



Registration of a Charge

Company Name: **239 KINGSWAY HOVE LTD**

Company Number: **13652388**



Received for filing in Electronic Format on the: **13/12/2021**

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Details of Charge

Date of creation: **02/12/2021**

Charge code: **1365 2388 0001**

Persons entitled: **PARAGON DEVELOPMENT FINANCE LIMITED**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **KATIE PAYNE, SOLICITOR, THOMSON SNELL & PASSMORE LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 13652388

Charge code: 1365 2388 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd December 2021 and created by 239 KINGSWAY HOVE LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th December 2021 .

Given at Companies House, Cardiff on 14th December 2021

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**

Dated 2 December 2021

(1) 239 KINGSWAY HOVE LTD
as Chargor

to

(2) PARAGON DEVELOPMENT FINANCE LIMITED
as Lender

**CHARGE OVER SHARES
BY DEED**

in respect of the shares in
Agenda S1 Ltd

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THIS CHARGE OVER SHARES IS MADE AS A DEED ON 2 DECEMBER 2021

BY

- (1) **239 KINGSWAY HOVE LTD** incorporated and registered in England and Wales with company number 13652388 whose registered office is at Cayuga House 2a, Addison Road, Hove, East Sussex, United Kingdom, BN3 1TN ("Chargor");

IN FAVOUR OF

- (2) **PARAGON DEVELOPMENT FINANCE LIMITED** (company number 03901943) whose registered office is at 51 Homer Road, Solihull, England B91 3QJ ("Lender")

BACKGROUND

- (A) The Lender has agreed to advance or to continue to advance monies or otherwise arrange credit or afford other financial facilities to the Borrower ("the Facility") relying on, among other security, the Security Interest created by this Deed.
- (B) The Chargor has agreed to charge its shares in St Peter's Street Developments Limited and certain related assets and rights as Security Interest to the Lender as set out in this Deed.

NOW THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed unless the context otherwise requires the following words and expressions shall have the following meanings:

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|-----------------------|---|
| "Act" | the Law of Property Act 1925. |
| "Borrower" | 239 KINGSWAY HOVE LTD incorporated and registered in England and Wales with company number 13652388 whose registered office is at Cayuga House 2a, Addison Road, Hove, East Sussex, United Kingdom, BN3 1TN. |
| "Charged Assets" | the Shares and all the Related Rights. |
| Company | Agenda S1 Ltd incorporated and registered in England and Wales with company number 08445610 whose registered office is at 61 North Street, Chichester, West Sussex, PO19 1NB |
| "Event of Insolvency" | in relation to a person, means:- <ol style="list-style-type: none">1. an encumbrancer takes possession of or a receiver, administrative receiver, liquidator, supervisor, compulsory manager, trustee, administrator or similar official is appointed over any of the person's assets or undertaking or an administration application is presented or made for the making of an administration order or a notice of intention to appoint an administrator under Schedule B1 to the Insolvency Act 1986 is issued by the person or in respect of the person by the holder of a |

qualifying floating charge (as defined in such Schedule) or a notice of appointment of an administrator is filed by any other person with the Court, or any judgment made against the person is not paid out, stayed or discharged within reasonable time but in any event no later than ten days; or

2. An order is made or an effective resolution is passed for the winding up or bankruptcy of the person or the person becomes insolvent or stops or threatens to stop payment of his debts generally or admits an inability to pay such debts as they fall due or an application is made in connection with a moratorium or a proposal to creditors for a voluntary arrangement is made by the person; or
3. any distress, execution, attachment, expropriation, sequestration or other legal process affects the whole or a material part of the assets of the person which is not discharged in full within ten days.

"Event of Default"

1. the Chargor or Obligor fails to pay any sum due under the Facility Letter or under any of the Finance Documents on its due date; or
2. the Chargor or Obligor defaults in the due performance or observance of any obligation accepted or undertaking given by them to the Lender or any material representation warranty or statement made or deemed made by them in or pursuant to the Facility Letter or any of the Finance Documents proves to be incorrect or misleading and such default has not been remedied, and for the avoidance of doubt, a remedy of such a default which is not to the Lender's satisfaction and effected within ten days after the occurrence or discovery of the default shall not prevent the Lender exercising all its rights arising on such default as if it had not been remedied; or
3. an Event of Insolvency occurs in relation to the Chargor or any Obligor;
4. the persons who now have control of the Chargor or the Obligor cease to have such control ("control" having the meaning ascribed to it in Section 840 of the Income and Corporation Taxes Act 1988) or voting control of the Borrower, the Chargor or the Obligor is acquired by any person, or company or group of connected persons (as defined in Section 839 of the Income and Corporation Taxes Act 1988) not previously having such control at the date of this Facility Letter; or

-
5. it becomes unlawful or impossible or contrary to the terms of any consent, authority or other lawful permission for the Chargor or the Obligor to continue to perform any of its obligations under the Facility Letter or the Finance Documents; or
 6. the Chargor or Obligor repays or purports to repay or otherwise discharge any indebtedness which is subordinated to the Lender's indebtedness.

"Facility Letter"

a facility letter dated 29 November 2021 addressed to the Borrower and accepted for and on behalf of the Borrower, and by each of Ed Deedman and Timothy Harding as Personal Guarantors (including the standard terms and conditions attached or referred to therein) for a loan facility of up to £18,012,000 to assist with the finance and approved costs incurred in connection with the acquisition of the property known as 239 Kingsway, Hove, BN3 4HE and the finance of the approved costs incurred in connection with the acquisition of Agenda S1 Ltd which owns the freehold interests in 241 and 243 Kingsway, BN3 4HE and any agreement entered into under or supplemental to it or amending, restating, refinancing, replacing or novating it.

"Finance Documents"

the Facility Letter and all documents entered into under or pursuant to it, including, without limitation, this Charge Over Shares;

"Obligor"

the Chargor, the Company and any guarantor of the Borrower's obligations to the Lender under the Facility Letter, or any other Finance Document.

"Party"

a party to this Deed and term "Parties" shall be construed accordingly.

"person"

includes, without limitation, a natural person, company, partnership, association incorporated or unincorporated, limited partnership, limited liability partnership, charitable incorporated organisation, co-operative and community benefit society, and any recognisable grouping of persons with an independent identity in England and Wales or elsewhere whether or not having separate legal personality.

"Receiver"

a receiver or receiver and manager appointed by the Lender under 8.2.1.

"Regulations"

the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing

into effect Directive 2002/47/EC on financial collateral arrangements.

| | |
|-----------------------|---|
| "Related Rights" | <p>in relation to any Shares, means</p> <ul style="list-style-type: none">(a) the proceeds of sale of any part of the Shares;(b) all warrants, options and other rights to subscribe or otherwise acquire the Shares;(c) all rights, powers, offers, benefits, claims, contracts, warranties, remedies, Security Interest, guarantees, indemnities or covenants for title in respect of the Shares; and(d) all monies and proceeds paid or payable, rights to dividend or other distribution in any form, to subscribe for further shares, whether in the Borrower or any other company, voting and representation rights and any other rights or advantages in whatever form whatsoever arising out of or in respect of the Shares, <p>both present and future (including all rights against any trustee, nominee, fiduciary or clearing system).</p> |
| "Secured Liabilities" | <p>all and any monies, obligations and liabilities which shall from time to time (and whether on or at any time after any demand or judgment) be due, owing or incurred from the Chargor and/or any Obligor to the Lender on any account whatsoever whether actual or contingent, present or future and whether solely or jointly with any other person and in whatever style or name and whether as principal or surety.</p> |
| "Security Interest" | <p>a mortgage, charge, assignment, pledge, lien, standard security, assignation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.</p> |
| "Shares" | <p>the existing or future interest of the Chargor in the shares of £ 1.00 each in the issued share capital of the Company including, without limitation, the following:-</p> <p>Chargor 2 Ordinary Shares</p> |
| "Security Trustee" | <p>Maureen Penfold and Tim Stovold acting in their capacity as the security trustee of the sellers of St Peter's Street Developments Ltd (to the Borrower) in relation to a second ranked debenture to be granted over the Charged Assets by the Borrower in favour of the Security Trustee.</p> |
| "Standard Conditions" | <p>the standard terms and conditions attached to, and/or referred to in, the Facility Letter.</p> |

1.2 Construction

- 1.2.1 Unless the contrary intention is expressed, all defined terms in the Facility Letter and the Standard Conditions have the same meaning here.
- 1.2.2 The construction and interpretation provisions set out in the Standard Conditions shall apply equally to this Deed.
- 1.2.3 If any provision of this Deed shall conflict with any term of the Facility Letter then the relevant term of the Facility Letter shall prevail.
- 1.2.4 Unless the contrary intention appears, references in this Deed to:
- (a) any party to this Deed shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (b) "in connection with", "under", "pursuant to", "by virtue of" and "in relation to" shall include each of the others;
 - (c) "insolvency" includes any of the following or any steps in relation to the following:
 - (i) any insolvency, bankruptcy, liquidation, reorganisation, administration, receivership or dissolution;
 - (ii) any voluntary arrangement or assignment for the benefit of creditors; or
 - (iii) any similar or analogous event in any jurisdiction whatsoever;
 - (e) an obligation on a Chargor to do something includes an obligation to procure that it is done and an obligation not to do something includes an obligation not to permit, suffer or allow it;
 - (f) references to this Deed or any other agreement, deed or document are references to them in force for the time being as amended, varied, novated, supplemented or consolidated from time to time;
 - (g) one gender, or the use of words, phrases or expressions which incorporate or imply one gender shall include all the genders; and
 - (h) the singular, or the use of words which incorporate or imply the singular, shall include the plural, unless the contrary intention is expressed, and vice versa.

2. COVENANT TO PAY

- 2.1 The Chargor shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.
- 2.2 Notwithstanding any other provision of the Finance Documents, but subject to compliance by the Chargor with all the terms of this Charge over Shares, it is expressly agreed and understood that:
- 2.2.1 the sole recourse of the Lender to the Chargor under this Deed is to the Chargor's interest in the Charged Assets; and
- 2.2.2 the liability of the Chargor to the Lender pursuant to or otherwise in connection with the Finance Documents shall be:
- (a) limited in aggregate to an amount equal to that recovered as a result of enforcement of this Deed with respect to the Charged Assets; and

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- (b) satisfied only from the proceeds of sale or other disposal or realisation of the Charged Assets pursuant to this Deed.

2.3 Waiver of defences

The obligations of the Chargor under, and the intended effect of this Deed shall not be affected by an act, omission, matter or thing which, but for this Clause 2.3, would reduce, release or prejudice any of its/his/their obligations under, or the intended effect of this Deed including (without limitation and whether or not known to it or the Lender):

- (a) any time, waiver or consent granted to, or composition with, the Borrower or any other person;
- (b) the release of the Borrower or any other person under the terms of any composition or arrangement with any of its creditors;
- (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 Interest over assets of, the Borrower or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security Interest;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, or an Event of Insolvency affecting, the Borrower or any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or the Secured Liabilities or any other document or Security Interest 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 Finance Document or other document or Security Interest;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security Interest; or
- (g) any insolvency or similar circumstances or proceedings.

2.4 Chargor's intent

Without prejudice to the generality of Clause 2.3 (Waiver of defences), the Chargor expressly confirms that he/it/they intend that this charge shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling 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 facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

2.5 Immediate recourse

The Chargor waives any right he/it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security Interest or claim payment from any person before claiming from it/him under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

2.6 Appropriations

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents have been irrevocably paid in full, the Lender (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other monies, Security Interest or rights held or received by the Lender (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 Borrower shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from the Chargor or on account of the Chargor's liability under this Clause 2 (Covenant to Pay).

2.7 Deferral of Chargor's rights

Until all amounts which may be or become payable by the Borrower under or in connection with the Finance Documents have been irrevocably paid in full and unless the Lender otherwise directs, the Chargor will not exercise any rights which he/it/they may have:

- (a)
- (b) to claim any contribution from any other guarantor of the Borrower's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or Security Interest taken pursuant to, or in connection with, the Finance Documents by the Lender;

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution on trust for the Lender to enable all Secured Liabilities to be repaid in full.

2.8 Additional Security Interest

The security created by or pursuant to the Deed is in addition to and is not in any way prejudiced by any other guarantee or Security Interest now or subsequently held by the Lender.

2.9 Independent Enforcement

The rights and abilities of the Lender to enforce any rights under or pursuant to this Deed against the Chargor shall not be limited or restricted in any way by or related to the circumstances of the Chargor or any actions or omissions of the Lender in respect of the Chargor.

3 SECURITY INTEREST

3.1 Fixed charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor charges to the Lender by way of first fixed charge

3.1.1 all the Shares in which he/it may, from time to time, have an interest; and

3.1.2 all Related Rights to those Shares;

including all rights of enforcement of the same.

3.2 Continuing Security

The security created by this Deed shall remain in full force and effect as a continuing security for the Secured Liabilities unless and until discharged by the Lender.

4. **PERFECTION OF SECURITY INTEREST**

4.1 Further assurance

The Chargor shall execute and do at his/its own cost and in such form as may be reasonably required by the Lender:

- (a) such further additional mortgages, charges, assignments, transfers and conveyances; and
- (b) such assurances, deeds, documents, acts and things, as the Lender may require to perfect or protect the Security Interests created or intended to be created by this Deed and/or to facilitate or effect any dealing with the Charged Assets in connection with this Deed.

5. **SHARES**

5.1 Share title documentation

Upon execution of this Deed (or immediately upon the acquisition of any relevant Share if that acquisition follows the date of this Deed) and notwithstanding any other term of the Finance Documents, the Chargor will deposit with the Lender in respect of each Share:

- (a) all share certificates, warrants or other documents of title;
- (b) duly executed undated blank stock transfer forms; and
- (c) forms of waiver of any pre-emption rights and any other documents, consents and monies necessary to enable such transfers to be registered by the Lender.

5.2 Voting prior to an Event of Default

Prior to an Event of Default which is continuing, the Chargor may continue to exercise all voting and other rights (including the right to receive dividends, interest, principal or other payments of money) relating to the Shares provided that such rights are not exercised in a way which (and the Chargor shall not permit anything which):

- (a) jeopardises the Security Interest constituted by the Finance Documents;
- (b) varies the rights attaching to the Shares; or
- (c) relates to a participation in a rights issue or to receiving dividends other than in cash or concerns a merger, consolidation, allotment of shares, change to constitutional documents, transfer of ownership (legal or beneficial), liquidation, striking off, insolvency or matters which are prohibited or restricted by the Finance Documents.

5.3 Voting after an Event of Default

- 5.3.1 Following an Event of Default which is continuing, the Lender may (without notice to or consent from the Chargor and in the Chargor's name or otherwise) exercise any rights (including the right to collect dividends, interest, principal or other payments of money but excluding the right to vote) in respect of the Shares and may do anything necessary to complete any transfer form in favour of itself or otherwise.

5.3.2 Following an Event of Default which is continuing and the service of notice upon the Chargor, the Lender may (without consent from the Chargor and in the Chargor's name or otherwise) exercise any right to vote or refrain from voting in respect of the Shares.

5.4 Obligations

The Chargor shall promptly pay all calls, costs and/or other payments in respect of the Shares and shall give to the Lender, at the time of issue, copies of all information, offers, notices or other materials supplied to the members of the issuers of the Shares and shall advise the Lender promptly of any material occurrence affecting the Shares or any other part of the Security Interest granted to the Lender and shall give to the Lender such information as it may require relating to the Shares.

6. **REPRESENTATIONS AND WARRANTIES**

The Chargor makes the representations and warranties set out in this Clause 6 (Representations and warranties) to the Lender.

6.1 Status

It is a limited liability corporation, duly incorporated and validly existing under the law of England and Wales.

It has the power to own and charge its assets, including, without limitation, the Shares and the Related Rights.

6.2 Non-conflict

The entry into and performance by him/it of, and the transactions contemplated by, this Deed do not and will not conflict with any agreement or instrument binding upon him/it or any of his/its assets.

6.3 Binding obligations

The obligations expressed to be assumed by the Chargor in this Deed are legal, valid, binding and enforceable obligations.

6.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

6.5 Solvency

No step has been taken which constitutes or may, subject only to the passage of time or service of a notice, result in the occurrence of an Event of Insolvency in respect of him/it.

6.6 Legal and beneficial ownership

It is and will remain the sole legal and beneficial owner of the Shares listed against its name in the definition of Shares, free from any encumbrance or Security Interest except as created by this Deed, otherwise granted to the Lender and a second ranked debenture to be granted over the Charged Assets by the Borrower in favour of the Security Trustee to be entered into on or around the date of this deed.

6.7 Effective Security Interest

This Deed is an effective Security Interest over the Charged Assets.

6.8 Fully paid

The Shares are fully paid and free from any encumbrance or Security Interest other than that created by this Deed.

6.9 Share Capital

The Shares represent not less than 100% of the entire issued share capital of the Borrower, and no rights over the unissued share capital of the Borrower exists.

6.10 Repetition of representations

The representations and warranties set out in this Clause 6 (Representations and warranties) are made by the Chargor on the date of this Deed and in addition are deemed to be made by the Chargor by reference to the facts and circumstances then existing on the date of each drawdown of the Facility.

7. **COVENANTS**

The Chargor gives the undertakings in this Clause 7 (Covenants) which remain in force from the date of this Deed until this Deed is discharged.

7.1 Information

The Chargor shall supply to the Lender such information regarding its or their financial condition, business and operations as the Lender may reasonably request.

7.2 Negative pledge

The Chargor shall not create or permit to subsist any Security Interest over any of the Charged Assets save for the Security Interest created pursuant to this Deed and the Security Interests referred to in clause 6.7.

7.3 Disposals

The Chargor shall not sell, lease, transfer or otherwise dispose of any of the Charged Assets, nor permit or suffer the issue of any further shares in St Peter's Street Developments Limited, or the creation of any interests in the unissued share capital of St Peter's Street Developments Limited.

7.4 Subordination and Non-competition

The Chargor covenants that, at all times until the Secured Liabilities are fully and irrevocably discharged, he/it/they will not:

7.4.1 enter into an arrangement for its benefit where the value provided by the St Peter's Street Developments Limited exceeds or could exceed the value received by the St Peter's Street Developments Limited;

7.4.2 receive credit from St Peter's Street Developments Limited, or permit St Peter's Street Developments Limited to grant any guarantee or Security Interest in respect of the Chargor's liabilities;

7.4.3 receive or seek any kind of distribution of St Peter's Street Developments Limited's assets, whether in cash, shares or otherwise;

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- 7.4.4 make any application or take any step (including presentation of a petition, convening a meeting or passing a resolution) or otherwise give support for the insolvency or re-organisation of St Peter's Street Developments Limited; or
- 7.4.5 exercise any rights to claim against or prove as a creditor of St Peter's Street Developments Limited in competition with the Lender.
- 7.5 Additional registration obligations

The Chargor shall:

- 7.5.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of St Peter's Street Developments Limited, for the transfer of the Shares to the Lender or its nominee, or to a purchaser, in each case on enforcement of this deed; and
- 7.5.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of St Peter's Street Developments Limited in any manner that the Lender may require in order to permit the transfer of the Shares to the Lender or its nominee, or to a purchaser, in each case on enforcement of this deed.

8. RIGHTS OF ENFORCEMENT

8.1 Enforcement

- 8.1.1 The Secured Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.
- 8.1.2 The enforcement powers of the Lender in connection with this Deed shall be immediately exercisable upon an Event of Default or, at the Lender's discretion, at the request of the Chargor.
- 8.1.3 Clause 8.1.2 shall not apply by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under Schedule A1 of the Insolvency Act 1986.
- 8.1.4 The restrictions imposed by section 103 of the Act shall not apply to the Security Interest created by this Deed.
- 8.1.5 In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with the Lender or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred and that the Secured Liabilities are outstanding and have become due.

8.2 Lender's and Receiver's powers and rights

- 8.2.1 Upon the security created by this Deed having become enforceable, and indefinitely thereafter, the Lender shall have the power:
- (a) to appoint a Receiver of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee;
 - (b) to appropriate Charged Assets in accordance with Clause 8.3 (Right of appropriation); and

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- (c) to appoint an administrator of a Chargor and paragraph 14 of schedule B1 of the Insolvency Act 1986 shall apply to this Deed.

8.2.2 The Lender (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to:

- (a) exercise all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency Act 1986 whether or not the Lender and/or any Receiver is an administrative receiver);
- (b) the powers and rights specified in Schedule 1; and
- (c) exercise them in the name of the Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

8.3 Right of appropriation

To the extent that any of the Charged Assets constitute "financial collateral" and this Deed and the obligations of a Chargor under it constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Regulations), the Lender shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities and transfer title in and to it to the Lender. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be the market price of such financial collateral determined by the Lender by reference to a public index or by such other process as the Lender may select, including independent valuation. The Parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

8.4 Receiver as agent

So far as the law allows, a Receiver shall be the agent of the Chargor, or any of them, who shall be solely liable for his acts, defaults and remuneration, but the Lender shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver.

8.5 Further powers

If the Chargor defaults in the observance and performance of any obligation to the Lender, the Lender or its agents (without any of them becoming a mortgagee in possession) may at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default.

8.6 Power of attorney

The Chargor by way of security irrevocably appoints the Lender and any Receiver severally its attorney in its name and on its behalf to execute any documents and do or perfect anything which the Lender and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing any Security Interest created by this Deed and/or value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.

9. APPLICATION OF RECEIPTS

9.1 Priority of payment

All monies received by the Lender and/or any Receiver in the enforcement of this Deed shall (subject as follows) be applied in the following order, in payment:

- (a) firstly, in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Deed, and of all remuneration due to any Receiver under or in connection with this Deed;
- (b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines; and
- (c) in payment of the surplus (if any) to the Borrower or other person entitled to it.

9.2 Crediting to suspense account

The Lender or any Receiver may credit any monies received from the enforcement of this Deed to any suspense account in any manner and for such period as the Lender or that Receiver thinks fit.

10. **NOTICES**

10.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by letter.

10.2 Addresses

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name above or any substitute address or department or officer as the party to this Deed may notify the Lender (or the Lender may notify the Chargor if the change is made by the Lender) by not less than five Business Days' notice.

10.3 Delivery

10.3.1 Any communication or document made or delivered by one person to another person in connection with this Deed will only be effective if by way of letter, when it has been left at the relevant address or two Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address.

10.3.2 Any notice or communication to be made or delivered to the Lender shall be effective when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

11. **DISCHARGE**

11.1 If the Lender is satisfied that the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Lender will, at the request and cost of the Chargor, discharge this Deed.

11.2 No discharge will be of any effect if any Security Interest or payment given or made in respect of the Secured Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any insolvency or otherwise.

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- 11.3 No part of the security from time to time intended to be constituted by this Deed shall be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of any part of the Secured Liabilities.

12. **GENERAL PROVISIONS**

12.1 Trust provisions

The undertakings and representations made by the Chargor under this Deed are made in favour of the Lender.

12.2 Enforcement

It shall not be necessary for the Lender before taking any enforcement under this Deed to enforce or seek to enforce any guarantee or other Security Interest or other rights whether from or against the Chargor or any other person. This Clause 12.2 (Enforcement) applies irrespective of any law or any provision of a Finance Document to the contrary.

12.3 Exercise of powers and liability

12.3.1 This Deed is in addition to and will not merge in or in any way be prejudiced or affected by the holding or release by the Lender of any other Security Interest at any time held by the Lender.

12.3.2 The Lender may, at any time after this Deed has become enforceable, redeem or transfer to itself any prior Security Interest against the Charged Assets (for the avoidance, excluding those Security Interests referred to in clause 6.7 of this Deed) and may settle and pay the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to the Lender on demand.

12.3.3 None of the provisions of this Deed shall be deemed to impose on the Lender or imply on their part any obligation or other liability in relation to the Charged Assets.

12.4 Tacking

The Lender must perform its obligations under the Facility Letter (including any obligation to make further advances).

12.5 New Accounts

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security Interest (other than the Security Interest created pursuant to this Deed or specified at clause 6.7 of this Deed) or disposed of:

- (a) the Lender may close the Chargor's then subsisting account (if any) and open a new account with the Chargor, and (unless the Lender gives the Chargor written notice otherwise) shall be deemed to have done so;
- (b) all payments made to the Lender after that date will be credited (or be treated as having been credited) to the new account; and
- (c) no money credited or treated as credited to the new account shall reduce the Liabilities.

12.6 Consolidation

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to any Security Interest created by this Deed.

12.7 Expenses

The Chargor must pay the Lender within three Business Days of demand the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation of any of its rights under this Deed.

12.8 Rights of third parties

12.8.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

12.8.2 The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

12.9 Alienation

12.9.1 The Lender may assign, sell, charge or transfer the whole or any part of its rights and/or obligations under this Deed to any person.

12.9.2 The Chargor may not transfer, assign or otherwise alienate any of its rights, or transfer any of its obligations, under this Deed or enter into any transaction which would result in any or all of those rights or obligations passing to or being shared with another person, and any purported transfer, assignment, alienation shall be void.

12.10 Effect as a deed

This Deed shall take effect as a deed even if it is only signed under hand on behalf of the Lender.

13. 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.

14. LAW AND JURISDICTION

14.1 Law

14.1.1 This Deed and any non-contractual obligations arising out of or in relation to this Deed shall be governed by English law.

14.2 Jurisdiction of English courts

14.2.1 The courts of England have exclusive jurisdiction to settle any dispute, including, without limitation disputes relating to any non-contractual obligations arising out of or in connection with this Deed (a "Dispute").

14.2.2 The parties to this Deed 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.

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

This Charge over Shares has been executed as a Deed and delivered on the date stated at the beginning of this Deed.

SCHEDULE 1
Lender's and Receiver's powers

1. CONDUCT OF BUSINESS

1.1 Carry on business

1.1.1 To acquire any property, chattels, plant, machinery and materials.

1.2 Compromise claims

1.2.1 To compromise any claim relating to the Charged Assets.

1.3 Borrowing and advancing

To borrow, raise or advance money whether or not in priority to the Secured Liabilities and with or without Security Interest.

1.4 Employees

To employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others.

2. DEALING WITH THE CHARGORS' ASSETS

2.1 Possession

To enter upon and take possession of, get in, use and/or collect any Charged Asset.

2.2 Payments

To pay any outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership or use.

2.3 Receipts

To give receipts and releases for any sums received.

2.4 Assumption of rights

To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any Charged Asset.

2.5 Insurance

To effect insurances on such terms as it thinks fit.

3. DISPOSALS

To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:

3.1 for immediate or deferred consideration;

3.2 in return for a single payment or instalments; and

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- 3.3 for consideration wholly or partly in cash, property or securities in whatever form,
3.4 and in all cases the terms of which shall bind any subsequent mortgagee.

4. GENERAL

4.1 General powers

4.1.1 To do or abstain from doing all such things as it considers necessary or desirable for perfecting, maintaining preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the Security Interest charges created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Letter, including:

- 4.1.1.1 executing, delivering and completing all or any deeds or other documents;
- 4.1.1.2 using the names of the Chargor in connection with any of the purposes in this Schedule (Lender's and Receiver's powers);
- 4.1.1.3 commencing, carrying out and completing any acts, matters or proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- 4.1.1.4 obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

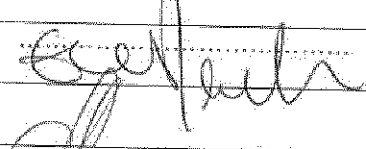

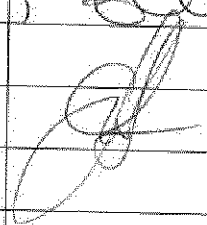
4.2 General

4.2.1 All its powers and discretions under this Deed shall be:

- 4.2.1.1 exercisable on such terms and conditions and otherwise as it may think fit; and
- 4.2.1.2 as if it were the absolute and beneficial owner.

EXECUTION PAGE

Chargor

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|--|---|--|
| Executed as a deed by 239 KINGSWAY HOVE LTD acting by K Director , director in the presence of :- ED KALDEEMAN | |  |
| Witness Signature  | | |
| Print name | Justin Thompson A Solicitor |  |
| Address | Thompson Allen LLP 6 Marlborough Place Brighton BN1 1UB | |
| Occupation | Justin Thompson A Solicitor | |