

MR01

Particulars of a charge



000300 | 208

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

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

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

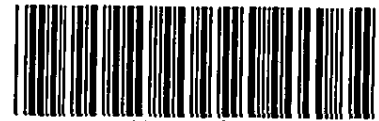
☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument. Use form MR08

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

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

You must enclose a certified copy of the instrument with this form. This
must be scanned and placed on the public record.

THURSDAY



A2FSB5SW

A21

29/08/2013

#5

COMPANIES HOUSE

1 Company details

Company number 0 7 7 9 8 2 1 4

Company name in full McCarthy & Stone Financial Services Limited

2 For official use

→ **Filing in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 2 0 8 2 0 1 3

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

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

Name Wells Fargo Trust Corporation Limited

Name

Name

Name

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

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

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4

Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Continuation page
Please use a continuation page if you need to enter more details

Description

The security document enclosed with this Form MR01 (the "Debenture") includes a fixed charge or a fixed security over Real Property other than Excluded Property and "Real Property" means in relation to a Chargor (a) any freehold, leasehold, licence or other interest in any immovable property (including the property identified in respect of that Chargor in Part 1 of Schedule 2 (Security Assets) of the Debenture (if any)) and all Related Rights, and (b) any buildings, trade and other fixtures or fittings forming part of such property and all Related Rights

The Debenture includes a fixed charge or a fixed security over Intellectual Property and "Intellectual Property" means (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered, and (b) the benefit of all applications and rights to use such assets of each Chargor (which may now or in the future subsist)

5

Fixed charge or fixed security

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

☒ **Yes**

☐ **No**

6

Floating charge

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

☒ **Yes** Continue

☐ **No** Go to **Section 7**

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

☒ **Yes**

7

Negative Pledge

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

☒ **Yes**

☐ **No**

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Particulars of a charge

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Trustee statement ^①

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

☐

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

9

Signature

Please sign the form here

Signature

Signature

X

Ropes & Gray International LP

X

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

MRO1

Particulars of a charge

Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name
Vivian Ngan

Company name
Ropes & Gray

Address
5 New Street Square

Post town
London

County/Region

Postcode
E C 4 A 3 B F

Country
United Kingdom

DX

Telephone
02031221152

Certificate

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

Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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

Important information

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

How to pay

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

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

Where to send

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

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

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

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

Further information

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

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



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7798214

Charge code: 0779 8214 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th August 2013 and created by MCCARTHY & STONE FINANCIAL SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th August 2013.

Given at Companies House, Cardiff on 2nd September 2013



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

I certify that the enclosed copy of the security instrument delivered as part of this application for registration is a correct copy of the original security instrument.

Execution Version

Signature: 

Date: 23.08.13

Dated

20 AUGUST 2013

for

CERTAIN COMPANIES
as Chargors

WELLS FARGO TRUST CORPORATION LIMITED
acting as Security Agent

DEBENTURE

**ROPES
& GRAY**

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THIS DEED is made on 20 August 2013 between the following parties

- (1) **THE COMPANIES** listed in Schedule 1 as chargors (each an **"Original Charger"**), and
- (2) **WELLS FARGO TRUST CORPORATION LIMITED** for itself and as agent and trustee for each of the other Secured Parties (as defined below) (the **"Security Agent"**)

WHEREAS

- (A) Each Chargor is required to enter into this Deed as a condition of the Finance Documents
- (B) The board of directors of each Chargor is satisfied that entering into this Deed is for the purposes and the benefit of that Chargor and its business
- (C) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand
- (D) The Security Agent holds the benefit of this Deed on trust for the Secured Parties on the terms of the Finance Documents

IT IS AGREED as follows

1. INTERPRETATION

1.1 Definitions

In this Deed, unless the context otherwise requires, (a) words and expressions defined in the Facility Agreement shall have the same respective meanings, and (b) the following words and expressions shall have the meanings given to them in this Clause 1

"Accession Document" means a deed of accession substantially in the form set out in Schedule 5 (*Form of Deed of Accession*) (or such other form as the Security Agent and Holdco may approve)

"Account" means a Collection Account, a Holding Account or a Mandatory Prepayment Account and all Related Rights

"Account Bank" means any bank, building society, financial institution or other person with whom an Account is maintained by a Chargor

"Additional Chargor" means a person who has acceded to this Deed as an Additional Chargor by executing an Accession Document

"Administrator" means an administrator appointed under Schedule B1 to the Insolvency Act 1986

"Chargor" means each Original Chargor and each Additional Chargor

"Collection Account" means, in relation to a Chargor any

- (a) of its accounts specified as such in Part C of Schedule 2 (*Security Assets*) and all Related Rights, and
- (b) account opened or maintained by it (other than a Holding Account or a Mandatory Prepayment Account and including any replacement account or subaccount of such account) and all Related Rights

"Default Rate" means two per cent per annum

"Enforcement Event" means an Event of Default in respect of which any steps have been taken pursuant to either (i) Clause 23.18 (*Acceleration*) of the Facility Agreement or the equivalent clause of the Revolving Facility Agreement relating to acceleration

"Excluded Property" means Trade Property and Short Term Leasehold Property

"Event of Default" means the occurrence of an Event of Default under either (i) the Facility Agreement or (ii) the Revolving Facility Agreement

"Facility Agreement" means the facility agreement dated on or about the date of this Deed between, among others, Holdco and Wells Fargo Bank International as Senior Agent

"Final Discharge Date" means the date on which the Secured Obligations have been fully and finally discharged to the satisfaction of the Agent (acting on the instructions of the Majority Lenders)

"Finance Documents" means each of the Senior Finance Documents and the Revolving Finance Documents.

"Group Shares" means, in relation to a Chargor, the shares in any member of the Group owned legally or beneficially by it or held by the Security Agent or any nominee on its behalf (including the shares identified in respect of that Chargor in Part 2 of Schedule 2 (*Security Assets*) (if any)) and all Related Rights

"Holding Account" means, in relation to a Chargor any

- (a) of its accounts specified as such in Part C of Schedule 2 (*Security Assets*) and all Related Rights, and
- (b) other account so designated by a Chargor and the Security Agent and all Related Rights

"Insurance Policy" means, in relation to a Chargor, any contract or policy of insurance of any kind (other than in relation to third party liabilities or similar claims) in which that Chargor has an interest from time to time and all Related Rights

"Intellectual Property" means

- (a) any patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered, and
- (b) the benefit of all applications and rights to use such assets of each Chargor (which may now or in the future subsist)

“Investments” means, in relation to a Chargor, any stock, share, debenture, loan stock, security, bond, warrant, coupon, interest in any investment fund and any other investment (whether or not marketable) whether held directly by or to the order of that Chargor or by any trustee, fiduciary or clearance system on its behalf (including the Group Shares and any Cash Equivalent Investments) and all Related Rights

“Land Registry” means H M Land Registry

“Majority Lenders” means (i) prior to entry into the Intercreditor Agreement the meaning given to it in the Facility Agreement, and (ii) following entry into the Intercreditor Agreement the meaning given to it in the Intercreditor Agreement

“Mandatory Prepayment Account” means, in relation to a Chargor any

- (a) of its accounts specified as such in Part C of Schedule 2 (*Security Assets*) and all Related Rights, and
- (b) other account so designated by a Chargor and the Security Agent and all Related Rights

“Monetary Claims” means, in relation to a Chargor, any book and other debts and monetary claims owing to that Chargor (other than in respect of any Account) and all Related Rights

“Obligor” means each Obligor as defined in the Facility Agreement and each Obligor as defined in the Revolving Facility Agreement

“Real Property” means, in relation to a Chargor

- (a) any freehold, leasehold, licence or other interest in any immovable property (including the property identified in respect of that Chargor in Part 1 of Schedule 2 (*Security Assets*) (if any)) and all Related Rights, and
- (b) any buildings, trade and other fixtures or fittings forming part of such property and all Related Rights

“Receiver” means a receiver and manager or other receiver appointed under this Deed in respect of the Security Assets and shall, if allowed by law, include an administrative receiver

“Related Rights” means, in relation to any asset

- (a) all rights under any licence, agreement for sale or agreement for lease or other use in respect of all or any part of that asset,
- (b) all rights, powers, benefits, claims, contracts, warranties, remedies, covenants for title, security, guarantees or indemnities in respect of any part of that asset,
- (c) the proceeds of sale of all or any part of that asset, and
- (d) any other moneys paid or payable in respect of that asset

“Revolving Facility Agreement” means a revolving facility agreement of up to £30,000,000 of super senior revolving facilities to be entered into between, amongst others, Holdco, the Security Agent and the revolving lenders

“Revolving Finance Documents” has the meaning given to it in the Revolving Facility Agreement

“Sale Unit” means an apartment available for sale

“Secured Obligations” means all the liabilities and all other present and future obligations at any time due, owing or incurred by each Obligor to any Secured Party under the Finance Documents both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity except for any money or liability which, if it were so included, would cause the infringement of sections 678 or 679 of the Companies Act 2006

“Secured Parties” means (i) prior to entry into the Intercreditor Agreement the meaning given to it in the Facility Agreement, and (ii) following entry into the Intercreditor Agreement the meaning given to it in the Intercreditor Agreement

“Security Assets” means all the assets and undertaking of each Chargor from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) pursuant to this Deed

“Senior Agent” means the Agent under and as defined in the Facility Agreement

“Senior Finance Documents” means the Finance Documents as defined in the Facility Agreement

“Short Term Leasehold Property” means in relation to a Chargor,

- (a) leasehold property with a term of no more than 5 years used as offices or business premises for the day to day business of the Group,
- (b) the leasehold property listed below
 - (i) Unit 3, Edward Court, Altrincham Business Park, Altrincham,
 - (ii) Emerald House, 30/38 High Road, Byfleet, Surrey KT14 7QG,
 - (iii) Ross House, Harry Weston Road, Binley Business Park, Coventry CV3 2TR,

- (iv) 3 Queensway, Stem Lane, New Milton, BH25, and
- (v) Aspen House, Wykeham Road, Northminster Bus Park, Upper Poppleton, York YO26 6QW,
- (vi) Unit 11000, Academy Park, Gower Street, Glasgow, G51 1PR, and
- (c) any other leasehold property as designated as such, as agreed between the Security Agent and Holdco on behalf of the Chargors

“Trade Property” means any

- (a) Real Property,
- (b) interest in Real Property,
- (c) interest in any holding company owning Real Property (where the maximum amount of the Real Property in any holding company is £3,000,000), or
- (d) any interest in a special purpose vehicle owning Real Property (where the maximum amount of the Real Property in any special purpose vehicle is £3,000,000),

which a member of the Group owns for the purpose of, or in connection with, developing Sale Units

“Transaction Security” means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents

1.2 Construction

- (a) The provisions of Clause 1.2 (*Construction*) of the Facility Agreement shall apply to this Deed as if set out in full with references to "this Agreement" being treated as references to this Deed
- (b) A reference in this Deed to any stock, share, debenture, loan stock, security, bond, warrant, coupon, interest in any investment fund and any other investment includes
 - (i) all dividends, interest, coupons and other distributions paid or payable,
 - (ii) all stocks, shares, securities, rights, moneys, allotments, benefits and other assets accruing or offered at any time by way of redemption, substitution, conversion, exchange, bonus or preference, under option rights or otherwise, and
 - (iii) any rights against any clearance system and any right under any custodian or other agreement,

in relation to that stock, share, debenture, loan stock, security, bond, warrant, coupon, interest in any investment fund or other investment

- (c) The terms of the other Finance Documents and of any side letters relating to the Finance Documents are incorporated in this Deed to the extent required for any contract for the purported disposition of any Security Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989
- (d) The fact that the details of any assets in the Schedules are incorrect or incomplete shall not affect the validity or enforceability of this Deed in respect of the assets of any Chargor.
- (e) All provisions relating to the duties, obligations and liabilities of the Security Agent (including any exculpation) set out in the Facility Agreement are hereby incorporated in this Deed

1.3 Trustee Act 1925 and Trustee Act 2000

- (a) Section 1 of the Trustee Act 2000 shall not apply to any function of the Security Agent. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Deed, the provisions of this Deed shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Deed shall constitute a restriction or exclusion for the purposes of the Trustee Act 2000
- (b) For the avoidance of doubt
 - (i) the Security Agent may retain or invest in securities payable to bearer without appointing a person to act as a custodian; and
 - (ii) sections 22 and 23 of the Trustee Act 2000 shall not apply to this Deed

1.4 Third parties

- (a) Except as otherwise expressly provided in Clause 15.6(a) (*Protection of third parties*), Clause 23 (*Expenses and Indemnities*) or elsewhere in this Deed, the terms of this Deed may be enforced only by a party to it and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.
- (b) Notwithstanding any term of this Deed and subject to the Intercreditor Agreement, no consent of a third party is required for any termination or amendment of this Deed.

1.5 Intercreditor Agreement

The rights and obligations of the Parties are subject to the terms of the Intercreditor Agreement. In the event of any inconsistency between the terms of any Finance Document and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

2. COVENANT TO PAY

- (a) Each Chargor, as primary obligor and not merely as surety, covenants with the Security Agent that it will pay or discharge promptly on demand all of the

Secured Obligations on the date(s) on which such Secured Obligations are expressed to become due and in the manner provided for in the relevant Finance Document.

- (b) Each Chargor acknowledges to the Security Agent that the amount secured by this Deed and in respect of which this Deed and the security hereby created is enforceable is the full amount of the Secured Obligations

3. CREATION OF SECURITY

3.1 Legal mortgages

Each Chargor as continuing security for the payment, discharge and performance of the Secured Obligations hereby charges and agrees to charge in favour of the Security Agent (as agent and trustee for the Secured Parties) with full title guarantee by way of first legal mortgage the Real Property (other than the Excluded Property) in England or Wales vested in it on the date of this Deed

3.2 Fixed charges

Each Chargor as continuing security for the payment, discharge and performance of the Secured Obligations hereby charges and agrees to charge in favour of the Security Agent (as agent and trustee for the Secured Parties) with full title guarantee by way of first fixed charge all its rights, title and interest from time to time in and to

- (a) the Real Property other than the Excluded Property (to the extent not the subject of a mortgage under Clause 3.1 (*Legal mortgages*)),
- (b) the Investments,
- (c) any plant and machinery, vehicles, office equipment, computers and other chattels (excluding any forming part of its stock in trade or work in progress) and all Related Rights,
- (d) the Accounts,
- (e) the Insurance Policies to which it is party,
- (f) any goodwill and rights in relation to its uncalled capital,
- (g) the benefit of all consents and agreements held by it in connection with the use of any of its assets,
- (h) the Intellectual Property,
- (i) any beneficial interest, claim or entitlement of it to any assets of any pension fund, and
- (j) the Monetary Claims

3.3 Floating charge

- (a) Each Chargor charges as continuing security for the payment, discharge and performance of the Secured Obligations hereby in favour of the Security Agent by way of first floating charge all its present and future undertaking and assets of whatever type and wherever located (including assets which are not effectively mortgaged, assigned, charged by way of fixed charge under this Clause 3 (*Creation of Security*))
- (b) The floating charges created by each Chargor pursuant to paragraph (a) of this Clause 3.3 shall be deferred in point of priority to all other Transaction Security validly and effectively created by such Chargor under the Finance Documents in favour of the Security Agent (as agent and trustee for the Secured Parties) as security for payment, discharge and performance of the Secured Obligations
- (c) The floating charge created by each Chargor pursuant to paragraph (a) of this Clause 3.3 is a "qualifying floating charge" for the purposes of paragraph 14 of Schedule B1 to the Insolvency Act 1986. Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to each floating charge created pursuant to this Deed and the Security Agent may appoint an Administrator of any Chargor pursuant to that paragraph

4. CONVERSION OF FLOATING CHARGE

4.1 Conversion by Notice

The Security Agent (acting on the instructions of the Majority Lenders) may by notice in writing to a Chargor convert the floating charge created by that Chargor under Clause 3.3(a) (*Floating charge*) with immediate effect into fixed charges as regards all or any of such Chargor's assets, rights and property specified (either generally or specifically) in the notice if

- (a) an Event of Default (unless remedied or waived) has occurred, or
- (b) the Security Agent considers any Security Asset subject to such floating charge to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy; or
- (c) the Security Agent, acting on the instructions of the Majority Lenders, considers that such conversion is desirable in order to protect the value of the Security Assets or the priority of the Transaction Security, and each relevant Chargor shall promptly execute a fixed charge or legal assignment over those assets (or types of assets) specified in the notice in the form which the Security Agent (acting reasonably) requires

4.2 Automatic Conversion

The floating charge created under Clause 3.3(a) (*Floating charge*) shall automatically and immediately be converted into a fixed charge over all of a Chargor's assets, rights and property not already subject to an effective fixed charge

- (a) if that Chargor takes any step to create any Security in breach of Clause 7 (*Restriction on Dealings*) over any of the Security Assets subject to such floating charge, or
- (b) if any person takes any step to effect any expropriation, attachment, sequestration, distress or execution against any of the Security Assets subject to such floating charge, or
- (c) on the occurrence of an Event of Default in respect of that Chargor under Clause 23.7 (*Insolvency Proceedings*) of the Facility Agreement or the equivalent clause of the Revolving Facility Agreement relating to insolvency proceedings in respect of that Chargor

4.3 Moratorium

The floating charge created under Clause 3.4(a) (*Floating charge*) may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under the Insolvency Act 2000

4.4 Reconversion to Floating Charge

Any floating charge which has crystallised under Clause 4.1 (*Conversion by Notice*) or Clause 4.2 (*Automatic Conversion*) may by notice in writing given at any time by the Security Agent (acting on the unanimous instructions of each Secured Party) to the relevant Chargor be reconverted into a floating charge under Clause 3.3(a) (*Floating Charge*) in relation to the assets, rights and property specified in such notice.

4.5 Scottish property

Clause 4.1 (*Conversion by notice*), Clause 4.2 (*Automatic conversion*) and Clause 4.4 (*Reconversion to a floating charge*) shall not apply to any Security Assets situated in Scotland

5. RELEASE AND REASSIGNMENT

Upon the irrevocable payment, discharge and performance of all of the Secured Obligations (but subject to Clause 6(f) (*Provisions relating to Transaction Security*)) and provided that no Event of Default shall have occurred and be subsisting at the date of the request, the Security Agent shall, at the request and cost of Holdco

- (a) release and re-assign to the relevant Chargor the rights, title and interest in and to the Security Assets, and
- (b) execute such notices and directions to any persons as the relevant Chargor may reasonably require in order to give effect to such release and re-assignment,

in each case, without recourse to or any representation or warranty by any Secured Party or any other person

6. PROVISIONS RELATING TO TRANSACTION SECURITY

- (a) All Transaction Security
 - (i) is created in favour of the Security Agent for itself and on behalf of each of the other Secured Parties,
 - (ii) is created over the present and future assets of each Chargor, and
 - (iii) is a continuing security for the payment, discharge and performance of all of the Secured Obligations and will extend to the ultimate balance of all sums payable under the Finance Documents regardless of any intermediate payment or discharge in whole or in part
- (b) The Transaction Security created pursuant to this Deed shall be in addition to and not in substitution for or derogation of any other security (whether given by the Chargors or otherwise) now or from time to time hereafter held by the Security Agent or any other Secured Party in respect of or in connection with any or all of the Security Obligations
- (c) Other than in respect of the Excluded Property, if a Chargor purports to mortgage, assign or charge (absolutely or by way of first fixed mortgage or charge) an asset under this Deed and such mortgage, assignment or charge breaches a term of an agreement binding on that Chargor in respect of that asset because the consent of a person (other than a member of the Group or an Investor) has not been obtained
 - (i) that Chargor shall notify the Security Agent immediately,
 - (ii) subject to paragraph (iv) of this Clause 6(c), the relevant mortgage, assignment or fixed charge hereunder will extend to (to the extent no breach of the relevant agreement would occur) the Related Rights in respect of that asset but will exclude the asset itself,
 - (iii) unless the Security Agent otherwise requires, that Chargor shall use all reasonable endeavours to obtain the consent of the relevant person and, once obtained, shall promptly provide a copy of that consent to the Security Agent, and
 - (iv) forthwith upon receipt of the relevant consent, the relevant asset shall become subject to the Transaction Security in favour of the Security Agent under Clause 3 1 (*Legal Mortgages*) or Clause 3 2 (*Fixed Charges*)
- (d) The Security Agent holds the benefit of this Deed on trust for itself and each of the other Secured Parties
- (e) The Transaction Security created pursuant to this Deed by each Chargor is made with full title guarantee under the Law of Property (Miscellaneous Provisions) Act 1994 but in each case so that the covenants implied by the Law of Property (Miscellaneous Provisions) Act 1994 in relation to such mortgage, charge or assignment are construed with the omission of

- (i) the words "other than any charges, encumbrances or rights which that person does not and could not reasonably be expected to know about" in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994,
 - (ii) the words "except to the extent that" and all the words thereafter in section 3(2) of the Law of Property (Miscellaneous Provisions) Act 1994, and
 - (iii) section 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994.
- (f) If the Security Agent considers that an amount paid to a Secured Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then the Transaction Security and the liability of each Chargor under this Deed shall continue and that amount will not be considered to have been irrevocably paid for the purposes of this Deed

7. RESTRICTION ON DEALINGS

No Chargor may, without the prior written consent of the Security Agent

- (a) create or permit to subsist any Security on any of the Security Assets, or
- (b) (whether by a single transaction or a number of related or unrelated transactions and whether at the same time or over a period of time) assign, charge, transfer or dispose of all or any part of its rights, title and interest in and to the Security Assets,

unless permitted to do so under this Deed, the Facility Agreement and the Revolving Facility Agreement

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties

Each Chargor represents and warrants to each Secured Party as follows

- (a) **Accuracy of information** As at the date of this Deed, Schedule 2 (*Security Assets*) identifies all of the Real Property (other than the Excluded Property) falling within paragraph (a) of that definition and the Group Shares and the Accounts in which it has any interest (whether direct or indirect)
- (b) **Investments**
 - (i) The Investments which it purports to mortgage or charge under this Deed are duly authorised, validly issued and fully paid
 - (ii) It has not nominated any person to enjoy or exercise any right relating to the Investments pursuant to Part 9 of the Companies Act 2006 or otherwise

(c) **Security Assets**

- (i) It is the sole legal and beneficial owner of, and absolutely entitled to, the assets it purports to mortgage, charge or assign under this Deed (save, where relevant, in respect of the legal ownership of any of its Investments registered in the name of its nominee or in the name of the Security Agent (or its nominee) pursuant to this Deed)
- (ii) It has not mortgaged, charged or assigned or otherwise encumbered or disposed of any of the assets it purports to mortgage, charge or assign under this Deed.
- (iii) The assets it purports to mortgage, charge or assign under this Deed are free from any Security or option to purchase or similar right, in each case other than any Security expressly permitted under the Facility Agreement and the Revolving Facility Agreement

8.2 Times for making Representations And Warranties

The representations and warranties set out in Clause 8 (*Representations And Warranties*)

- (a) are made by each Chargor on the date of this Deed; and
- (b) (other than the representations and warranties set out in Clause 8 1(a) (*Accuracy of Information*)) are deemed to be repeated by each Chargor on each date prior to the Final Discharge Date on which any of the representations and warranties set out in Clause 20 (*Representations*) of the Facility Agreement or the equivalent clause of the Revolving Facility Agreement relating to representations are repeated,

in each case by reference to the circumstances existing at that time

9. REAL PROPERTY

9.1 Documents of title relating to Real Property

Each Chargor shall, on the date of this Deed, and thereafter on or after the acquisition by that Chargor of any interest in any Real Property, deposit all deeds and documents of title relating to its Real Property (other than Excluded Property) with the Security Agent (or as it shall direct). The Security Agent is entitled to hold and retain all such deeds and documents of title until the Final Discharge Date or, if earlier, until the Real Property (other than Excluded Property) to which such deeds or documents of title relate is released from the Transaction Security in accordance with the Finance Documents

9.2 Land Registry

- (a) Each Chargor undertakes to make or procure that there is made a due application to the Land Registry in respect of any Real Property (other than Excluded Property) that is registered land (with the Chargor's consent as proprietor of the relevant registered estate).

- (i) to enter a restriction in the following terms on the relevant register of title

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge in the debenture dated [●] in favour of Wells Fargo Trust Corporation Limited (as agent and trustee for itself and each of the other Secured Parties referred to in that debenture) or its conveyancer", and

- (ii) to enter an obligation to make further advances on the relevant register of title

- (b) Each Chargor certifies to the Land Registry that the Transaction Security does not contravene any of the provisions of the memorandum or articles of association or other constitutive documents of that Chargor

9.3 Acquisitions of Real Property

- (a) Each Chargor shall within five Business Days of an Acquisition of Real Property (other than the Trade Property) notify the Security Agent in writing of such acquisition and shall
 - (i) immediately on request by the Security Agent and at the cost of the relevant Chargor, execute and deliver to the Security Agent a legal mortgage of that Real Property (other than Excluded Property) in favour of the Security Agent in any form (consistent with this Deed) as the Security Agent may require,
 - (ii) if the title to that Real Property (other than Excluded Property) is registered at the Land Registry or required to be so registered, make (as applicable) a due application for registration of that Chargor as proprietor of the Real Property (other than Excluded Property) and of the Security Agent as proprietor of any legal mortgage entered into pursuant to paragraph (i) of this Clause 9.3, and
 - (iii) in any event take all necessary steps for the noting of the Transaction Security in the relevant register of title at the Land Registry for the Real Property (other than the Excluded Property)

9.4 Other Undertakings

- (a) Each Chargor shall
 - (i) keep its Real Property in good and substantial repair and condition to the satisfaction of the Security Agent,
 - (ii) perform and observe in all material respects all the covenants, conditions and stipulations (whether as landlord or tenant) in any lease, agreement for lease or other right to occupy in respect of any of its

Real Property and shall not do or permit to subsist any act or thing as a result of which any such lease, agreement for lease or other right to occupy may be subject to determination or right of re-entry or forfeiture prior to the expiration of its term, and

- (iii) comply with all planning laws and regulations and the terms of any authorisation in respect of any such planning laws and regulations, in each case relating to any of its Real Property where non-compliance would be reasonably likely to have a materially adverse effect on the value, saleability or use of such Real Property.
- (b) Each Chargor shall, within 14 days of receipt of any application, requirement, order or notice served or given by any public or local or any other authority with respect to all or any part of its Real Property which would be reasonably likely to have a materially adverse effect on its value, saleability or use, deliver a copy to the Security Agent and inform the Security Agent of the steps taken or proposed to be taken to comply with the requirements of that notice
- (c) On and after the occurrence of an Event of Default, each Chargor shall
 - (i) grant the Security Agent and its lawyers and any person nominated by the Security Agent on reasonable request all facilities and access within the power of that Chargor on not less than 24 hours' notice, to enter into and upon any Real Property to view the state and condition of the Real Property (without becoming liable as a mortgagee in possession) and carry out investigations of title in respect of any Real Property and to make such enquiries in relation to any Real Property as a prudent mortgagee might carry out, and
 - (ii) as soon as practicable following a request of the Security Agent, supply a report as to the title of that Chargor in respect of any Real Property in relation to those matters which may properly be sought to be covered by a prudent mortgagee in a report of that nature
- (d) If any Chargor fails to comply with any of the undertakings in this Clause 9 (*Real Property*), the Security Agent (and its agents and contractors) shall be entitled to do such things as it considers are necessary or desirable to remedy such failure. That Chargor shall immediately on request by the Security Agent pay the costs and expenses of the Security Agent (and its agents and contractors) incurred (together with any interest at the Default Rate for the period from and including the date incurred up to and excluding the date reimbursed) in connection with any action taken under this Clause 9 (*Real Property*)

10. MONETARY CLAIMS

10.1 Undertakings

Each Chargor shall

- (a) collect and realise its Monetary Claims in a prudent manner (as agent for the Security Agent) and pay the proceeds of those Monetary Claims into a Collection Account forthwith upon receipt (and such proceeds shall be held upon trust by that Chargor for the Security Agent prior to such payment), and
- (b) not factor, discount, assign or otherwise deal with its Monetary Claims save as provided for in paragraph (a) of this Clause 10.1 (or enter into any agreement for such factoring, discounting or dealing),

in each case save as permitted by the Facility Agreement and the Revolving Facility Agreement

10.2 Exercise of rights on Enforcement Event

- (a) On and after the occurrence of an Enforcement Event, no Chargor shall be entitled to withdraw or otherwise transfer the proceeds of collection or realisation of any Monetary Claims standing to the credit of any Collection Account without the prior written consent of the Security Agent
- (b) On and after the occurrence of an Enforcement Event, each Chargor shall give notice to the debtors in respect of any Monetary Claims in such form as the Security Agent may require

11. ACCOUNTS

11.1 Notices

Each Chargor shall, no later than five Business Days after the date of this Deed or, in relation to any Account opened after the date of this Deed, no later than five Business Days after the date of opening of such account, give notice to each Account Bank substantially in the form set out in Schedule 3 (*Notice for Accounts*) and shall use all reasonable endeavours to procure that the Account Bank delivers to the Security Agent a duly completed acknowledgement of such notice

11.2 Other undertakings

- (a) Prior to the occurrence of an Enforcement Event, each Chargor shall in the ordinary course of trade (subject to the terms of the Facility Agreement and the Revolving Facility Agreement) be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Collection Account

If an amount is withdrawn from any Collection Account as permitted by this Clause 11.2, that amount shall be automatically released from the fixed charge on that Collection Account on that withdrawal being made. However, if all or part of that amount is paid into another Collection Account which is in credit or becomes in credit as a result, it shall automatically become subject to the fixed charge on that Collection Account

- (b) No Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Holding Account or any Mandatory Prepayment Account or any Collection Account not specified in Clause

11 2(a) above, except with the prior written consent of the Security Agent. In relation to any proposed withdrawal of monies from a Holding Account or a Mandatory Prepayment Account prior to the occurrence of an Enforcement Event, each Chargor shall, at least three Business Days before the proposed withdrawal date (or such shorter period as otherwise agreed with the Agent), notify the Security Agent and certify the purpose for which the relevant funds are to be applied. Any such withdrawal shall only be permitted if the Security Agent acting in good faith is satisfied that the monies to be withdrawn are to be applied in accordance with the provisions of the Facility Agreement and the Revolving Facility Agreement and has confirmed to the relevant Account Bank that the proposed withdrawal is permitted.

- (c) Each Chargor shall promptly deliver to the Security Agent details of any Account maintained by it (unless such details are set out in Part C of Schedule 2 (*Security Assets*)).
- (d) No Chargor shall, without the Security Agent's prior written consent, permit or agree to any variation of the rights attaching to any Holding Account or Mandatory Prepayment Account or close any Holding Account or Mandatory Prepayment Account.

11.3 Exercise of rights on Enforcement Event

On and after the occurrence of an Enforcement Event

- (a) no Chargor shall be entitled to receive, withdraw or otherwise transfer or deal with any credit balance from time to time on any Account except with the prior written consent of the Security Agent, and
- (b) the Security Agent shall be entitled but not obliged without notice to withdraw, apply, transfer or set off any or all of the credit balances from time to time on any Account in or towards payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 22 (*Application of Proceeds*).

12. INVESTMENTS

12.1 Acquisition

Each Chargor shall promptly notify the Security Agent in writing of its acquisition of, or agreement to acquire, any Investment.

12.2 Documents of title relating to Investments

Each Chargor shall, no later than five Business Days of the date of this Deed or, if later, no later than five Business Days of becoming entitled to the relevant Investments, deliver to the Security Agent in the agreed form.

- (a) all stock and share certificates and other documents of title relating to its Investments (other than any Cash Equivalent Investments),

- (b) all stock transfer forms (executed in blank and left undated) and other documents that the Security Agent may request in respect of such Investments (including declarations of trust in relation to any Investments in which that Chargor has an interest that are not held in its sole name); and
- (c) following the occurrence of an Enforcement Event each Chargor authorises the Security Agent at any time to have the Investments registered in the name of the Security Agent (or any nominee) or any purchaser or transferee of such Shares. Each Chargor undertakes to promptly execute and sign all transfers and other documents (and register any such transfers relating to its shares in its shareholders register) which the Security Agent may reasonably require.

12.3 Voting Power

- (a) Prior to the occurrence of an Enforcement Event
 - (i) each Chargor may continue to exercise the voting rights, powers and other rights in respect of its Investments (subject to paragraph (b) of this Clause 12.3), and
 - (ii) if the Investments of a Chargor have been registered in the name of the Security Agent (or its nominee), the Security Agent (or its nominee) shall exercise the voting rights, powers and other rights in respect of such Investments in such manner as that Chargor may direct in writing from time to time.
- (b) No Chargor shall exercise any of its voting rights, powers and other rights in respect of its Investments (or direct the Security Agent (or its nominee) to exercise such voting rights, powers and other rights) in any manner which varies the rights attaching to or conferred by the Investments in any way which could reasonably be expected to adversely effect the interests of the Secured Parties or which could reasonably be expected to prejudice the value of or the ability of the Security Agent to realise the Transaction Security in respect of such Investments.
- (c) Subject to Clause 12.3(b) above, before the occurrence of an Enforcement Event, voting power (for the purposes of section 435(10) of the Insolvency Act 1986) in respect of its Investments shall remain with the Chargor and shall not pass to the Security Agent or any Secured Party.

12.4 Other Undertakings

- (a) Prior to the occurrence of an Enforcement Event, each Chargor shall be entitled to receive and retain all dividends or other income or distributions paid or payable in relation to its Investments.
- (b) No Chargor shall nominate any person, other than the Security Agent (or its nominee), to enjoy or exercise any right relating to any of the Investments whether pursuant to Part 9 of the Companies Act 2006 or otherwise.
- (c) At any time when any Investments of a Chargor have been registered in the name of the Security Agent (or its nominee), the Security Agent (or its

nominee) will not be under any duty to ensure that any dividends, distributions or other monies payable in respect of such Investments are duly and promptly paid or received by it (or its nominee), or to verify that the correct amounts are paid or received by it (or its nominee), or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, monies or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of such Investments

- (d) Each Chargor shall indemnify the Security Agent (or its nominee) against any loss or liability incurred by the Security Agent (or its nominee) as a consequence of the Security Agent (or its nominee) acting at the direction of a Chargor in respect of its Investments

12.5 Exercise of rights on Enforcement Event

- (a) On and after the occurrence of an Enforcement Event, the Security Agent (or its nominee) may exercise or refrain from exercising any voting rights, powers and other rights in respect of the Investments in each case in the name of a Chargor, the registered holder or otherwise and without any further consent or authority on the part of any Chargor and irrespective of any direction given by a Chargor, in each case in such a manner and on such terms as the Security Agent in its absolute discretion thinks fit, and the proceeds of any such action shall form part of the Security Assets
- (b) Each Chargor irrevocably appoints the Security Agent (or its nominee) as its proxy to exercise all voting rights in respect of the Investments with effect from the occurrence of an Enforcement Event to the extent that such Investments remain registered in its name

12.6 Power of attorney

If any Investment of a Chargor is not held in that Chargor's name, that Chargor shall promptly deliver to the Security Agent an irrevocable power of attorney, expressed to be given by way of security and executed as a deed by the person in whose name that Investment is held. That power of attorney shall appoint the Security Agent, each Receiver and each Delegate, as the attorney of the holder and shall be in such form as the Security Agent requires

12.7 Communications

Each Chargor shall promptly execute and/or deliver to the Security Agent a copy of each circular, notice, report, set of accounts or other document received by it or its nominee in connection with any Investment, which the Security Agent shall forward to the Agent

13. INSURANCE

13.1 Documents

Each Chargor shall promptly execute and/or deliver to the Security Agent a copy of such Insurance Policies effected by it and related premium receipts, and of such other documents relating to the Insurance Policies, as the Security Agent requires

13.2 Notices

Each Chargor shall, no later than five Business Days after the date of this Deed or, in relation to any Insurance Policy entered into after the date of this Deed, no later than five Business Days after the date of entry into of such Insurance Policy, give notice to each insurer in the form set out in Schedule 4 (*Notice for Insurance Policies*) and shall use all reasonable endeavours to procure that such insurers deliver to the Security Agent a duly completed acknowledgement of such notice

13.3 Lender may insure

If any Chargor fails on demand to produce copies of Insurance Policies, premium receipts and such other evidence as the Security Agent requires which prove to the satisfaction of the Security Agent (acting on the instructions of the Majority Lenders) that the Chargor is complying with Clause 22.24 (*Insurance*) of the Facility Agreement, the Security Agent may, at that Chargor's expense (but, for the avoidance of doubt, the Security Agent is under no obligation to do so) arrange such insurances of the assets of that Chargor or any of them as it thinks fit

13.4 Other undertakings

- (a) Each Chargor will take all reasonable and practicable steps to preserve and enforce its rights and remedies under or in respect of its Insurance Policies
- (b) No Chargor shall do or permit to be done or omitted anything which could reasonably be expected to render such insurance void, voidable or unenforceable
- (c) Each Chargor shall supply to the Security Agent as soon as reasonably practicable on request copies of each Insurance Policy together with the current applicable premium receipts

13.5 Exercise of rights on Enforcement Event

On and after the occurrence of an Enforcement Event

- (a) the Security Agent may exercise (without any further consent or authority on the part of any Chargor and irrespective of any direction given by a Chargor) any of a Chargor's rights under any of its Insurance Policies, and
- (b) each Chargor shall hold any payment it receives in respect of its Insurance Policies on trust for the Security Agent

14. INTELLECTUAL PROPERTY

14.1 Acquisition

Each Chargor shall promptly notify the Security Agent in writing of

- (a) its becoming the legal and/or beneficial owner of Intellectual Property or entering into an agreement to acquire Intellectual Property, or
- (b) being granted a licence to use Intellectual Property of a third party,

in each case, where the Intellectual Property is necessary for the conduct of its business, and

- (c) any application made by it, or on its behalf, to register any Intellectual Property

14.2 Documents of title and registration

Each Chargor shall, promptly following a request from the Security Agent (acting on the instructions of the Majority Lenders) execute and/or deliver to the Security Agent all such documents and do all acts that the Security Agent may reasonably require to record the interest of the Security Agent in any registers relating to any registered Intellectual Property

14.3 Other Undertakings

Each Chargor shall take all necessary action to safeguard, maintain and preserve its ability to enforce, its present and future ownership and rights in connection with all Intellectual Property necessary for the conduct of its business from time to time, including

- (a) paying all registration and renewal fees and taxes necessary to maintain all of its registered Intellectual Property in full force and effect,
- (b) performing and complying in all material respects with all laws and obligations to which it is subject in its capacity as registered proprietor, beneficial owner, user, licensor or licensee of any such Intellectual Property,
- (c) not discounting the use of any trade marks which are material to its business without the prior written consent of the Security Agent,
- (d) applying for registrations for Intellectual Property where registration is desirable and diligently prosecuting those applications,
- (e) taking reasonable steps to deal with any infringement by third parties in any material respect of its Intellectual Property,
- (f) not knowingly using, or permitting to be used, the Intellectual Property owned by it in a way which may materially and adversely affect the existence or value of that Intellectual Property, and

- (g) not knowingly using, or permitting to be used, any third party Intellectual Property that is licensed to it and is material to its business in such a way that would allow the licensor to terminate the relevant licence for the Chargor's material breach,

where failure to do so, in the case of paragraphs (a), (b), (d) and (e) above, or in the case of paragraphs (c), (f) and (g) above such use, permission to use or discontinuation of use, is reasonably likely to have a Material Adverse Effect

14.4 Grant

Without prejudice to Clause 7(b) (*Restriction on dealing*), no Chargor shall grant any exclusive registered user agreement or exclusive licence in relation to any of its present or future Intellectual Property without the prior written consent of the Security Agent

15. ENFORCEMENT OF TRANSACTION SECURITY

15.1 Timing and manner of enforcement

- (a) The Transaction Security shall become enforceable and the powers referred to in paragraph (a) of Clause 15.2 (*General*) shall become exercisable
 - (i) upon the occurrence of an Enforcement Event, or
 - (ii) if the Chargor requests the Security Agent to exercise any of its powers under this Deed, or
 - (iii) on the appointment of a Receiver.
- (b) Without prejudice to any specific provisions contained in this Deed, immediately after the Transaction Security has become enforceable, the Security Agent may in its absolute discretion (subject to the other provisions of this Deed) enforce all or any part of the Transaction Security in any manner it sees fit or as the Majority Lenders direct
- (c) No Secured Party shall be liable to any Chargor for any loss arising from the manner in which the Security Agent or any other Secured Party enforces or refrains from enforcing the Transaction Security

15.2 General

- (a) The Secured Obligations shall be deemed to have become due and payable on the date of this Deed for the purposes of section 101 of the Law of Property Act 1925. The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 (as varied and extended by this Deed) and all other powers conferred on a mortgagee by law shall be deemed to arise immediately after execution of this Deed
- (b) Section 103 of the Law of Property Act 1925 shall not apply to this Deed

- (c) The Security Agent may lease, make agreements for leases at a premium or otherwise, surrender, rescind or agree or accept surrenders of leases and grant options on such terms and in such manner as it shall think fit without the need to comply with any of the provisions of sections 99 and 100 of the Law of Property Act 1925

15.3 Contingencies

If the Transaction Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Security Agent (or a Receiver) may pay the proceeds of any recoveries effected by it into such number of suspense accounts as it considers appropriate

15.4 Exercise of powers

All or any of the powers conferred on mortgagees by the Law of Property Act 1925 and the Insolvency Act 1986 (as the case may be) as varied or extended by this Deed and all or any of the rights and powers conferred by this Deed on a Receiver (whether express or implied) may be exercised by the Security Agent without further notice to any Chargor at any time after an Enforcement Event has occurred, irrespective of whether the Security Agent has taken possession of the Security Assets or appointed a Receiver. If there is any ambiguity or conflict between the powers contained in those Acts and those contained in this Deed, those contained in this Deed shall prevail.

15.5 Restrictions on notices

The Security Agent shall not be entitled to give any notice or instruction referred to in any notice delivered pursuant to Clauses 11.1 (*Notices*) or 13.2 (*Notices*) until an Enforcement Event has occurred

15.6 Protection of third parties

- (a) No person (including a purchaser) dealing with the Security Agent or a Receiver or any of its respective agents will be concerned to enquire
 - (i) whether the Secured Obligations have become payable,
 - (ii) whether any power which the Security Agent or that Receiver may purport to exercise has become exercisable or is being properly exercised,
 - (iii) whether any amount remains due under the Finance Documents; or
 - (iv) how any money paid to the Security Agent or to that Receiver is to be applied
- (b) The receipt of the Security Agent or any Receiver of any moneys paid to the Security Agent or any Receiver by any person (including a purchaser) shall be an absolute and conclusive discharge and shall relieve any person dealing with the Security Agent or that Receiver of any obligation to see to the application of any moneys paid to or by the direction of the Security Agent or any Receiver

- (c) In paragraphs (a) and (b) of this Clause 15.5, purchaser includes any person acquiring, for money or money's worth, any interest or right whatsoever in relation to any Security Assets

15.7 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable by reason of entering into possession of a Security Asset

- (a) to account as mortgagee in possession for any loss on realisation in respect of such Security Asset; or
- (b) for any default or omission for which a mortgagee in possession might be liable

15.8 Redemption of Prior Security

The Security Agent or any Receiver may at any time after an Enforcement Event has occurred redeem any prior Security on or relating to any of the Security Assets or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on each Chargor. Each Chargor will on demand pay to the Security Agent all principal monies and interest and all losses incidental to any such redemption or transfer.

15.9 Right of appropriation

To the extent that any of the Security Assets constitute "financial collateral" and this Deed and the obligations of a Chargor under it constitute a "security financial collateral arrangement" (in each case, as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)), the Security Agent shall have the right to appropriate without notice to the Chargor (either on a single occasion or on multiple occasions) all or any part of such financial collateral in or towards discharge of the Secured Obligations and for this purpose the value of the financial collateral so appropriated shall be:

- (a) in the case of cash, the amount standing to the credit of each Account together with any accrued but unposted interest at the time the right of appropriation is exercised, and
- (b) in the case of the Investments, the market price of such Investments determined by the Security Agent in a commercially reasonable manner (including by reference to a public index or independent valuation)

16. ADMINISTRATOR

- (a) Subject to the Insolvency Act 1986, the Security Agent may appoint one or more qualified persons to be an administrator of any Chargor (to act together with or independently of any others so appointed)
 - (i) if requested by that Chargor,

- (ii) upon the occurrence of an Enforcement Event or on the appointment of a Receiver,
 - (iii) on the taking of any corporate action, legal proceedings or other procedure referred to in paragraph (a) of Clause 23.7 (*Insolvency Proceedings*) of the Facility Agreement or the equivalent clause of the Revolving Facility Agreement relating to insolvency proceedings in respect of that Chargor
- (b) Any such appointment may be made pursuant to an application to court under paragraph 12 of schedule B1 to the Insolvency Act 1986 or by filing the specified documents with the court under paragraphs 14 to 21 of schedule B1 to the Insolvency Act 1986.
- (c) In this Clause 17, qualified person means a person who, under the Insolvency Act 1986, is qualified to act as an administrator of any company with respect to which he is appointed

17. RECEIVER

17.1 Appointment of Receivers

- (a) The Security Agent may (without notice but acting on the instruction of the Agent) by deed or otherwise in writing signed by any officer or manager of the Security Agent or any person authorised for this purpose by the Security Agent, appoint one or more persons to be a Receiver
- (i) if requested by a Chargor,
 - (ii) upon the occurrence of an Event of Default (whether or not the Security Agent has taken possession of the Security Assets), or
 - (iii) on the taking of any corporate action, legal proceedings or other procedure referred to in paragraph (a) of Clause 23.7 (*Insolvency proceedings*) of the Facility Agreement or the equivalent clause of the Revolving Facility Agreement relating to insolvency proceedings in respect of that Chargor
- (b) The Security Agent may not appoint an administrative receiver over the Security Assets to the extent prohibited by section 72A of the Insolvency Act 1986
- (c) The Security Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under the Insolvency Act 2000
- (d) Section 109(1) of the Law of Property Act 1925 shall not apply to this Deed
- (e) If the Security Agent appoints more than one person as Receiver, the Security Agent may give those persons power to act either jointly or severally

- (f) Any Receiver may be appointed Receiver of all of the Security Assets or Receiver of a part of the Security Assets specified in the appointment. In the case of an appointment of a part of the Security Assets, the rights conferred on a Receiver as set out in Clause 17.5 (*Powers of Receivers*) shall have effect as though every reference in Clause 17.5 (*Powers of Receivers*) to any Security Assets were a reference to the part of those assets so specified or any part of those assets.

17.2 Removal of Receivers

The Security Agent may by notice in writing remove any Receiver appointed by it (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receivership) whenever it thinks fit and appoint a new Receiver instead of any Receiver whose appointment has terminated for any reason.

17.3 Agent of Chargor

Any Receiver shall be the agent of each Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Law of Property Act 1925. Each Chargor is solely responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver. No Secured Party will incur any liability (either to a Chargor or any other person) by reason of the appointment of a Receiver or for any other reason.

17.4 Remuneration

The Security Agent may (subject to section 36 of the Insolvency Act 1986 and acting on the instruction of the Agent) determine the remuneration of any Receiver appointed by it and any maximum rate imposed by any law (including under section 109(6) of the Law of Property Act 1925) shall not apply to this Deed.

17.5 Powers of Receivers

Any Receiver appointed pursuant to Clause 17.1 (*Appointment of Receivers*) shall have the following rights, powers and discretions (in addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under the Law of Property Act 1925):

- (a) to take immediate possession of, get in and collect any Security Asset and to require payment to it or to the Security Agent of any Monetary Claims or credit balance on any Account,
- (b) to carry on any business of any Chargor in any manner he thinks fit,
- (c) to enter into any contract or arrangement and to perform, repudiate, succeed or vary any contract or arrangement to which any Chargor is party,
- (d) to appoint and discharge any managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit and to discharge any person appointed by any Chargor;

- (e) to raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Transaction Security or otherwise and generally on any terms and for whatever purpose which he thinks fit,
- (f) to sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner, and on any terms which he thinks fit and for a consideration of any kind (which may be payable in a lump sum or by instalments spread over any period),
- (g) to settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of any Chargor or relating in any way to any Security Asset,
- (h) to bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit,
- (i) to give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset,
- (j) to form a Subsidiary of any Chargor and transfer to that Subsidiary any Security Asset,
- (k) to delegate his powers in accordance with this Deed,
- (l) to lend money or advance credit to any customer of any Chargor,
- (m) to effect any insurance and do any other act which a Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset in each case as he thinks fit,
- (n) to exercise all the powers described in schedule 1, schedule B1 or (in the case of a Scottish Receiver) schedule 2 to the Insolvency Act 1986 as now in force (whether or not in force at the time of exercise and whether or not the Receiver is an administrative receiver as defined in the Insolvency Act 1986) and any powers added to schedule 1 or schedule 2, as the case may be, after the date of this Deed,
- (o) to purchase or acquire by leasing, hiring, licensing or otherwise (for such consideration and on such terms as he may think fit) any assets which he considers necessary or desirable for the carrying on, improvement, realisation or other benefit of any of the Security Assets or the business of any Chargor,
- (p) to exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset,
- (q) to make any payment and incur any expenditure, which the Security Agent is, by this Deed, expressly or impliedly authorised to make or incur,
- (r) to do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights,

powers or discretions conferred on a Receiver under or by virtue of this Deed or law, and

- (s) to use the name of any Chargor for any of the purposes set out in paragraphs (a) to (r) (inclusive) of this Clause 17

18. DELEGATION

- (a) The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed. Any such delegation may be made upon such terms (including the power to sub-delegate) and subject to such conditions and regulations as the Security Agent or Receiver may think fit
- (b) The Security Agent or any Receiver may appoint an agent to exercise on its behalf any right, power or discretion exercisable by it under this Deed. Any such appointment may be made upon such terms (including the power to sub-delegate) and subject to such conditions and regulations as the Security Agent or Receiver may think fit
- (c) Neither the Security Agent nor any Receiver will be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate
- (d) References in this Deed to the Security Agent or a Receiver shall be deemed to include references to any delegate of the Security Agent or Receiver appointed in accordance with this Clause 19

19. PRESERVATION OF SECURITY

19.1 Reinstatement

- (a) If any payment by a Chargor or any discharge or release given by a Secured Party (whether in respect of the obligations of any person or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event
 - (i) the liability of that Chargor and the relevant security shall continue as if the payment, discharge, release, avoidance or reduction had not occurred, and
 - (ii) the relevant Secured Party shall be entitled to recover the value or amount of that security or payment from that Chargor, as if the payment, discharge, avoidance or reduction had not occurred
- (b) The Security Agent may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration

19.2 Waiver of Defences

None of the obligations of any Chargor under this Deed or any Transaction Security will be affected by any act, omission, matter or thing (whether or not known to any

Chargor or any Secured Party) which, but for this provision, would reduce, release, prejudice or provide a defence to any of those obligations including

- (a) any time, waiver, release or consent granted to, or composition with, any Chargor or any other person,
- (b) the release of any Chargor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group or any other person,
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over the assets of, any Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any such rights or security,
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person,
- (e) any amendment (however fundamental and including any amendment that may increase the liability of an Obligor) or replacement of a Finance Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security, or
- (g) any insolvency or similar proceedings

19.3 Immediate Recourse

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

19.4 Appropriations

On and after the occurrence of an Event of Default and until all the Secured Obligations have been irrevocably paid in full, each Secured Party (or any trustee or agent on its behalf) may

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same, and
- (b) hold in an interest-bearing suspense account any moneys received from any Chargor or on account of any Chargor's liability under this Deed

19.5 Deferral of Chargors' Rights

- (a) Until all the Secured Obligations have been irrevocably paid in full and unless the Security Agent otherwise directs, no Chargor will exercise any rights which it may have by reason of performance (or a claim for performance) by it of its obligations under the Finance Documents.
 - (i) to be indemnified by an Obligor,
 - (ii) to claim any contribution from any guarantor of any Obligor's obligations under the Finance Documents,
 - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party,
 - (iv) to bring legal or other proceedings for an order requiring an Obligor to make any payment, or perform any obligation, in respect of which the relevant Chargor has given a guarantee, undertaking or indemnity under the Finance Documents,
 - (v) to exercise any right of set-off against an Obligor,
 - (vi) to exercise any right of quasi-retainer or other analogous equitable right, and/or
 - (vii) to claim or prove as a creditor of an Obligor in competition with the Secured Parties
- (b) If any Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by an Obligor under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Secured Parties or as the Secured Parties may direct

19.6 Security held by Chargor

No Chargor shall, without the prior consent of the Security Agent, hold or otherwise take the benefit of any Security from any other Obligor in respect of that Chargor's liability under this Deed. Each Chargor will hold any Security and the proceeds thereof held by it in breach of this provision on trust for the Security Agent

19.7 Additional Security/non-merger

The Transaction Security is in addition to and shall not be merged into or in any way excluded or prejudiced by any other Security now or hereafter held by or on behalf of any Secured Party in respect of the Secured Obligations or any other amount due by any Chargor to any Secured Party

19.8 Power of Consolidation

Section 93 of the Law of Property Act 1925 shall not apply to this Deed or to the Transaction Security

19.9 New Accounts and Ruling Off

- (a) Any Secured Party may open a new account in the name of any Chargor at any time after a subsequent Security affects any Security Asset. If a Secured Party does not open a new account in such circumstances it will nevertheless be deemed to have done so upon the occurrence of such circumstances
- (b) No moneys paid into any account (whether new or continuing) after the occurrence of any circumstances referred to in paragraph (a) of this Clause 20.9 shall reduce or discharge the Secured Obligations

20. FURTHER ASSURANCES

20.1 Further Assurances

Each Chargor shall, at its own expense, promptly take whatever action the Security Agent (acting on the instruction of the Agent) or a Receiver may require or consider expedient for

- (a) creating, perfecting or protecting any Security intended to be created by or pursuant to this Deed,
- (b) facilitating the realisation of any Security Asset,
- (c) creating and perfecting security in favour of the Security Agent over the assets of that Chargor located in any jurisdiction outside England and Wales;
- (d) facilitating the exercise of any right, power or discretion exercisable by the Security Agent or any Receiver in respect of any Security Asset,

including

- (e) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Security Agent (or to its nominee), and
- (f) the transfer of legal and/or equitable title in any existing or future Real Property to a third party (including after the Security Agent has exercised any right of appropriation pursuant to Clause 16.9 (Right of appropriation)),
- (g) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may think expedient (acting on the instruction of the Agent)

21. POWER OF ATTORNEY

21.1 Appointment

- (a) Each Chargor by way of security irrevocably appoints the Security Agent and each Receiver severally as its attorney with full power of substitution, on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit
 - (i) prior to the occurrence of an Enforcement Event to do anything which that Chargor is obliged to do (but has not done) under any Finance Document to which it is party (including to execute charges over, transfers, conveyances, assignments and assurances of, and other instruments, notices, orders and directions relating to, the Security Assets),
 - (ii) on and after the occurrence of an Enforcement Event, to do anything which that Chargor is obliged to do under this Deed, and
 - (iii) to exercise any of the rights conferred on the Security Agent or any Receiver in relation to the Security Assets or under any Finance Document, the Law of Property Act 1925 or the Insolvency Act 1986
- (b) The power of attorney conferred on the Security Agent and each Receiver shall continue notwithstanding the exercise by the Security Agent of any right of appropriation pursuant to Clause 16 9 (*Right of appropriation*)

21.2 Ratification

Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 21 1 (*Appointment*)

22. APPLICATION OF PROCEEDS

22.1 Order of Application prior to the Intercreditor Agreement

Prior to entry into the Intercreditor Agreement, all amounts received by the Security Agent or any Receiver pursuant to this Deed or the powers conferred by it shall be applied in the following order of priority

- (a) in discharging any sums owing to the Security Agent, any Receiver or any Delegate,
- (b) in discharging all costs and expenses incurred by the Agent and the Lenders in connection with any realisation or enforcement of the Transaction Security taken in accordance with this Deed;
- (c) in payment or distribution to the Agent on its own behalf and on behalf of the Lenders for application towards the discharge of the Liabilities on a *pro rata* basis, and

- (d) the balance, if any, in payment or distribution to the relevant Chargor.

22.2 Order of Application following the Intercreditor Agreement

Following entry into the Intercreditor Agreement

- (a) all amounts received by the Security Agent or any Receiver pursuant to this Deed or the powers conferred by it shall be applied in accordance with the Intercreditor Agreement
- (b) The order of application referred to in paragraph (a) of this Clause 22.1 shall override any appropriation by any Chargor

22.3 Receiver's Receipts

Section 109(8) of the Law of Property Act 1925 shall not apply in relation to a Receiver appointed under this Deed

23. EXPENSES AND INDEMNITIES

Each Chargor will on demand pay and reimburse each Secured Party, Receiver, attorney, manager, agent or other person (including the officers of such persons) appointed by the Security Agent or a Receiver under this Deed, on the basis of a full indemnity, in respect of all costs, claims, charges, liabilities, actions, demands and expenses (including legal fees and other out of pocket expenses and any value added tax or other similar tax thereon) properly incurred by such person in connection with the holding, preservation or enforcement or the attempted preservation or enforcement of any of the Secured Parties' rights under this Deed or otherwise in connection with the entering into or performance of this Deed or any documents required pursuant to this Deed including any costs and expenses arising from any actual or alleged breach by any person of any law, agreement or regulation, whether relating to the environment or otherwise (including the investigation of such breach) and will keep each of those persons indemnified against any failure or delay in paying those costs and expenses. Any such person who is not a party to this Deed may rely on this Clause 23 and enforce its terms under the Contracts (Rights of Third Parties) Act 1999

24. PAYMENTS

24.1 Demands

- (a) Subject to the terms of the Finance Documents, any demand for payment made by any Secured Party shall be valid and effective even if it contains no statement of the relevant Secured Obligations or an inaccurate or incomplete statement of them
- (b) The making of one demand shall not preclude the Security Agent from making any further demands
- (c) Any third party dealing with the Security Agent or any Receiver shall not be concerned to enquire as to the validity of any demand under this Deed

24.2 Payments

All payments by any Chargor under this Deed (including damages for its breach) shall be made in Sterling and to such account, with such financial institution and in such other manner as the Security Agent may direct

24.3 Joint and several liability

The liability of each Chargor under this Deed shall be joint and several. Each agreement and undertaking of any Chargor shall be construed accordingly.

25. RIGHTS, WAIVERS AND DETERMINATIONS

25.1 Ambiguity

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

25.2 Exercise of rights

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, Receiver or Delegate, any right or remedy under any Finance Document shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in the Finance Documents are cumulative and not exclusive of any rights or remedies provided by law, including the right to appoint an Administrator under the Insolvency Act 1986.

25.3 Determinations

Any certification or determination by any Secured Party or any Receiver or Delegate under any Finance Document is, in the absence of manifest error, conclusive evidence of the matter to which it relates.

26. SEPARATE AND INDEPENDENT OBLIGATIONS

The Security created by each Chargor by or in connection with any Finance Document is separate from and independent of the Security created or intended to be created by any other Chargor by or in connection with any Finance Document.

27. INDEMNITIES

27.1 Environmental indemnity

- (a) Each Chargor shall indemnify each Secured Party against any and all costs, losses, liabilities or expenses together with any associated VAT incurred by each Secured Party arising (directly or indirectly) out of or in connection with
 - (i) any breach or potential breach of or liability (whether civil and/or criminal) under any Environmental Law,

- (ii) any responsibility on the part of any Secured Party in respect of any clean-up, repair or other corrective action, or
- (iii) the business or any Real Property of any Chargor
- (b) The obligation to indemnify each Secured Party contained in this Clause 27 shall survive the termination of this Deed

27.2 Indemnities separate

Each indemnity in each Finance Document shall.

- (a) constitute a separate and independent obligation from the other obligations in that or any other Finance Document;
- (b) give rise to a separate and independent cause of action,
- (c) apply irrespective of any indulgence granted by any Secured Party,
- (d) continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any Secured Obligations or any other judgment or order, and
- (e) apply whether or not any claim under it relates to any matter disclosed by any Chargor or otherwise known to any Secured Party

27.3 Other indemnity

The Security Agent may refrain from acting in accordance with any instructions of any Lender or group of Lenders until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Finance Documents and which may include payment in advance) for any cost, loss or liability which it may incur in complying with those instructions

28. CHANGES TO PARTIES

28.1 Transfer by the Security Agent

The Security Agent may at any time assign or otherwise transfer all or any part of its rights under this Deed to any successor appointed in accordance with the Finance Documents

28.2 Changes to Parties

Each Chargor agrees to be bound by the terms of Clauses 24 (*Changes to the Lenders*) to 26 (*Changes to the Obligors*) (inclusive) of the Facility Agreement, and the relevant clauses of the Intercreditor Agreement relating to changes to the lenders, the obligors and the parties and authorises the Security Agent to execute on its behalf any document the Security Agent considers necessary or desirable in relation to the creation, perfection or maintenance of the Transaction Security and any transfer or assignment contemplated by such provisions.

28.3 Consent of Chargors

Each Chargor consents to members of the Group becoming Chargors as contemplated by the Facility Agreement or the Revolving Facility Agreement and irrevocably appoints Holdco as its attorney, with full power of substitution, for the purposes of executing any Accession Document.

29. MISCELLANEOUS

29.1 Further Advances

Subject to the terms of the Finance Documents, each Secured Party is under an obligation to make further advances or other financial accommodation to the Borrowers. Such obligation will be deemed incorporated into this Deed as if set out in it.

29.2 Time Deposits

Without prejudice to any right of set-off any Secured Party may have under any Finance Document or otherwise, if any time deposit matures on any account which any Chargor has with a Secured Party prior to the Final Discharge Date when

- (a) the Transaction Security has become enforceable, and
- (b) no amount of the Secured Obligations is due and payable,

such time deposit shall automatically be renewed for such further maturity as the relevant Secured Party in its absolute discretion considers appropriate unless such Secured Party otherwise agrees in writing.

29.3 Security Agent's Liability

Neither the Security Agent nor any Receiver shall (either by reason of taking possession of the Security Assets or for any other reason and whether as mortgagee in possession or otherwise) be liable to any Chargor or any other person for any costs, losses, liabilities or expenses relating to the realisation of any Security Assets or from any act, default, omission or misconduct of the Security Agent or any Receiver or their respective officers, employees or agents in relation to the Security Assets or in connection with the Finance Documents.

29.4 Failure to Execute

- (a) Failure by one or more parties to execute this Deed (such parties being "Non Signatories") on the date hereof will not invalidate the provisions of this Deed as between the other parties who do execute this Deed.
- (b) Each Non-Signatory may execute this Deed on a subsequent date and will thereupon become bound by its provisions.

29.5 Perpetuity Period

If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(l) of the Perpetuities and Accumulations Act 2009)

30. PARTIAL INVALIDITY

If any provision of this Deed is or becomes invalid, illegal or unenforceable in any jurisdiction, that shall not affect the legality, validity or enforceability of the remaining provisions in that jurisdiction or of that provision in any other jurisdiction

31. NOTICES

31.1 Method

Any notice or other communication to be served under or in connection with this Deed shall be made in writing and, unless otherwise stated, served in person or by post, fax or any electronic method of communication approved by the Security Agent to the relevant party at its address or fax number shown immediately after its name on the signature page of this Deed or such other address or number notified by it to the other parties to this Deed and, in the case of the Security Agent, marked for the attention of the person or department there specified

31.2 Deemed Service

Any notice or other communication served by post will, unless otherwise stated, be effective five Business Days after being deposited in the post (with postage prepaid) in an envelope addressed to it at that address or on delivery if delivered personally or by courier to the relevant address. A notice or other communication sent by fax will, unless otherwise stated, be effective when received in legible form. Any communication or notice to the Security Agent by electronic method will be effective only when actually received in readable form and if addressed in the manner specified by the Security Agent for this purpose

31.3 Proof of Service

In proving service of any notice or other communication, it will be sufficient to prove:

- (a) in the case of a letter, that such letter was properly stamped or franked, addressed and placed in the post or in the case of personal delivery, was left at the correct address; and
- (b) in the case of a fax transmission, that such fax was duly transmitted to the fax number, as appropriate, of the addressee referred to in Clause 31.1 (*Method*)

32. COUNTERPARTS

This Deed may be executed in any number of counterparts, and by each party hereto on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed by e-mail attachment or telecopy shall be an effective mode of delivery

33. GOVERNING LAW AND ENFORCEMENT

33.1 Governing law

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

33.2 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a “**Dispute**”)
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary
- (c) This Clause 33.2 is for the benefit of the Finance Parties and the Secured Parties only. As a result, no Finance Party or the Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and the Secured Parties may take concurrent proceedings in any number of jurisdictions

THIS DEED has been executed and delivered as a deed on the date stated at the beginning of this Deed

**SCHEDULE 1
ORIGINAL CHARGORS**

Name	Registered Number
McCarthy & Stone Limited	6622199
McCarthy & Stone (Developments) Limited	6622183
McCarthy & Stone Retirement Lifestyles Limited	6622231
McCarthy & Stone Rental Interests No 1 Limited	6897272
McCarthy & Stone Lifestyle Services Limited	7165986
McCarthy & Stone (Home Equity Interests) Limited	5984851
McCarthy & Stone Investment Properties No 23 Limited	6496130
Keyworker Properties Limited	4213618
McCarthy & Stone (Equity Interests) Limited	5663330
McCarthy & Stone (Total Care Living) Limited	6069509
McCarthy & Stone Total Care Management Limited	6897301
McCarthy & Stone (Extra Care Living) Limited	6897363
McCarthy & Stone (Alnwick) Limited	7517819
McCarthy & Stone Management Services Limited	7166051
McCarthy & Stone Estates Limited	7165952
McCarthy & Stone Financial Services Limited	7798214

**SCHEDULE 2
SECURITY ASSETS**

Part 1: Real Property

None

Part 2: Group Shares

Chargor	Group Member	Number and class of shares
McCarthy & Stone Limited	McCarthy & Stone (Developments) Limited	70,549,756 ordinary shares
McCarthy & Stone (Developments) Limited	McCarthy & Stone Properties Limited	2 ordinary shares
	The Planning Bureau Limited	3 ordinary shares
	McCarthy & Stone Rental Interests No 1 Limited	1 ordinary share
	McCarthy & Stone Retirement Lifestyles Limited	66,400,005 ordinary shares
	McCarthy & Stone Lifestyle Services Limited	5 ordinary share
McCarthy & Stone Retirement Lifestyles Limited	McCarthy & Stone (Home Equity Interests) Limited	8,200,001 ordinary shares
	McCarthy & Stone Investment Properties No 23 Limited	3 ordinary share
	Keyworker Properties Limited	2 ordinary shares
	McCarthy & Stone (Equity Interests) Limited	1,900,001 ordinary shares
	McCarthy & Stone (Total Care Living) Limited	1 ordinary share
	Behappy (McCarthy & Stone) Limited	1 ordinary share
	McCarthy & Stone Assisted Living Limited	1 ordinary share
	McCarthy & Stone Scottish Properties No 1 Limited	1 ordinary share
	McCarthy & Stone Tailored Care Living Limited	1 ordinary share
	McCarthy & Stone Total Care Management Limited	4 ordinary share

	McCarthy & Stone Independent Living Limited	1 ordinary share
	City Living Limited	1 ordinary share
	McCarthy & Stone (Extra Care Living) Limited	1 ordinary share
McCarthy & Stone Lifestyle Services Limited	McCarthy & Stone Management Services Limited	4 ordinary share
	McCarthy & Stone Estate Limited	4 ordinary share
	McCarthy & Stone Care Services Limited	1 ordinary share
	McCarthy & Stone Financial Services Limited	4 ordinary share
McCarthy & Stone (Extra Care Living) Limited	McCarthy & Stone (Alnwick) Limited	1 ordinary share
	McCarthy & Stone (FRI Interests No 1) Limited	1 ordinary share

Part 3: Accounts

Account Bank	Account Number	Sort Code	Description
Lloyds	06151926	80-20-00	Collection Account
Lloyds	06151950	80-20-00	Collection Account
Lloyds	06152064	80-20-00	Collection Account
Lloyds	06151934	80-20-00	Collection Account
Lloyds	06165551	80-20-00	Collection Account
Lloyds	06151942	80-20-00	Collection Account
Lloyds	06152187	80-20-00	Collection Account
Lloyds	06152179	80-20-00	Collection Account
Lloyds	06152101	80-20-00	Collection Account
Lloyds	06152208	80-20-00	Collection Account
Lloyds	06152128	80-20-00	Collection Account
Lloyds	06152195	80-20-00	Collection Account
Lloyds	06161227	80-20-00	Collection Account
Lloyds	06152160	80-20-00	Collection Account
Lloyds	06170473	80-20-00	Collection Account
Lloyds	06170721	80-20-00	Collection Account
Lloyds	06170713	80-20-00	Collection Account
Lloyds	06170748	80-20-00	Collection Account
Lloyds	06162465	80-20-00	Collection Account
Lloyds	06164014	80-20-00	Collection Account
Lloyds	06166255	80-20-00	Collection Account
Clydesdale Bank	40078721	82-63-01	Collection Account
Santander	42888730	09-01-27	Collection Account

**SCHEDULE 3
NOTICE FOR ACCOUNTS**

[Account Bank]

Copy Wells Fargo Trust Corporation Limited as Security Agent

Date [●]

Dear Sirs,

- 1 We hereby give you notice that we have charged by way of first fixed charge to Wells Fargo Trust Corporation Limited (the *Security Agent*) on behalf of certain Secured Parties pursuant to a debenture (the *Debenture*) dated [●] entered into by ourselves (as Chargor) (amongst others) in favour of the Security Agent, all of our rights, title and interest in and to all sums of money which may now or in the future be held with you for our account in the accounts identified in the schedule to this notice and to any other accounts from time to time maintained with you by us (the *Accounts*) together with all interest from time to time earned on such sums and the debts represented by such sums and interest
- 2 With effect from the date of your receipt of this notice
 - (a) subject to paragraph (e) below, all sums from time to time standing to the credit of the Accounts should be held to the order of the Security Agent,
 - (b) subject to paragraph (e) below, such sums may only be paid or released in accordance with the written instructions of the Security Agent at any time,
 - (c) the terms and conditions relating to the Accounts designated as "Blocked" may not be amended, varied or waived without the prior written consent of the Security Agent,
 - (d) we are not permitted to withdraw any amount from the Accounts designated as "Blocked" in the schedule to this notice without the prior written consent of the Security Agent, and
 - (e) we are permitted to withdraw or transfer amounts from the Accounts designated as "Not blocked" in the schedule to this notice until such time as the Security Agent provides written notification to you that such permission is withdrawn (and the Security Agent may withdraw or notify this permission in its absolute discretion at any time)
- 3 You are authorised and instructed, without requiring further approval from us
 - (a) to pay all monies received by you for the Accounts to (and only to) the credit of the Accounts,
 - (b) to provide the Security Agent with such information relating to the Accounts as it may from time to time request, and

- (c) to comply with the terms of any written notice or instructions in any way relating to, or purporting to relate to, the Debenture, the sums standing to the credit of the Accounts from time to time or the debts represented by them which you receive at any time from the Security Agent without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction
- 4 These instructions may not be revoked without the prior written consent of the Security Agent
- 5 Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to us) to confirm (by way of undertaking in favour of the Security Agent) that
 - (a) you agree to the terms of this notice and to act in accordance with its provisions,
 - (b) you have not received notice of the interest of any third party in the accounts, and
 - (c) you have not and will not claim, exercise or enforce any security interest, right of set-off, counterclaim or similar right in respect of the Accounts or the debts represented by them without the prior written consent of the Security Agent
- 6 This notice and any non-contractual obligations arising out of or in relation to this notice shall be governed by, and interpreted in accordance with, English law

Yours faithfully,

for and on behalf of
[CHARGOR]

for and on behalf of
WELLS FARGO TRUST CORPORATION LIMITED as Security Agent

SCHEDULE

Account Number

[●]

Sort Code

[●]

Status

[Blocked/
Not blocked]

[On acknowledgement copy]

To WELLS FARGO TRUST CORPORATION LIMITED as Security Agent
[Address]

Copy to [CHARGOR]

We acknowledge receipt of the above notice and agree to and confirm the matters set out in it.

for and on behalf of
[Account Bank]

Date [●]

SCHEDULE 4
NOTICE FOR INSURANCE POLICIES

To [insurer/insurance broker]

Copy WELLS FARGO TRUST CORPORATION LIMITED as Security Agent

Date [●]

Dear Sirs,

- 1 We hereby give you notice that we have assigned by way of security to Wells Fargo Trust Corporation Limited (the *Security Agent*) on behalf of certain Secured Parties pursuant to a debenture dated [●] entered into by us in favour of the Security Agent, all of our rights, title and interest in and to the insurance policies identified in the schedule to this letter and to any other insurance policies taken out with you by us or on our behalf or under which we have a right to a claim (other than in relation to third party liabilities) (the *Insurance Policies*)
- 2 We will remain liable under the Insurance Policies to perform all obligations imposed on us under the Insurance Policies and none of the Security Agent, its agents, any receiver, administrator or any other person will at any time be under any obligation or liability to you under or in respect of the Insurance Policies.
- 3 We will remain entitled to exercise all of our rights under the Insurance Policies and you should continue to give notices under the Insurance Policies to us, until such time as the Security Agent provides written notification to the contrary Thereafter
 - (a) all amounts payable under the Insurance Policies should be paid to the Security Agent or as it directs, and
 - (b) all rights in respect of the Insurance Policies will be exercisable by the Security Agent and notices under the Insurance Policies should be given to the Security Agent or as it directs
- 4 You are authorised and instructed (without requiring further approval from us) to provide the Security Agent with such information relating to the Insurance Policies as it may from time to time request
- 5 These instructions may not be revoked without the prior written consent of the Security Agent
- 6 Please note the interest of the Security Agent on the Insurance Policies and show the Security Agent as loss payee and first priority assignee
- 7 Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to us) to confirm (by way of undertaking in favour of the Security Agent) that:
 - (a) you agree to the terms of this notice and to act in accordance with its provisions,

- (b) you have not received notice of the interest of any third party in any of the Insurance Policies,
- (c) you have noted the interests of the Security Agent on the Insurance Policies,
- (d) you will not cancel, avoid, release or otherwise allow the Insurance Policies to lapse without giving the Security Agent at least thirty days' prior written notification,
- (e) you have not and will not claim, exercise or enforce any right of set-off, counterclaim or similar right in respect of the Insurance Policies without the consent of the Security Agent,
- (f) you will notify the Security Agent of any breach by us of the terms of any Insurance Policy and will allow the Security Agent or the Secured Parties referred to in this notice to remedy that breach, and
- (g) the Security Agent shall not in any circumstances be liable for the premium in relation to the Insurance Policies (but may elect to pay it)

8 This notice and any non-contractual obligations arising out of or in relation to this notice shall be governed by, and interpreted in accordance with, English law

Yours faithfully,

.. ..
for and on behalf of
[CHARGOR]

.. ..
for and on behalf of
WELLS FARGO TRUST CORPORATION LIMITED as Security Agent

SCHEDULE 5
FORM OF DEED OF ACCESSION

THIS DEED is made on [●]

BETWEEN

- (1) [COMPANY NAME] (registered number [●]) with its registered office at [●] (the *Additional Chargor*),
- (2) [●] for itself and as attorney for each of the other Chargors under and as defined in the Debenture referred to below (Holdco), and
- (3) WELLS FARGO TRUST CORPORATION LIMITED for itself and as agent and trustee for each of the other Secured Parties under and as defined in the Debenture referred to below (the *Security Agent*)

WHEREAS:

- (A) The Additional Chargor is a wholly-owned Subsidiary of Holdco
- (B) Holdco has entered into a Debenture dated [●] (the *Debenture*) between Holdco, the Original Chargors and the Security Agent
- (C) The Additional Chargor has agreed to enter into this Deed and to become a Chargor under the Debenture. The Additional Chargor will also, by execution of a separate instrument, become a party to the Intercreditor Agreement as an Obligor
- (D) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand

IT IS AGREED as follows

1 Interpretation

Terms defined in the Debenture have the same meaning in this Deed unless given a different meaning in this Deed. This Deed is a Finance Document

2 Accession

With effect from the date of this Deed, the Additional Chargor

- (a) will become a party to the Debenture as a Chargor, and
- (b) will be bound by all the terms of the Debenture which are expressed to be binding on a Chargor

3 Security

- (a) Paragraphs (b) to (f) inclusive below apply without prejudice to the generality of Clause 2 (*Accession*) of this Deed

- (b) The Additional Chargor mortgages, charges, assigns or agrees to assign by way of security to the Security Agent all its rights, title and interest in and to the Security Assets specified in the Schedule to this Deed
- (c) All Transaction Security
 - (i) is created in favour of the Security Agent for itself and on behalf of each of the other Secured Parties,
 - (ii) is created over the present and future assets of the Additional Chargor, and
 - (iii) is a continuing security for the payment, discharge and performance of all of the Secured Obligations and will extend to the ultimate balance of all sums payable under the Finance Documents regardless of any intermediate discharge in whole or in part, and
 - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 but in each case so that the covenants implied by the Law of Property (Miscellaneous Provisions) Act 1994 in relation to such mortgage, charge or assignment are construed with the omission of
 - (A) the words “other than any charges, encumbrances or rights which that person does not and could not reasonably be expected to know about” in section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994,
 - (B) the words “except to the extent that” and all the words thereafter in section 3(2) of the Law of Property (Miscellaneous Provisions) Act 1994, and
 - (C) section 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994
- (d) If the Additional Chargor purports to mortgage, assign or charge (absolutely or by way of first fixed mortgage or charge) an asset under this Deed and such mortgage, assignment or fixed charge breaches a term of an agreement binding on the Additional Chargor in respect of that asset because the consent of a person (other than a member of the Group or an Investor) has not been obtained
 - (i) the Additional Chargor shall notify the Security Agent immediately,
 - (ii) subject to paragraph (iv) below, the relevant mortgage, assignment or fixed charge hereunder will extend to (to the extent no breach of the relevant agreement would occur) the Related Rights in respect of that asset but will exclude the asset itself,
 - (iii) unless the Security Agent otherwise requires, the Additional Chargor shall use best endeavours to obtain the consent of the relevant person

and, once obtained, shall promptly provide a copy of that consent to the Security Agent, and

- (iv) forthwith upon receipt of the relevant consent, the relevant asset shall become subject to the Transaction Security in favour of the Security Agent under this Deed and the Debenture
- (e) The Security Agent holds the benefit of this Deed for itself and on trust for each of the other Secured Parties
- (f) The fact that the details of any assets in the Schedule to this Deed are incorrect or incomplete shall not affect the validity or enforceability of this Deed or the Debenture in respect of the assets of the Additional Chargor

4 Miscellaneous

With effect from the date of this Deed

- (a) the Debenture will be read and construed for all purposes as if the Additional Chargor had been an original party in the capacity of Chargor (but so that the Transaction Security created on this accession will be created on the date of this Deed),
- (b) any reference in the Debenture to "this Agreement" and similar phrases will include this Deed and all references in the Debenture to any relevant schedule to the Debenture (or any part of it) will include a reference to the Schedule to this Deed (or relevant part of it), and
- (c) Holdco, for itself and as agent for each of the other Chargors under the Debenture, agrees to all matters provided for in this Deed

5 Governing Law

This Deed and any non-contractual obligations arising out of or in relation to this Deed shall be governed by, and interpreted in accordance with, English law

THIS DEED has been executed and delivered as a deed on the date stated at the beginning of this Deed

SCHEDULE SECURITY ASSETS

Part 1: Real Property

Freehold/leaschold [•]	Description [•]	Title number [•]
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Part 2: Group Shares

Group Member [•]	Number and class of shares [•]	Details of nominees holding legal title [•]
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Part 3: Accounts

Account Bank [•]	Account Number [•]	Sort Code [•]	Description [•] ¹
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¹ Specify whether the relevant account is a Collection Account, Holding Account or a Mandatory Prepayment Account

SIGNATURES

EXECUTED as a DEED
By MCCARTHY & STONE LIMITED

acting by. Mark Elliott

Director

In the presence of

Name of witness Deborah Tickett

Address Homelife House, 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE
(DEVELOPMENTS) LIMITED

acting by Mark Elliott

Director

In the presence of

Name of witness Deborah Tickett

Address Homelife House, 26-32 Oxford Rd, Bournemouth.
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE RETIREMENT
LIFESTYLES LIMITED

acting by: Mark Elliott

Director

In the presence of

Name of witness Deborah Tickett

Address Homelife House, 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE RENTAL
INTERESTS NO.1 LIMITED

acting by Mark Elliott

Director

In the presence of

Name of witness Deborah Trickett
Address Homelife House, 26-32 Oxford Rd Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE LIFESTYLE
SERVICES LIMITED

acting by Mark Elliott

Director

In the presence of

Name of witness Deborah Trickett
Address Homelife House, 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE (HOME EQUITY
INTERESTS) LIMITED

acting by Mark Elliott

Director

In the presence of Deborah Trickett

Name of witness
Address Homelife House, 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED)
By MCCARTHY & STONE INVESTMENT)
PROPERTIES NO. 23 LIMITED)

acting by. Mark Elliott

ll. Elliott.

Director

In the presence of

Name of witness *Deborah Tackett*) *DT Tackett*
Address *Homelife House, 26-32 Oxford Rd. Bournemouth*
Dorset BH8 8EZ

EXECUTED as a DEED)
By KEYWORKER PROPERTIES LIMITED)

acting by Mark Elliott

ll. Elliott.

Director

In the presence of

Name of witness *Deborah Tackett*) *DT Tackett*
Address *Homelife House, 26-32 Oxford Rd. Bournemouth*
Dorset BH8 8EZ

EXECUTED as a DEED)
By MCCARTHY & STONE (EQUITY)
INTERESTS) LIMITED)

acting by. Mark Elliott

ll. Elliott.

Director

In the presence of

Name of witness *Deborah Tackett*) *DT Tackett*
Address *Homelife House 26-32 Oxford Rd. Bournemouth*
Dorset BH8 8EZ

EXECUTED as a DEED)
By MCCARTHY & STONE (TOTAL CARE)
LIVING) LIMITED)

M. Elliott

acting by Mark Elliott

Director

In the presence of

Name of witness Deborah Tackett) D Tackett
Address Homelife House 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED)
By MCCARTHY & STONE TOTAL CARE)
MANAGEMENT LIMITED)

M. Elliott

acting by Mark Elliott

Director

In the presence of

Name of witness Deborah Tackett) D Tackett
Address Homelife House, 26 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED)
By MCCARTHY & STONE (EXTRA CARE)
LIVING) LIMITED)

M. Elliott

acting by Mark Elliott

Director

In the presence of

Name of witness Deborah Tackett) D Tackett
Address Homelife House 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE (ALNWICK)
LIMITED

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)



acting by Mark Elliott

Director

In the presence of

) DT Tuckett

Name of witness: Deborah Tuckett
Address Homelife House, 26-32 Oxford Rd Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE MANAGEMENT
SERVICES LIMITED

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)
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acting by Mark Riddington

Director

In the presence of

) DT Tuckett

Name of witness: Deborah Tuckett
Address Homelife House, 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE ESTATES
LIMITED

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)



acting by Mark Elliott

Director

In the presence of

) DT Tuckett

Name of witness: Deborah Tuckett
Address Homelife House, 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

EXECUTED as a DEED
By MCCARTHY & STONE FINANCIAL
SERVICES LIMITED

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)
)



acting by. Mark Elliott

Director

In the presence of:

) D T Tindall

Name of witness: Deborah Tindall

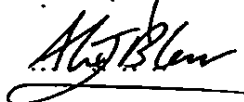
Address Homelife House, 26-32 Oxford Rd, Bournemouth
Dorset BH8 8EZ

SECURITY AGENT

WELLS FARGO TRUST CORPORATION LIMITED

By  **Raphael Pariser**
Authorised Signatory

By



Alex Blewer
Assistant Vice President

Address Wells Fargo Bank, N A
150 East 42nd Street, 40th Floor
New York, New York 10017
USA

Fax: 001 917-260-1594

Email alexander.pabon@wellsfargo.com

Attention Alexander Pabon, CMES-McCarthy & Stone

AND

Address Wells Fargo Trust Corporation Limited
One Plantation Place
30 Fenchurch Street
London
EC3M 3BD

Fax +44 271 49 7220

Email CTS.SPGLONDON@wellsfargo.com

Attention International Trust Officer, Corporate Trust Services