreement

Unless a contrary indication appears each term used in this Agreement which is defined in the Facility Agreement shall have the same meaning as in the Facility Agreement.

1.3 Construction

In this Agreement:

- (a) unless a contrary indication appears, a reference to:
 - (i) **"assets"** includes present and future properties, revenues, rights and interests of every kind and reference to an **"asset"** includes any part or parts of such asset;
 - (ii) **"guarantee"** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in, or loan to, any person or to purchase assets of any person, where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
 - (iii) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

- (iv) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
 - (v) **"regulation"** includes any regulation, rule, official directive, request or guideline (in each case, whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (vi) **"set-off"** includes analogous rights and obligations in jurisdictions other than England and Wales;
 - (vii) a **"Chargor"**, the **"Security Agent"**, a **"Party"** or a **"Transaction Obligor"**, or any of the **"Secured Parties"**, shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (viii) **"receiver"** includes an administrative receiver, a receiver and a receiver and manager;
 - (ix) **"security"** includes any assignment by way of security, charge, lien, mortgage, pledge or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect; and
 - (x) references to any Security **"created by this Agreement"** are to be deemed to include such Security created, constituted, given, made or extended by, under or pursuant to this Agreement.
- (b) Each reference in this Agreement to:
- (i) this Agreement (or to any other agreement or Agreement) means, at any time, this Agreement (or, as applicable, such other agreement or Agreement) as amended, novated, re-stated, substituted or supplemented at that time, provided that the relevant amendment, novation, re-statement, substitution or supplement does not breach any term of this Agreement or the Facility Agreement;
 - (ii) a party to this Agreement includes its successors-in-title and its permitted assigns and transferees;
 - (iii) the singular includes the plural and vice versa, as the context permits or requires; and

- (iv) any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Agreement), unless this Agreement expressly states otherwise or the context requires otherwise.
- (c) Clauses 1.2 (*Construction*) to 1.4 (*Third party rights*) of the Facility Agreement shall apply to this Agreement with all necessary modifications and as if such clause were set out in full in this Agreement.

1.4 Incorporation of other terms

- (a) The terms of the other Finance Documents under which the Secured Obligations arise and of any side letters between the Chargor and the Secured Parties or any of them relating to the Secured Obligations are incorporated into this Agreement to the extent required for any purported disposition of the Secured Assets contained in this Agreement to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (b) Without prejudice to the operation of any applicable term of the Facility Agreement or any other Finance Document, the provisions of clauses 8.4 (*Default Interest and Special Servicing Fee*) and 29.9 (*Change of currency*) of the Facility Agreement shall apply (*mutatis mutandis*) to this Agreement as if set out in this Agreement in full and as if any reference in any such clause to "this Agreement" were a reference to "this Agreement".

2 COVENANT TO PAY

- 2.1 The Chargor, as primary obligor and not merely as surety, covenants with the Security Agent that it will pay, discharge and perform the Secured Obligations on demand and in the manner provided in the Finance Documents.
- 2.2 Notwithstanding any other provision of this Agreement, recourse to the Chargor shall be limited to the Chargor's interest in the Secured Assets (and any proceeds of realisation of such Secured Assets) from time to time secured under this Agreement.

3 SECURITY

3.1 Security

As continuing security for the payment, discharge and performance of the Secured Obligations, the Chargor assigns absolutely by way of security to the Security Agent all of its rights, title and interest in:

- (a) the Subordinated Debt; and
- (b) the Subordinated Debt Documents.

3.2 Continuing security

The provisions of this Agreement will apply at all times (a) regardless of the date on which any of the Secured Obligations was incurred and (b) in respect of the full amount of the Secured Obligations at the relevant time even if, at some other time, the amount of the Secured Obligations has been less than the amount at the relevant time or there has been no part of the Secured Obligations outstanding.

3.3 Miscellaneous

All the Security created by this Agreement by the Chargor is made with full title guarantee and free of any security interest in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.4 Notice of assignment to the Borrower

- (a) The Chargor hereby gives irrevocably and unconditionally notice to the Borrower that:
 - (i) by this Agreement the Chargor has assigned to the Security Agent, as first priority assignee, all of its rights, title and interest in the Subordinated Debt Documents;
 - (ii) the Chargor may not agree to amend (save for minor administrative amendments), modify or terminate the Subordinated Debt Documents without the prior written consent of the Security Agent;
 - (iii) it confirms that, subject to Clauses (i) and (ii) above, the Borrower may continue to deal with the Chargor in relation to the Subordinated Debt Documents until the Borrower receives written notice to the contrary from the Security Agent, but the Chargor hereby authorises and instructs the Borrower that, after it has received such notice, the Chargor will cease to have any right to deal with the Borrower in relation to the Subordinated Debt Documents except in accordance with the instructions of the Security Agent and therefore from that time the Borrower may deal directly with the Security Agent;
 - (iv) it authorises and instructs the Borrower to disclose information in relation to the Subordinated Debt Documents to the Security Agent promptly on request, without any enquiry by the Borrower as to the

justification for such disclosure or reference to or further authority from the Chargor;

- (v) it authorises and instructs the Borrower to pay or release all monies to which the Chargor is entitled under the Subordinated Debt Documents directly into such account as the Security Agent shall specify;
 - (vi) it authorises and instructs the Borrower that, whenever the Borrower serves any notice upon the Chargor under the Subordinated Debt Documents, the Borrower should supply a copy of such notice to the Security Agent; and
 - (vii) it notifies the Borrower that the provisions of this Clause (a) may only be revoked with the written consent of the Security Agent.
- (b) The Borrower hereby acknowledges receipt of the notice provided in Clause (a) and undertakes to the Security Agent and Chargor that:
- (i) it accepts the instructions and authorisations set out in Clause (a) and undertakes to act in accordance with such instructions and authorisations; and
 - (ii) confirms that it has not received notice that the Chargor has assigned its rights under the Subordinated Debt or the Subordinated Debt Documents to a third party or created any other interest (whether by way or security or otherwise) in them in favour of a third party.

4 FURTHER ASSURANCE

4.1 The Chargor and the Borrower shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require) in favour of the Security Agent or its nominee(s) as necessary:

- (a) to create, protect and perfect the Security created or intended to be created or evidenced by this Agreement or for the exercise of any rights, powers and remedies of the Security Agent provided by or pursuant to this Agreement;
- (b) to confer on the Security Agent Security over any property or assets of that Chargor located in England and Wales or any other jurisdiction equivalent or similar to the Security intended to be created, or expressed to be created, by this Agreement; and/or

- (c) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Agreement.

- 4.2 The Chargor and the Borrower shall take all such action as is available to it (including making all filings and registrations and the payment of all fees and Taxes) as the Security Agent may reasonably require for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent by or pursuant to this Agreement.

5 NEGATIVE PLEDGE

During the Security Period, the Chargor shall not (except as permitted under the Facility Agreement) create, extend, or permit to subsist, any Security over any of the Secured Assets; nor may it (a) sell, transfer or otherwise dispose of any of its assets on terms that they are or may be leased to or re-acquired by any of the Transaction Obligors, (b) enter into any other preferential arrangement having a similar effect to any of the arrangements or transactions previously described in this Clause 5, in any case in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

6 REPRESENTATIONS AND WARRANTIES

The Chargor represents and warrants to the Security Agent on the date of this Agreement as follows:

6.1 Status

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted and it has the power to enter into and perform all of its obligations under this Agreement and the transactions contemplated by this Agreement.

6.2 Binding obligations

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

6.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Agreement and the granting of the Security do not and will not conflict with:

- (a) any law or regulation applicable to it;

- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

6.4 Power and authority

- (a) 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 Agreement and the transactions contemplated by this Agreement.
- (b) No limit on its powers will be exceeded as a result of the grant of security or indemnities contemplated by this Agreement.

6.5 Validity and admissibility in evidence

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement; and
- (b) to make this Agreement admissible in evidence in its jurisdiction of incorporation,

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

6.6 Governing law and enforcement

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

6.7 No Event of Default

No Event of Default has occurred or is continuing or might reasonably be expected to result from the execution of this Agreement or from effect being given to its provisions and no person who holds any Security over any of its assets has enforced such Security.

6.8 Secured Assets

It is the sole legal and beneficial owner of the Secured Assets and of the benefits of the Subordinated Debt Documents free from any Security (other than as permitted by the Facility Agreement), declaration of trust, option and subordination in favour of any

person other than the Security Agent and with the right to transfer with full title guarantee all or any part of the Secured Assets.

6.9 Priority of Security

The Security created by this Agreement constitutes first priority Security over the assets which are expressed to be subject to such Security and those assets are not subject to any other Security, other than Security permitted under the terms of the Facility Agreement.

6.10 Centre of main interests

For the purposes of the EC Regulation its COMI is situated in its jurisdiction of incorporation and it has no Establishment in any other jurisdiction.

7 UNDERTAKINGS

Throughout the Security Period, the Chargor undertakes to the Security Agent in the terms of the following provisions of this Clause 7.

- 7.1 **Not jeopardise Security** - It will not do or omit to do anything, or allow anything to be done or omitted, the result of which may be in any way to depreciate, jeopardise or otherwise prejudice the effectiveness of the Security created by this Agreement or the priority of its ranking as expressed in this Agreement.
- 7.2 **Observe covenants** – It will observe and perform all covenants and stipulations from time to time on its part to be performed or observed and affecting any of the Secured Assets in accordance with the provisions of the Finance Documents.
- 7.3 **Deposit of documents** – It will promptly deposit with the Security Agent all deeds, documents of title (or documents evidencing title or the right to title) and agreements relating to a Secured Asset and any other deeds or documents necessary or desirable to assist the Security Agent to enforce the Security created by this Agreement.
- 7.4 **Subordinated Debt Documents –**
- (a) Subject to Clause (b), it will not, without the prior consent of the Security Agent, amend (save for minor administrative amendments which are not prejudicial to the Secured Parties (where a copy of such proposed amendments will be provided to the Security Agent in advance of implementation)), waive, release or terminate all or any part of the Subordinated Debt Documents to which it is a party (or agree to do any of the same).

- (b) The Security Agent shall not unreasonably withhold or delay its consent in relation to an amendment to a Subordinated Debt Document in circumstances where such amendment does not prejudice the interests of the Secured Parties.

- 7.5 **Information** – It shall supply promptly to the Security Agent, such information in relation to the Secured Assets as the Security Agent may request and all documents dispatched by the Borrower to it in connection with the Secured Assets.
- 7.6 **Power to remedy** - If the Chargor fails to comply with any of the covenants and undertakings set out or referred to in Clauses 7.1 (*Not jeopardise Security*) to 7.5 (*Information*) inclusive, it will allow (and irrevocably authorises) the Security Agent and/or such persons as the Security Agent nominates to take on behalf of the Chargor such action (including the making of payments) which the Security Agent or such nominee deems necessary to protect any relevant assets against the consequences of such failure to comply and/or to ensure compliance with such covenants and undertakings.
- 7.7 **Indemnity** - The Chargor undertakes to pay or procure to be paid and indemnify the Security Agent against all rents, rates, taxes, levies, assessments, impositions, calls and outgoings whether governmental, municipal or otherwise imposed upon or payable in respect of the Secured Assets or any part thereof as and when the same shall become payable and also punctually pay and discharge all debts and obligations which by law may have priority over the Security hereby created and so far as the Chargor lawfully can neither agree nor suffer nor permit any local statutory or other authority to take possession of the Security by a requisition notice, the exercise of any statutory or other powers or otherwise;

8 ENFORCEABILITY

For the purposes of all powers implied by the LPA or any other applicable legislation, the Secured Obligations shall be deemed to have become due and payable and this Agreement will become immediately enforceable and the powers of the Security Agent and any Receiver will become exercisable on the date of this Agreement, but, as between the Security Agent and the Chargor, the power of the Security Agent to enforce the Security created by this Agreement shall be exercisable only upon the occurrence of an Event of Default and for so long as it is continuing (unless there has been a request from the Chargor to the Security Agent for the appointment of a Receiver, in which case it will be exercisable at any time following the making of such request).

9 ENFORCEMENT OF SECURITY

- 9.1 At any time after the Security Agent's power of sale has become exercisable in accordance with the terms of this Agreement, the Security Agent may, without further notice, (a) appoint one or more than one person to be Receiver in respect of the Secured Assets or any of them and, if more than one person is appointed as Receiver, such appointees may act jointly and severally or individually, (b) take possession of the Secured Assets, and/or (c) in its absolute discretion enforce all or any part of the Security created by this Agreement in such other lawful manner as it thinks fit. The Security Agent may remove any person from appointment as Receiver and may appoint another person as Receiver. The Security Agent may also appoint an additional Receiver.
- 9.2 The Receiver will, so far as the law permits, be the agent of the Chargor in respect of which the Receiver is appointed and the Chargor alone will be responsible for the acts or defaults of the Receiver and will be liable on any contracts or obligations made or entered into by the Receiver. The Security Agent will not be responsible for any misconduct, negligence or default of the Receiver. The powers of the Receiver will continue in full force and effect following any liquidation of the Chargor.
- 9.3 The remuneration of the Receiver may be fixed by the Security Agent but will be payable by the Chargor. The amount of the remuneration will form part of the Secured Obligations.
- 9.4 Any Receiver will have, on behalf and at the cost of the Chargor, to do or omit to do anything which he considers appropriate in relation to the Secured Assets and will have:
- (a) the powers conferred on receivers and mortgagees in possession under the Law of Property Act 1925 ("**LPA**");
 - (b) the powers conferred on administrative receivers (whether or not he is an administrative receiver) under Schedule 1 of the Insolvency Act; and
 - (c) all other powers conferred by law on Receivers,
- provided that if there is any ambiguity or conflict between the powers contained in such legislation and those contained in this Agreement, those contained in this Agreement shall prevail.
- 9.5 The rights, powers and remedies provided in this Agreement are in addition to any rights powers and remedies under law. Any Receiver will have the following additional powers:
- (a) the power to do or omit to do anything which the Chargor could do or omit to do in relation to the Secured Assets which is the subject of the appointment;

- (b) the power to do all other acts and things which he may consider desirable or necessary for realising any of the Secured Assets or incidental or conducive to any of the rights, powers and discretions conferred on a Receiver under this Deed or by law; and
 - (c) the power to use the Chargor's name for all the above purposes.
- 9.6 If (notwithstanding any representation or warranty to the contrary contained in this Agreement) there shall be any Security affecting the Secured Assets or any of them which ranks in priority to the Security created by this Agreement and the holder of such prior Security takes any steps to enforce such Security, the Security Agent or any Receiver may, at its option, take a transfer of, or repay the indebtedness secured by, such Security.
- 9.7 The Security Agent may, at any time after this Agreement has become enforceable pursuant to Clause 8 (*Enforceability*), exercise, to the fullest extent permitted by law, all or any of the powers, authorities and discretions conferred on a Receiver by this Agreement, whether as attorney of the Chargor or otherwise and whether or not a Receiver has been appointed.
- 9.8 The Security Agent may, in writing, either in its appointment of a Receiver or by subsequent notice to that Receiver, restrict the right of such Receiver to exercise all or any of the powers conferred on a Receiver by this Agreement.
- 10 PAYMENTS, ACCOUNTS AND APPLICATION OF PROCEEDS**
- 10.1 **Right of appropriation** – To the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended, apply to a Secured Asset, and subject to the provisions of Clause 10.6 (*Recoveries by Receiver*), the Security Agent shall have the right to appropriate all or any part of that Secured Asset in or towards the payment or discharge of the Secured Obligations in such manner or order as it thinks fit, upon giving written notice to the Chargor, and any such appropriation shall override any appropriations by the Chargor.
- 10.2 **Security Agent's rights of set-off** - The Security Agent may, at any time after this Agreement has become enforceable in accordance with Clause 8 of this Agreement, and without notice (a) combine or consolidate all or any of the Chargor's then existing accounts with, and liabilities to, the Security Agent, (b) set-off or transfer any sums standing to the credit of any one or more of such accounts, and/or (c) set-off any other obligation owed by the Security Agent to the Chargor (whether or not matured at such time), in or towards satisfaction of any of the Secured Obligations; and if any amount is in a different currency from the amount against which it is to be set-off, the Security Agent may convert either amount (or both) at any reasonable time and at any

reasonable rate. The Security Agent shall notify the Chargor in writing that any such transaction has taken place.

- 10.3 **Suspense Account** - The Security Agent may, at any time after this Agreement has become enforceable in accordance with Clause 8 of this Agreement, credit to a suspense account any money received by it under this Agreement, to be held for so long as and on such terms as the Security Agent may determine pending its application towards discharging the Secured Obligations.
- 10.4 **Time deposit** - Without prejudice to the provisions of Clause 10.2 (*Security Agent's rights of set-off*), if at any time the Chargor has made a deposit with the Security Agent on terms that it will be repaid on a specified date (a "**Time Deposit**") then: (a) if the Security Agent has made any demand under Clause 2 (*Covenant to pay*), it may vary the terms of such Time Deposit so that it becomes repayable immediately or on any other date before such specified date; or (b) if an Event of Default has arisen which is continuing but no amount of Secured Obligations has fallen due before such specified date, the Security Agent may renew such Time Deposit for such further maturity as the Security Agent in its absolute discretion determines.
- 10.5 **Calculations** - The Security Agent's calculation of any amount payable by the Chargor under this Agreement at any time will be conclusive (unless it has made an obvious mistake or acted fraudulently).
- 10.6 **Recoveries by Receiver** - The proceeds arising from the exercise of the powers of the Receiver will, subject to any claims ranking in priority to the Secured Obligations, be applied by or at the direction of the Receiver in or towards discharging or satisfying the following amounts in the following order of priority: (a) the costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration; (b) any costs, charges, expenses and liabilities of or incurred by any Enforcement Party in the exercise of any of its powers including all rents, Taxes, rates and outgoings whatever affecting the Secured Assets, all premiums on Insurances properly payable under this Agreement or any applicable legislation, the cost of executing necessary or proper repairs to the Secured Assets, and the payment of annual sums or other payments, and the interest on all principal sums, having priority to the Secured Obligations; (c) the remaining Secured Obligations, in accordance with the provisions of the Finance Documents; and (d) in payment of the surplus (if any) to the Chargor or other person entitled to it.
- 10.7 **Tax gross-up** - The provisions of clause 11 (*Tax gross-up and Indemnities*) of the Facility Agreement shall apply to any payments made by the Chargor under or pursuant to this Agreement.

10.8 **Currency of payment** - No payment to the Security Agent (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Security Agent shall have received payment in full in the relevant currency specified in clause 29.8 (*Currency of account*) of the Facility Agreement. 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 Security Agent shall have a further separate cause of action against that Chargor and shall be entitled to enforce the Security created by this Agreement to recover the amount of the shortfall.

10.9 **Set-off** - The Chargor shall not exercise any right of set-off or counterclaim which it might have in respect of any payment due to the Security Agent under this Agreement.

11 PROTECTION OF THIRD PARTIES

11.1 **No duty to enquire** - A buyer from, or other person dealing with, any Enforcement Party will not be concerned to enquire whether any of the powers which such Enforcement Party has exercised or purported to exercise has arisen or become exercisable and may assume that it is acting in accordance with this Agreement.

11.2 **Receipt conclusive** - The receipt of the Security Agent or any Receiver shall be an absolute and conclusive discharge to a purchaser of the Secured Assets and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Security Agent or any Receiver.

12 PROTECTION OF SECURITY AGENT

12.1 **Security Agent's receipts** - The Security Agent shall not be obliged to account to the Chargor, nor to any other person, for anything other than its own actual receipts which have not been distributed or paid to the person entitled (or whom the Security Agent, acting reasonably, believes to be entitled) in accordance with the requirements of this Agreement.

12.2 Exclusion of liability

- (a) No Enforcement Party will be liable to the Chargor for any expense, loss, liability or damage incurred by the Chargor arising out of the exercise by such Enforcement Party of its rights or powers or any attempt or failure to exercise those rights or powers, except for any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct.
- (b) The Chargor may not take any proceedings against any officer, employee or agent of any Enforcement Party in respect of any claim it might have against

such Enforcement Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Agreement.

- (c) Any officer, employee or agent of any Enforcement Party may rely on this Clause 12 under the Third Parties Act.

13 POWER OF ATTORNEY

13.1 The Chargor irrevocably and by way of security appoints the Security Agent and each Receiver and any person nominated for the purpose by the Security Agent or the Receiver (in writing, under hand, signed by an officer of the Security Agent or by the Receiver) severally to be the attorney of the Chargor (with full power of substitution and delegation) to:

- (a) carry out any obligation imposed on the Chargor by this Agreement or any other agreement binding on the Chargor to which the Security Agent is party (which the Chargor has not carried out within five Business Days of being notified of that failure and being requested to comply by the Security Agent), including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Secured Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Secured Assets; and
- (b) following the occurrence of an Event of Default which is continuing, enable the Security Agent and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Agreement or by law (including the exercise of any right of a legal or beneficial owner of the Secured Assets).

13.2 The Chargor covenants with the Security Agent to ratify and confirm all acts or things made, done or executed by any attorney exercising or purporting to exercise the powers conferred in accordance with this Clause 13.

14 APPLICATION, VARIATION AND EXTENSION OF STATUTORY PROVISIONS

14.1 The covenants set out in sections 2 to 5 of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to bind the Chargor only if, in any case, the relevant covenant imposes upon the Chargor a burden, liability or obligation that would not otherwise arise under this Agreement.

14.2 For the purposes only of section 101 of the LPA, (but otherwise subject to the provisions of Clause 8 (*Enforceability*)), the conditions set out in that section, as to when the powers conferred on a mortgagee by that section arise, do not apply and the Secured Obligations become due and the statutory power of sale and other powers of

enforcement arise immediately following the execution of this Agreement. The Security Agent and any Receiver may exercise the statutory power of sale conferred by the LPA free from the restrictions imposed by section 103 of the LPA, which shall not apply to this Agreement.

- 14.3 The power of sale and the other powers conferred by the LPA or otherwise are extended and varied to authorise the Security Agent in its absolute discretion to do all or any of the things or exercise all or any of the powers which a Receiver is empowered to do or exercise under this Agreement.
- 14.4 The restriction on the consolidation of mortgages in section 93 of the LPA does not apply to this Agreement nor to any Security given to the Security Agent pursuant to this Agreement. Section 109(1) of the LPA shall not apply to this Agreement. Sections 105, 107(2), 109(6) and 109(8) of the LPA will not apply to the Security Agent nor to a Receiver appointed under this Agreement.
- 14.5 The statutory and other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not be exercisable by the Chargor in relation to the Secured Assets or any part of them. The restrictions on the powers of the Security Agent or the Receiver to grant leases or to accept the surrender of leases in sections 99 and 100 of the LPA do not apply to this Agreement.

15 OTHER MISCELLANEOUS PROVISIONS

- 15.1 Except where expressly stated to the contrary, the powers, rights and remedies provided in this Agreement are in addition to (and not instead of) powers, rights and remedies under law.
- 15.2 If an Enforcement Party fails to exercise any power, right or remedy under this Agreement or delays its exercise of any power, right or remedy, this does not mean that it waives that power, right or remedy. If an Enforcement Party exercises, or partly exercises, a power, right or remedy once, this does not mean that it cannot exercise such power right or remedy again, fully or in part.
- 15.3 The Security Agent may decide when and how to apply any payments and distributions received for its own account under this Agreement, and also, as between the Security Agent and the Chargor, whether and, if so, when, how and to what extent (a) to exercise its rights under this Agreement and (b) to exercise any other right it might have in respect of the Chargor (or otherwise) without, in any case, the Chargor having the right to control or restrict the Security Agent's exercise of this discretion.

- 15.4 No provision of this Agreement will interfere with the Security Agent's right to arrange its affairs as it may in its absolute discretion decide (nor oblige it to disclose any information relating to its affairs), except as expressly stated.
- 15.5 The Chargor authorises the holder of any prior or subsequent Security to provide to the Security Agent, and the Security Agent to receive from such holder, details of the state of account between such holder and the Chargor.
- 15.6 The Chargor shall not assign, novate or otherwise deal with its rights or obligations under or interests in this Agreement, except with the prior written consent of the Security Agent.
- 15.7 Save as otherwise provided in the Facility Agreement, the Security Agent may at any time assign, novate or otherwise deal with any rights or obligations under or interests in this Agreement.
- 15.8 If, at any time, there has been a release, settlement or discharge of the Chargor's obligations under this Agreement and, as a consequence of any insolvency proceedings (or analogous proceedings) or for any other reason, (a) any payment made to any person in respect of any of the Secured Obligations is required to be repaid and/or (b) any such payment or any Security (or other right) held by the Security Agent in respect of any of the Secured Obligations (whether under this Agreement or otherwise) is void, is set aside or is otherwise affected, then the Chargor's obligations under this Agreement shall continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and/or (as applicable) the relevant Security (or other right) had not been held by the Security Agent; and accordingly (but without limiting the Security Agent's other rights under this Agreement) the Security Agent shall be entitled to recover from the Chargor the value which the Security Agent has placed upon such Security or the amount of any such payment as if such payment, settlement or discharge had not occurred.
- 15.9 If the Security Agent, acting reasonably, considers that any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or ordered to be refunded or reduced for the reasons set out in Clause 15.8, then for the purposes of this Agreement such amount shall not be considered to have been irrevocably paid.
- 15.10 To the extent that the Chargor may be entitled in any jurisdiction to claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process of any kind wherever it might originate, or to the extent that in any such jurisdiction there may be attributed to the Chargor or its assets such immunity (whether or not claimed), it irrevocably agrees not to claim and irrevocably waives such immunity to the fullest extent permitted by the laws of such jurisdiction.

- 15.11 On the Discharge Date (but subject to Clauses 15.8 and 15.9) the Security Agent shall, at the request and cost of the Chargor, execute and do all deeds, acts and things as may be necessary to release the Secured Assets from the Security created by this Agreement and procure the reassignment to the Chargor of the property and assets assigned to the Security Agent pursuant to this Agreement.
- 15.12 The obligations of the Chargor under Clause 2 (*Covenant to pay*) are unconditional and neither the provisions of this Agreement nor the obligations of the Chargor will be affected by the occurrence or existence at any time of any of the following events or circumstances or by any person's knowledge or lack of knowledge as to any such matter: (a) any person's insolvency or lack of capacity, power or authority; (b) any unenforceability, illegality or invalidity of any obligation of any person; (c) any change in the constitution, membership, ownership, legal form, name or status of any person; (d) the making, amendment or termination of any other deed or agreement; (e) any amendment, novation, re-statement or substitution of, or any supplement to, any other deed or agreement; (f) any increase or reduction in the amount of any person's indebtedness or any alteration of any term, condition or arrangement in respect of any person's indebtedness; (g) any person taking or omitting to take any steps in relation to (i) the Chargor or any other person, (ii) any of the Secured Obligations, (iii) any Security, guarantee or other financial support in respect of any indebtedness and/or (iv) any other asset; or (h) anything else which, although it could affect the liability of a surety, would not affect the liability of a principal debtor.
- 15.13 The guarantee (the "**Loan Guarantee**") in respect of the facility provided by The Secretary of State for Housing, Communities and Local Government (the "**Guarantor**") provides that the Guarantor shall be subrogated to any right of the Secured Parties (or the Security Agent on the Secured Parties' behalf) against the Borrower in respect of amounts due in respect of the Loan which have been paid by the Guarantor under the Loan Guarantee. The Chargor hereby acknowledge this aforementioned right of subrogation.

16 NOTICES

16.1 In writing

- (a) Any communication in connection with this Agreement must be in writing and, unless otherwise stated, may be given in person, by post or fax.
- (b) For the purpose of this Agreement, an electronic communication will be treated as being in writing.
- (c) Unless it is agreed to the contrary, any consent or agreement required under this Agreement must be given in writing.

16.2 Contact details

- (a) The contact details of the Chargor, the Borrower and the Security Agent are as set out in their execution blocks for this Agreement.
- (b) Any party to this Agreement may change its contact details by giving five Business Days' notice to the other parties.
- (c) Where the Security Agent nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

16.3 Effectiveness

- (a) Except as provided below, any communication in connection with this Agreement will be deemed to be given as follows:
 - (i) if delivered in person, at the time of delivery;
 - (ii) if posted, five Business Days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and
 - (iii) if by fax or electronic communication, when received in legible form.
- (b) A communication given under Clause (a) but received on a day which is not a Business Day or after business hours in the place of receipt will only be deemed to be given on the next Business Day in that place.
- (c) A communication to the Security Agent will only be effective on actual receipt by it.

16.4 English Language

- (a) Any notice given under or in connection with this Agreement must be in English.
- (b) All other documents provided under or in connection with this Agreement must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

17 THIS AGREEMENT

- 17.1 The Security Agent, the Borrower and the Chargor designate this Agreement as a Finance Document.
- 17.2 The Chargor and the Borrower have entered into this Agreement in consideration of the Secured Parties or some of them agreeing to provide (or to continue to provide) finance facilities to the Borrower on the terms agreed in the Finance Documents.
- 17.3 If there is any conflict between the provisions of the Facility Agreement and the provisions of this Agreement, the provisions of the Facility Agreement shall prevail.
- 17.4 If any Party is not bound by this Agreement (or any part of it) for any reason, this does not affect the obligations of each other Party under this Agreement (or under the relevant part).
- 17.5 This Agreement is in addition to, and does not operate so as in any way to prejudice or affect, or be prejudiced or affected by, any other Security or guarantee which the Security Agent may now or at any time after the date of this Agreement hold for or in respect of the Secured Obligations.
- 17.6 If the parties execute this Agreement in separate counterparts, it will take effect as if they had all executed a single copy. This Agreement is intended to be a deed even if any party's execution is not in accordance with the formalities required for the execution of deeds.
- 17.7 All the provisions of this Agreement are severable and distinct from one another and the illegality, invalidity or unenforceability of any provision of this Agreement under the law of any jurisdiction shall not affect its validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

18 GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by the laws of England and Wales.

19 JURISDICTION

The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**"). The Parties agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no Party will argue to the contrary. This Clause 19 is for the benefit of the Enforcement Parties only. As a result, no Enforcement Party

shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, each Enforcement Party may take concurrent proceedings in any number of jurisdictions.

This Agreement is executed as a deed and delivered on the date stated at the beginning of this Agreement.

EXECUTION

The ChargorExecuted as a deed by **BRIPARK LIMITED**

acting by a director in the presence of:

SIGNATURE OF WITNESS

SIGNATURE OF DIRECTOR
DirectorName of Witness
IN BLOCK CAPITALS

Address of Witness

Occupation of Witness

DAVID POSEN

FINANCIAL ADVISER

Address: New Burlington House, 1075 Finchley Road, London, NW11 0PU

Cc. 86 Filey Avenue, London, N16 6JJ

Attention: The directors

The BorrowerExecuted as a deed by **BRIPARK 2 LTD**

acting by a director, in the presence of:

.....
SIGNATURE OF WITNESS.....
SIGNATURE OF DIRECTOR
DirectorName of Witness
IN BLOCK CAPITALS

Address of Witness

Occupation of Witness

.....
DAVID POSEN
.....
FINANCIAL ADVISER
.....

Address: New Burlington House, 1075 Finchley Road, London, NW11 0PU

Cc. 86 Filey Avenue, London, N16 6JJ

Attention: The directors

The Security Agent

Executed as a deed by **PRS OPERATIONS LIMITED** acting by a director, in the presence of: *a*

.....
SIGNATURE OF WITNESS

Name of Witness
IN BLOCK CAPITALS

Address of Witness

Occupation of Witness

.....
SIGNATURE OF DIRECTOR
Director

Richard Green
Director

.....
James Barnwell

Solicitor - SRA number 476813

C/O Venn Partners LLP

13 George Street, London

W1U 3QJ

Address: PRS Operations Limited, c/o Situs Asset Management Limited, 25 Canada Square, 34th Floor, London, United Kingdom, E14 5LB

Fax: +44 (0)20 7220 1899

Attention: Head of Servicing

Email: loan.administration@prsoperations.com