



Registration of a Charge

Company name: **GROVE DEVELOPMENTS LIMITED**

Company number: **07459482**



X5E4W1RS

Received for Electronic Filing: **25/08/2016**

Details of Charge

Date of creation: **17/08/2016**

Charge code: **0745 9482 0006**

Persons entitled: **UNITED OVERSEAS BANK LIMITED, LONDON BRANCH**

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: **NORTON ROSE FULBRIGHT LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7459482

Charge code: 0745 9482 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th August 2016 and created by GROVE DEVELOPMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th August 2016 .

Given at Companies House, Cardiff on 26th August 2016

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

Confidential

Dated 17 AUGUST 2016

GROVE DEVELOPMENTS LIMITED

and

UNITED OVERSEAS BANK LIMITED, LONDON BRANCH

ASSIGNMENT AND CHARGE OF CONTACTS

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Norton Rose Fulbright LLP

Sign & Dated *25/08/2016*

 NORTON ROSE FULBRIGHT

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This Deed is made on **17 AUGUST** between:

- (1) **GROVE DEVELOPMENTS LIMITED** a company incorporated in England and Wales with company number 07459482 and whose registered office is at World Business Centre 2, 3rd Floor Newall Road, London Heathrow Airport, Hounslow TW6 2SF (the **Chargor**); and
- (2) **UNITED OVERSEAS BANK LIMITED, LONDON BRANCH** in its capacity as Security Agent for the Secured Parties (the **Security Agent**).

WHEREAS

- (A) By a building contract dated 11 July 2013 (the **Building Contract**) and made between the Chargor (as the **Employer**) and Balfour Beatty Regional Construction Limited (formerly known as Mansell Construction Services Limited) (as the **Contractor**), the Contractor undertook to carry out the design and construction of the development as described therein.
- (B) Balfour Beatty Group Limited (being a parent company of the Contractor) (as the **Guarantor**) agreed to guarantee the due performance by the Contractor of its obligations under the Building Contract.
- (C) The Lenders have agreed to make certain facilities and accommodations available to the Borrower subject to the pre-condition that (among other things) the Chargor assign the benefits of the Building Contract and the guarantee to the Finance Parties by way of this Deed.
- (D) The directors of Chargor are satisfied that entering into this Deed is to the benefit of the Chargor and for the purposes of its business.

1 Interpretation

Expressly defined terms

- 1.1 In this Deed, words and expressions defined in the Facility Agreement shall have the same meanings when used herein and in addition:

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

Business Day means a day, other than a Saturday or a Sunday, on which banks are open for general business in London or, for the purpose of clause 15 (*Communications*), in the principal financial centre in the jurisdiction in which the relevant communication is delivered.

Charged Contracts means (1) the Deed of Guarantee dated 11 July 2013 between the Guarantor and the Chargor, and (2) the Building Contract.

Contract Party means any party to a Charged Contract other than the Chargor and if more than one such party shall, where the context so requires, mean any one of them.

Contract Proceeds means all proceeds of any Charged Contract from time to time in whatever form they may be, including:

- (a) all monies receivable under, arising out of, or evidenced by, any Charged Contract;
- (b) any other rights, titles, benefits or interests (whether present, future, proprietary contractual or otherwise) of the Chargor in, under, arising out of, or evidenced by, any Charged Contract;
- (c) the benefit of any Authorisation, conveyance, assignment, transfer, lease or licence which may be granted to the Chargor in relation to any Charged Contract, whether or not arising out of an obligation contained in such Charged Contract;
- (d) all claims competent to the Chargor to recover and receive damages or compensation arising out or relating to any breach or termination of any Charged Contract or any Authorisation, conveyance, assignment, transfer, lease or licence referred to in paragraph (c) above; and
- (e) the full benefit of all guarantees, indemnities, bonds, debentures, mortgages, charges or other security given in relation to any Charged Contract or any obligation of any Contract Party arising under any Charged Contract.

Default Rate means two per cent. per annum above the highest rate of Interest ordinarily applicable to the Secured Obligations from time to time.

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 Security Agent and each of the other Secured Parties cancelled

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

Event of Default means the occurrence of any of the events or circumstances defined in the Facility Agreement as an Event of Default.

Expenses means all fees, discounts, commissions and other banking or service charges, legal and other professional fees, premiums, costs or expenses, in each case calculated on a full indemnity basis and together with VAT, incurred by any Enforcement Party in connection with the Secured Assets, the preparation, negotiation and creation of this Deed, taking, perfecting, enforcing or exercising any power under this Deed or the appointment of any Receiver, the breach of any provision of this Deed and / or the protection, realisation or enforcement of this

Deed, and includes the costs of transferring to the Security Agent or the Receiver any security ranking in priority to the security constituted by this Deed, or the amount required to be paid to secure the unconditional and irrevocable discharge of such security, or any of the foregoing as the context shall require.

Facility Agreement means the facility agreement dated on or about the date of this Deed between, amongst others, the Obligors, Abbey National Treasury Services plc and United Overseas Bank Limited, London Branch as Original Lenders and Arrangers, the Security Agent and Santander UK plc as Agent.

Finance Documents has the meaning set out in the Facility Agreement.

Insolvency Act means Insolvency Act 1986.

Interest means interest at the rate provided and calculated and compounded as agreed between the Security Agent and the Chargor from time to time.

LPA means Law of Property Act 1925.

Obligors has the meaning set out in the Facility Agreement.

Party means a party to this Deed.

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 Deed in respect of the Chargor or in respect of the Secured Assets or any of them.

Repeating Representations means the representations set out in clauses 5.1(a) to 5.1(d) and 5.1(g) to 5.1(h) of this Deed.

Secured Assets means the assets charged, assigned or otherwise the subject of any security created by or pursuant to this Deed and includes any part or parts of such assets.

Secured Obligations means the aggregate of all indebtedness and all obligations or liabilities of any kind which may now or at any time in the future be due, owing or incurred by the Obligors to the Secured Parties or any of them under any of the Finance Documents, whatever their nature or basis, in any currency or currencies and however they are described together with Interest and Expenses.

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

Security Documents means this Deed, together with any other agreement, instrument Deed or document entered into by the Chargor creating or expressed to create any Security over all or any part of its assets in respect of the Secured Obligations.

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

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

VAT means value added tax as provided for in the Value Added Taxes Act 1994 and any other tax of a similar fiscal nature.

Construction

1.2 In this Deed:

(a) unless a contrary indication appears, a reference to:

"**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;

"**guarantee**" includes 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 pay any deposit on behalf of, or 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;

"**indebtedness**" includes any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

"**law**" includes law established by or under statute, constitution, treaty, decree, regulation or judgment, common law and customary law; and the word "**lawful**" and similar words and phrases are to be construed accordingly;

"**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

"**regulation**" includes any regulation, rule, official directive, request or guideline (in each case, whether or not having the force of law but if not having the force of law being one with which it is customary to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

"**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;

"**set-off**" includes analogous rights and obligations in jurisdictions other than England and Wales; and

"**tax**" includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment);

- (b) except where this Deed expressly states otherwise, each term used in this Deed which is defined in the Facility Agreement has the same meaning as in the Facility Agreement, construed in accordance with the Facility Agreement;
- (c) where something (or a list of things) is introduced by the word "**including**", or by the phrase "**in particular**", or is followed by the phrase "**or otherwise**", the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
- (d) each reference to the "**Chargor**", or to the "**Security Agent**", any "**Party**" or any of the "**Secured Parties**" includes its successors in title, and its permitted assignees or permitted transferees;
- (e) each reference to any "**Contract Party**" shall extend to any permitted assignee or transferee of, or successor in title to, any such person, and to any other person who is obligated to the Chargor under the terms of a Charged Contract;
- (f) each reference to any "**Contract Proceeds**" shall include each and any category or part of the Contract Proceeds independently of every other category or part
- (g) unless this Deed expressly states otherwise or the context requires otherwise, (a) each reference in this Deed to 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 Deed) and (b) each reference in this Deed to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Deed and whether amended or re-enacted since the date of this Deed);
- (h) each reference to this Deed (or to any other agreement or Deed) means, at any time, this Deed (or as applicable such other agreement or Deed) as amended, novated, re-stated, substituted or supplemented at that time, provided that the relevant amendment, novation,

restatement, substitution or supplement does not breach any term of this Deed, any Charged Contract or of any Finance Document;

- (i) each reference to the singular includes the plural and vice versa, as the context permits or requires;
- (j) the index and each heading in this Deed is for convenience only and does not affect the meaning of the words which follow it;
- (k) each reference to a clause or Schedule is (unless expressly provided to the contrary) to be construed as a reference to the relevant clause of or Schedule to this Deed;
- (l) wherever this Deed states that the Chargor must not take a particular step without the consent of the Security Agent, the Security Agent has discretion whether to give its consent and can impose conditions on any such consent it gives; and
- (m) an Event of Default is "continuing" if it has not been remedied or waived.

Third Party Rights

- 1.3 A person who is not an Enforcement Party has no right under the Third Parties Act to enforce or enjoy the benefit of any term of this Deed except to the extent that this Deed, any Charged Contract or any of the Finance Documents expressly provides for it to do so.

- (a) No consent of any person who is not a Party is required to rescind or vary this Deed at any time.
- (b) This clause 1.3 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Third Parties Act

2 Charging clause

Grant of security

- 2.1 The Chargor, as a continuing security for the payment, discharge and performance of the Secured Obligations:

- (a) Assignment by way of security

assigns to the Security Agent all its rights, title and interest in the following assets:

- (i) the Charged Contracts; and
- (ii) the Contract Proceeds,

in each case to the fullest extent capable of assignment and subject to re-assignment on redemption as provided in clause 14.16 (*Release of security*).

(b) First fixed charge

charges in favour of the Security Agent, by way of first fixed charge the following assets:

(i) the Charged Contracts; and

(ii) the Contract Proceeds

in each case excluding those Charged Contracts or Contract Proceeds which have been validly and effectively assigned to the Security Agent pursuant to clause 2.1(a) (*Assignment by way of security*)); and also

(iii) any monies (including any deposit, advance or instalment payment) payable to the Chargor for or in connection with the disposal (by whatever means and whether or not permitted by this Deed) of the Charged Contracts or any interest in the Charged Contracts.

Notice of assignment or charge

2.2 The Chargor shall forthwith upon receiving a request to that effect from the Security Agent give notice of each such assignment of its right, title and interest (if any) in and to the Charged Contracts and the Contract Proceeds by sending a notice in the form set out in Schedule 1 (*Form of notice to Contract Parties*) (with such amendments as the Security Agent may agree) duly completed to each of the Contract Parties.

2.3 The Chargor will use reasonable endeavours to procure from the Contract Party, an acknowledgement of receipt of such notice endorsed on a copy of the relevant notice substantially in the form as set out in (*Form of notice to Contract Parties*) in each case with such amendments as the Security Agent may agree.

Exercise of rights and obligations under Charged Contracts

2.4 Whilst no Event of Default exists and is continuing the Security Agent shall permit the Chargor to exercise its rights under the Charged Contract to which it is party, provided that the exercise of those rights in the manner proposed would not result in an Event of Default.

2.5 Where an Event of Default exists and is continuing the Chargor shall, if requested by the Security Agent, exercise its rights under any of the Charged Contracts in accordance with the instructions of the Security Agent.

- 2.6 The Chargor shall at all times remain liable to perform all the obligations assumed by it under the Charged Contracts and the Security Agent shall assume no obligation of any kind whatsoever under the Charged Contracts, nor be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations under the Charged Contracts, and the Chargor will at all times indemnify the Security Agent from and against any demands, claims, damages, costs or expenses arising from or in relation to the Charged Contracts or any such failure by the Chargor.

Continuing security

- 2.7 All the security granted or created by this Deed is to be a continuing security which shall remain in full force and effect notwithstanding any intermediate payment or settlement of account or other matter or thing whatsoever and in particular the intermediate satisfaction by the Obligors or any other person of the whole or any part of the Secured Obligations.

Full title guarantee and implied covenants

- 2.8 All the security created or given under this Deed is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

Miscellaneous

- 2.9 The fact that no or incomplete details of any particular Secured Assets are included or inserted in any relevant Schedule shall not affect the validity or enforceability of the charges created by this Deed.

3 Further assurance

General

- 3.1 The Chargor must at its own expense promptly do all such acts and things and execute such documents (including Deeds, assignments, transfers, mortgages, charges, notices, instructions, assurances, agreements and instruments) as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s):
- (a) to perfect and protect (including against any change in or revised interpretation of any law or regulation) the security created (or intended to be created) under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Agent provided by this or any other Deed or document or by law; or
 - (b) to confer on the Security Agent security over any Charged Contract or Contract Proceeds of the Chargor located in any jurisdiction in terms which are valid and effective within such jurisdiction and are as nearly as possible equivalent or similar to the security intended to be conferred by or pursuant to this Deed; or

- (c) (in its absolute discretion) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Deed; or
- (d) otherwise for enforcing the same or exercising any of the Security Agent's rights, powers, authorities or discretions under this Deed,

and the Chargor shall take all such action as is available to it (including the making of all filings and registrations and the payment of all fees and taxes) as may be necessary for the creation, perfection protection, maintenance or enhancement of any security conferred or intended to be conferred on the Security Agent pursuant to this Deed.

- 3.2 Any security document required to be executed by the Chargor pursuant to clause 3.1(a) will be prepared at the cost of the Chargor, and will be in such form and will contain such provisions as the Security Agent may reasonably require.

4 Negative Pledge and disposal restrictions

Negative pledge

- 4.1 During the Security Period, the Chargor must not create, extend or permit to subsist any security over any of the Secured Assets, nor may it enter into any other preferential arrangement having a similar effect:

Exceptions

- 4.2 Clause 4.1 does not apply:
- (a) to the security created or required to be created by this Deed; nor
 - (b) to any security or transaction to which the Security Agent has given its written consent;

5 Representations and warranties

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

(a) Status

it is a limited liability company, duly incorporated and validly existing under the laws of England and Wales and has the power to own its assets and carry on its business and other activities as they are being conducted;

(b) Power and enforceability

it has the power to enter into this Deed and to perform its obligations and exercise its rights under it and (subject to the Legal Reservations) the obligations expressed to be

assumed by it under this Deed are (and at all relevant times have been) legal, valid, binding and enforceable obligations (subject to the principle that equitable remedies are discretionary and subject to any applicable insolvency laws);

(c) No Enforcement

no person who holds any other security over the Secured Assets or over any other asset of the Chargor has enforced or given notice of its intention to enforce such security.

(d) Non-conflict with other obligations

neither the execution of this Deed by the Chargor, nor the Chargor's compliance with its terms will:

- (i) conflict with or result in any breach of any law or regulation applicable to it;
- (ii) cause any limitation on any of its powers or on the right or ability of its directors to exercise those powers to be exceeded; nor
- (iii) constitute a default, acceleration of payment or termination event (however described) under any agreement or instrument binding upon it to an extent and in a manner which could reasonably be expected to have a Material Adverse Effect;

(e) Authorisations

all material Authorisations required or desirable for the execution, delivery, issue, validity or enforceability of this Deed or of the performance of the Chargor's obligations or the exercise of its rights under this Deed have been obtained and have not been (and the Chargor is not aware of any circumstance having arisen whereby they might be) withdrawn or varied in whole or part;

(f) Commercial benefit, etc.

- (i) it has given due consideration to the terms and conditions of the documents evidencing the Secured Obligations and of this Deed and has satisfied itself that there are reasonable grounds for believing that by executing this Deed it will derive commercial benefit; and
- (ii) that it enters into this Deed in good faith and for the purposes of its business;

(g) Priority of security

the assignments and charges contained in clause 2 (*Charging clause*) constitute first priority security over the assets which are expressed to be secured by such assignments

and charges and those assets are not subject to any security other than the security mentioned in clause 4.2 (*Exceptions*);

(h) **Charged Contracts**

- (i) each of the Charged Contracts is in full force and effect and constitutes legal, valid, binding and enforceable obligations of the Chargor;
- (ii) it has not rescinded or otherwise terminated or novated any of the Charged Contracts and there have been no amendments to nor defaults (save as disclosed to the Security Agent by the Developer before the date of this Deed) under the Charged Contracts;
- (iii) it has not waived, compromised, assigned nor agreed to waive, compromise or assign any of its present or future rights, title or interest in and to the Charged Contracts or the Contract Proceeds otherwise than as provided in this Deed;
- (iv) no right of action is vested in the Chargor nor in any Contract Party in respect of any representation, breach of condition breach of warranty or breach of any other express or implied term of any of the Charged Contracts (save as disclosed to the Security Agent by the Developer before the date of this Deed); and
- (v) it is not aware of any fact or circumstance which would or might prejudice or affect the ability of the Security Agent to enforce any of the Charged Contracts or any term or condition of any of the Charged Contracts nor to recover and retain the Contract Proceeds.

- 5.2 Each of the Repeating Representations shall be deemed to be repeated on each day during the Security Period on which representations and warranties set out in clause 20 (*Representations*) of the Facility Agreement are, or are deemed to be, made or repeated.

6 Undertakings

The Chargor undertakes to the Security Agent in the terms of the following provisions of this clause 6, all such undertakings to commence on the date of this Deed and to continue throughout the Security Period:

6.1 **Perform**

It will at all times comply with the terms (express or implied) of this Deed and of all contracts relating to the Secured Obligations to which it is a party.

6.2 **Not to jeopardise security**

It will not do anything or allow anything to be done which may in any way depreciate, jeopardise or otherwise prejudice the value to the Security Agent of the security constituted by this Deed or the priority of its ranking as expressed in this Deed.

6.3 Collection of Contract Proceeds, etc.

It will not, without the prior written consent of the Security Agent, charge, factor, discount or assign any of the Contract Proceeds in favour of any other person or purport to do so.

6.4 Charged Contracts

It will:

- (a) perform all its obligations under the Charged Contracts in a diligent and timely manner;
- (b) except as permitted under the terms of the Facility Agreement, not rescind, terminate, novate or permit rescission, termination or novation of the Charged Contracts nor make or agree to make any amendments or modifications to the Charged Contracts or waive or compromise any of its rights under the Charged Contracts nor release any Contract Party from its obligations under the Charged Contracts except in any case with the prior written consent of the Security Agent; and
- (c) promptly inform the Security Agent of any material disputes relating to the Charged Contracts.

Deposit of documents

6.5 It will promptly at the Security Agent's request deposit with the Security Agent (or as the Security Agent directs):

- (a) all Deeds and documents of title relating to the Charged Contracts and the Contract Proceeds, including any other Deeds or documents necessary or desirable to assist the Security Agent to register or enforce the security created by this Deed; and
- (b) all such other documents relating to the Secured Assets as the Security Agent may from time to time reasonably require.

Retention of documents

6.6 The Security Agent may retain any document delivered to it pursuant to clause 6.5 (*Deposit of documents*) or otherwise until the Discharge Date and if, for any reason it ceases to hold any such document before such time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor must immediately comply (or procure compliance) with such notice:

6.7 Power to remedy

It agrees that if it fails to comply with any of the covenants and undertakings set out or referred to in clauses 6.1 to 6.4 inclusive it will allow (and hereby irrevocably authorises) the Security Agent and/or such persons as the Security Agent nominates to take such action (including the making of payments) on behalf of the Chargor as is necessary to ensure that such covenants are complied with.

6.8 Expenses

It agrees to pay all Expenses on demand and that if it does not do so, the Expenses will bear Interest at the Default Rate from and including the date of demand to and including the date of actual payment provided that any such Expenses did not arise as a consequence of the gross negligence or wilful misconduct of any such Enforcement Party.

6.9 Indemnity

It agrees to indemnify the Security Agent and will keep the Security Agent indemnified against all losses and Expenses incurred by the Security Agent as a result of a breach by the Chargor of its obligations under clauses 6.1 to 6.5 and in connection with the exercise by the Security Agent of its rights contained in clause 6.7 (*Power to remedy*). All sums the subject of this indemnity will be payable by the Chargor to the Security Agent on demand and if not so paid will bear interest at the Default Rate. Any unpaid interest will be compounded with calendar monthly rests.

7 Enforceability

For the purposes of all powers implied by the LPA or any other applicable statute the Secured Obligations shall be deemed to have become due and payable and this Deed will become immediately enforceable and the powers of the Security Agent and any Receiver exercisable on the date of this Deed, but, as between the Security Agent and the Chargor, the power of sale 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 shall be exercisable at any time following the making of such request).

8 Enforcement of security

8.1 At any time after the occurrence of an Event of Default and for so long as it is continuing, the Security Agent may without further notice:

- (a) appoint one or more than one Receiver in respect of the Secured Assets or any of them and if more than one Receiver is appointed the Receiver may act jointly and severally or individually; or

- (b) take possession of the Secured Assets; or
 - (c) in its absolute discretion enforce all or any part of the security created by this Deed in such other lawful manner as it thinks fit.
- 8.2 The Security Agent may remove the Receiver and appoint another Receiver and the Security Agent may also appoint an alternative or additional Receiver.
- 8.3 The Receiver will, so far as the law permits, be the agent of the Chargor 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.
- 8.4 The powers of the Receiver will continue in full force and effect following the liquidation of the Chargor.
- 8.5 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.
- 8.6 The Receiver will have the power on behalf and at the cost of the Chargor:
 - (a) to do or omit to do anything which he considers appropriate in relation to the Secured Assets; and
 - (b) to exercise all or any of the powers conferred on the Receiver or the Security Agent under this Deed or conferred upon administrative receivers by the Insolvency Act (even if he is not an administrative receiver), or upon receivers by the LPA or any other statutory provision (even if he is not appointed under the LPA or such other statutory provision).
- 8.7 Without prejudice to the general powers set out in clause 8.6 a Receiver will also have the powers and discretions set out in Schedule 2 (*Receiver's specific powers*).
- 8.8 If (notwithstanding any representation or warranty to the contrary contained in this Deed) there shall be any security affecting the Secured Assets or any of them which ranks in priority to the security created by this Deed 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.
- 8.9 The Security Agent may, at any time after this Deed has become enforceable pursuant to clause 7 (*Enforceability*), exercise, to the fullest extent permitted by law, all or any of the powers authorities and discretions conferred on a Receiver by this Deed, whether as attorney of the Chargor or otherwise and whether or not a Receiver has been appointed.

- 8.10 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 Receivers by this Deed.

9 Application of proceeds

Recoveries by Receiver

- 9.1 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, 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, or any applicable statute, 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 Secured Obligations, in accordance with the provisions of the Finance Documents and otherwise in such order as the Security Agent may determine; and
 - (d) the claims of those persons entitled to any surplus.

Right of appropriation

- 9.2 The Security Agent is entitled to appropriate money and/or assets to Secured Obligations in such manner or order as it thinks fit and any such appropriation shall override any appropriation by the Chargor.

Suspense Account

- 9.3 The Security Agent may, at any time, credit to a suspense account any money received by it under this Deed, 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 Protection of third parties

No duty to enquire

- 10.1 A buyer from, lessee or licensee or other person dealing with any Enforcement Party will not be concerned to enquire whether any of the powers which it has exercised or purported to exercise has arisen or become exercisable and may assume that it is acting in accordance with this Deed.

Receipt conclusive

- 10.2 The receipt of the Security Agent or any Receiver shall be an absolute and a 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.

11 Protection of Security Agent

Security Agent's receipts

- 11.1 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 who the Security Agent, acting reasonably, believes to be entitled) in accordance with the requirements of this Deed.

Exclusion of liability

- 11.2 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 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.
- 11.3 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 Deed.
- 11.4 Any officer, employee or agent of any Enforcement Party may rely on this clause 11.4 under the Third Parties Act.

Effect of possession

- 11.5 If the Security Agent or any Receiver enters into possession of the Secured Assets or any of them, this will not oblige either the Security Agent or the Receiver to account as mortgagee in

possession, and if the Security Agent enters into possession at any time of the Secured Assets or any of them it may at any time at its discretion go out of such possession.

Chargor's indemnity

- 11.6 The Chargor agrees with the Security Agent to indemnify the Security Agent and any Receiver on demand against any costs, loss or liability incurred by any of them in respect of:
- (a) any exercise of the powers of the Security Agent or the Receiver or any attempt or failure to exercise those powers; and
 - (b) anything done or omitted to be done in the exercise or purported exercise of the powers under this Deed or under any appointment duly made under the provisions of this Deed,
- provided that any such any costs, losses or liabilities did not arise as a consequence of the gross negligence, fraud or wilful misconduct of any such person.

12 Power of Attorney

Grant of power

- 12.1 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) for the purposes set out in clause 12.2.

Extent of power

- 12.2 The power of attorney granted in clause 12.1 allows the Security Agent, the Receiver or such nominee, in the name of the Chargor, on its behalf and as its act and Deed to:
- (a) perfect the security given by the Chargor under this Deed; and
 - (b) execute, seal and deliver (using the Chargor's seal where appropriate) any document or do any act or thing which the Chargor may, ought or has agreed to execute or do under this Deed or which the Security Agent, the Receiver or such nominee may in their absolute discretion consider appropriate in connection with the exercise of any of the rights, powers authorities or discretions of the Security Agent or the Receiver under, or otherwise for the purposes of, this Deed.

Ratification

- 12.3 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 12.

13 Application, variation and extension of statutory provisions

Application of statutory covenants

- 13.1 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 Deed.

- 13.2 Conditions applicable to power of sale etc.

- (a) For the purposes only of section 101 of the LPA, (but otherwise subject to the provisions of clause 7 (*Enforceability*)), the conditions set out in that section as to when such powers 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 Deed; and
- (b) 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 Deed.

Extension of powers of sale, etc.

- 13.3 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 Deed.
- 13.4 The Security Agent and any Receiver shall also have and enjoy all the other powers, privileges, rights and protections conferred by the LPA and the Insolvency Act on mortgagees, receivers or administrative receivers (each as amended and extended by this Deed and whether or not a receiver or administrative receiver has been appointed) but so that if there is any ambiguity or conflict between the powers contained in such statutes and those contained in this Deed, those contained in this Deed shall prevail.

Consolidation of mortgages

- 13.5 The restriction on the consolidation of mortgages in Section 93 of the LPA does not apply to this Deed nor to any security given to the Security Agent pursuant to this Deed.

13.6 LPA provisions relating to appointment of Receiver Section 109(1) of the LPA shall not apply to this Deed.

13.7 Application of proceeds, 107(2), 109(6) and 109(8) of the LPA will not apply to the Security Agent nor to a Receiver appointed under this Deed.

14 Other miscellaneous provisions

Powers, rights and remedies cumulative

14.1 The powers, rights and remedies provided in this Deed are in addition to (and not instead of), powers, rights and remedies under law.

Exercise of powers, rights and remedies

14.2 If an Enforcement Party fails to exercise any power, right or remedy under this Deed 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.

Discretion

14.3 The Security Agent may decide:

(a) whether and, if so, when, how and to what extent (i) to exercise its rights under this Deed and (ii) to exercise any other right it might have in respect of the Chargor (or otherwise); and

(b) when and how to apply any payments and distributions received for its own account under this Deed,

and the Chargor has no right to control or restrict the Security Agent's exercise of this discretion.

14.4 No provision of this Deed 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.

Set-off

14.5 No right of set-off or counterclaim may be exercised by the Chargor in respect of any payment due to the Security Agent under this Deed.

Power to establish new account

- 14.6 If the Security Agent receives notice of a subsequent mortgage or charge relating to the Secured Assets, it will be entitled to close any account and to open a new account in respect of the closed account. If the Security Agent does not open such new account, it will in any event be treated as if it had done so at the time when it received such notice.

Information

- 14.7 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.

No assignment by Chargor

- 14.8 The Chargor must not assign, novate or otherwise deal with its rights or obligations under or interests in this Deed, except with the prior written consent of the Security Agent.

Transfer by Security Agent

- 14.9 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 Deed.
- 14.10 The Security Agent may disclose any information about the Chargor, the Secured Assets and/or this Deed to any person to whom it proposes to assign or novate or transfer (or has assigned, novated or transferred) any rights or obligations under or interests in this Deed, or with whom it proposes to enter into (or has entered into) any other dealings in relation to any such rights, obligations or interests.
- 14.11 Any person to whom the benefit of all such rights has been transferred, subject to such obligations, may enforce this Deed in the same way as if it had been a Party.

Avoidance of settlements and other matters

- 14.12 Any payment made by the Chargor, or settlement or discharge between the Chargor and the Security Agent, is conditional upon no security or payment to the Security Agent by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, administration or liquidation for the time being in force and accordingly (but without limiting the Security Agent's other rights under this Deed) 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.

- 14.13 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 14.12, then for the purposes of this Deed such amount shall not be considered to have been irrevocably paid.

Chargor's obligations

- 14.14 The obligations of the Chargor will not be affected by the occurrence or existence at any time of any of the following events or circumstances:
- (a) the Security Agent's granting any waiver or consent to any person in connection with, or allowing time for payment in respect of, the Secured Obligations or any of them or taking (or omitting to take) any other step in relation to any Obligor or the Secured Obligations;
 - (b) the making, amendment or termination of any agreement or arrangement relating to any of the Secured Obligations;
 - (c) the insolvency of any person, the appointment of a receiver or an administrator in respect of it or its property, its winding-up or dissolution or the taking of any step in connection with any composition, voluntary arrangement, discharge, settlement, reorganisation, *restructuring or similar process in relation to its assets, liabilities or business*;
 - (d) any Obligor (or any other person) granting any security or other rights to the Security Agent (or any other person) whether under this Deed or otherwise;
 - (e) any amendment of the terms on which any security or other rights are granted, any step being taken in connection with any security or other rights (to enforce them, to release them or to do anything else) or any omission to take any step in connection with any security or other rights which could or should have been taken, whether under this Deed or otherwise;
 - (f) any release of any person liable in respect of any of the Secured Obligations, whether as surety or on any other basis, or any other step being taken (or not being taken) in relation to any such person (except to the extent that the Chargor itself is expressly released from its obligations under this Deed or otherwise at any time);
 - (g) any lack of capacity, power or authority on the part of any person;
 - (h) any person's change of name;
 - (i) any change in the constitution, membership, ownership, legal form or status of any person;
 - (j) any unenforceability, illegality or invalidity of any obligation of any person; or

- (k) anything else which, although it could affect the liability of a surety, would not affect the liability of a principal debtor.

Time Deposits

- 14.15 If during the Security Period a time deposit matures on any account which the Chargor holds with the Security Agent and an Event of Default has arisen which is continuing but no amount of Secured Obligations has fallen due and payable such time deposit shall be renewed for such further maturity as the Security Agent may in its absolute discretion determine.

Release of security

- 14.16 On the Discharge Date (but subject to clause 14.12 (*Avoidance of settlements and other matters*)) 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 constituted hereby or pursuant hereto.

Additional currency provisions

- 14.17 All monies received or held by the Security Agent or any Receiver under this Deed may be converted into such other currency as the Security Agent considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Security Agent's set rate of exchange then prevailing for purchasing that other currency with the existing currency.
- 14.18 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 currency in which the obligation or liability was incurred and to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency the Security Agent shall have a further separate cause of action against the Chargor and shall be entitled to enforce the security constituted by this Deed to recover the amount of the shortfall.

15 Communications

- 15.1 Each notice, consent and other communication in respect of this Deed will be effective only if made by letter or fax, delivered to the relevant address or fax number specified on the execution page(s) of this Deed (or to any substitute address or fax number notified in writing by the relevant Party for this purpose) and marked for the attention of the specified department/individual, if applicable. Each communication by letter will be effective only if delivered by hand, sent by first class post (if sent from and to an address in the UK) or sent by airmail (if sent from or to an address elsewhere).

- 15.2 Each communication will become effective as follows (references to times are to times in the place of delivery of the communication):
- (a) a hand-delivered letter will be effective as soon as it is delivered (or, if it is delivered after 5pm or on a day that is not a Business Day, it will be effective at 9am on the next Business Day);
 - (b) a letter sent by post from and to an address in the UK will be effective at 9am on the second Business Day after it is posted and a letter sent by airmail from or to an address elsewhere will be effective at 9am on the tenth Business Day after it is posted;
 - (c) a fax will be effective one hour after the sending fax machine (or other system) generates a confirmation that the communication has been sent in full (or, if this occurs after 5pm or on a day that is not a Business Day, it will be effective at 9am on the next Business Day); and
 - (d) each communication to the Security Agent will become effective only when actually received by the Security Agent.

16 Governing law

Governing law

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

Jurisdiction

- 16.2 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a **Dispute**). Each Party agrees that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly neither Party will argue to the contrary. This clause 16.2 is for the benefit of the Enforcement Parties only. As a result, no Enforcement Party will 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.

17 This Deed

Consideration

- 17.1 The Chargor has entered into this Deed in consideration of the Secured Parties (or some of them) at the request of the Security Agent agreeing to provide (or to continue to provide) finance facilities to the Obligors on the terms agreed between them.

Execution of this Deed - counterparts

- 17.2 If the Parties execute this Deed in separate counterparts, this Deed will take effect as if they had all executed a single copy.

Execution of this Deed - formalities

- 17.3 This Deed 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.

Partial invalidity

- 17.4 If, at any time, any provision of this Deed is or is found to have been illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this does not affect the legality, validity or enforceability of the other provisions of this Deed, nor the legality, validity or enforceability of the affected provision under the law of any other jurisdiction.
- 17.5 If any Party is not bound by this Deed (or any part of it) for any reason, this does not affect the obligations of each other Party under this Deed (or under the relevant part).

Other security

- 17.6 This Deed 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 Deed hold for or in respect of the Secured Obligations.

Ownership of this Deed

- 17.7 This Deed and every counterpart is the property of the Security Agent.

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

Schedule 1
Form of notice to Contract Parties

To: [name and address of Contract Party]

Dated: [date]

Dear Sirs,

[here identify relevant Charged Contract] [the Contract] made between (1) [Chargor] (the Chargor) and (2) [here insert name of counterparty]

We [Chargor] hereby notify you that by a Deed dated [date] (the Deed) made by the Chargor in favour of [Security Agent] (the Security Agent) the Chargor has assigned and charged to the Security Agent as first priority assignee and chargee all of the Chargor's rights, title and interest in the Contract and in the proceeds of the Contract from time to time in whatever form they may be including, without limitation, all monies receivable by the Chargor under, or otherwise arising out of, or evidenced by, the Contract as security for certain obligations now or hereafter owed by the Chargor to the Security Agent.

[We further notify and irrevocably and unconditionally instruct and authorise you that:

- 1 the Chargor may not agree to amend, modify or terminate the Contract without the prior written consent of the Security Agent;
- 2 the Deed provides that you may not be released from your obligations under the Contract, nor may any rights of the Chargor be waived, in any case without the prior consent of the Security Agent being obtained;
- 3 subject to paragraph 1, the Deed provides that you may continue to deal with the Chargor in relation to the Contract until you receive written notice to the contrary from the Security Agent. Thereafter the Chargor will cease to have any right to deal with you in relation to the Contract and therefore from that time you should deal only with the Security Agent;
- 4 [notwithstanding the foregoing the Chargor shall continue to be liable for the performance and discharge of all obligations under the Contract in accordance with its terms and the Deed provides that the Security Agent shall be under no obligation of any kind in respect of the Contract or such obligations;]
- 5 you are authorised to disclose information in relation to the Contract to the Security Agent on request without any enquiry by you as to the justification for such disclosure or reference to or further authority from the Chargor;

6 you must supply copies of all material notices and other information under the Contract to the Security Agent; and

7 the provisions of this notice may only be revoked with the written consent of the Security Agent.]

Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to the Chargor) by way of confirmation that[:

(a)]you have not received notice that the Chargor has assigned its rights under the Contract to a third party or created any other interest (whether by way or security or otherwise) in the Contract in favour of a third party[; and

(b) you agree to the terms set out in this notice and to act in accordance with its provisions].

The provisions of this notice and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.

Yours faithfully,

for and on behalf of

[*Chargor*]

To: [*name and address of Security Agent*]

Copy to:[*name and addresses of Chargor*]

We hereby acknowledge receipt of the above notice and confirm our agreement to the matters set out in paragraphs A and B above.

Signed:.....

for and on behalf of [*name of Contract Party*]

Dated: [*date*]

Schedule 2

Receiver's specific powers

The Receiver will have full power and authority:

1 Possession

- 1.1 to enter upon, take possession of the Secured Assets;
- 1.2 to collect and get in all rents, fees, charges or other income of the Secured Assets;

2 Sale and disposal

without restriction, to sell, charge, grant, vary the terms or accept surrenders of, leases or tenancies of, licences to occupy, or options or franchises over or otherwise deal with and dispose of the Secured Assets or any property acquired in exercise of its powers under this Deed;

3 Borrowing

for the purpose of exercising any of the rights, powers, authorities and discretions conferred on the Receiver by or pursuant to this deed and/or for defraying any losses or Expenses which may be incurred by him in their exercise or for any other purpose, to raise or borrow moneys from the Secured Parties or others or incur any other liability on such terms, whether secured or unsecured, as he may think fit, and whether to rank in priority to this security or not:

4 Employment etc.

to appoint and discharge employees, officers, consultants, advisers, managers, agents, solicitors, accountants or other professionally qualified persons, workmen and others for any of the purposes of this deed or to guard or protect the Secured Assets upon such terms as to remuneration or otherwise as he may think fit and to discharge any such persons appointed by the Chargor prior to his appointment;

5 Legal actions and compromises

- 5.1 in the name of the Chargor, to bring, prosecute, enforce, defend and discontinue all such actions, suits and proceedings, in relation to the Chargor, the business of the Chargor or the Secured Assets as in any case he shall think fit;
- 5.2 to settle, adjust, refer to arbitration or expert determination, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or body who is or claims to be a creditor of the Chargor or relating in any way to the Secured Assets;

6 Receipts

to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising the Secured Assets;

7 Contracts

to enter into, vary, cancel or waive any of the provisions of any contracts which he shall in any case think expedient in the interests of the Chargor or the Security Agent;

8 Supplies

to purchase materials, tools, equipment, goods or supplies on such terms and at such price as the Receiver in the Receiver's absolute determination thinks fit;

9 Insurances and Bonds

to insure the Secured Assets, any assets acquired by the Receiver in exercise of his powers, and any business or works, and effect indemnity insurance or other similar insurance, in every case in such amounts, against such risks and with such offices as the Receiver shall think fit, and obtain bonds and give indemnities and security to any bondsmen;

10 Form Company

- 10.1 to promote or establish any company or to acquire shares in any company (whether as a subsidiary of the Chargor or otherwise) to facilitate the exercise of his powers under this Deed;
- 10.2 to transfer to any such company all or any of the Secured Assets or other assets acquired by the Receiver in exercise of his powers;
- 10.3 to exercise or cause to be exercised all voting and other rights attaching to, and to charge, sell or otherwise transfer any shares in any such company;

11 Transaction

to carry into effect and complete any transaction;

12 Redeem security

to redeem any prior security (or procure the transfer of such security to an Enforcement Party) and settle and pass the accounts of the person entitled to the prior security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;

13 General

either in the name of the Chargor or in the name of the Receiver to execute documents and do all other acts or things which the Receiver may consider to be incidental or conducive to any of the Receiver's powers or to the realisation or use of the Secured Assets.

Execution

EXECUTED (but not delivered until the date)

hereof) **AS A DEED** by)

GROVE DEVELOPMENTS LIMITED)

acting by:)

Director

Director/Secretary/Witness

Witness Name: RUPAK PAREKH

Witness Address:

Witness Occupation: CHARTERED ACCOUNTANT

EXECUTED (but not delivered until)

the date hereof) **AS A DEED**)

for and on behalf of **UNITED OVERSEAS**)

BANK LIMITED, LONDON BRANCH)

in the presence of:

Witness Signature:

Witness Name:

Witness Address:

Witness Occupation:

Confidential

Dated 17 AUGUST 2016

GROVE DEVELOPMENTS LIMITED

and

UNITED OVERSEAS BANK LIMITED, LONDON BRANCH

R
^
ASSIGNMENT AND CHARGE OF CONTACTS

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Norton Rose Fulbright LLP

Sign & Dated 25/08/2016

^
NORTON ROSE FULBRIGHT

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This Deed is made on **17 AUGUST** between:

- (1) **GROVE DEVELOPMENTS LIMITED** a company incorporated in England and Wales with company number 07459482 and whose registered office is at World Business Centre 2, 3rd Floor Newall Road, London Heathrow Airport, Hounslow TW6 2SF (the **Chargor**); and
- (2) **UNITED OVERSEAS BANK LIMITED, LONDON BRANCH** in its capacity as Security Agent for the Secured Parties (the **Security Agent**).

WHEREAS

- (A) By a building contract dated 11 July 2013 (the **Building Contract**) and made between the Chargor (as the **Employer**) and Balfour Beatty Regional Construction Limited (formerly known as Mansell Construction Services Limited) (as the **Contractor**), the Contractor undertook to carry out the design and construction of the development as described therein.
- (B) Balfour Beatty Group Limited (being a parent company of the Contractor) (as the **Guarantor**) agreed to guarantee the due performance by the Contractor of its obligations under the Building Contract.
- (C) The Lenders have agreed to make certain facilities and accommodations available to the Borrower subject to the pre-condition that (among other things) the Chargor assign the benefits of the Building Contract and the guarantee to the Finance Parties by way of this Deed.
- (D) The directors of Chargor are satisfied that entering into this Deed is to the benefit of the Chargor and for the purposes of its business.

1 Interpretation

Expressly defined terms

- 1.1 In this Deed, words and expressions defined in the Facility Agreement shall have the same meanings when used herein and in addition:

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

Business Day means a day, other than a Saturday or a Sunday, on which banks are open for general business in London or, for the purpose of clause 15 (*Communications*), in the principal financial centre in the jurisdiction in which the relevant communication is delivered.

Charged Contracts means (1) the Deed of Guarantee dated 11 July 2013 between the Guarantor and the Chargor, and (2) the Building Contract.

Contract Party means any party to a Charged Contract other than the Chargor and if more than one such party shall, where the context so requires, mean any one of them.

Contract Proceeds means all proceeds of any Charged Contract from time to time in whatever form they may be, including:

- (a) all monies receivable under, arising out of, or evidenced by, any Charged Contract;
- (b) any other rights, titles, benefits or interests (whether present, future, proprietary contractual or otherwise) of the Chargor in, under, arising out of, or evidenced by, any Charged Contract;
- (c) the benefit of any Authorisation, conveyance, assignment, transfer, lease or licence which may be granted to the Chargor in relation to any Charged Contract, whether or not arising out of an obligation contained in such Charged Contract;
- (d) all claims competent to the Chargor to recover and receive damages or compensation arising out or relating to any breach or termination of any Charged Contract or any Authorisation, conveyance, assignment, transfer, lease or licence referred to in paragraph (c) above; and
- (e) the full benefit of all guarantees, indemnities, bonds, debentures, mortgages, charges or other security given in relation to any Charged Contract or any obligation of any Contract Party arising under any Charged Contract.

Default Rate means two per cent. per annum above the highest rate of Interest ordinarily applicable to the Secured Obligations from time to time.

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 Security Agent and each of the other Secured Parties cancelled

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

Event of Default means the occurrence of any of the events or circumstances defined in the Facility Agreement as an Event of Default.

Expenses means all fees, discounts, commissions and other banking or service charges, legal and other professional fees, premiums, costs or expenses, in each case calculated on a full indemnity basis and together with VAT, incurred by any Enforcement Party in connection with the Secured Assets, the preparation, negotiation and creation of this Deed, taking, perfecting, enforcing or exercising any power under this Deed or the appointment of any Receiver, the breach of any provision of this Deed and / or the protection, realisation or enforcement of this

Deed, and includes the costs of transferring to the Security Agent or the Receiver any security ranking in priority to the security constituted by this Deed, or the amount required to be paid to secure the unconditional and irrevocable discharge of such security, or any of the foregoing as the context shall require.

Facility Agreement means the facility agreement dated on or about the date of this Deed between, amongst others, the Obligors, Abbey National Treasury Services plc and United Overseas Bank Limited, London Branch as Original Lenders and Arrangers, the Security Agent and Santander UK plc as Agent.

Finance Documents has the meaning set out in the Facility Agreement.

Insolvency Act means Insolvency Act 1986.

Interest means interest at the rate provided and calculated and compounded as agreed between the Security Agent and the Chargor from time to time.

LPA means Law of Property Act 1925.

Obligors has the meaning set out it in the Facility Agreement.

Party means a party to this Deed.

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 Deed in respect of the Chargor or in respect of the Secured Assets or any of them.

Repeating Representations means the representations set out in clauses 5.1(a) to 5.1(d) and 5.1(g) to 5.1(h) of this Deed.

Secured Assets means the assets charged, assigned or otherwise the subject of any security created by or pursuant to this Deed and includes any part or parts of such assets.

Secured Obligations means the aggregate of all indebtedness and all obligations or liabilities of any kind which may now or at any time in the future be due, owing or incurred by the Obligors to the Secured Parties or any of them under any of the Finance Documents, whatever their nature or basis, in any currency or currencies and however they are described together with Interest and Expenses.

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

Security Documents means this Deed, together with any other agreement, instrument Deed or document entered into by the Chargor creating or expressed to create any Security over all or any part of its assets in respect of the Secured Obligations.

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

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

VAT means value added tax as provided for in the Value Added Taxes Act 1994 and any other tax of a similar fiscal nature.

Construction

1.2 In this Deed:

(a) unless a contrary indication appears, a reference to:

"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;

"guarantee" includes 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 pay any deposit on behalf of, or 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;

"indebtedness" includes any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

"law" includes law established by or under statute, constitution, treaty, decree, regulation or judgment, common law and customary law; and the word **"lawful"** and similar words and phrases are to be construed accordingly;

"person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

"regulation" includes any regulation, rule, official directive, request or guideline (in each case, whether or not having the force of law but if not having the force of law being one with which it is customary to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

"**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;

"**set-off**" includes analogous rights and obligations in jurisdictions other than England and Wales; and

"**tax**" includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment);

- (b) except where this Deed expressly states otherwise, each term used in this Deed which is defined in the Facility Agreement has the same meaning as in the Facility Agreement, construed in accordance with the Facility Agreement;
- (c) where something (or a list of things) is introduced by the word "**including**", or by the phrase "**in particular**", or is followed by the phrase "**or otherwise**", the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
- (d) each reference to the "**Chargor**", or to the "**Security Agent**", any "**Party**" or any of the "**Secured Parties**" includes its successors in title, and its permitted assignees or permitted transferees;
- (e) each reference to any "**Contract Party**" shall extend to any permitted assignee or transferee of, or successor in title to, any such person, and to any other person who is obligated to the Chargor under the terms of a Charged Contract;
- (f) each reference to any "**Contract Proceeds**" shall include each and any category or part of the Contract Proceeds independently of every other category or part
- (g) unless this Deed expressly states otherwise or the context requires otherwise, (a) each reference in this Deed to 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 Deed) and (b) each reference in this Deed to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Deed and whether amended or re-enacted since the date of this Deed);
- (h) each reference to this Deed (or to any other agreement or Deed) means, at any time, this Deed (or as applicable such other agreement or Deed) as amended, novated, re-stated, substituted or supplemented at that time, provided that the relevant amendment, novation,

restatement, substitution or supplement does not breach any term of this Deed, any Charged Contract or of any Finance Document;

- (i) each reference to the singular includes the plural and vice versa, as the context permits or requires;
- (j) the index and each heading in this Deed is for convenience only and does not affect the meaning of the words which follow it;
- (k) each reference to a clause or Schedule is (unless expressly provided to the contrary) to be construed as a reference to the relevant clause of or Schedule to this Deed;
- (l) wherever this Deed states that the Chargor must not take a particular step without the consent of the Security Agent, the Security Agent has discretion whether to give its consent and can impose conditions on any such consent it gives; and
- (m) an Event of Default is "continuing" if it has not been remedied or waived.

Third Party Rights

- 1.3 A person who is not an Enforcement Party has no right under the Third Parties Act to enforce or enjoy the benefit of any term of this Deed except to the extent that this Deed, any Charged Contract or any of the Finance Documents expressly provides for it to do so.

- (a) No consent of any person who is not a Party is required to rescind or vary this Deed at any time.
- (b) This clause 1.3 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Third Parties Act

2 Charging clause

Grant of security

- 2.1 The Chargor, as a continuing security for the payment, discharge and performance of the Secured Obligations:

- (a) Assignment by way of security

assigns to the Security Agent all its rights, title and interest in the following assets:

- (i) the Charged Contracts; and
- (ii) the Contract Proceeds,

in each case to the fullest extent capable of assignment and subject to re-assignment on redemption as provided in clause 14.16 (*Release of security*).

(b) First fixed charge

charges in favour of the Security Agent, by way of first fixed charge the following assets:

- (i) the Charged Contracts; and
- (ii) the Contract Proceeds

in each case excluding those Charged Contracts or Contract Proceeds which have been validly and effectively assigned to the Security Agent pursuant to clause 2.1(a) (*Assignment by way of security*)); and also

- (iii) any monies (including any deposit, advance or instalment payment) payable to the Chargor for or in connection with the disposal (by whatever means and whether or not permitted by this Deed) of the Charged Contracts or any interest in the Charged Contracts.

Notice of assignment or charge

- 2.2 The Chargor shall forthwith upon receiving a request to that effect from the Security Agent give notice of each such assignment of its right, title and interest (if any) in and to the Charged Contracts and the Contract Proceeds by sending a notice in the form set out in Schedule 1 (*Form of notice to Contract Parties*) (with such amendments as the Security Agent may agree) duly completed to each of the Contract Parties.
- 2.3 The Chargor will use reasonable endeavours to procure from the Contract Party, an acknowledgement of receipt of such notice endorsed on a copy of the relevant notice substantially in the form as set out in (*Form of notice to Contract Parties*) in each case with such amendments as the Security Agent may agree.

Exercise of rights and obligations under Charged Contracts

- 2.4 Whilst no Event of Default exists and is continuing the Security Agent shall permit the Chargor to exercise its rights under the Charged Contract to which it is party, provided that the exercise of those rights in the manner proposed would not result in an Event of Default.
- 2.5 Where an Event of Default exists and is continuing the Chargor shall, if requested by the Security Agent, exercise its rights under any of the Charged Contracts in accordance with the instructions of the Security Agent.

- 2.6 The Chargor shall at all times remain liable to perform all the obligations assumed by it under the Charged Contracts and the Security Agent shall assume no obligation of any kind whatsoever under the Charged Contracts, nor be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations under the Charged Contracts, and the Chargor will at all times indemnify the Security Agent from and against any demands, claims, damages, costs or expenses arising from or in relation to the Charged Contracts or any such failure by the Chargor.

Continuing security

- 2.7 All the security granted or created by this Deed is to be a continuing security which shall remain in full force and effect notwithstanding any intermediate payment or settlement of account or other matter or thing whatsoever and in particular the intermediate satisfaction by the Obligors or any other person of the whole or any part of the Secured Obligations.

Full title guarantee and implied covenants

- 2.8 All the security created or given under this Deed is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

Miscellaneous

- 2.9 The fact that no or incomplete details of any particular Secured Assets are included or inserted in any relevant Schedule shall not affect the validity or enforceability of the charges created by this Deed.

3 Further assurance

General

- 3.1 The Chargor must at its own expense promptly do all such acts and things and execute such documents (including Deeds, assignments, transfers, mortgages, charges, notices, instructions, assurances, agreements and instruments) as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s):
- (a) to perfect and protect (including against any change in or revised interpretation of any law or regulation) the security created (or intended to be created) under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Agent provided by this or any other Deed or document or by law; or
 - (b) to confer on the Security Agent security over any Charged Contract or Contract Proceeds of the Chargor located in any jurisdiction in terms which are valid and effective within such jurisdiction and are as nearly as possible equivalent or similar to the security intended to be conferred by or pursuant to this Deed; or

- (c) (in its absolute discretion) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Deed; or
- (d) otherwise for enforcing the same or exercising any of the Security Agent's rights, powers, authorities or discretions under this Deed,

and the Chargor shall take all such action as is available to it (including the making of all filings and registrations and the payment of all fees and taxes) as may be necessary for the creation, perfection protection, maintenance or enhancement of any security conferred or intended to be conferred on the Security Agent pursuant to this Deed.

- 3.2 Any security document required to be executed by the Chargor pursuant to clause 3.1(a) will be prepared at the cost of the Chargor, and will be in such form and will contain such provisions as the Security Agent may reasonably require.

4 Negative Pledge and disposal restrictions

Negative pledge

- 4.1 During the Security Period, the Chargor must not create, extend or permit to subsist any security over any of the Secured Assets, nor may it enter into any other preferential arrangement having a similar effect:

Exceptions

- 4.2 Clause 4.1 does not apply:
- (a) to the security created or required to be created by this Deed; nor
 - (b) to any security or transaction to which the Security Agent has given its written consent;

5 Representations and warranties

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

(a) Status

it is a limited liability company, duly incorporated and validly existing under the laws of England and Wales and has the power to own its assets and carry on its business and *other activities as they are being conducted*;

(b) Power and enforceability

it has the power to enter into this Deed and to perform its obligations and exercise its rights under it and (subject to the Legal Reservations) the obligations expressed to be

assumed by it under this Deed are (and at all relevant times have been) legal, valid, binding and enforceable obligations (subject to the principle that equitable remedies are discretionary and subject to any applicable insolvency laws);

(c) No Enforcement

no person who holds any other security over the Secured Assets or over any other asset of the Chargor has enforced or given notice of its intention to enforce such security.

(d) Non-conflict with other obligations

neither the execution of this Deed by the Chargor, nor the Chargor's compliance with its terms will:

- (i) conflict with or result in any breach of any law or regulation applicable to it;
- (ii) cause any limitation on any of its powers or on the right or ability of its directors to exercise those powers to be exceeded; nor
- (iii) constitute a default, acceleration of payment or termination event (however described) under any agreement or instrument binding upon it to an extent and in a manner which could reasonably be expected to have a Material Adverse Effect;

(e) Authorisations

all material Authorisations required or desirable for the execution, delivery, issue, validity or enforceability of this Deed or of the performance of the Chargor's obligations or the exercise of its rights under this Deed have been obtained and have not been (and the Chargor is not aware of any circumstance having arisen whereby they might be) withdrawn or varied in whole or part;

(f) Commercial benefit, etc.

- (i) it has given due consideration to the terms and conditions of the documents evidencing the Secured Obligations and of this Deed and has satisfied itself that there are reasonable grounds for believing that by executing this Deed it will derive commercial benefit; and
- (ii) that it enters into this Deed in good faith and for the purposes of its business;

(g) Priority of security

the assignments and charges contained in clause 2 (*Charging clause*) constitute first priority security over the assets which are expressed to be secured by such assignments

and charges and those assets are not subject to any security other than the security mentioned in clause 4.2 (*Exceptions*);

(h) **Charged Contracts**

- (i) each of the Charged Contracts is in full force and effect and constitutes legal, valid, binding and enforceable obligations of the Chargor;
- (ii) it has not rescinded or otherwise terminated or novated any of the Charged Contracts and there have been no amendments to nor defaults (save as disclosed to the Security Agent by the Developer before the date of this Deed) under the Charged Contracts;
- (iii) it has not waived, compromised, assigned nor agreed to waive, compromise or assign any of its present or future rights, title or interest in and to the Charged Contracts or the Contract Proceeds otherwise than as provided in this Deed;
- (iv) no right of action is vested in the Chargor nor in any Contract Party in respect of any representation, breach of condition breach of warranty or breach of any other express or implied term of any of the Charged Contracts (save as disclosed to the Security Agent by the Developer before the date of this Deed); and
- (v) it is not aware of any fact or circumstance which would or might prejudice or affect the ability of the Security Agent to enforce any of the Charged Contracts or any term or condition of any of the Charged Contracts nor to recover and retain the Contract Proceeds.

- 5.2 Each of the Repeating Representations shall be deemed to be repeated on each day during the Security Period on which representations and warranties set out in clause 20 (*Representations*) of the Facility Agreement are, or are deemed to be, made or repeated.

6 Undertakings

The Chargor undertakes to the Security Agent in the terms of the following provisions of this clause 6, all such undertakings to commence on the date of this Deed and to continue throughout the Security Period:

6.1 **Perform**

It will at all times comply with the terms (express or implied) of this Deed and of all contracts relating to the Secured Obligations to which it is a party.

6.2 **Not to jeopardise security**

It will not do anything or allow anything to be done which may in any way depreciate, jeopardise or otherwise prejudice the value to the Security Agent of the security constituted by this Deed or the priority of its ranking as expressed in this Deed.

6.3 Collection of Contract Proceeds, etc.

It will not, without the prior written consent of the Security Agent, charge, factor, discount or assign any of the Contract Proceeds in favour of any other person or purport to do so.

6.4 Charged Contracts

It will:

- (a) perform all its obligations under the Charged Contracts in a diligent and timely manner;
- (b) except as permitted under the terms of the Facility Agreement, not rescind, terminate, novate or permit rescission, termination or novation of the Charged Contracts nor make or agree to make any amendments or modifications to the Charged Contracts or waive or compromise any of its rights under the Charged Contracts nor release any Contract Party from its obligations under the Charged Contracts except in any case with the prior written consent of the Security Agent; and
- (c) promptly inform the Security Agent of any material disputes relating to the Charged Contracts.

Deposit of documents

6.5 It will promptly at the Security Agent's request deposit with the Security Agent (or as the Security Agent directs):

- (a) all Deeds and documents of title relating to the Charged Contracts and the Contract Proceeds, including any other Deeds or documents necessary or desirable to assist the Security Agent to register or enforce the security created by this Deed; and
- (b) all such other documents relating to the Secured Assets as the Security Agent may from time to time reasonably require.

Retention of documents

6.6 The Security Agent may retain any document delivered to it pursuant to clause 6.5 (*Deposit of documents*) or otherwise until the Discharge Date and if, for any reason it ceases to hold any such document before such time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor must immediately comply (or procure compliance) with such notice:

6.7 Power to remedy

It agrees that if it fails to comply with any of the covenants and undertakings set out or referred to in clauses 6.1 to 6.4 inclusive it will allow (and hereby irrevocably authorises) the Security Agent and/or such persons as the Security Agent nominates to take such action (including the making of payments) on behalf of the Chargor as is necessary to ensure that such covenants are complied with.

6.8 Expenses

It agrees to pay all Expenses on demand and that if it does not do so, the Expenses will bear Interest at the Default Rate from and including the date of demand to and including the date of actual payment provided that any such Expenses did not arise as a consequence of the gross negligence or wilful misconduct of any such Enforcement Party.

6.9 Indemnity

It agrees to indemnify the Security Agent and will keep the Security Agent indemnified against all losses and Expenses incurred by the Security Agent as a result of a breach by the Chargor of its obligations under clauses 6.1 to 6.5 and in connection with the exercise by the Security Agent of its rights contained in clause 6.7 (*Power to remedy*). All sums the subject of this indemnity will be payable by the Chargor to the Security Agent on demand and if not so paid will bear interest at the Default Rate. Any unpaid interest will be compounded with calendar monthly rests.

7 Enforceability

For the purposes of all powers implied by the LPA or any other applicable statute the Secured Obligations shall be deemed to have become due and payable and this Deed will become immediately enforceable and the powers of the Security Agent and any Receiver exercisable on the date of this Deed, but, as between the Security Agent and the Chargor, the power of sale 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 shall be exercisable at any time following the making of such request).

8 Enforcement of security

8.1 At any time after the occurrence of an Event of Default and for so long as it is continuing, the Security Agent may without further notice:

- (a) appoint one or more than one Receiver in respect of the Secured Assets or any of them and if more than one Receiver is appointed the Receiver may act jointly and severally or individually; or

- (b) take possession of the Secured Assets; or
 - (c) in its absolute discretion enforce all or any part of the security created by this Deed in such other lawful manner as it thinks fit.
- 8.2 The Security Agent may remove the Receiver and appoint another Receiver and the Security Agent may also appoint an alternative or additional Receiver.
- 8.3 The Receiver will, so far as the law permits, be the agent of the Chargor 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.
- 8.4 The powers of the Receiver will continue in full force and effect following the liquidation of the Chargor.
- 8.5 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.
- 8.6 The Receiver will have the power on behalf and at the cost of the Chargor:
 - (a) to do or omit to do anything which he considers appropriate in relation to the Secured Assets; and
 - (b) to exercise all or any of the powers conferred on the Receiver or the Security Agent under this Deed or conferred upon administrative receivers by the Insolvency Act (even if he is not an administrative receiver), or upon receivers by the LPA or any other statutory provision (even if he is not appointed under the LPA or such other statutory provision).
- 8.7 Without prejudice to the general powers set out in clause 8.6 a Receiver will also have the powers and discretions set out in Schedule 2 (*Receiver's specific powers*).
- 8.8 If (notwithstanding any representation or warranty to the contrary contained in this Deed) there shall be any security affecting the Secured Assets or any of them which ranks in priority to the security created by this Deed 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.
- 8.9 The Security Agent may, at any time after this Deed has become enforceable pursuant to clause 7 (*Enforceability*), exercise, to the fullest extent permitted by law, all or any of the powers authorities and discretions conferred on a Receiver by this Deed, whether as attorney of the Chargor or otherwise and whether or not a Receiver has been appointed.

- 8.10 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 Receivers by this Deed.

9 Application of proceeds

Recoveries by Receiver

- 9.1 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, 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, or any applicable statute, 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 Secured Obligations, in accordance with the provisions of the Finance Documents and otherwise in such order as the Security Agent may determine; and
 - (d) the claims of those persons entitled to any surplus.

Right of appropriation

- 9.2 The Security Agent is entitled to appropriate money and/or assets to Secured Obligations in such manner or order as it thinks fit and any such appropriation shall override any appropriation by the Chargor.

Suspense Account

- 9.3 The Security Agent may, at any time, credit to a suspense account any money received by it under this Deed, 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 Protection of third parties

No duty to enquire

- 10.1 A buyer from, lessee or licensee or other person dealing with any Enforcement Party will not be concerned to enquire whether any of the powers which it has exercised or purported to exercise has arisen or become exercisable and may assume that it is acting in accordance with this Deed.

Receipt conclusive

- 10.2 The receipt of the Security Agent or any Receiver shall be an absolute and a 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.

11 Protection of Security Agent

Security Agent's receipts

- 11.1 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 who the Security Agent, acting reasonably, believes to be entitled) in accordance with the requirements of this Deed.

Exclusion of liability

- 11.2 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 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.
- 11.3 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 Deed.
- 11.4 Any officer, employee or agent of any Enforcement Party may rely on this clause 11.4 under the Third Parties Act.

Effect of possession

- 11.5 If the Security Agent or any Receiver enters into possession of the Secured Assets or any of them, this will not oblige either the Security Agent or the Receiver to account as mortgagee in

possession, and if the Security Agent enters into possession at any time of the Secured Assets or any of them it may at any time at its discretion go out of such possession.

Chargor's indemnity

11.6 The Chargor agrees with the Security Agent to indemnify the Security Agent and any Receiver on demand against any costs, loss or liability incurred by any of them in respect of:

- (a) any exercise of the powers of the Security Agent or the Receiver or any attempt or failure to exercise those powers; and
- (b) anything done or omitted to be done in the exercise or purported exercise of the powers under this Deed or under any appointment duly made under the provisions of this Deed,

provided that any such any costs, losses or liabilities did not arise as a consequence of the gross negligence, fraud or wilful misconduct of any such person.

12 Power of Attorney

Grant of power

12.1 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) for the purposes set out in clause 12.2.

Extent of power

12.2 The power of attorney granted in clause 12.1 allows the Security Agent, the Receiver or such nominee, in the name of the Chargor, on its behalf and as its act and Deed to:

- (a) perfect the security given by the Chargor under this Deed; and
- (b) execute, seal and deliver (using the Chargor's seal where appropriate) any document or do any act or thing which the Chargor may, ought or has agreed to execute or do under this Deed or which the Security Agent, the Receiver or such nominee may in their absolute discretion consider appropriate in connection with the exercise of any of the rights, powers authorities or discretions of the Security Agent or the Receiver under, or otherwise for the purposes of, this Deed.

Ratification

- 12.3 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 12.

13 Application, variation and extension of statutory provisions

Application of statutory covenants

- 13.1 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 Deed.
- 13.2 Conditions applicable to power of sale etc.
- (a) For the purposes only of section 101 of the LPA, (but otherwise subject to the provisions of clause 7 (*Enforceability*)), the conditions set out in that section as to when such powers 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 Deed; and
 - (b) 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 Deed.

Extension of powers of sale, etc.

- 13.3 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 Deed.
- 13.4 The Security Agent and any Receiver shall also have and enjoy all the other powers, privileges, rights and protections conferred by the LPA and the Insolvency Act on mortgagees, receivers or administrative receivers (each as amended and extended by this Deed and whether or not a receiver or administrative receiver has been appointed) but so that if there is any ambiguity or conflict between the powers contained in such statutes and those contained in this Deed, those contained in this Deed shall prevail.

Consolidation of mortgages

- 13.5 The restriction on the consolidation of mortgages in Section 93 of the LPA does not apply to this Deed nor to any security given to the Security Agent pursuant to this Deed.

13.6 LPA provisions relating to appointment of Receiver Section 109(1) of the LPA shall not apply to this Deed.

13.7 Application of proceeds, 107(2), 109(6) and 109(8) of the LPA will not apply to the Security Agent nor to a Receiver appointed under this Deed.

14 Other miscellaneous provisions

Powers, rights and remedies cumulative

14.1 The powers, rights and remedies provided in this Deed are in addition to (and not instead of), powers, rights and remedies under law.

Exercise of powers, rights and remedies

14.2 If an Enforcement Party fails to exercise any power, right or remedy under this Deed 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.

Discretion

14.3 The Security Agent may decide:

(a) whether and, if so, when, how and to what extent (i) to exercise its rights under this Deed and (ii) to exercise any other right it might have in respect of the Chargor (or otherwise); and

(b) when and how to apply any payments and distributions received for its own account under this Deed,

and the Chargor has no right to control or restrict the Security Agent's exercise of this discretion.

14.4 No provision of this Deed 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.

Set-off

14.5 No right of set-off or counterclaim may be exercised by the Chargor in respect of any payment due to the Security Agent under this Deed.

Power to establish new account

- 14.6 If the Security Agent receives notice of a subsequent mortgage or charge relating to the Secured Assets, it will be entitled to close any account and to open a new account in respect of the closed account. If the Security Agent does not open such new account, it will in any event be treated as if it had done so at the time when it received such notice.

Information

- 14.7 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.

No assignment by Chargor

- 14.8 The Chargor must not assign, novate or otherwise deal with its rights or obligations under or interests in this Deed, except with the prior written consent of the Security Agent.

Transfer by Security Agent

- 14.9 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 Deed.
- 14.10 The Security Agent may disclose any information about the Chargor, the Secured Assets and/or this Deed to any person to whom it proposes to assign or novate or transfer (or has assigned, novated or transferred) any rights or obligations under or interests in this Deed, or with whom it proposes to enter into (or has entered into) any other dealings in relation to any such rights, obligations or interests.
- 14.11 Any person to whom the benefit of all such rights has been transferred, subject to such obligations, may enforce this Deed in the same way as if it had been a Party.

Avoidance of settlements and other matters

- 14.12 Any payment made by the Chargor, or settlement or discharge between the Chargor and the Security Agent, is conditional upon no security or payment to the Security Agent by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, administration or liquidation for the time being in force and accordingly (but without limiting the Security Agent's other rights under this Deed) 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.

- 14.13 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 14.12, then for the purposes of this Deed such amount shall not be considered to have been irrevocably paid.

Chargor's obligations

- 14.14 The obligations of the Chargor will not be affected by the occurrence or existence at any time of any of the following events or circumstances:

- (a) the Security Agent's granting any waiver or consent to any person in connection with, or allowing time for payment in respect of, the Secured Obligations or any of them or taking (or omitting to take) any other step in relation to any Obligor or the Secured Obligations;
- (b) the making, amendment or termination of any agreement or arrangement relating to any of the Secured Obligations;
- (c) the insolvency of any person, the appointment of a receiver or an administrator in respect of it or its property, its winding-up or dissolution or the taking of any step in connection with any composition, voluntary arrangement, discharge, settlement, reorganisation, restructuring or similar process in relation to its assets, liabilities or business;
- (d) any Obligor (or any other person) granting any security or other rights to the Security Agent (or any other person) whether under this Deed or otherwise;
- (e) any amendment of the terms on which any security or other rights are granted, any step being taken in connection with any security or other rights (to enforce them, to release them or to do anything else) or any omission to take any step in connection with any security or other rights which could or should have been taken, whether under this Deed or otherwise;
- (f) any release of any person liable in respect of any of the Secured Obligations, whether as surety or on any other basis, or any other step being taken (or not being taken) in relation to any such person (except to the extent that the Chargor itself is expressly released from its obligations under this Deed or otherwise at any time);
- (g) any lack of capacity, power or authority on the part of any person;
- (h) any person's change of name;
- (i) any change in the constitution, membership, ownership, legal form or status of any person;
- (j) any unenforceability, illegality or invalidity of any obligation of any person; or

- (k) anything else which, although it could affect the liability of a surety, would not affect the liability of a principal debtor.

Time Deposits

- 14.15 If during the Security Period a time deposit matures on any account which the Chargor holds with the Security Agent and an Event of Default has arisen which is continuing but no amount of Secured Obligations has fallen due and payable such time deposit shall be renewed for such further maturity as the Security Agent may in its absolute discretion determine.

Release of security

- 14.16 On the Discharge Date (but subject to clause 14.12 (*Avoidance of settlements and other matters*)) 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 constituted hereby or pursuant hereto.

Additional currency provisions

- 14.17 All monies received or held by the Security Agent or any Receiver under this Deed may be converted into such other currency as the Security Agent considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Security Agent's set rate of exchange then prevailing for purchasing that other currency with the existing currency.
- 14.18 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 currency in which the obligation or liability was incurred and to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency the Security Agent shall have a further separate cause of action against the Chargor and shall be entitled to enforce the security constituted by this Deed to recover the amount of the shortfall.

15 Communications

- 15.1 Each notice, consent and other communication in respect of this Deed will be effective only if made by letter or fax, delivered to the relevant address or fax number specified on the execution page(s) of this Deed (or to any substitute address or fax number notified in writing by the relevant Party for this purpose) and marked for the attention of the specified department/individual, if applicable. Each communication by letter will be effective only if delivered by hand, sent by first class post (if sent from and to an address in the UK) or sent by airmail (if sent from or to an address elsewhere).

15.2 Each communication will become effective as follows (references to times are to times in the place of delivery of the communication):

- (a) a hand-delivered letter will be effective as soon as it is delivered (or, if it is delivered after 5pm or on a day that is not a Business Day, it will be effective at 9am on the next Business Day);
- (b) a letter sent by post from and to an address in the UK will be effective at 9am on the second Business Day after it is posted and a letter sent by airmail from or to an address elsewhere will be effective at 9am on the tenth Business Day after it is posted;
- (c) a fax will be effective one hour after the sending fax machine (or other system) generates a confirmation that the communication has been sent in full (or, if this occurs after 5pm or on a day that is not a Business Day, it will be effective at 9am on the next Business Day); and
- (d) each communication to the Security Agent will become effective only when actually received by the Security Agent.

16 Governing law

Governing law

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

Jurisdiction

16.2 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a **Dispute**). Each Party agrees that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly neither Party will argue to the contrary. This clause 16.2 is for the benefit of the Enforcement Parties only. As a result, no Enforcement Party will 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.

17 This Deed

Consideration

- 17.1 The Chargor has entered into this Deed in consideration of the Secured Parties (or some of them) at the request of the Security Agent agreeing to provide (or to continue to provide) finance facilities to the Obligors on the terms agreed between them.

Execution of this Deed - counterparts

- 17.2 If the Parties execute this Deed in separate counterparts, this Deed will take effect as if they had all executed a single copy.

Execution of this Deed - formalities

- 17.3 This Deed 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.

Partial invalidity

- 17.4 If, at any time, any provision of this Deed is or is found to have been illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this does not affect the legality, validity or enforceability of the other provisions of this Deed, nor the legality, validity or enforceability of the affected provision under the law of any other jurisdiction.
- 17.5 If any Party is not bound by this Deed (or any part of it) for any reason, this does not affect the obligations of each other Party under this Deed (or under the relevant part).

Other security

- 17.6 This Deed 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 Deed hold for or in respect of the Secured Obligations.

Ownership of this Deed

- 17.7 This Deed and every counterpart is the property of the Security Agent.

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

Schedule 1
Form of notice to Contract Parties

To: *[name and address of Contract Party]*

Dated: *[date]*

Dear Sirs,

[here identify relevant Charged Contract] [the **Contract**] made between (1) *[Chargor]* (the **Chargor**) and (2) *[here insert name of counterparty]*

We *[Chargor]* hereby notify you that by a Deed dated *[date]* (the **Deed**) made by the Chargor in favour of *[Security Agent]* (the **Security Agent**) the Chargor has assigned and charged to the Security Agent as first priority assignee and chargee all of the Chargor's rights, title and interest in the Contract and in the proceeds of the Contract from time to time in whatever form they may be including, without limitation, all monies receivable by the Chargor under, or otherwise arising out of, or evidenced by, the Contract as security for certain obligations now or hereafter owed by the Chargor to the Security Agent.

[We further notify and irrevocably and unconditionally instruct and authorise you that:

- 1 the Chargor may not agree to amend, modify or terminate the Contract without the prior written consent of the Security Agent;
- 2 the Deed provides that you may not be released from your obligations under the Contract, nor may any rights of the Chargor be waived, in any case without the prior consent of the Security Agent being obtained;
- 3 subject to paragraph 1, the Deed provides that you may continue to deal with the Chargor in relation to the Contract until you receive written notice to the contrary from the Security Agent. Thereafter the Chargor will cease to have any right to deal with you in relation to the Contract and therefore from that time you should deal only with the Security Agent;
- 4 [notwithstanding the foregoing the Chargor shall continue to be liable for the performance and discharge of all obligations under the Contract in accordance with its terms and the Deed provides that the Security Agent shall be under no obligation of any kind in respect of the Contract or such obligations;]
- 5 you are authorised to disclose information in relation to the Contract to the Security Agent on request without any enquiry by you as to the justification for such disclosure or reference to or further authority from the Chargor;

6 you must supply copies of all material notices and other information under the Contract to the Security Agent; and

7 the provisions of this notice may only be revoked with the written consent of the Security Agent.]

Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to the Chargor) by way of confirmation that[:

(a)]you have not received notice that the Chargor has assigned its rights under the Contract to a third party or created any other interest (whether by way or security or otherwise) in the Contract in favour of a third party[; and

(b) you agree to the terms set out in this notice and to act in accordance with its provisions].

The provisions of this notice and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.

Yours faithfully,

for and on behalf of

[Chargor]

To: [name and address of Security Agent]

Copy to:[name and addresses of Chargor]

We hereby acknowledge receipt of the above notice and confirm our agreement to the matters set out in paragraphs A and B above.

Signed:.....

for and on behalf of [name of Contract Party]

Dated: [date]

Schedule 2

Receiver's specific powers

The Receiver will have full power and authority:

1 Possession

- 1.1 to enter upon, take possession of the Secured Assets;
- 1.2 to collect and get in all rents, fees, charges or other income of the Secured Assets;

2 Sale and disposal

without restriction, to sell, charge, grant, vary the terms or accept surrenders of, leases or tenancies of, licences to occupy, or options or franchises over or otherwise deal with and dispose of the Secured Assets or any property acquired in exercise of its powers under this Deed;

3 Borrowing

for the purpose of exercising any of the rights, powers, authorities and discretions conferred on the Receiver by or pursuant to this deed and/or for defraying any losses or Expenses which may be incurred by him in their exercise or for any other purpose, to raise or borrow moneys from the Secured Parties or others or incur any other liability on such terms, whether secured or unsecured, as he may think fit, and whether to rank in priority to this security or not:

4 Employment etc.

to appoint and discharge employees, officers, consultants, advisers, managers, agents, solicitors, accountants or other professionally qualified persons, workmen and others for any of the purposes of this deed or to guard or protect the Secured Assets upon such terms as to remuneration or otherwise as he may think fit and to discharge any such persons appointed by the Chargor prior to his appointment;

5 Legal actions and compromises

- 5.1 in the name of the Chargor, to bring, prosecute, enforce, defend and discontinue all such actions, suits and proceedings, in relation to the Chargor, the business of the Chargor or the Secured Assets as in any case he shall think fit;
- 5.2 to settle, adjust, refer to arbitration or expert determination, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or body who is or claims to be a creditor of the Chargor or relating in any way to the Secured Assets;

6 Receipts

to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising the Secured Assets;

7 Contracts

to enter into, vary, cancel or waive any of the provisions of any contracts which he shall in any case think expedient in the interests of the Chargor or the Security Agent;

8 Supplies

to purchase materials, tools, equipment, goods or supplies on such terms and at such price as the Receiver in the Receiver's absolute determination thinks fit;

9 Insurances and Bonds

to insure the Secured Assets, any assets acquired by the Receiver in exercise of his powers, and any business or works, and effect indemnity insurance or other similar insurance, in every case in such amounts, against such risks and with such offices as the Receiver shall think fit, and obtain bonds and give indemnities and security to any bondsmen;

10 Form Company

- 10.1 to promote or establish any company or to acquire shares in any company (whether as a subsidiary of the Chargor or otherwise) to facilitate the exercise of his powers under this Deed;
- 10.2 to transfer to any such company all or any of the Secured Assets or other assets acquired by the Receiver in exercise of his powers;
- 10.3 to exercise or cause to be exercised all voting and other rights attaching to, and to charge, sell or otherwise transfer any shares in any such company;

11 Transaction

to carry into effect and complete any transaction;

12 Redeem security

to redeem any prior security (or procure the transfer of such security to an Enforcement Party) and settle and pass the accounts of the person entitled to the prior security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;

13 General

either in the name of the Chargor or in the name of the Receiver to execute documents and do all other acts or things which the Receiver may consider to be incidental or conducive to any of the Receiver's powers or to the realisation or use of the Secured Assets.

Execution

EXECUTED (but not delivered until the date)
hereof) **AS A DEED** by)
GROVE DEVELOPMENTS LIMITED)
acting by:)

Director

Director/Secretary/Witness

Witness Name:

Witness Address:

Witness Occupation:

EXECUTED (but not delivered until)
the date hereof) **AS A DEED**)
for and on behalf of **UNITED OVERSEAS**)
BANK LIMITED, LONDON BRANCH)
in the presence of:)

Witness Signature:

Witness Name: FRANCIS NEO

Witness Address: 50 Cannon St, London EC4N 6TJ

Witness Occupation: BANKER.

Cheah Shu Kheem
General Manager
United Overseas Bank Limited
London Branch