



**Registration of a Charge**

Company name: **EQUITIX HEALTHCARE (LEEDS) HOLDINGS LIMITED**

Company number: **06800540**



X7KL2G0H

Received for Electronic Filing: **11/12/2018**

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**Details of Charge**

Date of creation: **07/12/2018**

Charge code: **0680 0540 0002**

Persons entitled: **NATIONAL AUSTRALIA BANK LIMITED (AS SECURITY TRUSTEE)**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**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:

**WILLIAM HOLMDEN, CMS CAMERON MCKENNA NABARRO  
OLSWANG LLP**



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

Company number: 6800540

Charge code: 0680 0540 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th December 2018 and created by EQUITIX HEALTHCARE (LEEDS) HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th December 2018 .

Given at Companies House, Cardiff on 12th December 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**

Dated 7 December 2018

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- (1) **EQUITIX HEALTHCARE (LEEDS)  
HOLDINGS LIMITED**
- (2) **NATIONAL AUSTRALIA BANK LIMITED**

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**DEBENTURE**

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**CMS Cameron McKenna Nabarro Olswang LLP**

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THIS DEED is made the 7<sup>th</sup> day of December 2018

**BETWEEN:-**

- (1) **EQUITIX HEALTHCARE (LEEDS) HOLDINGS LIMITED** (registered number 06800540) whose registered office is at 5th Floor 120 Aldersgate Street, London, England, EC1A 4JQ (the “Chargor”); and
- (2) **NATIONAL AUSTRALIA BANK LIMITED** a company incorporated in Australia (A.B.N. 12 004 044 937) with limited liability acting through its London branch at 88 Wood Street, London EC2V 7QQ as security trustee for itself and the other Secured Finance Parties (the “Security Trustee”).

**WHEREAS:-**

The Chargor enters into this Deed in connection with the Amendment and Restatement Deed, the Facility Agreement and the other Finance Documents.

**IT IS AGREED** as follows:-

**1. Interpretation**

**Definitions**

**1.1** In this Deed, the following words have the following meanings:-

“**Act**”: means the Law of Property Act 1925;

“**Amendment and Restatement Deed**”: has the meaning given to such term in the Facility Agreement;

“**Assigned Agreements**”: means:

- (a) any Project Documents (excluding the Leases) to which the Chargor is a party from time to time and which are governed by English law;
- (b) the Accounts Agreement;
- (c) the Hedging Agreements; and
- (d) any other document which the Security Trustee (acting reasonably) may from time to time designate as an Assigned Agreement;

“**Facility Agreement**”: means the facility agreement originally dated 13 February 2009 between, *inter alios*, the Chargor, Leeds PFI SPV 2 Limited and the Security Trustee as amended and restated on 28 September 2015 and as further amended and restated on or about the date of this Deed pursuant to the Amendment and Restatement Deed;

“**Fixtures**”: means all fixtures and fittings (including trade fixtures and fittings and tenants’ fixtures and fittings) and fixed plant and machinery on the Mortgaged Property;

**“Insurances”:** means all contracts and policies of insurance taken out by or on behalf of the Chargor or (to the extent of its interest) in which the Chargor has an interest (including, for the avoidance of doubt, any Insurances (as defined in the Facility Agreement) taken out by or on behalf of the Chargor or (to the extent of its interest) in which the Chargor has an interest);

**“Intellectual Property Rights”:** means all know-how, patents, trade marks, service marks, designs, business names, topographical or similar rights, copyrights and other intellectual property monopoly rights and any interests (including by way of licence) in any of the foregoing (in each case whether registered or not and including all applications for the same);

**“Liability Period”:** means the period beginning on the date of this Deed and ending on the date on which the Security Trustee confirms that the Senior Creditors Release Date has occurred;

**“Mortgaged Property”:** means any freehold or leasehold property the subject of the security created by this Deed;

**“Premises”:** means all buildings and erections included in the definition of “Security Assets”;

**“Receiver”:** means a receiver and manager, administrative receiver or (if the Security Trustee so specifies in the relevant appointment) a receiver, in each such case, appointed under this Deed;

**“Related Rights”:** means any dividend or interest paid or receivable in relation to any Shares and any rights, monies, accretions, advantages, credits, rebates or refunds (including any rebates and refunds in respect of any tax, duties, imposts or charges or property accruing or offered at any time in relation to any Shares by way of redemption, substitution, capitalisation, exchange, bonus or preference, under option rights or otherwise);

**“Secured Finance Parties”:** has the meaning given to that term in the Security Trust and Intercreditor Deed;

**“Security Assets”:** means all assets of the Chargor the subject of any security created by this Deed; and

**“Shares”:** means any stocks, shares, debentures, bonds, other securities and/or investments legally and/or beneficially owned by the Chargor or any nominee from time to time including, for the avoidance of doubt, 7,977,300 ordinary shares of £1 each.

### **Construction**

#### **1.2**

1.2.1 Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.

1.2.2 The provisions of clauses 1.2 to 1.5 (*Construction*) of the Facility Agreement apply to this Deed as though they were set out in full in this Deed.

- 1.2.3 For the purposes of the covenants for title under the Law of Property (Miscellaneous Provisions) Act 1994 in relation to this Deed:-
- (a) the covenant set out in section 2(1)(a) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the Chargor without the benefit of section 6(2) of that Act;
  - (b) the covenant set out in section 3 of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the Chargor without the benefit of section 6(2) of that Act; and
  - (c) the covenant set out in section 4 of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to the Chargor without the benefit of section 6(2) of that Act.
- 1.2.4 The terms of the other Finance Documents and of any side letters between any Parties in relation to any of the Transaction Documents are incorporated in this Deed to the extent required to ensure that any purported disposition contained in this Deed or any purported agreement for the same is a valid disposition or agreement for the same in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 1.2.5 The provisions of this Deed are subject to the terms of the Security Trust and Intercreditor Deed.
- 1.2.6 “**set-off**” includes, without limitation, set off, offset, compensation, retention, counterclaim and balancing of accounts.

## **2. Fixed Security**

### ***Creation of Fixed Security***

- 2.1 The Chargor with full title guarantee and as a continuing security for the payment, discharge and performance of all the Secured Obligations, charges in favour of the Security Trustee:-
- 2.1.1 by way of a first legal mortgage:-
- (a) all the property specified in Schedule 1 (*Real Property*), if any; and
  - (b) all estates or interests in any freehold or leasehold property (except any Security Assets specified in sub-paragraph (a) above) now belonging to it, if any; and
- 2.1.2 by way of first fixed charge:-
- (a) (to the extent that they are not the subject of a mortgage under Clause 2.1.1) all estates or interests in any freehold or leasehold property belonging to it from time to time;



- (b) all plant, machinery, vehicles, computers and equipment owned by the Chargor and its interest in any plant, machinery, vehicles, computers or equipment in its possession;
- (c) its interest in all the Shares and their Related Rights;
- (d) its interest in all monies standing to the credit of any bank account with any person and the debts represented by them (excluding the HoldCo Distributions Account);
- (e) all benefits in respect of the Insurances and all claims and returns of premiums in respect of them (including the Insurances to the extent that they are not effectively assigned, by way of security, in accordance with Clause 2.2) (*Security Assignment*) subject to the Security Interests constituted hereunder over the proceeds of such Insurances being hereby released to the extent utilised for reinstatement or otherwise in accordance with the Facility Agreement and/or the Funders' Direct Agreement (as applicable);
- (f) all of the Chargor's book and other debts (other than in relation to the HoldCo Distributions Account), the proceeds of the same and all other monies due and owing to the Chargor and the benefit of all rights, securities and guarantees of any nature enjoyed or held by it in relation to any of the foregoing;
- (g) (to the extent that they do not fall within any other sub-paragraph of this Clause 2.1.2 and are not effectively assigned, by way of security, in accordance with Clause 2.2) all of the Chargor's rights and benefits under the Assigned Agreements, including, but not limited to:-
  - (i) the right to demand and receive all monies whatsoever payable to or for the benefit of the Chargor under or arising from the Assigned Agreements;
  - (ii) all remedies provided for in the Assigned Agreements or available at law or in equity;
  - (iii) the right of the Chargor to compel performance of the Assigned Agreements; and
  - (iv) all other rights, interests and benefits whatsoever accruing to or for the benefit of the Chargor arising from the Assigned Agreements;
- (h) its goodwill;
- (i) the benefit of all licences, consents and authorisations (statutory or otherwise) held in connection with its business or the use of any Security Asset specified in any other sub-paragraph in this Clause and the right to

recover and receive all compensation which may be payable to it in respect of them;

- (j) its uncalled capital; and
- (k) its Intellectual Property Rights (including the patents and trademarks specified in Schedule 2 (*Specific Patents and Trademarks*), if any).

***Security Assignment***

2.2 The Chargor with full title guarantee, hereby assigns to the Security Trustee all its present and future:

- 2.2.1 right, title and interest in and to the Assigned Agreements including all monies which at any time may be or become payable to the Chargor and any claims, awards and judgments in favour of, receivable or received by the Chargor, under or in connection with or pursuant to the Assigned Agreements; and
- 2.2.2 right, title and interest in and to all the Insurances and all proceeds in respect of the Insurances and all benefits of the Insurances (including all claims relating to, and all returns of premium in respect of, the Insurances) to the extent of the Chargor's interests in the same.

***Miscellaneous***

2.3

2.3.1 A reference in this Deed to a charge or mortgage of any freehold or leasehold property includes a charge and/or mortgage of:-

- (a) all buildings and Fixtures on that property;
- (b) the proceeds of sale of any part of that property (together with all such buildings and fixtures); and
- (c) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any monies paid or payable in respect of those covenants.

2.3.2 The fact that no details of properties or patents and trademarks or agreements are included in the relevant Schedule does not affect the validity or enforceability of any security created by this Deed.

***Notice of Charge***

2.4 With respect to any account (excluding the HoldCo Distributions Account) the Chargor shall, if and when so requested from time to time, join the Security Trustee in giving a notice (substantially in the form set out in Schedule 3) to the relevant bank or financial institution and shall use its reasonable endeavours to procure that each such party shall promptly duly sign and

return the form of acknowledgement of that notice, except in each case to the extent that such notice is given and acknowledged in the Accounts Agreement.

***Notice of Assignment***

- 2.5 With respect to all Insurances, the Chargor shall, if and when so requested from time to time, join the Security Trustee in giving a notice (substantially in the appropriate form set out in Schedule 10 (*Insurances*) of the Facility Agreement) to the relevant insurers and the Chargor shall use its reasonable endeavours to procure that each such party shall, promptly, duly sign and return the form of acknowledgement of that notice.
- 2.6 With respect to each Assigned Agreement, the Chargor shall on the date of this Deed join the Security Trustee in giving a notice (substantially in the form set out in Schedule 4) to each party (other than the Chargor) to that Assigned Agreement and the Chargor shall use its reasonable endeavours to ensure that each recipient of any notice promptly signs and returns the relevant form of acknowledgement, except in each case to the extent that such notice is given and acknowledged in a direct agreement.
- 2.7 With respect to those Assigned Agreements entered into after the date of this Deed, the Chargor shall join the Security Trustee in giving a notice (substantially in the form set out in Schedule 4) (*Forms of Notice of Assignment – Assigned Contracts*) within ten Business Days of the execution of that Assigned Agreement to each party (other than the Chargor) to that Assigned Agreement and the Chargor shall use its reasonable endeavours to ensure that each recipient of any notice promptly signs and returns the relevant form of acknowledgement, provided that the Chargor may satisfy its obligations under this Clause 2.7 in respect of any Assigned Agreement by delivering to the Security Trustee a direct agreement in relation to that Assigned Agreement, in form and substance satisfactory to the Security Trustee and executed by all parties to such Assigned Agreement (other than the Security Trustee).

**3. Floating Charge**

***Creation of Floating Charge***

- 3.1 The Chargor, with full title guarantee and as a continuing security for the payment, discharge and performance of all of the Secured Obligations, charges in favour of the Security Trustee by way of a first floating charge all its assets not otherwise effectively mortgaged or charged by way of fixed mortgage or fixed charge by Clause 2 (*Fixed Security*).

***Conversion***

- 3.2
- 3.2.1 The Security Trustee may, by notice to the Chargor, convert the floating charge created by this Deed into a fixed charge as regards all or any of the Chargor's assets specified in the notice if:-
- (a) an Event of Default is outstanding and a notice has been given or action has been taken pursuant to clause 23.48 (*Acceleration*) of the Facility Agreement, provided that any relevant Event of Default for which such

notice has been given has not subsequently been waived in accordance with the terms of the Facility Agreement; or

- (b) at any time the Security Trustee considers in good faith and acting reasonably those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

3.2.2 Notwithstanding Clause 3.2.1:

- (a) if any person levies or attempts to levy any distress execution or sequestration, attachment or other process against any of the Security Assets; or
- (b) if the Chargor takes any step to create any Security Interest (other than a Permitted Security Interest) over any of the Security Assets in breach of Clause 5.2.1,

the floating charge shall automatically and without need for notice operate as a fixed charge as regards such assets the moment any such event occurs.

***Qualifying Floating Charge***

- 3.3 The provisions of paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this Deed.

**4. Representations and Warranties**

***Representations and Warranties***

- 4.1 The Chargor makes the representations and warranties set out in this Clause 4 to each Secured Finance Party.

***The Mortgaged Property***

- 4.2 The Chargor shall comply with all of its obligations under the Project Documents in relation to the Mortgaged Property.

***Times for Making Representations and Warranties***

- 4.3 The representations and warranties set out in this Clause 4 (*Representations and Warranties*) are made on the date of this Deed and are deemed to be repeated by the Chargor on the dates set out in clauses 19.56 and 19.57 (*Time for making representations*) of the Facility Agreement with reference to the facts and circumstances then existing.

**5. General Undertakings**

***Duration***

- 5.1 The undertakings in this Clause 5 (*General Undertakings*) remain in force throughout the Liability Period.

***Restrictions on Dealing***

- 5.2 The Chargor shall not:-
- 5.2.1 create or permit to subsist any Security Interest over all or any of its present or future rights, claims, revenues or assets (including the Security Assets) other than a Permitted Security Interest; or
  - 5.2.2 sell, lease, transfer, surrender, determine, assign, convey or otherwise dispose of, by one or more transactions or series of transactions (whether related or not) any Security Asset or attempt or agree so to do save to the extent permitted under clause 21.9 (*Disposals*) of the Facility Agreement or otherwise in accordance with the Finance Documents.

***Book Debts and Receipts***

- 5.3 The Chargor shall:-
- 5.3.1 subject to the terms of the Accounts Agreement and the Facility Agreement, get in and realise the Chargor's:-
    - (a) Shares and their Related Rights to the extent held by way of temporary investment;
    - (b) book and other debts and other monies; and
    - (c) royalties, fees and income of like nature in relation to any Intellectual Property Right owned by it,in the ordinary course of its business, or in accordance with the Transaction Documents, and hold the proceeds of the getting in and realisation (until payment as required in accordance with Clause 5.3.2) upon trust for the Security Trustee; and
  - 5.3.2 pay the proceeds of the getting in and realisation into the HoldCo Distributions Account, in accordance with the Accounts Agreement and the Facility Agreement; and
  - 5.3.3 not without the prior consent in writing of the Security Trustee or except as permitted under clause 21.9 (*Disposals*) of the Facility Agreement, deal with its book or other debts or other sums due to, or received by, it for its own account, except for getting in and realising the same and as required or permitted by the Facility Agreement, or (without prejudice to the generality of the foregoing) factor, discount, transfer, assign or waive any of its book and other debts or sums as aforesaid or enter into any

agreement for such factoring, discounting or waiving, provided that if the Security Trustee so consents or the Facility Agreement so permits and the same would require a withdrawal from the HoldCo Distributions Account, on the date of such withdrawal the amount so withdrawn shall be released automatically from the fixed charge created pursuant to this Deed.

### ***Shares***

- 5.4 Except in relation to Authorised Investments to the extent that no certificate or other document of title or evidence of ownership of the same is delivered to the Chargor, the Chargor shall:-
- 5.4.1 deposit, either with the Security Trustee or with such person as the Security Trustee may direct, all certificates and other documents of title or evidence of ownership in relation to the Shares and their Related Rights;
  - 5.4.2 execute and deliver to the Security Trustee all dated or undated, as the case may be, share transfers and other documents which may be requested by the Security Trustee in order to enable the Security Trustee or its nominees at any time after the security constituted by this Deed becomes enforceable in accordance with clause 8 (*When Security Becomes Enforceable*) to be registered as the owner or otherwise obtain a legal title to the Shares and their Related Rights; and
  - 5.4.3 promptly execute and/or deliver to the Security Trustee a copy of each circular, notice, report, set of accounts or other document received by it or its nominee in connection with any Shares, as the Security Trustee reasonably requires.
- 5.5 The Chargor shall only acquire Shares to the extent expressly permitted by the Transaction Documents.

### ***Intellectual Property Rights***

- 5.6
- 5.6.1 The Chargor shall promptly notify the Security Trustee of its acquisition of, or agreement to acquire, (by licence or otherwise) any material Intellectual Property Rights, and any application by it or on its behalf to register any material Intellectual Property Rights.
  - 5.6.2 The Chargor shall promptly execute and/or deliver to the Security Trustee such documents relating to its Intellectual Property Rights as the Security Trustee reasonably requires.
  - 5.6.3 Without prejudice to Clause 5.2.2, the Chargor shall not grant any exclusive registered user agreement or exclusive licence in relation to any of its present or future Intellectual Property Rights.

***Proceeds of Insurance***

- 5.7 The Chargor shall hold all monies which may at any time be received under any Insurances covering any part of the Security Assets on trust for the Security Trustee and the Secured Finance Parties pending application in accordance with the Finance Documents and shall apply all such monies in accordance with the terms of the Finance Documents.

***Assigned Agreements***

5.8

- 5.8.1 The Chargor shall promptly deliver to the Security Trustee such documents relating to each Assigned Agreement as the Security Trustee requires, where it may reasonably be considered as being relevant to the security hereby constituted.
- 5.8.2 The Chargor shall remain liable to perform all its obligations under each Assigned Agreement. Neither the Security Trustee nor any Receiver or any delegate or sub-delegate shall be under any obligation or liability to the Chargor or any other person under or in respect of any Assigned Agreement (except to the extent otherwise provided for in the relevant Assigned Agreement).
- 5.8.3 The Chargor shall deliver to the Security Trustee a certified copy of each Assigned Agreement entered into after the date of this Deed (other than any such Assigned Agreement to which the Security Trustee is a party) within 10 Business Days of execution of such Assigned Agreement and such other documents relating to each such Assigned Agreement as the Security Trustee requires, where it may reasonably be considered as relevant to the security hereby constituted.
- 5.8.4 Provided that the Chargor shall not be in breach of this Clause 5.8 if the act or omission which (but for this proviso) would give rise to that breach would not constitute a breach of the provisions of the Facility Agreement (if any).

***Preservation of Value***

- 5.9 Save to the extent permitted under and in accordance with the Finance Documents, the Chargor shall:
- 5.9.1 not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the security hereby constituted;
- 5.9.2 enforce and not waive or release any covenants, conditions, agreements and obligations benefiting the Mortgaged Property if failure to enforce or any such waiver or release shall materially diminish or may lead to a material diminution in the value of the Mortgaged Property or shall in any way jeopardise or otherwise prejudice the Security Trustee's and/or any of the other Secured Finance Parties position under this Deed

***Title Documents***

- 5.10 The Chargor shall, if so requested in writing by the Security Trustee (in addition to its obligation under Clauses 5.4 (*Shares*) and 6.8 (*Deposit of Title Deeds*)), deposit with the Security Trustee and permit the Security Trustee to hold and retain (such deposit being made with the intention of charging the same or the assets to which they relate (as the case may be) whereupon the same or the assets to which they relate shall stand charged by way of first fixed charge and upon and subject to the terms of this Deed) all such documents evidencing ownership of the Security Assets as the Security Trustee may from time to time reasonably require.

***Notice***

- 5.11 The Chargor shall give notice to the Security Trustee forthwith in writing of any action, claim or demand made by or against the Chargor that might prejudice the value of all or any part of the Security Assets or any fact, matter or circumstance which may with the passage of time give rise to such an action, claim or demand together with the Chargor's proposals (acting diligently) to take all necessary and proper steps for settling, remedying, liquidating, compounding or contesting the same, and subject to the Security Trustee's approval of such proposals, to implement them at the Chargor's expense.

**6. Property Undertakings**

***Duration***

- 6.1 The undertakings in this Clause 6 (*Property Undertakings*) remain in force throughout the Liability Period.

***Repair***

**6.2**

- 6.2.1 The Chargor shall effect such repairs and/or renewals of all Premises, plant, machinery, fixtures and fittings as are required pursuant to the Project Agreement.
- 6.2.2 The Chargor shall keep all other Premises, plant, machinery, fixtures and fittings and every part thereof in good and substantial repair and in good working order and conditions and as and when requisite (whether by reason of an original or inherent defect or otherwise) repair, rebuild, renew and/or replace the same and renew and replace all fixtures, fittings, plant, machinery and equipment when the same shall become obsolete, worn out or destroyed and not (save for the purpose of complying with this undertaking) pull down, remove, sell or otherwise dispose of any of the same, provided that the Chargor shall not be in breach under this Clause 6.2.2 the act or omission which (but for this proviso) would give rise to that breach would not constitute a breach of the provision of the Facility Agreement.

***Compliance with Leases***

- 6.3 Save as the Security Trustee may otherwise direct or agree in writing, the Chargor shall:



- 6.3.1 in relation to any lease or leases comprised within the Mortgaged Property under the terms of which the Chargor is lessee:
- (a) pay the rent (if demanded) and perform and observe the lessee's covenants and obligations contained in the relevant lease or leases;
  - (b) as soon as reasonably practicable notify the Security Trustee of any matter or event under or by reason of which any lease has or may become subject to determination or to any attempt by the lessor to exercise a right of re-entry or forfeiture; and
  - (c) use all reasonable endeavours to enforce performance and observance of the lessor's covenants and the conditions in the lease or leases; and
- 6.3.2 in relation to any lease or leases comprised within the Mortgaged Property under the terms of which the Chargor is lessor:
- (a) observe and perform the covenants on the part of the lessor and the conditions contained in the relevant lease or leases; and
  - (b) use all reasonable endeavours to enforce performance and observance of the lessee's covenants and the conditions contained in the lease or leases.

***Acquisitions and Legal Mortgage***

6.4

6.4.1 The Chargor shall:-

- (a) not without the prior written consent of the Security Trustee make or agree to make any acquisition of any freehold or leasehold property; and
- (b) following any acquisition pursuant to Clause 6.4.1 (a), on demand made to the Chargor by the Security Trustee and at the cost of the Chargor, execute and deliver to the Security Trustee a legal mortgage in favour of the Security Trustee of any freehold or leasehold property which becomes vested in it after the date of this Deed in any form which the Security Trustee may reasonably require on terms no more onerous than those contained herein.

6.4.2 In the case of any leasehold property in relation to which the consent of the landlord in whom the reversion of that lease is vested is required in order for the Chargor to perform any of its obligations under Clause 6.4.1(b), the Chargor shall not be required to perform that obligation unless and until it has obtained the landlord's consent (which it shall use its reasonable endeavours to do).

***Notices***

- 6.5 The Chargor shall, within 14 days after the receipt by the Chargor of any application, requirement, action, claim, order or notice served or given by any public or local or any other competent authority with respect to the Security Assets (or any part of them):-
- 6.5.1 deliver a copy to the Security Trustee; and
- 6.5.2 inform the Security Trustee of the steps taken or proposed to be taken to comply with the relevant requirement or, where not inconsistent with the Chargor's obligations in Clauses 21.1 (*Authorisations*) and 21.2 (*Compliance with Laws*) of the Facility Agreement, of the steps taken or proposed to be taken to object to the same (with the consent of the Security Trustee).

***Leases***

- 6.6 Save to the extent permitted under and in accordance with the terms of the Transaction Documents, the Chargor shall not, without the prior consent of the Security Trustee, grant or agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy of the Mortgaged Property or any part of it or accept a surrender of any lease or tenancy (including any made in accordance with sections 99 or 100 of the Act), or confer upon any person any contractual licence, interest or right to occupy the Mortgaged Property or grant, suffer or permit to arise or subsist any easement, right or unregistered interest overriding first registration or any registered disposition (under the Land Registration Act 2002) over any of the same.

***Land Registry***

- 6.7 In relation to any freehold or leasehold property which is acquired by the Chargor after the date of this Deed, the Chargor shall notify the Security Trustee of such acquisition with immediate effect and:-
- 6.7.1 if the title to any such property is registered at the Land Registry, the Chargor shall immediately apply to be registered as the proprietor of the registered estate acquired (or procure that such application is made on its behalf) and (for the purposes of panel 11 of Form AN1) hereby confirms its consent to any application made by the Security Trustee for the registration of an agreed notice in Form AN1 to protect this Deed against the title to any such property; and
- 6.7.2 if the title to any such property is required to be registered at the Land Registry under the provisions of the Land Registration Act 2002, the Chargor shall immediately apply for first registration of the estate acquired in Form FR1 (or procure that such application is made on its behalf) and shall disclose or procure that the existence of this Deed is disclosed to the Land Registry either in the Form DL accompanying such application or in panel 13 of Form FR1,

and in every case the Chargor shall, immediately after registration of the Chargor as the proprietor of the relevant registered estate, provide the Security Trustee with an official copy of the register recording the same.

***Deposit of Title Deeds***

- 6.8 The Chargor shall deposit with the Security Trustee all deeds and documents of title relating to the Mortgaged Property and all Local Land Charges, Land Charges and Land Registry Search Certificates and similar documents relating to the Mortgaged Property received by or on behalf of the Chargor prior to the date of this Deed. The Security Trustee is entitled to hold the above deeds and documents during the Liability Period.

***Payment of Rents***

- 6.9 The Chargor shall pay or cause to be paid all rents, rates, taxes, levies, assessments, impositions and outgoings whether governmental, municipal or otherwise imposed upon or payable in respect of the Mortgaged Property or any part thereof as and when the same shall become payable.

***Registration***

- 6.10 The Chargor shall not, without the prior written consent of the Security Trustee, allow any person other than itself to be registered under the Land Registration Act 2002 as the proprietor of the Mortgaged Property or any part thereof and the costs properly incurred by the Security Trustee in effecting all such registrations at the Land Registry, the Land Charges Registry or any other registry (whichever shall be appropriate) as the Security Trustee shall from time to time require in order to ensure compliance with the same shall be an expense properly incurred in relation to this security and shall be reimbursed to the Security Trustee by the Chargor on demand.

***Observation of Covenants***

- 6.11 The Chargor shall observe and perform all covenants, conditions, agreements and stipulations from time to time affecting the Mortgaged Property or the mode of user or the enjoyment of the same and provided that the Chargor shall not be in breach under this Clause 6.11 the act or omission which (but for this proviso) would give rise to that breach would not constitute a breach of the provision of the Facility Agreement and not enter into any onerous or restrictive obligations affecting any such property or do or suffer to be done on any such property anything which is "development" as defined in section 55 of the Town and Country Planning Act 1990 (in such case save as permitted under and in accordance with the Transaction Documents) nor do or suffer or omit to be done any act, matter or thing whereby any provision of any Act of Parliament, order or regulation from time to time in force affecting any such property is infringed.

***Variation of Terms***

- 6.12 The Chargor shall not, without the prior written consent of the Security Trustee (such consent not to be unreasonably withheld or delayed) effect or concur in any variation of the terms of any

conveyance, grant, assignment, contract, agreement or other deed or document from time to time affecting all or part of the Mortgaged Property, or any development thereof or the use thereof except where required or permitted pursuant to clauses 22.5 to 22.8 (*Project Documents*) of the Facility Agreement.

***Use***

- 6.13 The Chargor shall use the Mortgaged Property only for such purposes as are, at the relevant time, permitted in accordance with the title deeds and documents relating thereto, the provisions of the Transaction Documents and any applicable law.

***Awards***

- 6.14 The Chargor shall, to the extent that the same is within its reasonable power and control, obtain and maintain for the benefit of the Mortgaged Property, and the owner and occupier thereof for the time being, all party wall awards or agreements, rights of light agreements and rights of access and supply of services, over and in respect of any adjoining or neighbouring property necessary for the use, occupation and/or enjoyment of the Mortgaged Property.

***Reconstruction***

- 6.15 The Chargor shall not, without the prior written consent of the Security Trustee, carry out or permit to be carried out any rebuilding, reconstruction or alteration of the Mortgaged Property or sever or unfix or remove any of the fixtures thereto or (except for the purpose of effecting necessary repairs thereto or of replacing the same with others of equal or greater value or quality) remove any of the plant or machinery thereon or therein so as to diminish the value of the Mortgaged Property save that compliance by the Chargor with the terms of the Project Documents and/or the Facility Agreement and the application of insurance proceeds in accordance with the terms of the Facility Agreement and/or the Funders' Direct Agreement (as applicable) shall not constitute a breach of this Clause 6.15.

***Power to Remedy***

- 6.16 In case of default by the Chargor in performing any provision of this Deed affecting the Mortgaged Property, the Chargor shall, subject to the terms of clause 22.20 (*Power to Remedy*) of the Facility Agreement, permit the Security Trustee or its agents and contractors (in each case without the Security Trustee thereby becoming liable to account as mortgagee in possession):-

- 6.16.1 to enter on the Mortgaged Property; and
- 6.16.2 to comply with or object to any notice served on the Chargor in respect of the Mortgaged Property; and
- 6.16.3 to take (at the expense of the Chargor and with any sum so expended by the Security Trustee being repayable by the Chargor on demand) any action as the Security Trustee may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice,

provided that no default shall arise under Clause 6.2 unless:

- (a) the Security Trustee has given to the Chargor written notice of the want of repair and/or renewal, specifying a reasonable period for remedy of such want of repair and/or renewal; and
- (b) the Chargor has not repaired and/or remedied the same within such reasonable period specified by the Security Trustee in accordance with paragraph (a) above.

## **7. Accounts**

### ***Accounts***

- 7.1 The Chargor shall comply with the provisions of the Accounts Agreement.

### ***Withdrawals***

- 7.2 On and with effect from the date upon which the security hereby constituted becomes enforceable in accordance with Clause 8 (*When Security Becomes Enforceable*), the Security Trustee (or a Receiver) may (subject to the payment of any claims having priority to this security) withdraw amounts standing to the credit of any account charged hereby to meet an amount due and payable under any of the Finance Documents when it is due and payable provided that the Security Trustee (or a Receiver) may not withdraw amounts standing to the credit of the HoldCo Distributions Account unless a notice has been given under clause 23.46 (*Acceleration*) of the Facility Agreement.

## **8. When Security Becomes Enforceable**

At any time prior to the expiry of the Liability Period, the security constituted by this Deed shall become immediately enforceable following an instruction being given by the Agent to the Security Trustee to enforce security pursuant to clause 23 (*Events of Default*) of the Facility Agreement and the power of sale and other powers conferred by section 101 of the Act, as varied or amended by this Deed, shall be immediately exercisable upon the security constituted by this Deed becoming enforceable and at any time thereafter but always provided that an Event of Default is continuing unremedied and unwaived at the time of such instruction. After the security constituted by this Deed has become enforceable, the Security Trustee may, in its absolute discretion, enforce all or any part of the security in any manner it sees fit.

## **9. Enforcement of Security**

### ***General***

- 9.1 For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed and section 103 of the Act (restricting the power of sale) and section 93 of the Act (restricting the right of consolidation) do not apply to the security constituted by this Deed. The statutory powers of leasing conferred on the Security Trustee are extended so as to authorise the Security Trustee to lease, make agreements for

leases, accept surrenders of leases and grant options as the Security Trustee may think fit and without the need to comply with any provision of section 99 or 100 of the Act and may be exercised upon the security constituted by this Deed becoming enforceable or at any time thereafter.

***Shares – Voting before enforcement***

9.2 Subject to Clause 9.3 (*Shares - Voting after enforcement*), the Chargor shall be entitled to exercise or direct the exercise of the voting rights and the Related Rights attached to any Shares as it sees fit provided that:

9.2.1 it does so in a manner that would not result in a breach of any Finance Document; and

9.2.2 it shall not, without the prior written consent of the Security Trustee, exercise those rights in relation to:

- (a) any resolution in connection with a company voluntary arrangement;
- (b) any resolution for the taking of any step with a view to the appointment of an administrator (including the making of an application to court for the making of an administration order);
- (c) any voluntary winding up; or
- (d) any compromise or arrangement pursuant to section 425 of the Companies Act 1985.

***Shares – Voting after enforcement***

9.3 At any time after the security constituted by this Deed becomes enforceable in accordance with Clause 8 (*When Security Becomes Enforceable*):

9.3.1 the Security Trustee or the Receiver shall be entitled to exercise or direct the exercise (in the name of the Chargor and without any further consent or authority on the part of the Chargor) any voting rights and any powers or rights which may be exercised by the person or persons in whose name any Share and its Related Rights are registered or who is the holder of any of them or otherwise (including all the powers given to trustees by sections 10(3) and (4) of the Trustee Act 1925 as amended by section 9 of the Trustee Investment Act 1961 in respect of securities or property subject to a trust) in such manner as it sees fit; and

9.3.2 the Chargor shall comply or procure the compliance with any directions of the Security Trustee or the Receiver in respect of the exercise of the rights under this Clause 9.3 and shall promptly execute and/or deliver to the Security Trustee or the Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights.

***Contingencies***

- 9.4 If the Security Trustee enforces the security constituted by this Deed at a time when no amounts are due under any of the Finance Documents but at a time when amounts may or will become so due, the Security Trustee (or the Receiver), may pay the proceeds of any recoveries effected by it into an account.

***No Liability as Mortgagee in Possession***

- 9.5 Neither the Security Trustee nor any Receiver or any of their delegates or sub-delegates shall be liable, by reason of entering into possession of a Security Asset, 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 provided that nothing in this Clause 9.5 (*No liability as Mortgagee in Possession*) shall relieve the Security Trustee or any Receiver or any of their delegates or sub-delegates of liability for its gross negligence or wilful default nor for any fraud or fundamental breach of duty.

***Receiver to be Agent of the Chargor***

- 9.6 Each Receiver is deemed to be the agent of the Chargor for all purposes and accordingly is deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor alone shall be responsible for his remuneration, acts and defaults and for all proper costs, charges and expenses of such Receiver and no Secured Finance Party shall incur any liability (either to the Chargor or to any other person) by reason of the Security Trustee making his appointment as a Receiver.

***Privileges***

- 9.7 Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.

***Protection of Third Parties***

- 9.8
- 9.8.1 No person (including a purchaser) dealing with the Security Trustee, (prior to the Senior Creditors Release Date) any Senior Creditor and (after the Senior Creditors Release Date) any other Secured Finance Party or a Receiver or any delegate or sub-delegate or agent of the same shall be concerned to enquire:-
- (a) whether the Secured Obligations have become payable; or
  - (b) whether any power which the Security Trustee or the Receiver is purporting to exercise or any right conferred by or pursuant to any Finance Document has become exercisable; or
  - (c) whether any consents, regulations, restrictions or directions relating to any right referred to in Clause 9.8.2 have been obtained or complied with or

otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such right; or

- (d) whether any money remains due under any of the Finance Documents; or
- (e) how any money paid to the Security Trustee or to the Receiver is to be applied.

9.8.2 All the protection to purchasers contained in Sections 104 and 107 of the Act, Section 42(3) of the Insolvency Act or in any other applicable legislation shall apply to any person purchasing from or dealing with the Security Trustee, (prior to the Senior Creditors Release Date) any Senior Creditor, and (after the Senior Creditors Release Date) any other Secured Finance Party, any Receiver or any delegate or sub-delegate.

#### ***Redemption of Prior Mortgages***

9.9 At any time after the security constituted by this Deed has become enforceable in accordance with Clause 8 (*When Security Becomes Enforceable*), the Security Trustee may:-

- 9.9.1 redeem any prior Security Interest (other than a Permitted Security Interest) against any Security Asset; and/or
- 9.9.2 procure the transfer of that Security Interest to itself; and/or
- 9.9.3 settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed shall be conclusive and binding on the Chargor.

All principal monies, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to the Security Trustee on demand.

### **10. Receiver and Administrator**

#### ***Appointment of Receiver or Administrator***

10.1 At any time after the security constituted by this Deed becomes enforceable in accordance with Clause 8 (*When Security Becomes Enforceable*) or if the Chargor so requests the Security Trustee in writing (in which case the security constituted by this Deed shall become immediately enforceable), at any time, the Security Trustee may, without further notice to the Chargor, appoint under seal or in writing under its hand any one or more Qualified Persons to be a Receiver of all or any part, as specified in the appointment, of the Security Assets in like manner in every respect as if the Security Trustee had become entitled under the Act to exercise the power of sale conferred under the Act or the Security Trustee may appoint an administrator to the Chargor. Where a Receiver is appointed over part of the Security Assets, the rights conferred on a Receiver in Clause 11 (*Powers of Receiver*) shall have effect as though every reference in that Clause to "Security Assets" were a reference to part of such Security Assets so specified or any part thereof. In this Deed "**Qualified Person**" means a person who, under the Insolvency Act 1986, is qualified to act as a receiver of the property of any company with respect to which he is appointed or as an administrative receiver of any such company.



***Removal of Receiver***

- 10.2 The Security Trustee 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 deems it expedient, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

***Remuneration of Receiver***

- 10.3 The Security Trustee may fix the remuneration of any Receiver appointed by it.

***Relationship with Security Trustee***

- 10.4 To the fullest extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) upon a Receiver of the Security Assets may, after the security created by this Deed becomes enforceable, be exercised by the Security Trustee in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

**11. Powers of Receiver**

***General***

- 11.1
- 11.1.1 Each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out below in this Clause 11 in addition to those conferred by the Act on any receiver appointed under the Act.
- 11.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receivers.
- 11.1.3 A Receiver who is an administrative receiver of the Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.

***Possession***

- 11.2 A Receiver may take immediate possession of, get in and collect any Security Assets.

***Carry on Business***

- 11.3 A Receiver may carry on the business of the Chargor as he thinks fit.

***Protection of Assets***

11.4 A Receiver may:-

- 11.4.1 make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Security Assets;
- 11.4.2 commence and/or complete any building operations on the Mortgaged Property; and
- 11.4.3 apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence,

in each case as he may think fit.

***Employees***

- 11.5 A Receiver may appoint and discharge managers, officers, agents, accountants, contractors, architects, surveyors, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he may think proper and discharge any such persons appointed by the Chargor.

***Borrow Money***

- 11.6 A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to the security constituted by this Deed or otherwise and generally on any terms and for whatever purpose which he thinks fit. No person lending that money shall be concerned to enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

***Sale of Assets***

- 11.7 A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures, other than landlords' fixtures, may be severed and sold separately from the property containing them without the consent of the Chargor.

***Leases***

- 11.8 A Receiver may let any Security Asset for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Security Asset on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

***Compromise***

- 11.9 A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset.

***Legal Actions***

- 11.10 A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Security Asset which may seem to him to be expedient.

***Receipts***

- 11.11 A Receiver may give valid receipts for all monies and execute all assurances and things which may be proper or desirable for realising any Security Asset.

***Delegation***

- 11.12 A Receiver may delegate his powers in accordance with Clause 14 (*Delegation*).

***Other Powers***

- 11.13 A Receiver may:-

11.13.1 do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed; and

11.13.2 exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of the same,

and may use the name of the Chargor for any of the above purposes.

**12. Application of Proceeds**

- 12.1 All amounts received or recovered by the Security Trustee or any Receiver or any delegate or sub-delegate in exercise of their rights under this Deed shall, subject to the rights of any creditors having priority, be applied in the order provided in clause 18.2 (*Proceeds of Enforcement*) of the Security Trust and Intercreditor Deed.

**13. Expenses and Indemnity**

- 13.1 The Chargor shall comply, *mutatis mutandis*, with the obligations of ProjectCo under clause 17 (*Costs and Expenses*) of the Facility Agreement.
- 13.2 The Security Trustee shall not in any circumstances be liable for any losses arising in connection with the exercise or purported exercise of any of its rights, powers and discretions in good faith under this Deed or from any act, default or omission of the Security Trustee in

relation to the Security Assets or any part thereof (including, without limitation, any neglect or failure to present any interest coupon or any bond or stock drawn for repayment) or in relation to any such realisation or from any exercise or non-exercise by the Security Trustee of any power, authority or discretion conferred upon it in relation to the Security Assets or any part thereof by or pursuant to this Deed or by the Act or from any failure to pay any call or instalment or to accept any offer or to notify the Chargor of any such matter or for any negligence or default by its nominees, correspondents or agents or for any other loss of any nature whatsoever in connection with the Security Assets (other than as a result of fraud, wilful default or breach of duty) and in particular (but without limitation) the Security Trustee in possession shall not be liable to account as mortgagee in possession or for anything except actual receipts provided that nothing in this Clause 13.2 shall relieve the Security Trustee or any Receiver of liability for its gross negligence or wilful default nor for any fraud or fundamental breach of duty.

- 13.3 None of the Secured Finance Parties shall have any liability to the Chargor whatsoever in relation to the acts or omissions of the Security Trustee.

#### **14. Delegation**

The Security Trustee and any Receiver may at any time or times delegate by power of attorney or in any other manner to any person or persons any right, power or discretion exercisable by them under this Deed. Any such delegation may be made upon the terms (including power to sub-delegate) and subject to any regulations which the Security Trustee or such Receiver (as the case may be) may think fit. Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss, damage or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate provided that any such delegate or sub-delegate had on their appointment the requisite ability to lawfully discharge such delegated right, power or discretion.

#### **15. Further Assurances**

- 15.1 The Chargor shall at any time and at its own expense, execute any documents and do all such assurances, acts and things as:

15.1.1 the Security Trustee may reasonably require for perfecting or protecting the security constituted or evidenced or purported to be constituted or evidenced hereby, including, for the avoidance of doubt, creating a legal mortgage over any property charged pursuant to Clause 2.1.2(a) (*Creation of Fixed Security*); or

15.1.2 the Security Trustee requires:

- (a) following an Enforcement to facilitate the realisation of all or any of the Security Assets; or
- (b) to facilitate the exercise of any rights vested in the Security Trustee or any Receiver.

**16. Power of Attorney**

Subject to the provisions of Clause 22.20 (*Power to remedy*) of the Facility Agreement the Chargor, by way of security, irrevocably appoints the Security Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take (but has failed to take for a period of 10 Business Days after receiving notice from the Security Trustee to do so) under any Finance Document to which it is a party (including to execute charges over, transfers, conveyances, assignments and assurances of, and other instruments, notices, orders and directions relating to, the Security Assets) and to exercise any of the rights conferred on the Security Trustee, any Receiver or any of their delegates or sub-delegates in relation to the Security Assets or under any Finance Document, the Law of Property Act 1925 or the Insolvency Act 1986. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause 16.

**17. Miscellaneous*****Covenant to Pay***

- 17.1 The Chargor shall pay, discharge and perform the Secured Obligations in the manner provided for in the Finance Documents, or, if they do not specify a time for payment, discharge or performance, promptly on written demand by the Security Trustee.

***Continuing Security***

- 17.2 The security constituted by this Deed is continuing and shall extend to the ultimate balance of all the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.

***Additional Security***

- 17.3 The security constituted by this Deed is in addition to and is not in any way prejudiced by any other guarantee, lien, pledge, bill note or other security now or subsequently held by any Secured Finance Party for any of the Secured Obligations.

***Tacking***

- 17.4 Each Secured Finance Party shall perform its obligations under the Finance Documents (including any obligation to make available further advances).

***New Accounts***

- 17.5 If a Secured Finance Party receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any part of any Security Asset and/or the proceeds of sale of any Security Asset, or in the event that the continuing nature of this security shall be determined, such Secured Finance Party may open a new account or accounts for the Chargor. If any Secured Finance Party does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice. As from that time all payments made to that Secured Finance Party shall be

credited or be treated as having been credited (as applicable) to a new account and shall not operate to reduce any amount for which this Deed is security.

***Time Deposits***

17.6 Without prejudice to any right of set-off any of the Secured Finance Parties may have under any other Finance Document or otherwise, if any time deposit matures on any account the Chargor has with any of the Secured Finance Parties at a time within the Liability Period when:-

17.6.1 this security has become enforceable in accordance with Clause 8 (*When Security Becomes Enforceable*); and

17.6.2 no amount of the Secured Obligations is due and payable,

that time deposit shall automatically be renewed for any further maturity which that Secured Finance Party considers appropriate.

***Land Registry***

17.7

17.7.1 For the purposes of panel 11 of each Form RX1 that may be required to be completed by the Security Trustee in relation to any freehold or leasehold property charged or to be charged under or pursuant to this Deed, the Chargor hereby confirms its consent to the Security Trustee's application to enter a restriction in Form P as set out below against the Chargor's title to any Mortgaged Property registered or required to be registered at the Land Registry and against which this Deed may be noted:-

(a) in the following terms:-

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ ] in favour of [ ] as the Security Trustee referred to in the charges register or, if appropriate signed on such proprietor's behalf by its authorised officer"; and

(b) that this Deed secures further advances and each Secured Finance Party, as provided in Clause 17.4, is under an obligation to make further advances.

17.7.2 If the title to any of the Mortgaged Property is not registered at the Land Registry, the Chargor shall ensure that no person other than the Chargor shall be registered under the Land Registration Act 2002 as the proprietor of all or any part of such Mortgaged Property without the prior consent in writing of the Security Trustee.

17.7.3 Whether or not the title to the Mortgaged Property is registered at the Land Registry, in the event that any caution against first registration or any notice (whether agreed or unilateral) is registered against the title to all or any part of the Mortgaged Property, the Chargor shall immediately provide the Security Trustee with full particulars of the circumstances relating to such registration and if such caution or notice shall have

been registered in order to protect a purported interest the creation of which is not permitted under this Deed, the Chargor shall immediately and at the Chargor's expense take such steps as the Security Trustee may require to ensure that the caution or notice (as applicable) is withdrawn or cancelled.

***Severability***

- 17.8 Each of the provisions of this Deed is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable with respect to the Chargor the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

***Amalgamation/Merger***

- 17.9 This Deed shall remain in effect and binding on the Chargor notwithstanding any amalgamation or merger that may be effected by any Secured Finance Party with any other corporation or company, and notwithstanding any reconstruction by any Secured Finance Party involved in the formation of and transfer of the whole or any part of any Secured Finance Party's undertaking and assets to a new company, and notwithstanding the sale or transfer of all or any part of any Secured Finance Party's undertaking and assets to another company (whether the company with which such Secured Finance Party amalgamates or merges or the company to which such Secured Finance Party transfers all or any part of its undertaking and assets either on a reconstruction or sale or transfer as aforesaid shall or shall not differ from such Secured Finance Party in its objects, character or constitution), it being the intent of the Chargor that the security hereby constituted and the provisions herein contained shall remain valid and effectual in all respects in favour of, against and with reference to, such Secured Finance Party and that the benefit thereof and all rights conferred upon such Secured Finance Party thereby may be assigned to and enforced by any such company and proceeded on in the same manner, to all intents and purposes, as if the Chargor had been named herein instead of or in addition to such Secured Finance Party.

***Counterparts***

- 17.10 This Deed may be executed in counterparts each of which shall be an original and such counterparts taken together shall be deemed to constitute one and the same instrument.

***Set-off***

- 17.11 Subject always to application of any proceeds in accordance with the Security Trust and Intercreditor Deed, in case the Chargor shall have more than one account with any of the Secured Finance Parties (whether in the name of the Chargor alone or jointly with others) it shall be lawful for such Secured Finance Party at any time and without prior notice forthwith to transfer all or any part of any balance standing to the credit of any such account to any other such account which may be in debit. The Security Trustee and the Secured Finance Parties shall further be entitled (as well after as before demand hereunder) to set off against any liability of the Chargor secured hereby to the Security Trustee or the Secured Finance Parties any financial obligation to, or any sum held, received or receivable on behalf of the Chargor by the Security Trustee or the Secured Finance Parties, such rights extending (without limitation to the

generality of the foregoing) to the set-off of credit balance(s) on any account(s) (excluding the HoldCo Distributions Account (whether current or otherwise or subject to notice or not and whether in sterling or any other currency) and further provided that, if the liability or any part thereof is in a different currency from any financial obligation or sum (including a credit balance) against which any of the Security Trustee or the Secured Finance Parties seek to set it off, the Security Trustee, or as the case may be, such Secured Finance Party shall be entitled to utilise currency of such financial obligation or sum for the purchase at its spot rate of exchange (as conclusively determined by the Secured Finance Parties, or as the case may be, such Secured Finance Party) of an amount in the currency of the liability not exceeding the amount of such liability and any related costs or expenses necessary to effect such a conversion.

None of the references in the preceding paragraph to an “account” or a “credit balance on any account” shall include a reference to the HoldCo Distributions Account or any credit balance on the HoldCo Distributions Account.

### ***Ambiguity***

- 17.12 Where there is any ambiguity or conflict between the rights conferred by law and those conferred by or pursuant to any Finance Document, the terms of that Finance Document shall prevail.

### ***Determinations***

- 17.13 Any certification or determination as to sums payable hereunder by the Security Trustee is, in the absence of fraud or manifest error, conclusive evidence of the matters to which it relates.

## **18. Release**

Upon the expiry of the Liability Period (but not otherwise) and subject to Clause 19 (*Avoidance of Payments*), the Security Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to promptly release the Security Assets from the security constituted by this Deed.

## **19. Avoidance of Payments**

- 19.1 Any settlement, discharge or release between the Chargor and the Security Trustee shall be conditional upon no security or payment to the Security Trustee or any of the Secured Finance Parties by the Chargor or any other person being avoided, or reduced or ordered to be refunded by virtue of any provisions of any enactments relating to bankruptcy, liquidation or insolvency for the time being in force. Notwithstanding any settlement, discharge or release:-

- 19.1.1 the Security Trustee or the nominee of the Security Trustee shall be at liberty to retain the security created by or pursuant to this Deed, including all certificates and documents relating to the Security Assets or any part thereof, for such period as the Security Trustee shall deem necessary to provide the Secured Finance Parties with security against any such avoidance or reduction after the payment and discharge in full of all liabilities herein secured, provided that such period shall not exceed the period of three months after the discharge of all liabilities herein secured; and



19.1.2 the Security Trustee shall be entitled to recover the value or amount of such security or payment from the Chargor subsequently as if such settlement, discharge or release had not occurred and the Chargor agrees with the Security Trustee accordingly and charges the Security Assets and the proceeds of sale thereof with any liability under this Clause, whether actual and/or contingent,

provided that the Security Trustee shall not retain the said security where, acting reasonably, it is satisfied with any refinancing arrangements put in place to facilitate the discharge of the Secured Obligations by the Chargor.

19.2 The Security Trustee and the Secured Finance Parties shall be entitled to retain this Deed after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due, owing or incurred to the Secured Finance Parties from the Chargor for such period as the Security Trustee shall determine.

19.3 If the Security Trustee reasonably considers, acting in good faith, that an amount paid by any Material Project Party to a Secured Finance Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of that Material Project Party or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

## **20. Remedies, Waivers and Consents**

20.1 No failure on the part of the Security Trustee or any Secured Finance Party to exercise, and no delay on its part in exercising, any right or remedy under this Deed shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof 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.

20.2 Any waiver and any consent by the Security Trustee under this Deed shall be in writing and may be given subject to any conditions thought fit by the Security Trustee. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

20.3 The Chargor waives any right it may have of first requiring any Secured Finance 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.

20.4 Subject always to application of any proceeds in accordance with the Security Trust and Intercreditor Deed, during the Liability Period, each Secured Finance Party (or any trustee or agent on its behalf) may following the occurrence of an Enforcement Event which is continuing unremedied and unwaived:

20.4.1 refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in accordance with the

Security Trust and Intercreditor Deed (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and

20.4.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed.

20.5 During the Liability Period and unless the Security Trustee otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

20.5.1 to be indemnified by another Obligor;

20.5.2 to claim any contribution from any other provider of Security for or any other guarantor of any other Obligor's obligations under the Finance Documents; and/or

20.5.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Finance Parties under the Finance Documents or of any guarantee or other security taken pursuant to, or in connection with, the Finance Documents by any Secured Finance Party.

## 21. Notices

### *Communications in Writing*

21.1 Each communication to be made hereunder shall be made:

21.1.1 in writing and, unless otherwise stated, shall be made by letter delivered by registered post or courier, or by fax in accordance with Clauses 21.2 and 21.3 (*Delivery of Communication in Writing*); or

21.1.2 by electronic mail or other electronic means in accordance with Clause 31.8 (*Electronic Communications*).

### *Delivery of Communications in Writing*

21.2 Any communication or document to be made or delivered by one person to another pursuant to this Deed shall (unless the intended recipient has by ten days' written notice to the sender specified another address) be made or delivered to that other person at the address specified in Clause 21.3 and shall be deemed to have been made or delivered:

21.2.1 (in the case of any communication made by letter) when delivered to that address; or

21.2.2 (in the case of any communication by fax) when transmission of such fax communication has been received in legible form and receipt has been confirmed, and communication verified, by telephone provided that:

(a) such communication only shall be deemed to be received on the day it is actually received and then only if expressly marked for the attention of the officer identified with the signature of the relevant addressee below, or such

other officer as the relevant addressee shall from time to time specify for this purpose; and

- (b) in either case if such communication or document would otherwise be deemed to have been received or actually received on a day which is not a Business Day or, for the avoidance of doubt, falls outside business hours, it shall be deemed to have been received on the next subsequent Business Day.

21.3 The address, facsimile number and contact details of:-

21.3.1 the Chargor are:-

Address: Equitix Healthcare (Leeds) Holdings Limited  
5th Floor 120 Aldersgate Street  
London  
England  
EC1A 4JQ

Fax No:



Attention: Philip Would / Richard Knight

21.3.2 the Security Trustee are:-

National Australia Bank Limited  
See clause 32 (*Notices*) of the Facility Agreement

***Delivery of Electronic Communications***

21.4 Any communication to be made between the Security Trustee and the Chargor under or in connection with this Deed may be made by electronic mail or other electronic means, if the Security Trustee and the Chargor:

- 21.4.1 agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
- 21.4.2 notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
- 21.4.3 notify each other of any change to their address or any other such information supplied by them.

21.5 Any electronic communication made between the Parties in accordance with Clause 21.4 (*Delivery of Electronic Communications*) will be effective only when:

- 21.5.1 in the case of any electronic communication made to the Security Trustee, only if it is addressed in such a manner as the Security Trustee shall specify for this purpose; and
- 21.5.2 a confirmatory electronic communication is sent by the recipient (and, for the avoidance of doubt this shall not include any automated response) explicitly acknowledging receipt of such communication in readable form.

***English Language***

- 21.6 Each communication and document made or delivered by one party to another pursuant to this Deed shall be in the English language.

**22. Contracts (Rights of Third Parties) Act 1999**

Nothing in this Deed is intended to confer on any person any right to enforce any provision of this Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

**23. Governing Law**

This Deed is governed by English law.

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

**Schedule 1**

**Real Property**

[None as at the date hereof]

**Schedule 2**

**Specific Patents and Trademarks**

[None as at the date hereof]

### Schedule 3

#### Form of Notice of Charge - accounts

To: [bank or financial institution]

Address: [ ]

Date: [ ]

National Australia Bank Limited as security trustee for certain creditors (the “**Security Trustee**”) and Equitix Healthcare (Leeds) Holdings Limited (the “**Company**”) HEREBY GIVE NOTICE that by a charge contained in a debenture dated ● made between the Company and the Security Trustee (the “**Debenture**”), the Company charged to the Security Trustee all monies standing to the credit of any account with any person and the debts represented by them, including the following account(s) (each a “**Relevant Account**”) maintained with you:-

[Specify accounts]

Accordingly, the Company hereby irrevocably and unconditionally instructs and authorises you:-

- (a) to disclose to the Security Trustee, without any reference to or further authority from the Company and without any enquiry by you as to the justification for such disclosure, such information relating to any of the Relevant Accounts and the sums therein as the Security Trustee may, at any time and from time to time, request you to disclose to it;
- (b) to pay or release all or any part of the sums from time to time standing to the credit of any of the Relevant Accounts in accordance with the written instructions of the Security Trustee at any time or times; and
- (c) to comply with the terms of any written notice or instructions that you receive from the Security Trustee at any time in any way relating to the Debenture, the sums standing to the credit of any of the Relevant Accounts from time to time or the debts represented thereby, without any reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instructions.

The Security Trustee has agreed that the Company may withdraw any amount from any of the Relevant Accounts without any reference to or further authority from the Security Trustee except to the extent that the Security Trustee gives you notice to the contrary. Upon and after the giving of any such notice to the contrary, the Company shall cease to be entitled to make any such withdrawal to the extent specified in the notice.

The Company confirms that:-

- (i) in the event of any conflict between communications received from it and from the Security Trustee, the communication from the Security Trustee shall prevail;
- (ii) none of the instructions, authorisations and confirmations in this notice can be revoked or varied in any way except with the Security Trustee specific written consent; and

- (iii) any written notice or instructions given to you by the Security Trustee in accordance with this Notice of Charge shall be conclusive as between the Security Trustee and yourselves.

Your acknowledgement of the Debenture (a copy of which is enclosed) is requested. Terms defined or construed in the Debenture shall have the same meanings in this Notice of Charge.

Please acknowledge receipt of this Notice of Charge, and confirm your agreement to it, by signing the attached acknowledgement and returning it to the Security Trustee at [address/contact details].

This Notice of Charge is governed by English law.

Yours faithfully,

.....  
for and on behalf of  
EQUITIX HEALTHCARE (LEEDS) HOLDINGS  
LIMITED

.....  
for and on behalf of  
NATIONAL AUSTRALIA BANK LIMITED  
as Security Trustee

[On duplicate]

Form of Acknowledgement

To: National Australia Bank Limited  
Attention: [ ]

Dear Sirs, We acknowledge receipt of the Notice of Charge dated ● a copy of which is attached to this notice and the copy of the Debenture enclosed with that Notice of Charge. Terms defined or construed in that Notice of Charge have the same meanings in this notice.

In consideration of the Company maintaining the Relevant Accounts with us, we confirm that:-

- (a) we have not previously received notice of any other assignment of any of the Relevant Accounts;
- (b) we have noted and will act in accordance with the terms of that Notice of Charge;
- (c) we are not aware of any interest of any third party in any of the Relevant Accounts;
- (d) we neither have claimed or exercised nor will claim or exercise (except with the Security Trustee's prior written consent) any security interest, right of set-off, consolidation or counterclaim or any other right against or in respect of any of the Relevant Accounts except in respect of our usual administrative and transactional fees and charges in relation to the Relevant Account in question; and
- (e) we shall not permit the Company to make any withdrawal from any of the Relevant Accounts after receipt by us of a notice from the Security Trustee prohibiting such withdrawals to the extent specified in the relevant notice.

This notice is for the benefit of the Security Trustee (as agent and trustee for itself and the Secured Finance Parties) and is governed by English law.



.....  
for and on behalf of  
[*relevant bank or financial institution*]

Date: .....

## Schedule 4

## Form of Notice of Assignment – Assigned Agreement

To: [Relevant party to Assigned Agreement]

Address: [ ]

Date: [ ]

Dear Sirs,

Notice of Assignment of [Assigned Agreement(s)] (the “Notice”)

National Australia Bank Limited as security trustee for certain creditors (the “**Security Trustee**”) and Equitix Healthcare (Leeds) Holdings Limited (the “**Company**”) HEREBY GIVE NOTICE that by an assignment contained in a debenture dated [●] made between the Company and the Security Trustee (the “**Debenture**”), the Company assigned to the Security Trustee all its present and future rights, title and interest in, to and under [describe subject matter of charge - i.e. the Assigned Agreement] (the “**Agreement**”) including, but not limited to, (a) the right to demand and receive all monies whatsoever payable to or for the benefit of the Company under or arising from the Agreement; (b) all remedies provided for in the Agreement or available at law or in equity; (c) the right of the Company to compel performance of the Agreement; and (d) all other rights, interests and benefits whatsoever accruing to or for the benefit of the Company arising from the Agreement.

Capitalised terms defined in the Debenture have, unless expressly defined in this Notice, the same meaning in this Notice.

All monies payable by you to the Company pursuant to the Agreement shall be paid to the Company’s Proceeds Account (no. [ ] opened with [name of Account Bank and its details] Sort Code [ ]) unless and until you receive notice from the Security Trustee to the contrary, in which event you should make all future payments as directed by the Security Trustee. This authority and instruction is irrevocable without the prior written consent of the Security Trustee.

Notwithstanding the assignment referred to above or the making of any payment by you to the Security Trustee pursuant to it, the Company shall remain liable under the Agreement to perform all the obligations assumed by it under the Agreement and neither the Security Trustee nor any Receiver nor any delegate appointed by the Security Trustee or any such Receiver shall be at any time under any obligation or liability to you under or in respect of the Agreement (except to the extent otherwise provided in the Agreement).

The Company shall also remain entitled to exercise all its rights, powers and discretions under the Agreement and you should continue to give notices under the Agreement to the Company in each case unless and until you receive notice from the Security Trustee to the contrary when all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Security Trustee or as it directs.

Please acknowledge receipt of this Notice and confirm that you will pay all sums due under the Agreement as directed in this Notice and comply with the other provisions of this Notice by signing the attached acknowledgement and returning the duplicate copy to the Security Trustee at [address/for the attention of].

This Notice is governed by English law.

Yours faithfully,

.....  
for and on behalf of  
EQUITIX HEALTHCARE (LEEDS) HOLDINGS  
LIMITED

.....  
for and on behalf of  
NATIONAL AUSTRALIA BANK LIMITED  
as Security Trustee

[On duplicate]

We acknowledge receipt of the Notice of which this is a copy and agree that:-

- (a) we will pay all sums hereafter becoming due to the Company in respect of the Agreement as directed in the Notice and will comply with the other terms of the Notice;
- (b) we will send to you copies of any notices which we may give to the Company under the Agreement at the same time as we send them to the Company;
- (c) this acknowledgement is freely assignable or transferable by you and any subsequent assignee, transferee or successor in title in accordance with the terms of the Agreement (“**Subsequent Party**”) or any Receiver appointed by you or any Subsequent Party pursuant to the Agreement; and
- (d) we have not received notice of any other assignment or other third party interest whatsoever of any of the rights, title or interest of the Company under the Agreement or any other notice relating to the Agreement.

.....  
for and on behalf of  
[Relevant party to Assigned Agreement]

Date: .....

EXECUTION PAGE

Executed and Delivered as a Deed by )  
EQUITIX HEALTHCARE (LEEDS) )  
HOLDINGS LIMITED on being signed by: )

PHILIP A. WOULD...

[Redacted Signature]

(Director)

in the presence of:

Witness's signature:

[Redacted Signature]

Name (print):

WILLIAM HOLMDEW

Occupation:

Solicitor

Address:

CMS Cameron McKenna Nabarro Olswang LLP  
Cannon Place  
78 Cannon Street  
London  
EC4N 6AF

SECURITY TRUSTEE

Executed as a deed by )  
NATIONAL AUSTRALIA BANK )  
LIMITED (ABN 12 004 044 937) )  
by its duly authorised attorney )

[Redacted Signature]

Witness:

[Redacted Signature]

Names:

Hoddy McAr

Address:

Fladgate LLP

16 Great Queen Street

WC2B 5DA