

MR01

Particulars of a charge

406417/23

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A fee is be payable with this form  
Please see 'How to pay' on the back of this form



**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 the charge  
instrument Use form MR08

MONDAY



\*L62437WR\*

LD3

13/03/2017

#74

COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 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 will be scanned and placed on the public record. **Do not send the original.**

1

**Company details**

Company number 1 0 2 0 0 9 9 9

Company name in full DOWNHAM ROAD LIMITED

For official use

→ **Filling 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 0 7 0 3 2 0 1 7

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 DOLPHIN SQUARE CHARITABLE TRUSTEE

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

MR01

Particulars of a charge

4

**Brief description**

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.

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

Brief description

5

**Other charge or fixed security**

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.

☒ 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 company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☐ Yes

☒ No

8

**Trustee statement <sup>1</sup>**

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

☐

<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06)

9

**Signature**

Please sign the form here

Signature

Signature

X  X

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 F Bramall PD/FBR/D1855/64

Company name Nabarro LLP

Address 125 London Wall

Post town London

County/Region

Postcode E C 2 Y 5 A L

Country

DX DX77 Chancery Lane London

Telephone 0207524 6000

### 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: 10200999

Charge code: 1020 0999 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th March 2017 and created by DOWNHAM ROAD LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th March 2017.

DX

Given at Companies House, Cardiff on 17th March 2017



**Companies House**



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

DATED 7<sup>th</sup> March 2017

DOWNHAM ROAD LIMITED  
as Chargor

and

DOLPHIN SQUARE CHARITABLE TRUSTEE  
as Chargee

and

THORNSETT GROUP PLC  
as Chargor's Guarantor

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SECURITY AGREEMENT

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N A B A R R O

125 London Wall  
London EC2Y 5AL

Tel +44 (0)20 7524 6000

WE CERTIFY the within to be a  
true copy of the original.

*Nabarro LLP*

Dated *13 March* 2017

File *D1855* NABARRO LLP

Ref *64* 125 London Wall  
London EC2Y 5AS

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## SECURITY AGREEMENT

DATE

7<sup>th</sup> Nov 2017

### PARTIES

- (1) **DOWNHAM ROAD LIMITED** incorporated and registered in England and Wales with company number 10200999 whose registered office is at 34 Margery Street London WC1X 0JJ (the "Chargor");
- (2) **DOLPHIN SQUARE CHARITABLE TRUSTEE** of 4<sup>th</sup> Floor, 11 Belgrave Road, London SW1V 1RB, a company limited by guarantee with company number 5442737, acting on behalf of **THE DOLPHIN SQUARE CHARITABLE FOUNDATION** of 4<sup>th</sup> Floor, 11 Belgrave Road, London, SW1V 1RB, a registered charity number 1110090 (the "Chargee"); and
- (3) **THORNSSETT GROUP PLC** incorporated and registered in England and Wales with company number 02420753 whose registered office is at 34 Margery Street London WC1X 0JJ (the "Chargor's Guarantor")

### BACKGROUND

- (A) The Chargor enters into this deed in connection with the Agreement (as defined below)
- (B) 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. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In this deed

**"Account"**

means any bank account of the Chargor,

**"Act"**

means the Law of Property Act 1925,

**"Agreement"**

means a development agreement dated on or around the date of this deed and made between (1) the Chargor, (2) the Chargee and (3) the Chargor's Guarantor,

**"Authorisation"**

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

**"Date of Practical Completion"**

has the same meaning as in the Agreement,

**"Enforcement Event"**

means any of the following events:

- (a) the exercise by the Chargee of any of its rights pursuant to clause 30.2 of the Agreement,
- (b) a failure by the Chargor to pay any Secured Liability of a financial nature when due and payable pursuant to the Agreement,
- (c) an Insolvency Event occurs in relation to the Company, or
- (d) a material breach by the Company of its obligations under this deed,

**"Insolvency Event"**

in respect of any person, means

- (a) any resolution is passed or order made for the winding up, dissolution, administration or reorganisation of that person, a moratorium is declared in relation to any indebtedness of that person or an administrator is appointed to that person,
- (b) any composition, compromise, assignment or arrangement is made with any of its creditors,
- (c) the appointment of any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that person or any of its assets, and
- (d) any event having a similar effect under the laws of any relevant jurisdiction,

**"Investments"**

means:

- (a) all shares in any entity owned by the Chargor or held by any nominee or trustee on its behalf, and
- (b) all other shares, stocks, debentures, bonds or other securities or investments owned by the Chargor or held by any nominee or trustee on its behalf,

**"Lease Document"**

means

- (a) an Occupational Lease, or
- (b) any other document designated as such by the Chargee and the Chargor,

**"Mortgaged Property"**

means all freehold or leasehold property included in the definition of Security Asset,



**"Occupational Lease"**

means any lease or licence or other right of occupation or right to receive rent to which the Mortgaged Property may at any time be subject and includes any guarantee of a tenant's obligations under the same;

**"Party"**

means a party to this deed,

**"Receiver"**

means a receiver or receiver and manager or administrative receiver, in each case appointed under this deed,

**"Rental Income"**

means the aggregate of all amounts paid or payable to or for the account of the Chargor in connection with the letting, licence or grant of other rights of use or occupation of any part of the Mortgaged Property, including each of the following amounts.

- (a) rent, licence fees and equivalent amounts paid or payable;
- (b) any sum received from any deposit held as security for performance of a tenant's obligations,
- (c) a sum equal to any apportionment of rent allowed in favour of the Chargor,
- (d) any other moneys paid or payable in respect of occupation and/or usage of the Mortgaged Property and any fixture and fitting on the Mortgaged Property including any fixture or fitting on the Mortgaged Property for display or advertisement, on licence or otherwise;
- (e) any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent,
- (f) any sum paid or payable, or the value of any consideration given, for the grant, surrender, amendment, supplement, waiver, extension or release of any Lease Document,
- (g) any sum paid or payable in respect of a breach of covenant or dilapidations under any Lease Document;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Lease Document,
- (i) any Tenant Contributions, and
- (j) any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by another person) by the Chargor,

**"Security"**

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

**"Security Asset"**

*means any asset of the Chargor which is, or is expressed to be, subject to any Security created by this deed,*

**"Secured Liabilities"**

*means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Chargor to the Chargee pursuant to the Agreement up to the Date of Practical Completion, except for any obligation which, if it were so included, would result in this deed contravening section 678 or 679 of the Companies Act 2006,*

**"Security Period"**

*means the period beginning on the date of this deed and ending on the Date of Practical Completion;*

**"Tenant Contributions"**

*means any amount paid or payable to the Chargor by any tenant under a Lease Document or any other occupier of the Mortgaged Property, by way of:*

- (a) contribution to:
  - (i) ground rent;
  - (ii) insurance premia,
  - (iii) the cost of an insurance valuation;
  - (iv) a service or other charge in respect of the Chargor's costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, the Mortgaged Property; or
  - (v) a reserve or sinking fund; or
- (b) VAT

**1.2 Construction**

- 1 2.1 Capitalised terms defined in the Agreement have the same meaning in this deed unless expressly defined in this deed
- 1 2.2 The provisions of **clause 2** of the Agreement apply to this deed as though they were set out in full in this deed except that references to the Agreement will be construed as references to this deed
- 1 2 3 Unless a contrary indication appears, a reference in this deed to
  - (a) any "**rights**" in respect of an asset includes
    - (i) all amounts and proceeds paid or payable,
    - (ii) all rights to make any demand or claim, and
    - (iii) all powers, remedies, causes of action, security, guarantees and indemnities,

in each case in respect of or derived from that asset,

- (b) any share, stock, debenture, bond or other security or investment includes:
  - (i) any dividend, interest or other distribution paid or payable;
  - (ii) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,

in each case in respect of that share, stock, debenture, bond or other security or investment; and

- (c) the term this "**Security**" means any Security created by this deed.

1 2 4 Any covenant of the Chargor under this deed (other than a payment obligation which has been discharged) remains in force during the Security Period.

1 2 5 The terms of any other agreement or instrument between any Parties are incorporated in this deed to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any freehold or leasehold property contained in this deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

1.2 6 If an amount paid to the Chargee is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this deed

1 2.7 Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.

### 1 3 Third party rights

1 3.1 Unless expressly provided to the contrary, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this deed

1.3.2 The consent of any person who is not a Party is not required to rescind or vary this deed at any time

1 3 3 Any Receiver may enforce and enjoy the benefit of any clause which expressly confers rights on it, subject to **clause 1 3 2** and the provisions of the Contracts (Rights of Third Parties) Act 1999

## 2. CREATION OF SECURITY

### 2.1 General

2 1 1 The Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Agreement

2 1 2 All the security created under this deed.

- (a) is created in favour of the Chargee,
- (b) is created over present and future assets of the Chargor,
- (c) is security for the payment of all the Secured Liabilities, and
- (d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994

## **2.2 Land**

### **2.2.1 The Chargor charges.**

- (a) by way of a first legal mortgage all estates or interests in any freehold or leasehold property now owned by it, this includes the real property (if any) specified in **Schedule 1 (Real Property)**, and
- (b) (to the extent that they are not the subject of a mortgage under **clause 2.2.1(a)** above) by way of a first fixed charge all estates or interests in any freehold or leasehold property now or subsequently owned by it

### **2.2.2 A reference in this clause 2 to a mortgage or charge of any freehold or leasehold property includes**

- (a) all buildings, fixtures, fittings and fixed plant and machinery on that property, and
- (b) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that property or any moneys paid or payable in respect of those covenants

## **2.3 Investments**

The Chargor.

### **2.3.1 mortgages by way of a first legal mortgage all shares owned by it or held by any nominee or trustee on its behalf, and**

### **2.3.2 (to the extent that they are not the subject of a mortgage under clause 2.3.1) charges by way of a first fixed charge its interest in all its Investments**

## **2.4 Plant and machinery**

To the extent that they are not the subject of a mortgage or a first fixed charge under **clause 2.2 (Land)**, the Chargor charges by way of a first fixed charge all plant and machinery owned by the Chargor and its interest in any plant or machinery in its possession

## **2.5 Credit balances**

The Chargor charges by way of a first fixed charge all of its rights in respect of any Account, any amount standing to the credit of any Account and the debt represented by it

## **2.6 Book debts etc.**

The Chargor charges by way of a first fixed charge

### **2.6.1 all of its book and other debts;**

### **2.6.2 all other moneys due and owing to it, and**

### **2.6.3 the benefit of all rights in relation to any item under clauses 2.6.1 to 2.6.2.**

## **2.7 Other contracts**

### **2.7.1 The Chargor**

- (a) assigns by way of security, subject to a proviso for re-assignment on redemption, all of its rights
  - (i) in respect of Rental Income;

- (ii) under each Lease Document,
    - (iii) under any guarantee of Rental Income contained in or relating to any Lease Document;
    - (iv) under any document, agreement or instrument to which it and any nominee or trustee is party in respect of an Investment
  - (b) charges by way of a first fixed charge all of its rights under any other document, agreement or instrument to which it is a party except to the extent that it is subject to any fixed security created under any other term of this **clause 2**
- 2.7.2 To the extent that they have not been effectively assigned under **clause 2.7 1(a)**, the Chargor charges by way of a first fixed charge all of its rights listed under **clause 2.7.1(a)**.
- 2 8 Miscellaneous**
- The Chargor charges by way of first fixed charge
- 2 8 1 its goodwill,
  - 2 8.2 the benefit of any Authorisation (statutory or otherwise) held in connection with its use of any Security Asset,
  - 2 8 3 the right to recover and receive compensation which may be payable to it in respect of any Authorisation referred to in **clause 2 8 2**,
  - 2.8.4 its uncalled capital, and
  - 2.8 5 the benefit of all rights in relation to any item under **clause 2 8 1 to 2 8 4**
- 2 9 Floating charge**
- 2 9.1 The Chargor charges by way of a first floating charge all its assets not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, fixed charge or assignment under this **clause 2**
  - 2 9 2 Except as provided below, the Chargee may by notice to the Chargor convert the floating charge created by this **clause 2 9 (Floating charge)** into a fixed charge as regards any of the Chargor's assets specified in that notice if.
    - (a) an Enforcement Event has occurred, or
    - (b) the Chargee considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.
  - 2 9 3 The floating charge created by this **clause 2.9 (Floating charge)** may not be converted into a fixed charge solely by reason of:
    - (a) the obtaining of a moratorium, or
    - (b) anything done with a view to obtaining a moratorium,
 under section 1A of the Insolvency Act 1986
  - 2 9 4 The floating charge created by this **clause 2.9 (Floating charge)** will (in addition to the circumstances when this may occur under the general law) automatically convert into a fixed charge over all of the Chargor's assets if an administrator is appointed or the Chargee receives notice of an intention to appoint an administrator

2 9 5        The floating charge created by this clause 2 9 (*Floating charge*) is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986

### **3.    RESTRICTIONS ON DEALINGS**

#### **3.1        Security**

Except as expressly allowed under the Agreement or this deed, the Chargor must not create or permit to subsist any Security on any Security Asset other than

3 1 1        set-off arrangements entered into by the Chargor in the ordinary course of business, and

3 1 2        any lien arising by operation of law and in the ordinary course of trading

#### **3.2        Disposals**

Except as expressly allowed under the Agreement or this deed, the Chargor must not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any Security Asset

### **4.    LAND**

#### **4 1        Acquisitions**

If the Chargor acquires any freehold or leasehold property in England and Wales after the date of this deed it must

4.1 1        notify the Chargee immediately,

4.1 2        immediately on request by the Chargee and at the cost of the Chargor, execute and deliver to the Chargee a legal mortgage over that property in favour of the Chargee in any form which the Chargee may require; and

4 1 3

(a)    if the title to that freehold or leasehold property is registered at the Land Registry or required to be so registered, give the Land Registry written notice of this Security; and

(b)    if applicable, ensure that this Security is correctly noted against that title in the title register at the Land Registry

#### **4 2        Land Registry**

The Chargor consents to a restriction in the following terms being entered into on the Register of Title relating to any Mortgaged Property registered at the Land Registry

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [     ] in favour of [     ] referred to in the charges register or their conveyancer (Standard Form P)"

#### **4 3 Deposit of title deeds**

The Chargor must immediately.

- 4 3 1 deposit with the Chargee all deeds and documents necessary to show good and marketable title to any property referred to in **clause 4.1**.(the "**Title Documents**"),
- 4.3.2 procure that the Title Documents are held at the applicable Land Registry to the order of the Chargee; or
- 4 3 3 procure that the Title Documents are held to the order of the Chargee by a firm of solicitors approved by the Chargee for that purpose.

### **5. INVESTMENTS**

#### **5 1 Deposit**

The Chargor must immediately.

- 5.1.1 deposit with the Chargee, or as the Chargee may direct, all certificates and other documents of title or evidence of ownership in relation to its Investments, and
- 5 1 2 execute and deliver to the Chargee all share transfers and other documents which may be requested by the Chargee in order to enable the Chargee or its nominees to be registered as the owner of or otherwise obtain a legal title to its Investments

#### **5 2 Calls**

- 5 2.1 The Chargor must pay all calls or other payments due and payable in respect of any of its Investments
- 5 2 2 If the Chargor fails to do so, the Chargee may pay the calls or other payments in respect of any of its Investments on behalf of the Chargor. The Chargor must immediately on request reimburse the Chargee for any payment made by the Chargee under this **clause 5.2 (Calls)**

#### **5 3 Other obligations in respect of Investments**

- 5 3 1 The Chargor must promptly send a copy to the Chargee of, and comply with all requests for, information which is within its knowledge and which are made under any law or regulation or any similar provision contained in any articles of association or other constitutional document, or by any listing or other authority, relating to any of its Investments. If it fails to do so, the Chargee may elect to provide such information as it may have on behalf of the Chargor
- 5 3 2 The Chargor must comply with all other conditions and obligations assumed by it in respect of any of its Investments
- 5 3 3 The Chargee is not obliged to
  - (a) perform any obligation of the Chargor,
  - (b) make any payment,
  - (c) make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor, or

- (d) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this deed,  
in respect of any of its Investments

#### **5.4 Voting rights**

##### **5.4 1 Before this Security becomes enforceable:**

- (a) the voting rights, powers and other rights in respect of its Investments will be exercised:
  - (i) by the Chargor, or
  - (ii) if exercisable by the Chargee, in any manner which the Chargor may direct the Chargee in writing; and
- (b) all dividends, distributions or other income paid or payable in relation to any of its Investments shall be payable to an account of the Chargor.

##### **5 4 2 The Chargor must indemnify the Chargee against any loss or liability incurred by the Chargee as a consequence of the Chargee acting in respect of any of its Investments as permitted by this deed on the direction of the Chargor**

##### **5 4 3 After this Security has become enforceable, the Chargee may exercise (in the name of the Chargor and without any further consent or authority on the part of the Chargor) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Investment, any person who is the holder of any Investment or otherwise**

### **6. ACCOUNTS**

#### **6.1 General**

In this clause 6 **Account Bank** means a person with whom an Account of the Chargor is maintained.

#### **6 2 Book debts and receipts**

##### **6 2 1 The Chargor must get in and realise its**

- (a) Rental Income and other amounts due from tenants or any other occupiers of the Mortgaged Property; and
- (b) book and other debts and other moneys due and owing to it, in the ordinary course of its business

### **7. WHEN SECURITY BECOMES ENFORCEABLE**

#### **7 1 Enforcement Event**

This Security will become immediately enforceable if an Enforcement Event occurs and is continuing

#### **7 2 Discretion**

After this Security has become enforceable, the Chargee may enforce all or any part of this Security in any manner it sees fit



### **7.3 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act, as amended by this deed, will be immediately exercisable at any time after this Security has become enforceable

## **8. ENFORCEMENT OF SECURITY**

### **8.1 General**

8.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed

8.1.2 Section 103 of the Act (restricting the power of sale) and section 93 of the Act (restricting the right of consolidation) do not apply to this Security

8.1.3 The statutory powers of leasing conferred on the Chargee are extended so as to authorise the Chargee to lease, make agreements for leases, accept surrenders of leases and grant options as the Chargee may think fit and without the need to comply with any provision of section 99 or section 100 of the Act

### **8.2 No liability as mortgagee in possession**

Neither the Chargee nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable

### **8.3 Privileges**

The Chargee and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that section 103 of the Act does not apply

### **8.4 Protection of third parties**

No person (including a purchaser) dealing with the Chargee or a Receiver or its or his/her agents will be concerned to enquire

8.4.1 whether the Secured Liabilities have become payable,

8.4.2 whether any power which the Chargee or a Receiver is purporting to exercise has become exercisable or is being properly exercised,

8.4.3 whether any money remains due under the Agreement or this deed; or

8.4.4 how any money paid to the Chargee or to that Receiver is to be applied

### **8.5 Redemption of prior mortgages**

8.5.1 At any time after this Security has become enforceable, the Chargee may

(a) redeem any prior Security against any Security Asset, and/or

(b) procure the transfer of that Security to itself, and/or

- (c) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor

8.5.2 The Chargor must pay to the Chargee, immediately on demand, the costs and expenses incurred by the Chargee in connection with any such redemption and/or transfer, including the payment of any principal or interest

## 8.6 Contingencies

If this Security is enforced at a time when no amount is due under the Agreement but at a time when amounts may or will become due, the Chargee (or a Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

## 8.7 Financial collateral

8.7.1 To the extent that the Security Assets constitute "financial collateral" and this deed and the obligations of the Chargor under this deed constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the Chargee will have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

8.7.2 Where any financial collateral is appropriated

- (a) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation, or
- (b) in any other case, its value will be such amount as the Chargee reasonably determines having taken into account advice obtained by it from an independent commercial property adviser, investment bank or accountancy firm of national standing selected by it,

and the Chargee will give credit for the proportion of the value of the financial collateral appropriated to its use.

## 9. RECEIVER

### 9.1 Appointment of Receiver

9.1.1 Except as provided below, the Chargee may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:

- (a) this Security has become enforceable, or
- (b) the Chargor so requests to the Chargee at any time

9.1.2 Any appointment under clause 9.1 may be by deed, under seal or in writing under its hand

9.1.3 Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this deed

9.1 4 The Chargee 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 section 1A of the Insolvency Act 1986.

9.1 5 The Chargee may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Security Assets if the Chargee is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies

## 9 2 Removal

The Chargee may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

## 9 3 Remuneration

The Chargee may fix the remuneration of any Receiver appointed by it and the maximum rate specified in section 109(6) of the Act will not apply

## 9 4 Agent of the Chargor

9 4 1 A Receiver will be deemed to be the agent of the 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 Act. The Chargor alone is responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver

9 4 2 The Chargee will not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason

## 9 5 Relationship with Chargee

To the fullest extent allowed by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Chargee in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver

# 10. POWERS OF RECEIVER

## 10 1 General

10 1 1 A Receiver has all of the rights, powers and discretions set out below in this clause 10 in addition to those conferred on it by any law. This includes

10.1.2 in the case of an administrative receiver, all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986, and

10 1.3 otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986

10 1.4 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers

conferred on a Receiver under this deed individually and to the exclusion of any other Receiver

**10.2 Possession**

A Receiver may take immediate possession of, get in and realise any Security Asset.

**10.3 Carry on business**

A Receiver may carry on any business of the Chargor in any manner he/she thinks fit

**10.4 Employees**

10.4.1 A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this deed upon such terms as to remuneration or otherwise as he/she thinks fit.

10.4.2 A Receiver may discharge any person appointed by the Chargor.

**10.5 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he/she thinks fit

**10.6 Sale of assets**

10.6.1 A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he/she thinks fit

10.6.2 The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he/she thinks fit

10.6.3 Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Chargor

**10.7 Leases**

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

**10.8 Compromise**

A Receiver may 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 the Chargor or relating in any way to any Security Asset.

**10.9 Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he/she thinks fit

#### **10 10 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

#### **10 11 Subsidiaries**

A Receiver may form a subsidiary of the Chargor and transfer to that subsidiary any Security Asset.

#### **10.12 Delegation**

A Receiver may delegate his/her powers in accordance with this deed

#### **10.13 Lending**

A Receiver may lend money or advance credit to any person

#### **10.14 Protection of assets**

A Receiver may:

10.14.1 effect any repair or insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset,

10 14 2 commence and/or complete any building operation, and

10 14 3 apply for and maintain any planning permission, building regulation approval or any other Authorisation,

in each case as he/she thinks fit

#### **10 15 Other powers**

A Receiver may

10 15 1 do all other acts and things which he/she may consider necessary or desirable 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,

10.15 2 exercise in relation to any Security Asset all the powers, authorities and things which he/she would be capable of exercising if he/she were the absolute beneficial owner of that Security Asset, and

10 15 3 use the name of the Chargor for any of the above purposes

### **11. APPLICATION OF PROCEEDS**

11 1 All amounts from time to time received or recovered by the Chargee or any Receiver pursuant to the terms of this deed or in connection with the realisation or enforcement of all or part of this Security will be held by the Chargee and applied.

11 1 1 in payment of all costs, fees, taxes and expenses incurred by the Chargee or any Receiver in or pursuant to the exercise of the powers set out in this deed and all other outgoings properly payable by any Receiver,

- 11.1.2 in payment of remuneration to any Receiver,
- 11.1.3 in or towards payment to the Chargee of the Secured Liabilities, and
- 11.1.4 the balance (if any) will be applied as required by law
- 11.2 This application:
  - 11.2.1 is subject to the payment of any claims having priority over this Security; and
  - 11.2.2 does not prejudice the right of the Chargee to recover any shortfall from the Chargor.

## **12. EXPENSES AND INDEMNITY**

The Chargor must

- 12.1 immediately on demand pay to the Chargee the amount of all costs and expenses (including legal fees) incurred by the Chargee in connection with any breach by any person of any law or regulation, and
- 12.2 keep the Chargee indemnified against any failure or delay in paying those costs or expenses

## **13. DELEGATION**

### **13.1 Power of Attorney**

The Chargee or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion exercisable by it under this deed

### **13.2 Terms**

Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Chargee or that Receiver (as the case may be) may, in its discretion, think fit in the interests of the Chargee

### **13.3 Liability**

Neither the Chargee nor any Receiver shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate

## **14. FURTHER ASSURANCES**

- 14.1 The Chargor must promptly, at its own expense, take whatever action the Chargee or a Receiver may require for.
  - 14.1.1 creating, perfecting or protecting any security over any Security Asset; or
  - 14.1.2 facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Chargee or any Receiver or any of their respective delegates or sub-delegates in respect of any Security Asset

- 14 2 The action that may be required under **clause 14** includes:
- 14 2 1 the execution of any mortgage, charge, transfer, conveyance, assignment or assurance of any asset, whether to the Chargee or to its nominees, or
- 14 2.2 the giving of any notice, order or direction and the making of any filing or registration,
- which, in any such case, the Chargee may consider necessary or desirable.

## **15. POWER OF ATTORNEY**

The Chargor, by way of security, irrevocably and severally appoints the Chargee, each Receiver and any of their respective delegates or sub-delegates to be its attorney with the full power and authority of the Chargor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any obligation of the Chargor under or pursuant to this deed or generally for enabling the Chargee or any Receiver to exercise the respective powers conferred on them under this deed or by law, in all cases where the Chargor has failed to comply with such a request. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this **clause 15**.

## **16. MISCELLANEOUS**

### **16.1 Continuing Security**

This Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part

### **16 2 New Accounts**

- 16.2.1 If any subsequent charge or other interest affects any Security Asset, the Chargee may open a new account with the Chargor
- 16.2 2 If the Chargee does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- 16 2 3 As from that time all payments made to the Chargee will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability

## **17. RELEASE**

The Chargee will promptly at the request and cost of the Chargor following the Date of Practical Completion (and provided that the Chargee is not at that point enforcing its Security) take whatever action is necessary to release the Security Assets from this Security

**18. GOVERNING LAW**

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

**19. CHARGOR'S GUARANTOR**

The Chargor's Guarantor consents to the provisions of this deed and agrees that its obligations contained in the Agreement continue in full force and effect.

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



## SIGNATORIES

## THE CHARGOR

Executed as a deed by  
**DOWNHAM ROAD LIMITED,**  
acting by **(Alan)**  
in the presence of **Wanda**

Director

Signature of witness.

Name (in BLOCK CAPITALS)

Address

## THE CHARGE

Executed as a deed by  
**DOLPHIN SQUARE**  
**CHARITABLE TRUSTEE,**  
acting by  
in the presence of:

**Director**

Signature of witness:

Name (in BLOCK CAPITALS)

### Address

