Companies House

MR01(ef)

Registration of a Charge

Company name: **MARILYN MIDCO 2 LIMITED**

Company number: **10854229**

Received for Electronic Filing: **10/10/2017**

X6GQKAO9

Details of Charge

Date of creation: **04/10/2017**

Charge code: **1085 4229 0001**

Persons entitled: **LLOYDS BANK PLC**

Brief description: **N/A**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **SHEARMAN & STERLING (LONDON) LLP**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10854229

Charge code: 1085 4229 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th October 2017 and created by MARILYN MIDCO 2 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th October 2017 .

Given at Companies House, Cardiff on 12th October 2017

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006

Companies House

THE OFFICIAL SEAL OF THE REGISTRAR OF COMPANIES

SHEARMAN & STERLING LLP

Dated 4 October 2017

MARILYN MIDCO 2 LIMITED

(Registered No. 10854229)

as the "**Assignor**"

in favour of

LLOYDS BANK PLC

as "**Security Agent**"

LOAN ASSIGNMENT

ABU DHABI | BEIJING | BRUSSELS | DUBAI | FRANKFURT | HONG KONG | LONDON | MENLO PARK | MILAN | NEW YORK
PARIS | ROME | SAN FRANCISCO | SÃO PAULO | SAUDI ARABIA* | SHANGHAI | SINGAPORE | TOKYO | TORONTO | WASHINGTON, DC

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THIS DEED is dated 4 October 2017 and made between:

(1) **MARILYN MIDCO 2 LIMITED**, a limited liability company incorporated in England and Wales with registered number 10854229 (the "**Assignor**"); and

(2) **LLOYDS BANK PLC**, a public company incorporated under the laws of England and Wales and with registration number 00002065 with its registered office at 25 Gresham Street, London, EC2V 7HN as security trustee for the Secured Parties (the "**Security Agent**").

Background

(A) The Assignor is entering into this Deed in connection with the Secured Debt Documents.

(B) The Board of Directors of the Assignor is satisfied that entering into this Deed is for the purposes and to the benefit of the Assignor and its business.

(C) The Security Agent and the Assignor intend this document to take effect as a deed (even though the Security Agent only executes it under hand).

(D) The Security Agent holds the benefit of this Deed on trust for the Secured Parties on the terms of the Intercreditor Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed, unless a contrary indication appears, terms used in the Intercreditor Agreement (as defined below) have the same meaning and construction and:

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

"**Assigned Contracts**" means the loan agreement dated 4 October 2017 between the Assignor and Bidco.

"**Bidco**" means Miller Homes Group Holdings plc (registered in England and Wales with company number 10854458).

"**Charges**" means all or any of the Security created or expressed to be created by or pursuant to this Deed.

"**Currency of Account**" means the currency in which the relevant indebtedness is denominated or, if different, is payable.

"**Declared Default**" means the occurrence of an Acceleration Event (as such term is defined in the Intercreditor Agreement).

"**Delegate**" means a delegate or sub-delegate appointed under Clause 8.3 (*Delegation*).

"**Event of Default**" means any Event of Default as defined in the Intercreditor Agreement.

"**Group Company**" means a member of the Group.

"**Insolvency Act**" means the Insolvency Act 1986.

"**Intercreditor Agreement**" means the intercreditor agreement dated on or about the date of this Deed and entered into between, among others, Bidco as the Company, the Assignor as the Original Holdco and Lloyds Bank plc as the RCF Agent and the Security Agent.

"**Law of Property Act**" means the Law of Property Act 1925.

"**Party**" means a party to this Deed.

"**Quasi-Security**" means a transaction under which the Assignor will:

(a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by the Assignor;

(b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

"**Receiver**" means a receiver and manager or other receiver appointed in respect of the Security Assets and shall, if allowed by law, include an administrative receiver.

"**Secured Obligations**" means all present and future obligations and liabilities of the Assignor (whether actual or contingent, whether owed jointly, severally or in any other capacity whatsoever and whether originally incurred by the Assignor or by some other person) to the Security Agent (whether for its own account or as trustee for the Secured Parties) or any of the other Secured Parties under or pursuant to each of the Secured Debt Documents including any liability in respect of any further advances made under the Secured Debt Documents, except for any obligation or liability which, if it were included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful, prohibited or invalid by or under any applicable law.

"**Secured Parties**" has the meaning given to such term in the Intercreditor Agreement.

"**Security**" means a mortgage, charge, pledge, lien, security assignment, security transfer of title or other security interest having a similar effect.

"**Security Assets**" means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets.

1.2 **Construction**

(a) Any reference in this Deed to a "Secured Debt Document" or any other agreement or instrument is a reference to that Secured Debt Document or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerous) or replaced and includes any change in the purpose of, any extension or substitution of or any increase in or change to any facility or the addition of any new facility under that Secured Debt Document or other agreement or instrument.

(b) The other provisions in clause 1.2 (*Construction*) of the Intercreditor Agreement apply to this Deed with all necessary changes.

(c) If there is any conflict between the Intercreditor Agreement and this Deed then (to the extent permitted by law) the provisions of the Intercreditor Agreement (as applicable) shall take priority over the provisions of this Deed.

1.3 **Third party rights**

(a) Unless expressly provided to the contrary in a Secured Debt Document, 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.

(b) Notwithstanding any term of any Secured Debt Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

1.4 **Disposition**

The terms of the other Secured Debt Documents and of any other agreement or instrument between the Parties are incorporated into each Secured Debt Document to the extent required for any disposition or purported disposition of all or any part of any Security Asset contained in any Secured Debt Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.5 **Permitted Transactions**

The terms of this Deed shall not operate or be construed so as to prohibit or restrict any transaction, matter or other step (or the Assignor taking or entering the same or dealing in any manner whatsoever in relation to any asset (including all rights, claims benefits, proceeds and documentation, and contractual counterparties in relation thereto)) not prohibited by the Secured Debt Documents and the Security Agent shall promptly enter into such documentation and/or take such other action as is required by the Assignor (acting reasonably) in order to facilitate any such transaction, matter or other step, including by way of executing any confirmation, consent to dealing, release or other similar or equivalent document, **provided that** any costs and expenses incurred by the Security Agent entering into such documentation and/or taking such other action at the request of the Assignor pursuant to this Clause 1.5 shall be for the account of the Assignor, subject to clause 24 (*Costs and Expenses*) of the Intercreditor Agreement.

1.6 **Limited Recourse**

Notwithstanding anything to the contrary in this Deed, the Security Agent (as trustee for the Secured Parties) irrevocably and unconditionally agrees that the Assignor shall only be liable for any claims the Security Agent or any other Secured Party may have under the Secured Debt Documents only to the extent of the Security Asset and any proceeds derived therefrom and accordingly the liability of the Assignor under this Deed and the other Secured Debt Documents shall not exceed and shall be limited to an amount equal to that received by the Security Agent as a result of the enforcement of the Security granted by the Assignor pursuant to this Deed in accordance with the terms of the Intercreditor Agreement. Any claim against the Assignor remaining unsatisfied after the realisation of the Security and the application of the proceeds thereof in accordance with the terms of the Intercreditor Agreement shall be extinguished and otherwise discharged in full and, thereafter, the Security Agent and each of the Secured Parties shall have (i) no further claim against the Assignor and (ii) no right to make any further claim against the Assignor in connection with the Secured Debt Documents.

2. **ASSIGNMENT**

(a) The Assignor, with full title guarantee and as security for the payment of all Secured Obligations, assigns absolutely (subject to the right to re-assignment on redemption pursuant to Clause 14.1 (*Final redemption*)) to the Security Agent (as trustee for the

Secured Parties) all its present and future right, title, interest and benefit in and to the Assigned Contracts, including all moneys payable to the Assignor, and any claims, awards and judgments in favour of the Assignor, under or in connection with the Assigned Contracts.

(b) To the extent that any right described in paragraph (a) above is not assignable or capable of assignment, the assignment of that right purported to be effected by in paragraph (a) shall operate as an assignment of any damages, compensation, remuneration, profit, rent or income which the Assignor may derive from that right or be awarded or entitled to in respect of that right.

(c) To the extent that they do not fall within in paragraph (a) or (b) above and are not effectively assigned under paragraph (a) or (b) above, the Assignor charges by way of first fixed charge all of its rights under each Assigned Contract.

3. RESTRICTIONS AND FURTHER ASSURANCE

3.1 Security

The Assignor shall not create or permit to subsist any Security or Quasi-Security over any Security Asset and/or assign the benefit of an Assigned Contract except (x) as permitted or not prohibited by any Secured Debt Document or (y) as otherwise agreed to in writing by the Security Agent.

3.2 Disposal

The Assignor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Security Asset except (x) as permitted or not prohibited by the Secured Debt Documents or (y) as otherwise agreed to in writing by the Security Agent.

3.3 Further assurance

(a) Subject to the terms of this Deed, the Assignor shall at its own expense promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):

(i) to perfect the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Agent or the Secured Parties provided by or pursuant to this Deed or by law; and

(ii) following the occurrence of a Declared Default which is continuing, to facilitate the realisation of the Security Assets.

(b) The Security Agent shall provide, and shall ensure that any Receiver or Delegate provides, any reasonable assistance required by the Assignor in order to fulfil its obligations under paragraph (a) above, including the execution of documents to be filed with any relevant registry, office or authority.

(c) Subject to the terms of this Deed, the Assignor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of the Charges.

4. ASSIGNED CONTRACTS

4.1 Assigned Contracts

(a) Until the occurrence of a Declared Default which is continuing the Assignor may deal with, amend, waiver or otherwise terminate an Assigned Contract subject to the terms of the Intercreditor Agreement and, for the avoidance of doubt, shall be entitled to receive the proceeds of any claim under the Assigned Contracts.

(b) Upon the occurrence of a Declared Default which is continuing, the Assignor shall promptly deliver to the Security Agent executed copies of all Assigned Contracts in effect and shall promptly execute and/or deliver such other documents relating to the Assigned Contracts as the Security Agent requires.

4.2 Notice of assignments in relation to the Assigned Contracts

The Assignor shall as soon as reasonably practicable but in any case within five (5) Business Days of the date of this Deed give notice of the assignments in Clause 2 (*Assignment*) in relation to the Assigned Contracts substantially in the form set out in Schedule 2 (*Form of Notice of Assignment*) and shall use its reasonable endeavours to ensure that each recipient of any notice signs and returns the relevant form of acknowledgement requested in that notice within twenty (20) Business Days of the notice being served, **provided that** if the service of such notice would prevent the Assignor from dealing with the receivables payable to it under any Assigned Contract in the course of its business no such notice shall be required to be served until the occurrence of a Declared Default which is continuing.

4.3 Assignor still liable

The Assignor shall remain liable to perform all its obligations under each Assigned Contract in accordance with the terms thereof. Neither the Security Agent nor any Receiver or Delegate shall be under any obligation or liability to the Assignor or any other person under or in respect of any Assigned Contract.

4.4 No variation etc.

Save as permitted or not prohibited under any Secured Debt Document, while a Declared Default is continuing, the Assignor shall not (in respect of paragraph (a) or (d) below, in any manner which could reasonably be expected to affect adversely the Secured Parties in any material respect):

(a) amend, supplement, vary or waive (or agree to amend, supplement, vary or waive) any provision of an Assigned Contract;

(b) exercise any right to rescind, cancel or terminate an Assigned Contract;

(c) release any counterparty from any obligations under an Assigned Contract;

(d) waive any breach by any counterparty or consent to any act or omission which would otherwise constitute such a breach; or

(e) except as provided in this Deed, novate, transfer or assign any of its rights under an Assigned Contract.

4.5 **Exercise of rights**

Until the Security created pursuant to Clause 2 (*Assignment*) of this Deed has become enforceable in accordance with Clause 5 (*Enforcement*), the Assignor shall be entitled to exercise all its rights under an Assigned Contract, subject to the other provisions of this Deed.

5. ENFORCEMENT

5.1 **When enforceable**

The Charges shall be immediately enforceable on and at any time after the occurrence of a Declared Default which is continuing.

5.2 **Enforcement action**

At any time after the Charges have become enforceable, the Security Agent may in its absolute discretion enforce all or any part of the Charges in any manner it sees fit or as directed by an Instructing Group in accordance with the terms of the Intercreditor Agreement.

5.3 **Law of Property Act powers**

At any time after the Charges have become enforceable, the powers, authorities and discretions conferred by the Law of Property Act on mortgagees, including the power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act, as varied and extended by this Deed, shall be immediately exercisable.

6. LAW OF PROPERTY ACT

6.1 **Section 101**

The power of sale and other powers conferred by section 101 (*Powers incident to estate or interest of mortgagee*) of the Law of Property Act on mortgagees, as varied and extended by this Deed, shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on the date of this Deed and shall be exercisable in accordance with Clause 5.3 (*Law of Property Act powers*).

6.2 **Section 103**

Section 103 (*Regulation of exercise of power of sale*) of the Law of Property Act shall not apply to this Deed.

6.3 **Section 93**

Section 93 (*Restriction on consolidation of mortgages*) of the Law of Property Act shall not apply to this Deed.

7. APPOINTMENT OF RECEIVERS AND ADMINISTRATORS

7.1 **Appointment of Receivers**

If:

(a) requested by the Assignor;

(b) the Charges have become enforceable; or

(c) following a Declared Default which is continuing (whether or not the Security Agent has taken possession of the Security Assets),

without any notice or further notice, the Security Agent may, by deed or otherwise in writing signed by any officer or manager of the Security Agent or any person authorised for this purpose by the Security Agent, appoint one or more persons to be a Receiver of all or any part of the Security Assets. The Security Agent may similarly remove any Receiver and appoint any person instead of any Receiver. If the Security Agent appoints more than one person as Receiver, the Security Agent may give those persons power to act either jointly or severally.

7.2 **Scope of appointment**

Any Receiver may be appointed Receiver of all of the Security Assets or Receiver of a part of the Security Assets specified in the appointment. In the latter case, the rights conferred on a Receiver as set out in Schedule 1 (*Rights of Receivers*) shall have effect as though every reference in that Schedule to any Security Assets were a reference to the part of those assets so specified or any part of those assets.

7.3 **Agent of Assignor**

Any Receiver shall be the agent of the Assignor for all purposes. The Assignor alone shall be responsible for the Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by the Receiver.

7.4 **Remuneration of Receivers**

The Security Agent may determine the remuneration of any Receiver and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the Law of Property Act shall not apply. The Security Agent may direct payment of that remuneration out of moneys it receives as Receiver. The Assignor alone shall be liable for the remuneration and all other costs, losses, liabilities and expenses of the Receiver.

8. RIGHTS AND LIABILITIES OF SECURITY AGENT AND RECEIVERS

8.1 **Rights of Receivers**

Any Receiver appointed pursuant to Clause 7 (*Appointment of Receivers and Administrators*) shall have:

(a) the rights set out in Schedule 1 (*Rights of Receivers*); and

(b) the rights, powers, privileges and immunities conferred by law, including:

(i) in the case of an administrative receiver, the rights, powers, privileges and immunities conferred by the Insolvency Act on administrative receivers duly appointed under the Insolvency Act; and

(ii) in all other cases, the rights, powers, privileges and immunities conferred by the Law of Property Act and the Insolvency Act on receivers or receivers and managers.

8.2 **Rights of Security Agent**

At any time after the Charges have become enforceable, to the fullest extent permitted by law, any rights conferred by any Secured Debt Document or by law upon a Receiver may be exercised by the Security Agent, whether or not the Security Agent shall have appointed a Receiver of all or any part of the Security Assets.

8.3 **Delegation**

At any time after the Charges have become enforceable, the Security Agent may delegate in any manner to any person any rights exercisable by the Security Agent under any Secured Debt Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Security Agent thinks fit and the Security Agent may pass confidential information to any such delegate.

8.4 **Financial collateral arrangement**

(a) To the extent that this Deed constitutes a "financial collateral arrangement" (as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "**Financial Collateral Regulations**")) the Security Agent shall have the right following a Declared Default which is continuing:

(i) to use and dispose of any Security Asset which constitutes "financial collateral" (as defined in the Financial Collateral Regulations ("**Financial Collateral**")) in such manner as it sees fit, in which case the Security Agent shall comply with any requirements of the Financial Collateral Regulations in relation to obtaining "equivalent financial collateral" (as defined in the Financial Collateral Regulations);

(ii) to set-off the value of any equivalent financial collateral against, or apply it in discharge of, any Secured Obligations in accordance with the Financial Collateral Regulations; and

(iii) at any time after the Charges have become enforceable, to appropriate any Security Asset which constitutes Financial Collateral in such manner as it sees fit in or towards satisfaction of the Secured Obligations in accordance with the Financial Collateral Regulations.

(b) If the Security Agent is required to value any equivalent financial collateral or Financial Collateral for the purpose of paragraph (a)(ii) or (a)(iii) above, the value shall be:

(i) in the case of cash, its face value at the time of appropriation or set-off; and

(ii) in the case of financial instruments or other Financial Collateral, their market value at the time of appropriation or set-off as determined (after appropriation) by the Security Agent by reference to a public index or other applicable generally recognised source or such other process as the Security Agent may select, including a valuation carried out by an independent investment bank, firm of accountants or other valuers appointed by the Security Agent,

as converted, where necessary, into the currency in which the Secured Obligations are denominated at a market rate of exchange prevailing at the time of appropriation or set-off selected by the Security Agent. The Parties agree that the methods of valuation set out in this paragraph (b) are commercially reasonable for the purpose of the Financial Collateral Regulations.

8.5 **Possession**

If the Security Agent, any Receiver or any Delegate takes possession of the Security Assets following a Declared Default which is continuing, it may at any time relinquish possession. Neither the Security Agent, any Receiver nor any Delegate shall be liable, by reason of viewing or repairing any of the present or future assets of the Assignor, as a mortgagee in possession.

9. ORDER OF DISTRIBUTIONS

Application of proceeds

All amounts received or recovered by the Security Agent or any Receiver or Delegate in exercise of their rights under this Deed shall, subject to the rights of any creditors having priority, be applied in the order provided in clause 17 (*Application of Proceeds*) of the Intercreditor Agreement.

10. LIABILITY OF SECURITY AGENT, RECEIVERS AND DELEGATES

10.1 Possession

If the Security Agent, any Receiver or any Delegate takes possession of the Security Assets, it or he may at any time relinquish possession.

10.2 Security Agent's liability

Neither the Security Agent nor any Receiver or Delegate shall (either by reason of taking possession of the Security Assets or for any other reason and whether as mortgagee in possession or otherwise) be liable to the Assignor, any Secured Party or any other person for any costs, losses, liabilities or expenses relating to the realisation of any Security Assets or from any act, default, omission or misconduct of the Security Agent, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Security Assets or in connection with the Secured Debt Documents except to the extent caused by its or his own gross negligence or wilful misconduct.

11. POWER OF ATTORNEY

11.1 Appointment

The Assignor by way of security irrevocably appoints the Security Agent, every Receiver and every Delegate severally as its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit:

(a) to do anything which the Assignor is obliged to do under any Secured Debt Document to which it is party but has failed to do under this Deed; and

(b) to exercise any of the rights conferred on the Security Agent, any Receiver or any Delegate in relation to the Security Assets or under any Secured Debt Document or under any law,

provided that the Security Agent, or any relevant Receiver or Delegate shall only be able to exercise the power of attorney granted under this Clause 11 if a Declared Default has occurred and is continuing or if the Assignor has not complied with its obligations under Clause 3.3 (*Further assurance*) within ten (10) Business Days of being notified by the Security Agent of that failure to comply with Clause 3.3 (*Further assurance*) and being requested to comply.

11.2 Ratification

The Assignor ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of the power of attorney granted by it in Clause 11.1 (*Appointment*).

12. PROTECTION OF THIRD PARTIES

No purchaser or other person dealing with the Security Agent, any Receiver or its agents shall be concerned to enquire:

(a) whether the powers conferred on the Security Agent, any Receiver or its agents have arisen;

(b) whether the powers conferred on the Security Agent, any Receiver or its agents have become exercisable;

(c) whether any consents, regulations, restrictions or directions relating to such powers have been obtained or complied with;

(d) whether the Security Agent, any Receiver or its agents is acting within such powers;

(e) whether any money remains due under the Secured Debt Documents and the receipt in writing of the Security Agent, any Receiver or its agents shall be sufficient discharge to that purchaser or other person;

(f) as to the propriety or validity of acts purporting or intended to be in exercise of any such powers; or

(g) as to the application of any money paid to the Security Agent, any Receiver or its agents.

13. SAVING PROVISIONS

13.1 Continuing security

Subject to Clause 14 (*Discharge of Security*), the Charges are continuing Security and will extend to the ultimate balance of the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.

13.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Assignor or Obligor or any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Assignor and Obligor and the Charges shall continue or be reinstated as if the discharge, release or arrangement had not occurred.

13.3 Waiver of defences

Neither the obligations of the Assignor under this Deed nor the Charges will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any Secured Debt Document or any of the Charges (without limitation and whether or not known to it or any Secured Party) including:

(a) any time, waiver or consent granted to, or composition with, the Assignor, Obligor or other person;

(b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Assignor,

Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Assignor, Obligor or any other person;

(e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Secured Debt Document or any other document or security (including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Secured Debt Document or other document or security);

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Secured Debt Document or any other document or security;

(g) any insolvency or similar proceedings; or

(h) any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any Obligor or other person under any Secured Debt Document resulting from any insolvency, liquidation or dissolution proceedings or from any law, regulation or order.

13.4 **Assignor intent**

Without prejudice to the generality of Clause 13.3 (*Waiver of defences*), the Assignor expressly confirms that it intends that the Charges shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Secured Debt Documents and/or any facility or amount made available under any of the Secured Debt Documents for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

13.5 **Immediate recourse**

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

13.6 **Appropriations**

Until all the Secured Obligations have been irrevocably paid in full and all facilities which might give rise to Secured Obligations have terminated, each Secured Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Assignor shall not be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any moneys received from the Assignor or on account of the Assignor's liability under this Deed.

13.7 **Deferral of Assignor's rights**

Until all the Secured Obligations have been irrevocably paid in full and all facilities which might give rise to Secured Obligations have terminated and unless the Security Agent otherwise directs, the Assignor will not exercise any rights which it may have by reason of performance by it of its obligations under the Secured Debt Documents or by reason of any amount being payable, or liability arising, under the Secured Debt Documents (in each case, unless permitted or otherwise not prohibited by the Intercreditor Agreement):

(a) to be indemnified by an Obligor;

(b) to claim any contribution from any guarantor of any Obligor's obligations under the Secured Debt Documents;

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

(d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Assignor had given a guarantee, undertaking or indemnity;

(e) to exercise any right of set-off against any Obligor; and/or

(f) to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If the Assignor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Secured Debt Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application in accordance with Clause 9 (*Order of distributions*).

13.8 **Additional Security**

(a) The Charges are in addition to and are not in any way prejudiced by any other guarantees or security now or subsequently held by any Secured Party.

(b) The Charges are in addition to and are not in any way prejudiced by any other guarantee or security now or subsequently held by any Secured Party.

14. **DISCHARGE OF SECURITY**

14.1 **Final redemption**

Subject to Clause 14.2 (*Retention of security*), if the Security Agent is satisfied that all the Secured Obligations have been irrevocably paid in full, or where the Assignor is entitled under the terms of the Intercreditor Agreement to request the release of all or any part of the Charges, the Security Agent shall at the request and cost of the Assignor irrevocably and unconditionally release, reassign or discharge (as appropriate) the Security Assets from the Charges without recourse to, or any representation or warranty by, the Security Agent or any of its nominees.

14.2 **Retention of security**

If the Security Agent, having taken appropriate legal advice, considers that any amount paid or credited to any Secured Party under any Secured Debt Document is capable of being avoided or

otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Obligations have been irrevocably paid.

15. PAYMENTS

15.1 Demands

Any demand for payment made by any Secured Party shall be valid and effective even if it contains no statement of the relevant Secured Obligations or an inaccurate or incomplete statement of them.

15.2 Payments

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

15.3 Continuation of accounts

At any time after:

(a) the receipt by any Secured Party of notice (either actual or otherwise) of any subsequent Security affecting the Security Assets of the Assignor (except for any subsequent Security permitted or otherwise not prohibited by the Intercreditor Agreement); or

(b) (except to the extent permitted or otherwise not prohibited by the Intercreditor Agreement) the presentation of a petition or the passing of a resolution in relation to the winding-up of the Assignor,

any Secured Party may open a new account in the name of the Assignor with that Secured Party (whether or not it permits any existing account to continue). If that Secured Party does not open such a new account, it shall nevertheless be treated as if it had done so when the relevant notice was received or deemed to have been received and as from that time all payments made by or on behalf of the Assignor to that Secured Party shall be credited or be treated as having been credited to the relevant new account and not as having been applied in reduction of the Secured Obligations as at the time the relevant notice was received or deemed to have been received. No moneys paid into any account, whether new or continuing, after that event shall discharge or reduce the amount recoverable pursuant to any Secured Debt Document to which the Assignor is party.

15.4 Contingencies

If all or any part of the Charges are enforced at a time when no amount is due under the Secured Debt Documents but any such amount may or will become due, the Security Agent or the Receiver may pay the proceeds of any recoveries effected by it into a suspense account.

16. CONDUCT OF BUSINESS BY THE SECURITY AGENT

No provision of this Deed will:

(a) interfere with the right of the Security Agent to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige the Security Agent to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige the Security Agent to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

17. CHANGES TO PARTIES

17.1 Assignment

(a) The Security Agent and any Secured Party may at any time assign or otherwise transfer all or any part of its rights under this Deed in accordance with and subject to the Secured Debt Documents. xx

(b) Subject to the provisions of the Secured Debt Documents, the Security Agent shall be entitled to disclose such information concerning the Assignor and this Deed as the Security Agent considers appropriate to any actual or proposed direct or indirect successor, or to any person to whom information may be required to be disclosed by any applicable law.

18. RIGHTS, AMENDMENTS, WAIVERS AND DETERMINATIONS

18.1 Ambiguity

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

18.2 Exercise of rights

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

18.3 Determinations

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

19. NOTICES

Any communication or document to be made or delivered under or in connection with this Deed shall be made or delivered in accordance with clause 27 (*Notices*) of the Intercreditor Agreement.

20. PARTIAL INVALIDITY

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

21. **COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

22. **GOVERNING LAW**

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

23. **JURISDICTION**

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").

(b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

(c) This Clause 23 is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

This Deed has been delivered on the date stated at the beginning of this Deed.

SCHEDULE 1
RIGHTS OF RECEIVERS

Any Receiver appointed pursuant to Clause 7 (*Appointment of Receivers and Administrators*) shall have the right, either in its own name or in the name of the Assignor or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit, and either alone or jointly with any other person:

(a) **Enter into possession**

to take possession of, get in and collect all or any part of the Security Assets, and to require payment to it or to any Secured Party of any Trade Receivables;

(b) **Bank Accounts**

to apply, transfer or set-off any or all of the credit balances from time to time on any Bank Account in or towards payment or other satisfaction of all or part of the Secured Obligations;

(c) **Carry on business**

to manage and carry on any business of the Assignor;

(d) **Contracts**

to enter into any contract or arrangement and to perform, repudiate, rescind or vary any contract or arrangement to which the Assignor is a party;

(e) **Deal with Security Assets**

to sell, transfer, assign, exchange, hire out, lend, licence or otherwise dispose of or realise all or any part of the Security Assets to any person either by public offer or auction, tender or private contract and for a consideration of any kind (which may be payable or delivered in one amount or by instalments or deferred);

(f) **Hive down**

to form a new company and to subscribe for or acquire (for cash or otherwise) any investment in or of the new company and to sell, transfer, assign, exchange and otherwise dispose of or realise any such investments or any rights attaching thereto;

(g) **Borrow money**

to borrow or raise money either unsecured or on the security of all or any part of the Security Assets (either in priority to the Charges or otherwise);

(h) **Lend money**

to lend money or advance credit to any person;

(i) **Covenants and guarantees**

to enter into bonds, covenants, guarantees, indemnities and other commitments;

(j) **Dealings with tenants**

to grant leases, tenancies, licences and rights of user, grant renewals and accept surrenders of leases, tenancies, licences or rights of user, and otherwise to reach agreements and make arrangements with, and to make allowances to, any lessees, tenants or other persons;

(k) **Rights of ownership**

to manage and use all or any part of the Security Assets and to exercise and do all such rights and things as the Receiver would be capable of exercising or doing if it were the absolute beneficial owner of all or any part of the Security Assets;

(l) **Protection of Security Assets**

to insure all or any part of the Security Assets, to carry out decorations, repairs, alterations, improvements and additions to all or any part of the Security Assets, to commence and/or complete any building operation, to apply for and maintain any planning permission, building regulation approval or any other authorisation and to purchase or otherwise acquire or do anything in connection with all or any part of the Security Assets;

(m) **Legal actions**

to bring, prosecute, enforce, defend and abandon actions, suits and proceedings relating to all or any part of the Security Assets or any business of the Assignor;

(n) **Claims**

to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or relating to all or any part of the Security Assets or any business of the Assignor;

(o) **Redemption of Security**

to redeem any Security (whether or not having priority to the Charges) over all or any part of the Security Assets and to settle the accounts of any person with an interest in all or any part of the Security Assets;

(p) **Employees**

to appoint, hire and employ officers, employees, contractors, agents, advisors and others and to discharge any such persons and any such persons appointed, hired or employed by the Assignor;

(q) **Delegation**

to delegate in any manner to any person any rights exercisable by the Receiver under any Secured Debt Document, and any such delegation may be made upon such terms and conditions (including power to sub-delegate) as it thinks fit, and to pass confidential information to any such delegate;

(r) **Insolvency Act**

to exercise all powers set out in Schedule 1, Schedule B1 or (in the case of a Scottish Receiver) Schedule 2 to the Insolvency Act as now in force (whether or not in force at the date of exercise and whether or not the Receiver is an administrative receiver) and any

powers added to that Schedule 1 or Schedule 2, as the case may be, after the date of this Deed;

(s) **Receipts**

to give a valid receipt for any moneys and do anything which may be necessary or desirable for realising all or any part of Security Assets; and

(t) **Other powers**

to do anything else it may think fit for the realisation of all or any part of the Security Assets or incidental to the exercise of any of the rights conferred on the Receiver under or by virtue of any Secured Debt Document to which the Assignor is party, the Law of Property Act or the Insolvency Act.

SCHEDULE 2
FORM OF NOTICE OF ASSIGNMENT

To: [*Party to an Assigned Contract*]

[Date]

Address:

1. [●] (the "**Security Agent**") and [●] (the " Assignor ") give notice that, by an assignment contained in a security document dated [●] 2017 between, amongst others, the Assignor and the Security Agent (the "**Deed**"), the Assignor assigned to the Security Agent (subject to a provision for re-assignment) all its present and future right, title and interest in and to the Assigned Contract listed below, including all moneys payable to the Assignor, and any claims, awards and judgments in favour of the Assignor, under or in connection with the Assigned Contract.

Assigned Contract

[*Describe the Contract*]

2. Unless and until you receive written notice from the Security Agent to the contrary, in which event you should make all future payments as then directed by the Security Agent, all moneys payable by you to the Assignor under or in connection with the Assigned Contract shall be paid in accordance with the Assigned Contract.

3. Despite the assignment referred to above or the making of any payment by you to the Security Agent under or in connection with it:

3.1 the Assignor shall remain liable to perform all its obligations under the Assigned Contract; and

3.2 neither the Security Agent nor any delegate or sub-delegate shall at any time be under any obligation or liability to you under or in respect of the Assigned Contract.

4. The Assignor shall remain entitled to exercise all its rights, powers and discretions under the Assigned Contract, and you should continue to give notices under the Assigned Contract to the Assignor, unless and until you receive written notice from the Security Agent specifying that a Declared Default has occurred and is continuing (but not at any other time). In that event, we irrevocably authorise and instruct you to comply with any written notice or instructions in any way relating to, or purporting to relate to, the Deed or the Assigned Contract or the debts represented thereby which you receive at any time from the Security Agent without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction.

5. You are hereby authorised and instructed, without requiring further approval from us, to provide the Security Agent with such information relating to the Assigned Contract as it may from time to time request and, following receipt of the written notice that a Declared Default has occurred and is continuing, to send copies of all notices issued by you under the Assigned Contract to the Security Agent as well as to us.

6. The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

7. This Notice of Assignment and your acknowledgement shall be governed by and construed in accordance with English law.

Please confirm your acknowledgement of this Notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to [[*insert name of Security Agent Legal Counsel*]] and to [[*insert name of Security Agent*]] marked for the attention of [●].

Acknowledgement

[On duplicate]

To: [•] [*insert Security Agent's details*]

We acknowledge receipt of the Notice of Assignment of which this is a copy and confirm each of the matters referred to therein.

.....

For and on behalf of
[*Party to Assigned Contract*]

SIGNATORIES

The Assignor

EXECUTED AS A DEED

By **MARILYN MIDCO 2 LIMITED**

[redacted]

Authorised Signatory

in the presence of

[redacted] *Signature of witness*

JULIE JACKSON *Name of witness*

MILLER HOUSE *Address of witness*

2 LOCHSIDE VIEW

EDINBURGH, EH12 9DH

LEGAL DIRECTOR *Occupation of witness*

Address: 2 Centro Place, Pride Park, Derby DE24 8RF
Email: julie.jackson@miller.co.uk
Attention: Company Secretary

The Security Agent

EXECUTED by)
)
Lloyds Bank plc)
acting by its authorised signatory)