

MR01

Particulars of a charge



Companies House



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A fee is payable with this form  
Please see 'How to pay'

☒ **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  
instrument. Use form MR01



A14 \*A85VQ1LC\* #307  
20/05/2019  
COMPANIES HOUSE

A09 \*A8568LP4\* #404  
10/05/2019  
COMPANIES HOUSE

A12 \*A84E6LLV\* #333  
29/04/2019  
COMPANIES HOUSE

This form **must be delivered to the Registrar for registration**  
**21 days** beginning with the day after the date of creation of the charge.  
If the form is 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.  
The copy must be scanned and placed on the public record. **Do not send the original**

**1 Company details**

Company number 0 8 2 1 6 1 4 1

Company name in full PK WINDOWS (WALES) LTD

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 d 1 m 05 y 2019

**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 MAGELLAN HOMELOANS 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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Particulars of a charge

<b>4</b>	<b>Brief description</b> Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.  Brief description <del>FREEHOLD PROPERTY AT 6 CASTLE STREET, CARDIGAN, GEREIDIGION, SA43 3AB TITLE NUMBER WA635536</del> <i>2 NONE</i>	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".  Please limit the description to the available space.
<b>5</b>	<b>Other charge or fixed security</b> Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>6</b>	<b>Floating charge</b> Is the instrument expressed to contain a floating charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes Continue <input type="checkbox"/> No Go to <b>Section 7</b>  Is the floating charge expressed to cover all the property and undertaking of the company? <input checked="" type="checkbox"/> Yes	
<b>7</b>	<b>Negative Pledge</b> Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>8</b>	<b>Trustee statement <sup>1</sup></b> 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. <input type="checkbox"/>	<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06).
<b>9</b>	<b>Signature</b> Please sign the form here.  Signature <i>X [Signature] X</i>  This form must be signed by a person with an interest in the charge.	

MR01

## Particulars of a charge

**Presenter information**

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name	DAVID COLE
Company name	GEORGE, DAVIES & EVANS
Address	CASTLE CHAMBERS GROSVENOR HILL
Post town	CARDIGAN
County/Region	CEREDIGION
Postcode	S A 4 3 1 H X
Country	
DX	DX 92653 CARDIGAN
Telephone	01239 612308

**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 £23 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.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**



**FILE COPY**

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

Company number: 8216141

Charge code: 0821 6141 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th May 2019 and created by PK WINDOWS (WALES) LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th May 2019.

Given at Companies House, Cardiff on 23rd May 2019

A handwritten signature in black ink, appearing to be 'D' followed by a flourish.




**Companies House**



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

MAGELLAN

We certify This is a  
true copy of the original  
document

 17<sup>th</sup> MAY 2019

GEORGE DAVIES & EVANS  
SOLICITORS  
CASTLE CHAMBERS GROSVENOR HILL  
CARDIGAN SA43 1HX

FLOATING CHARGE

.....PK WINDOWS (WALES).....LIMITED

and

MAGELLAN HOMELOANS LIMITED

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# MAGELLAN

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DATE: 17<sup>th</sup> MAY 2019

**PARTIES:**

- (1) PK WINDOWS (WALES) LIMITED (registered in England with number 08216141) whose registered office is at 47 ST MARY STREET CARDIFF SA4 3 1HA (**Borrower**); and
- (2) **MAGELLAN HOMELOANS LIMITED** (registered in England under number 10637508) whose registered office is at Ashcombe House, 5 The Crescent, Leatherhead, Surrey, KT22 8DY (**Lender**).

**1. Interpretation**

The definitions and interpretative provisions in Schedule 1 apply to this Agreement.

**2. Covenant to pay**

- 2.1 The Borrower will on demand pay and discharge all the Secured Liabilities when they become due for payment or discharge.
- 2.2 The Borrower will pay to the Lender interest on the Secured Liabilities at the rate(s) applicable under the agreements or arrangements giving rise to the relevant Secured Liabilities or, if no such rate(s) are specified, at the Default Rate.
- 2.3 The interest (including Default Interest) payable on the Secured Liabilities will accrue on a daily basis and be calculated both before and after demand or judgment or the liquidation of the Borrower and be compounded according to agreement or, in the absence of agreement, monthly on such days as the Lender may select.

**3. Floating charge**

- 3.1 By way of continuing security in favour of the Lender for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee and free from all Security Interests, the Borrower charges by way of first floating charge to the Lender all the undertaking and all property, assets and rights of the Borrower, present and future, whether tangible or intangible.
- 3.2 Paragraph 14 of schedule B1 to IA 1986 applies to the floating charge created by clause 3.1.

**4. Conversion of floating charge**

- 4.1 The Lender may at any time, by notice to the Borrower, convert the floating charge created by clause 3.1 into a fixed charge as regards all or any of the Charged Assets specified in the notice if:
- 4.1.1 the Lender considers that it would be desirable to do so in order to protect, preserve or supplement the charges over the Charged Assets or the priority of those charges; or
- 4.1.2 a Default Event occurs.
- 4.2 The floating charge created by clause 3.1 will, unless otherwise agreed in writing by the Lender, automatically and without notice be converted into a fixed charge in respect of any Charged Assets subject to it if:
- 4.2.1 the Borrower creates or attempts to create any Security Interest over those Charged Assets;
- 4.2.2 any person levies or attempts to levy any distress, attachment, execution or other legal process against any of those Charged Assets;
- 4.2.3 the Borrower ceases to carry on business as a going concern; or
- 4.2.4 an Insolvency Event occurs.

- 4.3 Notwithstanding the provisions of clauses 4.1 and 4.2 the floating charge created by clause 3.1 will not be capable of conversion into a fixed charge solely as a result of:
- 4.3.1 the Borrower obtaining a moratorium for a voluntary arrangement under IA 1986; or
  - 4.3.2 anything done by or on behalf of the Borrower for the purpose of obtaining such a moratorium.
- 4.4 Any asset acquired by the Borrower after any crystallisation of the floating charge created under this Agreement that, but for that crystallisation, would be subject to a floating charge under this Agreement, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge

## **5. Restrictions**

The Borrower will not without the previous written consent of the Lender, not to be unreasonably withheld:

- 5.1 create or permit to arise any Security Interest over or other interest in the Charged Assets, except a lien arising by the operation of law in the ordinary course of business;
- 5.2 deal with the Borrower's book debts and other debts otherwise than by collecting them in the ordinary course of the Borrower's business and, in particular, the Borrower will not realise its book debts and other debts by means of block discounting, factoring or any other similar arrangement;
- 5.3 sell or otherwise dispose of the Charged Assets charged under clause 3.1 except in the ordinary course of business;
- 5.4 permit or agree to any variation of the rights attaching to the whole or any part of the Charged Assets; or
- 5.5 cause or permit to be done anything which may, in the reasonable opinion of the Lender, jeopardise or otherwise prejudice the value to the Lender of the Charged Assets.

## **6. Representations and warranties**

- 6.1 The Borrower represents and warrants to the Lender that:
- 6.1.1 it is duly incorporated and validly existing and in good standing under the laws of England and Wales or the jurisdiction of its incorporation, has appropriate power and authority to own its property and assets and carry on its business as presently conducted;
  - 6.1.2 it is absolutely, solely, legally and beneficially entitled to all the Charged Assets as at the date of this Agreement;
  - 6.1.3 it has not disposed of or agreed to dispose of the benefit of any of its right, title and interest in and to the Charged Assets;
  - 6.1.4 it has power to execute, deliver and perform its obligations under this Agreement and all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and performance of this Agreement;
  - 6.1.5 no permit licence approval or authorisation of any government or other authority or any third party is required by it in connection with the execution performance validity or enforceability of this Agreement;
  - 6.1.6 There is no prohibition on assignment or other material restriction relevant to the security created (or purported to be created) by this Agreement in any Relevant Agreement, Insurance or Relevant Account or any other agreement or instrument binding on the Borrower or its assets;
  - 6.1.7 the obligations imposed on it under this Agreement constitute legal, valid and binding obligations, are (and will continue to be) effective security over all and every part of the Charged assets in accordance with their terms, and are not



liable to be avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise;

- 6.1.8 the entry into and performance of the terms and conditions of this Agreement do not and will not contravene or conflict with its memorandum and articles of association, any law, statute, regulation or other instrument binding on it or any of its assets, or any agreement or document to which it is a party or is binding on it or any of its assets;
  - 6.1.9 it is not, nor with the giving of notice, lapse of time or satisfaction of any other condition would be, in breach of or in default under any agreement or document to which it is a party, or by which it or any part of its assets may be bound, which in the opinion of the Lender is likely to have a material adverse effect on the business, assets or financial condition of the Borrower or on its ability to perform fully its obligations under this Agreement;
  - 6.1.10 no litigation, arbitration or administrative proceeding is taking place, pending or to the knowledge of its officers threatened against the Borrower or any part of its undertaking, assets or revenues, which in the opinion of the Lender is likely to have a material adverse effect on the business, assets or financial condition of the Borrower or on its ability to perform fully its obligations under this Agreement;
  - 6.1.11 no charges or other encumbrances in the nature of a Security Interest exist on the Charged Assets other than any charges or encumbrances in favour of the Lender, liens arising by operation of law and hire purchase, leasing and credit sale agreements relating to motor vehicles and plant, equipment and fixtures and fittings owned or used by the Borrower;
  - 6.1.12 all of the written information supplied by or on behalf of the Borrower to the Lender is true, complete and not misleading;
  - 6.1.13 it has, at all times, complied in all material respects with all applicable Environmental Law;
  - 6.1.14 it holds and/or is in compliance with all registrations, licences, permits, consents or other authorisations and all applicable laws and regulations, including environmental laws and regulations, necessary for or required for the conduct of its business; and
  - 6.1.15 it is in compliance with all the terms and conditions of this Agreement.
- 6.2 The representations and warranties in clause 6.1 are continuing representations and warranties and will be deemed to be repeated on each day by reference to the then existing circumstances, until all the Secured Liabilities have been repaid or discharged in full.

## **7. General undertakings**

- 7.1 The undertakings set out in this Agreement will remain in force until all the Secured Liabilities have been repaid or discharged in full.
- 7.2 The Borrower will:
  - 7.2.1 comply with all requirements of any authority and any legal obligations relating to the Charged Assets;
  - 7.2.2 supply the Lender with such information and documents relating to the Charged Assets as the Lender may require;
  - 7.2.3 keep all tangible Charged Assets in good and substantial repair and condition;
  - 7.2.4 where it is uneconomic to repair any of the Charged Assets, replace it by another similar asset of equal or greater quality and value;
  - 7.2.5 comply with any restrictive and other covenants affecting any of the Charged Assets, and where a Charged Asset is subject to a lease or tenancy agreement, the Borrower will enforce the performance of the lessee's obligations and will

not agree to any material waiver or variation of the terms of that lease or tenancy agreement; and

7.2.6 punctually pay all rents, rates, Taxes and other outgoings in respect of the Charged Assets.

## **8. Insurance**

8.1 The Borrower will:

- 8.1.1 insure and keep insured the Charged Assets with reputable insurers previously approved by the Lender in such a manner as is reasonable for a company engaged in a similar business to the Borrower; ensure that the interest of the Lender is noted on all policies of Insurance in such a form as the Lender may require;
- 8.1.2 punctually make all premium and other payments necessary for maintaining the Insurance;
- 8.1.3 supply to the Lender, on request, copies of all policies and all receipts for premiums relating to the Insurance; and
- 8.1.4 immediately give notice to the Lender of any occurrence which gives rise or might give rise to a claim under the Insurance, and except with the prior written consent of the Lender, the Borrower will not agree to settlement of such a claim.

8.2 Any payments received under any Insurance will be deemed to be part of the Charged Assets and the Borrower will apply such payments in making good any loss or damage or, if the Lender requires, in discharging the Secured Liabilities.

## **9. Deposit of documents and title deeds**

The Borrower will deposit with the Lender for the term of this Agreement, all deeds and documents of title relating to any of the Charged Assets, together with such duly executed transfers or assignments as the Lender may reasonably request.

## **10. Book debts account**

- 10.1 The Borrower will, upon the Lender's request, pay the proceeds of its book debts into an account specified in writing by the Lender and will not, except with the prior written consent of the Lender, withdraw any money from that account.
- 10.2 The Borrower will, upon the Lender's request, execute a legal assignment of its book debts to the Lender in such terms as the Lender requires.

## **11. Shares and Derivative Assets**

- 11.1 The Borrower will deposit with the Lender all certificates or documents of title in respect of the Shares and Derivative Assets, together with an executed instrument of transfer in blank in such form as the Lender may require.
- 11.2 Without prejudice to clause 5.5, for so long as no Default Event has occurred, the Borrower may:
  - 11.2.1 receive and retain all dividends, interest and other income deriving from and received by it in respect of the Shares and Derivative Assets; and
  - 11.2.2 exercise all voting and other rights and powers attached to the Shares and Derivative Assets.
- 11.3 Following the occurrence of a Default Event:
  - 11.3.1 all dividends, interest and other income forming part of the Shares or the Derivative Assets will be paid without any set-off or deduction to the Lender; and
  - 11.3.2 the Borrower will procure the registration in the books of the relevant company of the transfer of the Shares and the Derivative Assets to the Lender, the entry

of the Lender in the register of members of the company, and the issue of new share certificates in respect of the Shares and the Derivative Assets to the Lender.

- 11.4 The Lender will have no duties with respect to the Shares and will incur no liability for:
- 11.4.1 ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters in relation to any Shares or Derivative Assets;
  - 11.4.2 taking any necessary steps to preserve rights against prior parties or any other rights relating to any Shares or Derivative Assets; or
  - 11.4.3 any failure to present any interest, coupon or any bond or stock drawn for repayment or any failure to pay any call or instalment or to accept any offer or to notify the Borrower of any such matter or any failure to ensure that correct amounts are paid or received in respect of the Shares or Derivative Assets.
- 11.5 The Lender may provide for the safe custody by third parties of all stock and share certificates and documents of title deposited with the Lender at the expense of the Borrower and will not be responsible for any loss of or damage to any such certificates or documents.

## **12. Default Events**

Each of the following constitutes a Default Event:

- 12.1 the Borrower fails to pay any of the Secured Liabilities upon its due date, unless the Lender is satisfied that such non-payment is due solely to administrative or technical delays in the transmission of funds which are not the fault of the Borrower and payment is made within two Business Days of its due date;
- 12.2 the Borrower or any other person liable in respect of the Secured Liabilities fails to perform or comply with any of its material obligations under any Finance Document, other than those specified in clause 12.1, unless the failure or non-compliance is capable of remedy and is remedied within five Business Days of the date of the failure or default;
- 12.3 any representation or warranty made by the Borrower, or any other person liable in respect of the Secured Liabilities, under any Finance Document or in any notice, certificate, instrument or statement contemplated by or made pursuant to any Finance Document is, or proves to be, untrue or incorrect in any material respect when made or deemed to be repeated unless the circumstances of the default are capable of remedy and are remedied within five Business Days of the date on which the Lender gives notice requiring such remedy;
- 12.4 any Indebtedness of the Borrower is not paid when due or becomes prematurely payable or capable of being prematurely declared payable, or a Security Interest over any assets or property of the Borrower becomes enforceable or capable of being enforced;
- 12.5 if, in relation to the Borrower or any other person liable in respect of the Secured Liabilities:
  - 12.5.1 a Receiver is appointed over its affairs or a mortgagee, chargee or other encumbrancer takes possession of the whole or any part of the Charged Assets;
  - 12.5.2 any petition is presented by or an order is made for or any formal steps (including the convening of a board or members' meeting) are taken in respect of its compulsory winding-up, or a meeting convened for the passing of a resolution for its voluntary winding-up;
  - 12.5.3 any enforcement of any security over any Charged Assets which is not paid within seven days;
  - 12.5.4 it is unable to pay its debts as they fall due within the meaning of section 123 IA 1986 (but disregarding the words "it is proved to that satisfaction of the court that" wherever it appears within that section) or admits in writing that it is so unable;

- 12.5.5 it convenes or holds a meeting of its creditors or commences negotiations with one or more of its creditors with a view to the general readjustment or rescheduling of all or any class of its indebtedness or gives notice to any of its creditors that it has suspended or intends to suspend payment of any of its debts;
- 12.5.6 it has any Charged Assets seized by or on behalf of creditors unless they are released from seizure within seven days;
- 12.5.7 it proposes, or its directors make a proposal for, an arrangement or composition with or for the benefit of its creditors, including a voluntary arrangement under part I of IA 1986;
- 12.5.8 it obtains a moratorium in accordance with section 1A, IA 1986 and schedule A1 to IA 1986 in respect of its indebtedness or anything is done by it or on its behalf for the purposes of obtaining a moratorium;
- 12.5.9 an application is made to the court for an administration order for or a notice of intention is issued or any other formal step (including the convening of a board or members' meeting) is taken with a view to appointing an administrator under paragraph 12(2) or 26 of schedule B1 to IA 1986;
- 12.5.10 it is struck off the register of companies; or
- 12.5.11 any similar or analogous event to those specified in clauses 12.5.1 to 12.5.10 above occurs under the laws of any jurisdiction whatsoever in respect of it;
- 12.6 the Borrower or any other person liable in respect of the Secured Liabilities ceases or threatens to cease to carry on a material part of the business it carries on at the date of this Agreement or enters into any new or unrelated business;
- 12.7 ..... LIMITED ceases to be under the control of ..... or ..... ceases to own at least ..... per cent. of the issued share capital of the Borrower;
- 12.8 the Borrower fails to comply in any material respect with any Environmental Law or other law or fails to renew or comply with any licence permit consent or other authorisation required for the conduct of its business or any such licence permit consent or other authorisation is revoked, cancelled or suspended; or
- 12.9 any circumstances arise which in the reasonable opinion of the Lender give grounds for belief that the Borrower or any other person liable in respect of the Secured Liabilities may not, or may be unable to, perform or comply with any of its obligations under any Finance Document.

### 13. Enforcement

- 13.1 On the occurrence of a Default Event, the Lender may exercise all the powers conferred on mortgagees by LPA 1925 (as varied or extended by this Agreement), all the powers conferred as the holder of a qualifying floating charge (as defined in paragraph 14 of schedule B1 to IA 1986) and, without limiting such powers or any of the rights and powers of the Lender conferred by this Agreement, may by written notice to the Borrower:
  - 13.1.1 declare all or any part of the Secured Liabilities to be immediately due and payable, together with all accrued interest and any other sums then owed by the Borrower and, upon that declaration, the sums will become immediately due and payable;
  - 13.1.2 declare all or any part of the Secured Liabilities to be due and payable on demand by the Lender;
  - 13.1.3 exercise all or any of its rights created by this Agreement; and/or
  - 13.1.4 declare the security constituted by this Agreement to be enforceable.

- 13.2 Notwithstanding the provisions of clause 13.1 the security constituted by this Agreement will not become enforceable solely as a result of:
- 13.2.1 the Borrower (or any other person liable) obtaining a moratorium in respect of a voluntary arrangement under IA 1986; or
  - 13.2.2 anything done by or on behalf of the Borrower for the purpose of obtaining such a moratorium.
- 13.3 For the purposes of all powers implied by statute including, without limitation, the power of sale and other powers under section 101 LPA 1925, the Secured Liabilities will be deemed to have become due when the security created by this Agreement becomes enforceable.
- 13.4 Sections 93, 103 and 109 LPA 1925 do not apply to this Agreement.
- 13.5 The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender to lease, make arrangements for leases, accept surrender of leases and grant options on such terms as the Lender thinks fit. The Lender is not obliged to comply with any of the provisions of section 99 or 100 LPA 1925.
- 13.6 To the extent that Charged Assets constitute Financial Collateral and are subject to a Security Financial Collateral Arrangement created by or pursuant to this Agreement, the Lender shall have the right, at any time after this Agreement becomes enforceable, to appropriate all or any part of those Charged Assets in or towards the payment or discharge of the Secured Liabilities. The value of any Charged Assets appropriated in accordance with this clause 13.6 shall be the price of those Charged Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Lender may select (including independent valuation). The Borrower agrees that the methods of valuation provided for in this clause 13.6 are commercially reasonable for the purpose of Regulation 18 of the Financial Collateral Regulations. To the extent that Charged Assets constitute Financial Collateral, the Borrower agrees that such Charged Assets shall be held or redesignated so as to be under the control of the Lender for all purposes of the Financial Collateral Regulations.

#### **14. Appointment of Receiver or administrator**

- 14.1 At any time after the security constituted under this Agreement has become enforceable, the Lender may, by instrument in writing (and in accordance with and to the extent permitted by applicable laws), appoint one or more persons as:
- 14.1.1 a Receiver of all or any of the Charged Assets; and/or
  - 14.1.2 an administrator of the Borrower.
- 14.2 Where more than one Receiver is appointed they will have power to act separately unless the appointment by the Lender otherwise specifies.
- 14.3 The Lender may fix and pay the fees of any Receiver but the Receiver will be the agent of the Borrower and the Borrower will be solely responsible for the acts, defaults and remuneration of the Receiver or Receivers.
- 14.4 Any Receiver or administrator appointed under this Agreement will, in addition to all powers conferred on him by LPA 1925 and IA 1986 and all powers conferred from time to time by statute, have power to do anything which an absolute owner could do in the management of such of the Charged Assets over which such Receiver or administrator is appointed and, in particular (where relevant):
- 14.4.1 to take possession of and generally manage the Charged Assets and any business of the Borrower;
  - 14.4.2 to carry out on any freehold or leasehold property of the Borrower any new works or complete any unfinished works of building, reconstruction, maintenance, furnishing or equipment;
  - 14.4.3 to purchase or acquire any land or other property and purchase, acquire, grant or release any interest in or right over land or the benefit of any covenants, positive or restrictive, affecting land;

- 14.4.4 to sell, lease, surrender or accept surrenders of leases, charge or otherwise deal with, or dispose of, the Charged Assets without restriction including, without limitation, power to dispose of any fixtures separately from the land;
  - 14.4.5 to carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Borrower;
  - 14.4.6 to take, continue or defend any proceedings and enter into any arrangement or compromise;
  - 14.4.7 to insure the Charged Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds and give indemnities and security to any bondsmen;
  - 14.4.8 to call up any uncalled capital of the Borrower with all the powers conferred by the articles of association of the Borrower in relation to calls;
  - 14.4.9 to employ advisers, consultants, managers, agents, workmen and others;
  - 14.4.10 to purchase or acquire materials, tools, equipment, goods or supplies;
  - 14.4.11 to borrow any money and secure the payment of money in priority to the Secured Liabilities for the purpose of the exercise of any of his powers; and
  - 14.4.12 to do any other acts which the Receiver may consider to be incidental or conducive to any of his powers or to the realisation of the Charged Assets.
- 14.5 A Receiver or administrator will apply all money received, firstly in repayment of all expenses and liabilities of the Receiver or administrator and in payment of their respective fees, secondly towards satisfaction of the Secured Liabilities in such order as the Lender decides, and thirdly in payment of any surplus to the persons entitled to it.

#### **15. Exclusion of liability**

The Lender will not, whether as a result of taking possession of any of the Charged Assets or for any other reason (and whether as mortgagee in possession or on any other basis) be liable to the Borrower for any loss or damage arising from any act or default or any exercise or non-exercise of any power, authority or discretion conferred on the Lender by this Agreement in relation to the Charged Assets unless such loss or damage is caused by the Lender's fraud.

#### **16. Power to remedy**

- 16.1 The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this Agreement.
- 16.2 The Borrower irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.
- 16.3 Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this Agreement shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with the provisions of this Agreement.

#### **17. Power of attorney**

The Borrower, by way of security, irrevocably appoints the Lender (whether or not a Receiver or administrator has been appointed) and also (as a separate appointment) any Receiver or administrator severally to be the attorney of the Borrower, with full power of substitution and delegation, in the Borrower's name and on the Borrower's behalf and as the Borrower's act and deed to sign or execute all deeds, instruments and documents or take continue or defend any proceedings which may be required by the Lender or any Receiver or administrator pursuant to this Agreement or the exercise of any of their powers.

#### **18. Cumulative and continuing security and further assurance**

- 18.1 This Agreement is a continuing security to the Lender regardless of any intermediate payment, settlement or discharge of the whole or any part of the Secured Liabilities.

- 18.2 This Agreement is in addition to any other security, present or future, held by the Lender for the Secured Liabilities and will not merge with or prejudice such other security or any contractual or legal rights of the Lender.
- 18.3 The Borrower's liability under this Agreement shall not be affected by:
- 18.3.1 any Security Interest, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
  - 18.3.2 the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
  - 18.3.3 any other act or omission that, but for this clause 18.3, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.
- 18.4 The Borrower will, at its own cost, take whatever action the Lender or any Receiver may reasonably require for:
- 18.4.1 creating, perfecting or protecting the security intended to be created by this Agreement;
  - 18.4.2 facilitating the realisation of any Charged Asset; or
  - 18.4.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Charged Asset,
- 18.5 including, without limitation (if the Lender or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Charged Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **19. Release of security**

- 19.1 Upon the Lender being satisfied that the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full, and following a written request from the Borrower, the Lender will release the security provided for in this Agreement and reassign any intangible property assigned to it pursuant to clause this Agreement.
- 19.2 Any receipt, release or discharge of the security provided for in this Agreement or of any liability arising under it will not release or discharge the Borrower from any liability which may exist independently of this Agreement to the Lender.
- 19.3 Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:
- 19.3.1 the Lender or its nominee may retain this Agreement and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
  - 19.3.2 the Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

## **20. Protection of third parties**

- 20.1 No person dealing with the Lender or any Receiver will be concerned to enquire whether any power exercised or purported to be exercised by the Lender or any Receiver has become exercisable, or as to the propriety or regularity of any sale by the Lender or any Receiver.

- 20.1 All the protections to purchasers contained in sections 104 and 107 LPA 1925 and section 42(3) IA 1986 apply to any person dealing with the Lender or any Receiver.

**21. Prior security**

- 21.1 At any time after the security constituted by this Agreement has become enforceable, or after any powers conferred by any document containing a Security Interest having priority to this Agreement shall have become exercisable, the Lender may:
- 21.1.1 redeem that or any other prior Security Interest;
  - 21.1.2 procure the transfer of that Security Interest to it; and
  - 21.1.3 settle and pass any account of the holder of any prior Security Interest.
- 21.2 The settlement and passing of any such account passed shall, in the absence of any manifest error, be conclusive and binding on the Borrower. All monies paid by the Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from the Borrower to the Lender on current account and shall bear interest at the default rate of interest specified in the Mortgage Conditions and be secured as part of the Secured Liabilities.

**22. New account**

- 22.1 If the Lender receives notice of any subsequent Security Interest affecting the Charged Assets, the Lender may open a new account for the Borrower in its books.
- 22.2 If the Lender does not open such a new account, it will be deemed to have done so at the time when it received notice of the subsequent Security Interest and as from that time all payments made by the Borrower to the Lender will be treated as having been credited to the new account and will not operate to reduce the amount secured by this Agreement as at the time when the notice was received.

**23. Indemnity**

- 23.1 The Borrower will indemnify and keep indemnified the Lender, any Receiver or administrator and each employee, agent or attorney appointed pursuant to this Agreement from and against any and all expenses claims liabilities losses Taxes costs duties fees and charges suffered incurred or made by any of them:
- 23.1.1 in the exercise, preservation or enforcement of any rights, powers or discretions vested in them pursuant to this Agreement;
  - 23.1.2 on the release of any part of the Charged Assets from the security created by this Agreement; or
  - 23.1.3 Caused by the delay by the Borrower in performing any obligations under this Agreement.
- 23.2 The Lender, any Receiver or administrator or any agent or attorney may retain and pay all matters mentioned in clause 23.1 out of money received under the powers conferred by this Agreement. Any past or present employee, agent or attorney may enforce the terms of this clause 23 subject to and in accordance with the provisions of the Contract (Rights of Third Parties) Act 1999.

**24. Currency indemnity**

- 24.1 If any payment in connection with this Agreement is made or falls to be satisfied in a currency other than the currency in which the relevant payment is expressed to be payable, to the extent that the payment received by the Lender, at the rate of exchange, falls short of the amount expressed to be payable in connection with this Agreement, the Borrower will indemnify the Lender against the amount of that shortfall.
- 24.2 For the purposes of clause 24.1 **rate of exchange** means the rate at which the Lender on or about the date of the relevant payment is able to purchase the currency in which the payment is expressed to be payable and will take into account any premium and other costs of exchange.



**25. Costs**

The Borrower will pay to the Lender on demand all costs, fees and expenses, including, but not limited to, legal fees and expenses, and Taxes on such items incurred by the Lender or for which the Lender may become liable in connection with:

- 25.1 the negotiation, preparation and execution of this Agreement;
- 25.2 the preserving or enforcing of, or attempting to preserve or enforce, any of its rights under this Agreement;
- 25.3 any variation of or amendment or supplement to, any of the terms of this Agreement; and
- 25.4 any consent or waiver required from the Lender in relation to this Agreement.

**26. Payment**

- 26.1 All payments to be made by the Borrower under this Agreement will be paid in immediately available, freely transferable cleared funds to an account nominated from time to time by the Lender for this purpose.
- 26.2 The Borrower will make all payments under this Agreement without set-off or counterclaim and without withholding or deducting, except where required by law, any Taxes. If the Borrower is required by law to make any such withholdings or deductions, the Borrower will pay to the Lender additional amounts to ensure that the Lender receives a net amount equal to the full amount it would have received if no withholding or deduction had been required.
- 26.3 If the Borrower pays any additional amount to the Lender under clause 26.2 and the Lender effectively obtains a refund of tax or credit against tax by reason of such payment, the Lender will repay to the Borrower an amount equivalent to the tax credit.

**27. Application of proceeds and suspense account**

- 27.1 All monies received by the Lender, a Receiver or a delegate pursuant to this Agreement, after the security constituted by this Agreement has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:
  - 27.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, delegate, attorney or agent appointed by it) under or in connection with this Agreement, and of all remuneration due to any Receiver under or in connection with this Agreement;
  - 27.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines; and
  - 27.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.
- 27.2 Neither the Lender, any Receiver nor any delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.
- 27.3 All monies received by the Lender, a Receiver or a delegate under this Agreement:
  - 27.3.1 may, at the discretion of the Lender, Receiver or delegate, be credited to any suspense or securities realised account;
  - 27.3.2 whilst such monies are so held, they shall not be applied against the Secured Liabilities, but shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
  - 27.3.3 may be held in that account for so long as the Lender, Receiver or delegate thinks fit.

**28. Set-off**

In addition to any lien or right to which the Lender may be entitled by law, the Lender may, following a Default Event, without notice and both before and after demand, set off the whole or any part of the Secured Liabilities against any deposit or credit balance on any account of the Borrower with the Lender, whether or not that deposit or balance is due to the Borrower.

**29. Notices**

- 29.1 All communications to be made under this Agreement must be made in writing.
- 29.2 Any notices proceedings or other documents to be served on the Borrower pursuant to this Agreement must be addressed to the Borrower, marked for the attention of ..... or if dispatched by facsimile, to facsimile number ..... or at such other address or facsimile number in England as the Borrower may notify the Lender in writing.
- 29.3 Any notices proceedings or other documents to be served on the Lender pursuant to this Agreement must be addressed to the Lender, marked for the attention of the Customer Service Department at Magellan Homeloans, Ashcombe House, 5 The Crescent, Leatherhead, Surrey, KT22 8DY, or if dispatched by facsimile, to facsimile number 0330 335 5888, or at such other address or facsimile number in England as the Lender may notify the Borrower in writing.
- 29.4 Any notice to the Borrower is deemed to have been given:
- 29.4.1 if posted, on the second Business Day following the day on which it has been dispatched by first class mail, postage prepaid, and will be effective notwithstanding that it may be misdelivered or returned undelivered;
- 29.4.2 if sent by facsimile transmission and received on the day of transmission, during business hours, and if not so received, on the next Business Day during business hours; or
- 29.4.3 if delivered by hand during business hours, at the time of actual delivery or if not, on the next Business Day.
- 29.5 In proving service pursuant to clause 29.4, it will be sufficient to prove that personal delivery was made, or that the envelope containing the communication was correctly addressed and posted, or that a facsimile transmission report or other appropriate evidence was obtained that the facsimile had been transmitted to the addressee.
- 29.6 Any notices demands or other communication to be given by the Lender may be made by any person or firm acting as solicitor or solicitors for the Lender.
- 29.7 Any communication to the Lender is deemed to have been given only on actual receipt by the Lender.
- 29.8 For the purpose of this clause 29, **business hours** means between 9.00 a.m. and 5.30 p.m.

**30. Assignments**

- 30.1 This Agreement will be binding upon the respective heirs and successors of the parties.
- 30.2 The Borrower may not assign or transfer all or any part of its rights and/or obligations under this Agreement without the prior written consent of the Lender, not to be unreasonably withheld.
- 30.3 This Agreement and all or any of the rights and obligations under it may be assigned or transferred by the Lender. The Lender may also change its lending office without the consent of the Borrower. The Lender will notify the Borrower promptly following any change or assignment.

**31. General**

- 31.1 A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this Agreement (and any Finance Document) shall be, in the absence of any manifest error, conclusive evidence of the amount due.

- 31.2 The provisions of this Agreement and the rights and remedies of the parties under this Agreement are cumulative and are without prejudice and in addition to any rights or remedies at law or in equity. No exercise (or partial exercise) by a party of any one right or remedy under this Agreement, or at law or in equity will, except if the contrary is expressly stated, hinder or prevent the exercise by it of any such other right or remedy.
- 31.3 If the Lender considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Agreement.
- 31.4 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of any Facility Agreement and of any side letters between any parties in relation to such Facility Agreement are incorporated into this Agreement.
- 31.5 If any provision (or part of a provision) of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Agreement.
- 31.6 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one agreement.
- 31.7 The Lender and any Receiver, at any time and from time to time, may delegate by power of attorney or in any other manner to any person or persons all or any of the powers, authorities and discretions which are for the time being exercisable by the Lender or Receiver under this Agreement in relation to all or any part of the Charged Assets. Any such delegation may be made upon such terms and subject to such regulations as the Lender or Receiver may think fit. The Lender and the Receiver will not be in any way liable or responsible to the Borrower for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate.
- 31.8 Except as expressly provided in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this Agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 31.9 The construction, validity and performance of this Agreement are governed by the laws of England and the parties submit to the jurisdiction of the English courts.
- 31.10 The parties to this charge irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this charge or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause 31.10 shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.
- 31.11 Where the Borrower is incorporated in a jurisdiction outside of England and Wales the Borrower irrevocably appoints..... of ..... at ..... [INSERT FAX NO.] as its agent to receive on its behalf in England or Wales service of any proceedings under this Agreement. Such service shall be deemed to be completed on delivery to such agent (whether or not it is forwarded to and received by the Borrower) and shall be valid until such time as the Lender has received prior written notice from the Borrower that such agent has ceased to act as agent. If for any reason such agent ceases to be able to act as agent or no longer has an address in England or Wales, the Borrower shall forthwith appoint a substitute acceptable to the Lender and deliver to the Lender the new agent's name, address and fax number within England and Wales, failing which the Lender may select a substitute agent to receive on the Borrower's behalf service of any proceedings arising out of or in connection with this charge.

## Schedule 1

### Definitions and interpretation

(Clause 1)

1. In this Agreement, including the schedules, the following words and expressions have the following meanings:

<b>Business Day</b>	a day between Monday and Friday inclusive on which clearing banks are open in the City of London (provided that a Business Day shall only start at 9.00 a.m. and shall end at 5.30 p.m. on any such day).
<b>Charged Assets</b>	all the property and other assets of the Borrower which are charged under this Agreement (and a reference to <b>Charged Assets</b> shall include a reference to any part of them, and the term <b>Charged Asset</b> shall be construed accordingly).
<b>Default Event</b>	any event of default specified in clause 12 and any event (howsoever described) in any Facility Agreement or Loan Conditions which entitles the Lender to call for payment before the scheduled maturity date and/or enforce any Security Interest.
<b>Default Interest</b>	means any interest payable at the Default Rate.
<b>Default Rate</b>	the interest rate from time to time specified as a default rate (howsoever described) in the Facility Agreement or Loan Conditions.
<b>Derivative Assets</b>	all stocks, shares, warrants or other securities, rights, dividends, interest or other property accruing offered issued or deriving from or incidental to the Shares or any such Derivative Asset.
<b>Environment</b>	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
<b>Environmental Law</b>	all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.
<b>Facility Agreement</b>	any agreement creating indebtedness entered into by the Borrower from time to time and any agreement entered into under or supplemental to it or amending, restating or novating any such agreement.
<b>Financial Collateral</b>	shall have the meaning given to that expression in the Financial Collateral Regulations.
<b>Financial Collateral Regulations</b>	the Financial Collateral Arrangements (No.2) Regulations 2003 (S.I. 2003 No. 3226).
<b>Finance Document</b>	the Facility Agreement or the Loan Conditions or both, this Agreement, any other document in favour of the Lender creating a Security Interest or contract of guarantee or indemnity and any other agreement setting out the terms and conditions relating to any Secured Liabilities.
<b>IA 1986</b>	the Insolvency Act 1986.

<b>Indebtedness</b>	any obligation for the payment or repayment of money, whether present or future, actual or contingent, sole or joint.
<b>Insolvency Event</b>	any of the events specified in clause 12.5.
<b>Insurance</b>	the insurance of the Charged Assets referred to in clause 8.1.1.
<b>Investments</b>	all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any: (a) dividend, interest or other distribution paid or payable in relation to any of the Investments; and (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.
<b>Loan Conditions</b>	Any of the Lender's standard loan conditions from time to time in force.
<b>LPA 1925</b>	Law of Property Act 1925.
<b>Property</b>	Any real property charged under this Agreement.
<b>Receiver</b>	any receiver appointed over any Charged Assets whether under this Agreement or by order of the court on application by the Lender and includes a receiver and manager and an administrative receiver.
<b>Relevant Account</b>	.....
<b>Relevant Agreement</b>	.....
<b>Secured Liabilities</b>	all monies, obligations and liabilities of any kind and in any currency owed or incurred by the Borrower to the Lender, whether present or future, actual or contingent and whether incurred alone or jointly with another, together with the Lender's costs charges, commission and expenses.
<b>Security Financial Collateral Arrangements</b>	shall have the meaning given to that expression in the Financial Collateral Regulations.
<b>Security Interest</b>	any option, mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest, retention of title or other encumbrance of any kind securing, or any right conferring, a priority of payment in respect of any obligation of any person or a contractual right relating to shares or to any asset or liability.
<b>Shares</b>	all present and future shares, stocks, loan capital, securities, bonds and other investments (whether or not marketable) for the time being owned (at law or equity) by the Borrower.
<b>Taxes</b>	all present or future taxes, levies, duties, imports, charges, fees, deductions or withholdings of any nature which are imposed, levied, collected or withheld pursuant to any regulation having the force of law.

2. All references to a statutory provision include references to:

- 2.1 any statutory amendment, modification, consolidation or re-enactment of it, whether before or after the date of this Agreement, for the time being in force;

- 2.2 all statutory instruments, subordinate legislation or orders made pursuant to it; and
- 2.3 any statutory provision of which that statutory provision is a re-enactment or modification.
3. Words denoting the singular include the plural and vice versa, words denoting any gender include all genders and words denoting persons include corporations, partnerships, other unincorporated bodies and all other legal entities and vice versa.
4. A reference in this Agreement to this Agreement (or any provision of it) or to any other Finance Document or other agreement is a reference to this Agreement, that provision, that Finance Document or such other agreement or document as amended (in each case, other than in breach of the provisions of this Agreement) from time to time.
5. Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
6. a reference to an **amendment** (including the words **amend** and **amended**) includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly
7. The provisions of this Schedule apply unless the meaning attributed is inconsistent with the context of the relevant word or expression.
8. Unless otherwise stated, a reference to a clause, party or a schedule is a reference to respectively a clause in or a party or schedule to this Agreement.
9. A reference to a party shall include that party's successors, permitted assigns and permitted transferees and this Agreement shall be binding on, and enure to the benefit of, the parties to this Agreement and their respective successors, permitted assigns and permitted transferees.
10. The clause headings are inserted for ease of reference only and do not affect the construction of this Agreement.
11. If there is any conflict between the provisions of this Agreement and the provisions of a Facility Agreement, the provisions of the relevant Facility Agreement will prevail. If there is any conflict between the provisions of this Agreement and the provisions of the Lender's Loan Conditions, the provisions of this Agreement will prevail.

## Schedule 2

### Form of notice of assignment

#### PART 1

##### Form of notice

[On the letterhead of the Borrower]

[NAME OF COUNTERPARTY]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Floating Charge (Charge) dated [DATE] between [BORROWER] and [LENDER]**

We refer to the [DESCRIBE RELEVANT AGREEMENT] (Contract).

This letter constitutes notice to you that under the Charge [(a copy of which is attached)] we have [charged **OR** assigned, by way of security,] to Magellan Homeloans Limited (**Lender**) all our rights in respect of the Contract.

We confirm that:

- We will remain liable under the Contract to perform all the obligations assumed by us under the Contract.
- None of the Lender, any delegate appointed by the Lender or any receiver will at any time be under any obligation or liability to you under or in respect of the Contract.

Neither the Charge nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Contract.

Subject to the above, we will remain entitled to exercise all our rights, powers and discretions under the Contract and you may continue to deal with us in relation to the Contract and give notices under the Contract to us unless and until you receive written notice to the contrary from the Lender. Thereafter, all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Lender or as it directs and we will cease to have any right to deal with you in relation to the Contract and you must deal only with the Lender.

Please note that we have agreed that we will not amend or waive any provision of or terminate the Contract without the prior written consent of the Lender.

The instructions in this notice may only be revoked or amended with the prior written consent of the Lender.

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by sending the attached acknowledgement to the Lender at Magellan Homeloans, Ashcombe House, 5 The Crescent, Leatherhead, Surrey, KT22 8DY, with a copy to us.

This notice, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

Yours faithfully,

.....  
[NAME OF BORROWER]

## PART 2

### Form of acknowledgement

[On the letterhead of the counterparty]

[NAME OF LENDER]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

[POSTCODE]

[DATE]

Dear Sirs,

**Floating Charge (Charge) dated [DATE] between [BORROWER] and Magellan Homeloans Limited.**

We confirm receipt from [BORROWER] (**Borrower**) of a notice (**Notice**) dated [DATE] of [a charge **OR** an assignment, by way of security,] of all the Borrower's rights under [DESCRIBE RELEVANT AGREEMENT] (**Contract**).

Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- We accept the confirmations and instructions contained in the Notice and agree to comply with the Notice.
- There has been no amendment, waiver or release of any rights or interests in the Contract since the date of the Contract.
- We will not cancel, avoid, release or otherwise allow the Contract to lapse without giving the Lender at least 30 days' prior written notice.
- We have not, as at the date of this acknowledgement, received notice that the Borrower has assigned its rights under the Contract to a third party, or created any other interest (whether by way of security or otherwise) in the Contract in favour of a third party.
- The Lender will not in any circumstances have any liability in relation to the Contract.
- The Contract shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Lender.

This letter, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

Yours faithfully,

.....  
[COUNTERPARTY]



**EXECUTION PROVISIONS**

**BORROWER EXECUTION PROVISIONS**

Executed as a deed by

.....[BORROWER]

acting by a director and its

secretary or by two directors:

.....  
Director

.....  
Secretary/Director

[OR]

Executed as a deed by

.....[BORROWER]

acting by .....[NAME OF DIRECTOR],

.....

a director, in the presence of:

Director

Witness' signature:



Witness' name:

DAVID COLE

Address:

GEORGE, DAVIES & EVANS  
SOLICITORS  
CASTLE CHAMBERS  
GROSVENOR HILL, CARDIFAN  
SA43 1HX

Occupation:

SOLICITOR.

Executed as a deed  
by affixing the common seal of

.....[BORROWER]

in the presence of:

.....  
Director

.....  
Director/Secretary

Signed as a deed on behalf of .....[BORROWER], a company

.....  
Authorised signatory

incorporated in ....., by

.....[NAME[S] OF PERSON SIGNING],

being [a] person[s] who, in accordance

with the laws of that territory, [is] [OR]

[are] acting under the authority of the company:

.....  
Authorised signatory

**LENDER EXECUTION PROVISION**

**SIGNED** for and on behalf of

**MAGELLAN HOMELOANS LIMITED** by:

.....  
**SIGNATURE**

.....  
**PRINT NAME**