



**Registration of a Charge**

Company Name: **MICHELS & TAYLOR MIDCO LIMITED**

Company Number: **13735127**



Received for filing in Electronic Format on the: **22/11/2022**

XBHAZ495

**Details of Charge**

Date of creation: **17/11/2022**

Charge code: **1373 5127 0002**

Persons entitled: **SITUS ASSET MANAGEMENT LIMITED**

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: **TAYLOR WESSING LLP**



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

Company number: 13735127

Charge code: 1373 5127 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th November 2022 and created by MICHELS & TAYLOR MIDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd November 2022 .

Given at Companies House, Cardiff on 23rd November 2022

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**

**EXECUTION VERSION**

**DATED**

**17 NOVEMBER 2022**

**THE COMPANIES LISTED IN SCHEDULE 3  
as Assignor**

**and**

**SITUS ASSET MANAGEMENT LIMITED  
as Security Agent**

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**SUPPLEMENTAL SUBORDINATED DEBT ASSIGNMENT**

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**TaylorWessing**

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THIS ASSIGNMENT is made on /7 NOVEMBER 2022

**BETWEEN**

- (1) The companies listed in schedule 3 (the "**Assignors**");
- (2) **SITUS ASSET MANAGEMENT LIMITED** as security trustee for the Secured Parties (the "**Security Agent**").

**AGREED TERMS**

**1. Definitions and Interpretation**

**1.1 Definitions**

In this deed unless a contrary indication appears, terms defined in, or construed for the purposes of the Agreement have the same meanings mutatis mutandis when used in this deed (unless the same are otherwise defined in this deed) and:

"**Agreement**" means a loan agreement originally dated 11 June 2019 made between, amongst others, the Borrowers (as borrowers and guarantors) and the Security Agent (as security agent and agent) as amended on 21 October 2019, 20 December 2019, 29 January 2020, 2 March 2020, amended and restated on 6 August 2020, amended on 11 September 2020, as further amended and restated on 23 December 2021, amended on 28 January 2022 and further amended and restated on or around the date of this deed;

"**Charged Property**" means the assets assigned by each Assignor under this deed;

"**Default Rate**" means the interest rate provided for in clause 8.4 (Default Interest) of the Agreement in relation to Unpaid Sums;

"**Financial Collateral Regulations**" means the Financial Collateral Arrangements (No 2) Regulations 2003 SI 2003/3226;

"**Insolvency Act**" means the Insolvency Act 1986;

"**Junior Finance Document**" has the meaning given to the term in the Subordination Deed;

"**LPA**" means the Law of Property Act 1925;

"**Original Assignment**" means the subordinated debt assignment dated 26 June 2019 between the Borrowers, the Shareholder and the Security Agent;

"**Regulation**" means Regulation (EU) 2015/848 of 20 May on insolvency proceedings (recast);

"**Secured Liabilities**" means:

- (a) all obligations of each Transaction Obligor owed or expressed to be owed to the Secured Parties (or any of them) under or in connection with the Finance Documents whether owed jointly or severally, as principal or surety or in any other capacity;

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- (b) in the case of any Transaction Obligor other than an Assignor any obligation referred to in (a) above which is or becomes Unenforceable and any cost, loss or liability which any Secured Party incurs as a result of any such Transaction Obligor not paying any amount expressed to be payable by it under any Finance Document on the date when it is expressed to be due;

**"Subordinated Debt"** means all indebtedness, whether documented or otherwise owed or expressed to be owed by a Borrower to any Assignor;

**"Subordination Deed"** means the Subordination Deed (as defined in the agreement) entered into on or around the date of this deed; and

**"Unenforceable"** means void, voidable, invalid, unenforceable or otherwise irrecoverable (whether or not known to any Secured Party or any Assignor and **"Unenforceability"** will be construed accordingly.

### **1.2 Interpretation**

- (a) This deed is a Finance Document.
- (b) The provisions of clause 1 (Definitions and Interpretation) of the Agreement shall be deemed to be incorporated into this deed.
- (c) In this deed, unless a contrary indication appears:
  - (i) **"obligations"** means obligations and liabilities;
  - (ii) references to **"indebtedness"** include:
    - (A) any obligation (whether incurred jointly or severally or as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
    - (B) any obligation (such as post insolvency interest) which would be included in (i) above but for the fact that it is invalid or unenforceable;
    - (C) any liability for damages or in respect of a restitutionary claim; and
    - (D) any liability flowing from any recovery of a payment or discharge in respect of any obligation referred to in (i) above on grounds of preference or otherwise;
  - (iii) references to obligations and liabilities include the whole or any part of them, present and future, actual and contingent;
  - (iv) any reference to **"powers"** includes rights, powers, discretions and authorities; and
  - (v) any reference to any asset includes any proceeds of sale of any such asset.

### **1.3 Construction of charging clause**

Each of the security interests created by clause 2 (Security) shall be construed as separate and distinct interests over the relevant assets so that the re-characterisation

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for any reason of any security interest over any one asset shall not affect the nature of the security interest created over any other asset.

### **1.4 *Original Assignment***

Each Assignor confirms that that the Security created under the Original Assignment shall remain in full force and effect and each party's obligations thereunder continue to be legal, valid and binding and enforceable with its terms.

### **1.5 *Priority with security created pursuant to the Original Assignment***

Where this deed purports to create first ranking Security, that Security will be second ranking to the extent that equivalent Security is created under the Original Assignment until such time as the Security created by the Original Security ceases to have effect.

## **2. *Security***

### **2.1 *Assignment***

As continuing security for the payment of the Secured Liabilities each Assignor with full title guarantee assigns to the Security Agent all its present and future rights and interest in:

- (a) any Junior Finance Document including all rights and remedies for enforcing such Junior Finance Document;
- (b) the Subordinated Debt; and
- (c) all Security, guarantees, indemnities, promissory notes, bills of exchange and other security of any nature now or in the future held by each Assignor in respect of any Junior Finance Document and the Subordinated Debt and all money now or at any time in the future due or owing to each Assignor under or in connection with any of them and all rights and remedies for enforcing any of them in the name of an Assignor or otherwise.

### **2.2 *Notice of assignment***

Without prejudice to clause 19.12 (Notice and acknowledgement of security) of the Subordination Deed, each Assignor will (to the extent that it has not done so in connection with the Original Assignment and provided the Security created by the Original Assignment has not ceased to have effect) if required by the Security Agent give notice of assignment in the form set out in schedule 1 to each Borrower and will use reasonable endeavours to procure that each Borrower executes and delivers to the Security Agent an acknowledgement of such notice in the form set out in schedule 2.

### **2.3 *Limited Recourse to assets of the Assignors***

Notwithstanding any other term of this deed, the Security Agent shall not have any recourse under this deed to any asset of either Assignor other than the Charged Property.

**3. Representations**

**3.1 *Duration and Scope***

Each Assignor makes the representations and warranties set out in this clause to the Security Agent on the date of this deed.

**3.2 *Status***

- (a) In the case of Lethendy Estates Limited, it is a limited liability company incorporated in Scotland, duly registered and validly existing under the law of its Original Jurisdiction;
- (b) In the case of Michels & Taylor Midco Limited, it is a limited liability company incorporated in England and Wales, duly registered and validly existing under the law of its Original Jurisdiction; and
- (c) It has the power to own its assets and carry on its business as it is being conducted.

**3.3 *Binding obligations***

The obligations expressed to be assumed by it in each Transaction Document to which it is a party are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations.

**3.4 *Non-conflict with other obligations***

The entry into and performance by it of, and the transactions contemplated by, each Transaction Document to which it is a party and the granting of the Security under each Transaction Security to which it is a party do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its or any of its Subsidiaries' constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its Subsidiaries or any of its or any of its Subsidiaries' assets or constitute a default or termination event (however described) under any such agreement or instrument.

**3.5 *Power and authority***

- (a) 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, the Transaction Documents to which it is or will be a party and the transactions contemplated by those Transaction Documents.
- (b) No limit on its powers will be exceeded as a result of the borrowing, grant of security or giving of guarantees or indemnities contemplated by the Transaction Documents to which it is a party.

**3.6 *Validity and admissibility in evidence***

All Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party; and



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- (b) to make the Transaction Documents to which it is a party admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect except any Authorisation referred to in paragraph (a) of clause 3.8 (No filing or stamp taxes), which Authorisations will be promptly obtained or effected after the date of this deed.

### **3.7 Governing law and enforcement**

- (a) The choice of the governing law of this deed will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to this deed in the jurisdiction of the governing law of this deed will be recognised and enforced in its Relevant Jurisdictions.

### **3.8 No filing or stamp taxes**

- (a) Under the laws of its Relevant Jurisdiction it is not necessary that this deed be registered, filed, recorded, notarised or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to this deed or the transactions contemplated by this deed except registration of particulars of this deed at Companies House under the Companies Act 2006 and payment of associated fees which registrations, filings, taxes and fees will be made and paid (as applicable) promptly after the date of the relevant Security Document.
- (b) Any disclosure required to be made by it to any relevant taxing authority in relation to stamp duty land tax payable on any transactions contemplated by or being financed by the Transaction Documents has been made.

### **3.9 No default**

- (a) No Event of Default and, as at the date of this agreement and the first Utilisation Date, no Default is continuing or is reasonably likely to result from the making of any Utilisation or the entry into, or the performance of, or any transaction contemplated by, this deed.
- (b) No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or a termination event (however described) under any other agreement or instrument which is binding on any Assignor or the Subsidiaries of an Assignor or to which any of the assets of any Assignor or any Subsidiaries of an Assignor are subject which has or is reasonably likely to have a Material Adverse Effect.

### **3.10 Information**

- (a) All information supplied by it or on its behalf to any Finance Party in connection with the Transaction Documents was true and accurate as at the date it was provided or as at any date at which it was stated to be given.
- (b) Any financial projections contained in the information referred to in paragraph (a) above have been prepared as at their date on the basis of recent historical information and on the basis of reasonable assumptions.

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- (c) It has not omitted to supply any information which, if disclosed, would make the information referred to in paragraph (a) above untrue or misleading in any respect.
- (d) As at the first Utilisation Date, nothing has occurred since the date of the information referred to in paragraph (a) above which, if disclosed, would make that information untrue or misleading in any material respect.

### **3.11 *No proceedings pending or threatened***

No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, are reasonably likely to have a Material Adverse Effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against any Assignor.

### **3.12 *Centre of main interests and establishments***

For the purposes of the Regulation, its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in Scotland or England and Wales and it has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

### **3.13 *Ranking of Security***

Subject to the Legal Reservations and the Perfection Requirements, the security conferred by this deed constitutes a first priority security interest of the type described, over the assets referred to, in this deed and those assets are not subject to any prior or *pari passu* Security.

### **3.14 *Subordinated Debt***

The terms applicable to the Subordinated Debt do not prohibit the assignment.

### **3.15 *Repetition***

The representations and warranties in this clause are deemed to be made by each Assignor by reference to the facts and circumstances then existing on each day on which any Repeating Representations are deemed to be made under the Agreement.

## **4. *Negative Undertakings***

### **4.1 *Negative pledge***

No Assignor shall create or permit to subsist any Security over any of the Charged Property other than the Transaction Security (and, for the purposes of clause 4.1 (Negative pledge) of the Original Assignment, the Security Agent hereby consents to the Security created and subsisting pursuant to this deed).

### **4.2 *Disposals***

No Assignor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to dispose of all or any part of any of the Charged Property.

**4.3**     *Centre of main interests*

No Assignor shall move its centre of main interests for the purposes of the Regulation outside England and Wales or Scotland.

**5.**     **Information Undertakings**

**5.1**     *Information: miscellaneous*

Each Assignor shall supply to the Security Agent:

- (a)     all documents dispatched by it to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- (b)     promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it or any member of the Group; and
- (c)     promptly such further information relating to the financial condition, business and operations of any member of the Group and any Real Property or any Security provided in connection with the Finance Documents as any Finance Party through the Security Agent may reasonably request.

**5.2**     *"Know your customer" checks*

If:

- (a)     the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this deed;
- (b)     any change in the status of any Assignor or the composition of the shareholders in or members of any Assignor after the date of this deed; or
- (c)     a proposed assignment or transfer by a Finance Party of any of its rights and obligations under the Finance Documents to a party that is not a Lender prior to such assignment or transfer,

obliges the Agent, Security Agent or any Lender (or, in the case of paragraph (c) above, any prospective new Lender) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, each Assignor shall promptly upon the request of the Agent, Security Agent or any Lender supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Agent, Security Agent (for itself or on behalf of any Lender) or any Lender (for itself or, in the case of the event described in paragraph (c) above, on behalf of any prospective new Lender) in order for the Agent, Security Agent, such Lender or, in the case of the event described in paragraph (c) above, any prospective new Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

**5.3**     *Accuracy*

Each Assignor shall ensure that all information supplied to the Security Agent by it is at the time of supply complete and accurate in all material respects.

**6. General Undertakings**

**6.1 Authorisations**

Each Assignor shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of its Relevant Jurisdictions to:

- (i) enable it to perform its obligations under the Transaction Documents to which it is a party and to ensure the legality, validity, enforceability or admissibility in evidence in the Relevant Jurisdictions of any such Transaction Document;
- (ii) enable it to own its assets and carry on its business as it is being conducted.

**6.2 Compliance with laws**

Each Assignor shall comply in all respects with all laws to which it may be subject, if failure so to comply would materially impair its ability to perform its obligations under the Finance Documents to which it is a party.

**6.3 Consents**

Each Assignor shall ensure that all consents and all documents, registrations, licences and other matters and things required by the Security Agent to perfect this deed are produced executed obtained or made as required by the Security Agent in accordance with this deed.

**6.4 Failure to comply**

If any Assignor fails to comply with any of its obligations under this deed the Security Agent may take such steps as it considers appropriate to procure compliance with such obligations at the cost of the Assignors.

**7. Undertakings relating to the Charged Property**

**7.1 The Subordinated Debt**

Each Assignor shall:

- (a) comply with the provisions of the Subordination Deed and not do or omit to do anything which might result in any impairment of any of the rights and benefits assigned by this deed;
- (b) not, without first obtaining the consent in writing of the Security Agent, commence arbitration or other legal proceedings under or in connection with the Subordinated Debt;
- (c) deposit with the Security Agent an original of any Junior Finance Document and all documents relating to it including all amendments, variations or extensions from time to time made to it and any Security, guarantees,

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indemnities, promissory notes, bills of exchange and other security of any nature now or in the future held by that Assignor in respect of any Subordinated Debt;

- (d) pay to the Security Agent promptly upon receipt and to such account as the Security Agent notifies to the Assignors, all money from time to time received under or in connection with the Charged Property (other than Permitted Payments) and hold all such moneys on trust for the Security Agent until such payment;
- (e) on request by the Security Agent, promptly produce to the Security Agent such information relating to the Charged Property as the Security Agent may from time to time require; and
- (f) promptly upon receipt, give to the Security Agent a copy of any notice, certificate or other communication received by the Assignee in relation to the Charged Property.

### **7.2 Failure to comply**

If any Assignor fails to comply with any of its obligations under this deed the Security Agent may take such steps as it considers appropriate to procure compliance with such obligations at the cost of the Assignors.

### **7.3 No assumption of obligations**

The Security Agent will not be liable to comply with the obligations assumed by any Assignor under any Junior Finance Document or in respect of any of the Charged Property and the Security Agent will not be under any obligation or liability by reason of, or arising out of, this deed nor will the Security Agent be required to make any enquiry as to the nature or sufficiency of any payment received by the Security Agent or to present or file any claim or take any other action to collect or enforce the payment of any amount or to enforce any other right to which the Security Agent may be entitled by virtue of this deed at any time.

## **8. Enforcement of Security**

### **8.1 Security Agent's powers**

On the occurrence of an Event of Default which is continuing or if any Assignor requests that the Security Agent exercises any of its powers under this clause 8.1, this deed shall become enforceable and the Security Agent may immediately or at any time thereafter:

- (a) exercise the power of sale and all other powers conferred by s.101 of the LPA as varied or extended by this deed;
- (b) subject to s.72A of the Insolvency Act, appoint one or more persons as a Receiver of any Charged Property;
- (c) exercise all the powers conferred on a Receiver by this deed, the LPA and the Insolvency Act;
- (d) secure and perfect its title to all or any part of the Charged Property and/or transfer any asset into the name of its nominee;

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- (e) to the extent that this deed constitutes a "security financial collateral arrangement" as defined in the Financial Collateral Regulations, appropriate any Charged Property which constitutes "financial collateral" as defined in the Financial Collateral Regulations in or towards satisfaction of the Secured Liabilities and the Security Agent shall value such Charged Property by reference to an independent valuation or other procedure selected by the Security Agent acting reasonably.

### **8.2 Powers under the LPA**

- (a) S.103 of the LPA will not apply to this deed.
- (b) The power of sale and all other powers conferred by s.101 of the LPA as varied or extended by this deed will arise upon execution of this deed by the Assignors.

### **8.3 Receivers**

- (a) The Security Agent may appoint any Receiver upon such terms as to remuneration and otherwise as the Security Agent thinks fit and the maximum rate specified in s.109(6) of the LPA shall not apply.
- (b) Any Receiver will be the agent of each Assignor for all purposes and each Assignor will be responsible for such Receiver's acts and defaults and for his remuneration, costs, fees, taxes and expenses to the exclusion of liability on the part of the Security Agent.
- (c) Where two or more persons are appointed as Receiver any act authorised to be done by the Receiver may be done by all of them acting jointly or by any one or more of them acting severally.
- (d) The Security Agent may at any time by writing remove any Receiver (subject to the obtaining of any required order of the court in the case of an administrative receiver) whether or not the Security Agent appoints any other person as Receiver in his place.

## **9. Powers of Receiver and Security Agent**

### **9.1 Statutory powers**

A Receiver shall have and be entitled to exercise all the powers conferred on a receiver by the LPA and, whether or not such a Receiver is an administrative receiver, all the powers conferred upon an administrative receiver by Schedule 1 to the Insolvency Act which powers are incorporated into this deed provided that references in that Schedule to "the property of the Company" will be deemed to be references to the Charged Property for the purposes of this deed.

### **9.2 Additional powers**

By way of addition to and without limiting any other powers referred to in this clause a Receiver shall have power (both before and after the commencement of any liquidation of an Assignor) to do every act and thing and exercise every power:

- (a) which each Assignor would have been entitled to do or exercise if no Receiver had been appointed or which the Receiver would have been entitled to do or exercise if the Receiver were the absolute legal and beneficial owner of the Charged Property; and

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- (b) which such Receiver in his absolute discretion considers necessary or desirable for maintaining or enhancing the value of any Charged Property or for or in connection with the enforcement of the Security created by this deed or the realisation of any Charged Property,

and may use the name of each Assignor in connection with any exercise of such powers.

### **9.3 Consideration**

The receipt of the Security Agent or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property the Security Agent or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

### **9.4 Prior encumbrances**

At any time after the security given by this deed has become enforceable, the Security Agent may redeem any prior Security against the Charged Property or procure a transfer of such Security to itself and may agree the accounts of the person entitled to that Security and any accounts so agreed will be binding on each Assignor. Any money paid by the Security Agent in connection with a redemption or transfer of any prior Security will form part of the Secured Liabilities.

### **9.5 Possession**

If the Security Agent, any Receiver or any Delegate takes possession of any Charged Property it may go out of possession at any time.

## **10. Exclusion of Liability**

### **10.1 No obligation to recover**

None of the Security Agent, any Receiver or any Delegate is under any obligation to take action to collect any money or enforce any rights comprised in the Charged Property whether or not it is in possession of the relevant Charged Property.

### **10.2 Liability as mortgagee in possession**

If the Security Agent, any Receiver or any Delegate takes possession of any Charged Property, it will not be liable to account to any Assignor for anything except actual receipts or be liable to any Assignor for any loss arising from any realisation of any Charged Property or for any default or omission for which a receiver or mortgagee in possession would be liable.

### **10.3 Losses on enforcement**

No Secured Party will be liable to any Assignor for any loss or damage arising from:

- (a) any sale of any Charged Property;
- (b) any act, default or omission of any Secured Party in relation to any Charged Property; or
- (c) any exercise or non-exercise by any Secured Party of any power conferred upon it in relation to any Charged Property under this deed or by the LPA,

unless such loss or damage is caused by the fraud, gross negligence or wilful misconduct of such Secured Party.

**11. Reimbursement and Indemnity**

**11.1 *Indemnity to the Security Agent***

Each Assignor shall promptly indemnify the Security Agent and every Receiver and Delegate against any cost, loss or liability incurred by any of them:

- (a) as a result of:
  - (i) the taking, holding, protection or enforcement of the Security constituted by this deed;
  - (ii) the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent and each Receiver and Delegate by this deed or by law; or
  - (iii) any default by any Assignor in the performance of any of the obligations expressed to be assumed by it in this deed; or
- (b) which otherwise relates to any of the Charged Property or the performance of the terms of this deed (otherwise than as a result of its fraud, gross negligence or wilful misconduct).

**11.2 *Priority of Indemnity***

The Security Agent and every Receiver and Delegate may, in priority to any payment to the other Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in clause 11.1 (Indemnity to the Security Agent) and shall have a lien on the Security constituted by this deed and the proceeds of enforcement of the Security constituted by this deed for all moneys payable to it.

**11.3 *Security Agent's Management Time***

Any amount payable under this deed to the Security Agent by any Assignor by way of indemnity or reimbursement in respect of any cost, loss or liability incurred by the Security Agent shall include the cost of utilising the Security Agent's management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Security Agent may notify to any Assignor.

**12. Application of Proceeds**

The parties acknowledge the terms of clause 31 (Application of proceeds) of the Agreement.

**13. Protection of Persons Dealing with Security Agent Receiver or Delegate**

No person dealing with the Security Agent or any Receiver or Delegate will be concerned to enquire:

- (a) whether any event has happened upon which any of the powers conferred by this deed may have arisen or be exercisable;



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- (b) otherwise as to the propriety or regularity of any exercise of the powers conferred by this deed or of any act purporting or intended to be in exercise of such powers; or
- (c) whether any Secured Liabilities remain owing.

**14. Notice of Subsequent Charge**

If any Finance Party receives notice of any Security or other interest affecting any Charged Property:

- (a) it may open a new account for the relevant Assignor in its books and may transfer any outstanding balance of the Secured Liabilities to such new account;
- (b) if it does not open a new account then, unless it gives express written notice to the contrary to the relevant Assignor, all payments of the Secured Liabilities will as from the time of receipt of such notice be treated as having been credited to a new account of the relevant Assignor and not as having been applied in reduction of the Secured Liabilities.

**15. Further Assurance**

When required by the Security Agent or any Receiver each Assignor shall, at its own cost:

- (a) execute an assignment of any Charged Property and such assignment shall secure the Secured Liabilities and contain a power of sale which arises immediately upon execution, provisions excluding s.93 of the LPA and the restrictions contained in s.103 of the LPA and such other provisions including any similar to those in this deed as the Security Agent may reasonably require;
- (b) execute any documents or do any other thing which the Security Agent or any Receiver may require for perfecting or protecting any Security created by this deed or in connection with the exercise of any powers given to the Security Agent or any Receiver under this deed; and
- (c) convey, transfer, assign or otherwise deal with any Charged Property in such manner as the Security Agent or any Receiver may require in connection with any enforcement of any Security created by this deed.

**16. Power of Attorney by Assignor**

Each Assignor irrevocably and by way of security appoints each of the Security Agent, any person selected by the Security Agent and any Receiver its attorney in each case (with full power to appoint substitutes and to delegate) severally in its name and on its behalf to execute any document or do any act or thing which:

- (a) each Assignor is entitled to execute or do in relation to the Charged Property including giving a receipt for any money and exercising any rights or remedies forming part of the Charged Property; or
- (b) each Assignor is obliged to execute or do under this deed.

**17. Protective Provisions**

**17.1 *Waiver of defences***

The obligations of each Assignor under this deed and the security constituted by this deed will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of such obligations or security including (whether or not known to it or any Secured Party):

- (a) any time, waiver or consent granted to, or composition with, any other Transaction Obligor or other person;
- (b) the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any Transaction Obligor;
- (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 property of, any other Transaction 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 any other Transaction Obligor or any other person;
- (e) any amalgamation, merger or reconstruction of any Secured Party with any other person or any sale or transfer of the whole or any part of the assets of any Secured Party to any other person;
- (f) the existence of any claim, set-off or other rights which any other Transaction Obligor may have at any time against any Secured Party, whether in connection with the Finance Documents or otherwise;
- (g) any novation, amendment (however fundamental) or replacement of a Finance Document or any other document or security;
- (h) any obligation of any person under any Finance Document or any other document or security being Unenforceable; or
- (i) any insolvency or similar proceedings.

**17.2 *Assignor Intent***

Without prejudice to the generality of clause 17.1 (Waiver of defences), each Assignor expressly confirms that it intends that the security created by this deed 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 investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making available acceptance credit facilities, note purchase facilities, guarantee, stand-by or documentary credit issuance facilities; 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; any Hedging Agreement entered into by a Borrower with the Hedge Counterparty in connection with any such facility; and any fees, costs and/or expenses associated with any of the foregoing.

**17.3 Immediate recourse**

Each Assignor waives any right it may have of first requiring any Secured Party to proceed against or enforce any other rights or security or claim payment from any person before enforcing the security constituted by this deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

**17.4 Appropriations**

Until the Secured Liabilities have been irrevocably paid in full, the Security Agent may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Security Agent in respect of the Secured Liabilities, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and no Assignor shall be entitled to the benefit of the same; and
- (b) hold in a suspense account any money received under this deed.

**17.5 Deferral of Assignor's rights**

Until the Secured Liabilities have been irrevocably paid in full and unless the Security Agent otherwise directs, no Assignor will exercise any rights which it may have by reason of the enforcement of this deed:

- (a) to be indemnified by a Borrower;
- (b) to claim any contribution from any other Transaction Obligor or any other person in respect of any obligations of that person 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 any Secured Party under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which each Assignor has given security under this deed;
- (e) to exercise any right of set-off against any Transaction Obligor; and/or
- (f) to claim or prove as a creditor of any Transaction Obligor in competition with any Secured Party.

**17.6 Turnover**

If any Assignor receives any benefit, payment or distribution in relation to the rights referred to in clause 17.5 (Deferral of Assignor's rights) it shall hold that benefit, payment or distribution to the extent necessary to enable the Secured Liabilities to be repaid in full on trust for the Security Agent and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application as provided in clause 12 (Application of Proceeds).

**18. Discharge of Security**

**18.1** *Discharge conditional*

Any discharge of an Assignor by the Security Agent in reliance on a payment or security received by the Security Agent will cease to be effective if that payment or security is avoided, reduced or invalidated for any reason and the Security Agent will be entitled to recover from the Assignors on demand the amount of the Secured Liabilities discharged by such payment or security.

**18.2** *Retention of security*

Following any discharge of an Assignor made by the Security Agent in reliance on a payment or security the Security Agent may retain the security constituted by this deed (and all documents of title or other documents necessary to protect such security) until the expiry of the maximum period within which such payment or security can be avoided, reduced or invalidated for any reason. If the person making such payment or giving such security goes into liquidation or administration or equivalent proceedings in any foreign jurisdiction within that period the Security Agent may retain the security constituted by this deed for as long as it thinks fit.

**19. Re-assignment**

If the Security Agent determines in accordance with the Agreement that all of the Secured Liabilities have been fully and finally discharged and none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Obligor pursuant to the Finance Documents the Security Agent shall:

- (a) re-assign to the Assignors, without recourse or warranty all of the Security constituted by this deed; and
- (b) release the rights of the Security Agent under this deed.

**20. Default Interest**

Any sum payable by each Assignor under this deed will bear interest from the date on which it is due or if payable on demand from the date of demand until payment (both before and after judgment) at the Default Rate as calculated and compounded from time to time in accordance with the Agreement.

**21. Notices**

**21.1** *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 fax, email or letter.

**21.2** *Addresses*

The address, email and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Assignor and the Security Agent for any communication or document to be made or delivered under or in connection with this deed is:

## **EXECUTION VERSION**

- (a) in the case of each Assignor, the details set out in schedule 3; and
- (b) in the case of the Security Agent:

Address: 34th Floor, 25 Canada Square, Canary Wharf, London, E14 5LB

Fax number: +44 (0) 20 7220 1899

Attn: Head of Servicing

Email: samservicing@situs.com

or any substitute address, email, fax number or department or officer as no Assignor may give to the Security Agent (or the Security Agent may notify to the Assignors, if a change is made by the Security Agent) by not less than five Business Days' notice. In the case of each Assignor, the address of its registered office or of any place where it carries on business or of any agent for the service of process under this deed shall also be addresses of each Assignor for the purpose of this clause.

### **21.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this deed will only be effective:

- (i) if by way of fax, when received in legible form;
- (ii) if by way of email, when sent to the relevant email address; or
- (iii) 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,

and, if a particular department or officer is specified as part of its address details provided under clause 21.2 (Addresses), if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer prescribed above (or any substitute department or officer as the Agent shall specify for this purpose).
- (c) Any communication or document which becomes effective, in accordance with paragraphs (a) to (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

### **21.4 Notification of address and fax number**

Promptly upon receipt of notification of an address, email, and fax number or change of address, email or fax number pursuant to clause 21.2 (Addresses) or changing its own address, email or fax number, the Security Agent shall notify the other parties.

### **21.5 English language**

Any notice given under or in connection with this deed must be in English. All other documents provided under or in connection with this deed must be:

- (a) in English; or
- (b) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

**22. Changes to the parties**

**22.1 Security Agent**

The Security Agent may assign or transfer the rights and interests of the Security Agent under or in connection with this deed to any successor to the Security Agent.

**22.2 Assignor**

No Assignor may assign any of its rights or transfer any of its rights or obligations under this deed.

**22.3 Disclosure**

Any Finance Party may disclose any information about any Assignor to any person connected to or associated with it, and to any person to whom it proposes to assign or transfer (or has assigned or transferred) any of its rights under any Finance Document.

**23. Tax Gross-up**

- (a) Each Assignor shall make all payments to be made by it under this deed without any deduction or withholding for or on account of Tax (a "Tax Deduction") unless a Tax Deduction is required by law.
- (b) Each Assignor shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Security Agent accordingly.
- (c) If a Tax Deduction is required by law to be made by an Assignor, the amount of the payment due from the relevant Assignor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If an Assignor is required to make a Tax Deduction, it shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law.
- (e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the relevant Assignor shall deliver to the Security Agent evidence satisfactory to the Security Agent that the Tax Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority.

**24. Set-off**

The Security Agent may set off any obligation whether or not matured due from an Assignor under this deed against any obligation whether or not matured owed by the Security Agent to any Assignor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security

## **EXECUTION VERSION**

Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

### **25. Miscellaneous**

#### **25.1 Trust**

The Security Agent holds the benefit of this deed as trustee for the Secured Parties on the terms set out in the Agreement.

#### **25.2 Incorporation**

Clauses 8.4 (Default Interest), 25 (Events of Default), 29 (Role of the Agent and the Security Agent), 32 (Payment Mechanics), 35 (Calculations and Certificates), 36 (Partial Invalidity), 37 (Remedies and Waivers), 38 (Amendments and Waivers), 41 (Bail-in) (references to the "Parties" being deemed to be references to the parties to this deed) and 42 (Counterparts) of the Agreement shall be deemed to be incorporated into this deed.

#### **25.3 Acknowledgement of receipt of Agreement**

Each Assignor acknowledges receipt of a copy of the Agreement.

#### **25.4 Third Party Rights**

- (a) Unless expressly provided to the contrary, a person who is not a party to this deed has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this deed.
- (b) Notwithstanding any term of this deed, the consent of any person other than each Assignor and the Security Agent is not required to rescind or vary this deed at any time.
- (c) A Secured Party may, subject to this clause 25.4 and the Third Parties Act, rely on any provision of this deed which expressly confers rights on it.

#### **25.5 Continuing Security**

This deed is a continuing security and extends to the balance from time to time of the Secured Liabilities irrespective of any intermediate payment of the Secured Liabilities.

#### **25.6 Other Security**

This deed is in addition to and will not in any way be prejudiced or affected by the holding or release by the Security Agent or any other person of any other security at any time held by the Security Agent.

#### **25.7 Consolidation**

The restrictions on the right of consolidating mortgage securities contained in s. 93 of the LPA will not apply to this deed.

#### **25.8 Security Agent Provision**

- (a) The Security Agent executes this deed as security agent in the exercise of the powers and authority conferred and vested in it under the Agreement and any other Finance Document for and on behalf of the Secured Parties for whom it

## **EXECUTION VERSION**

acts. It will exercise its powers, rights, duties and authority under this deed in the manner provided for in the Agreement and, in so acting, the Security Agent shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Agreement and the other Finance Documents.

- (b) The Security Agent shall not owe any fiduciary duties to any party to this deed or any of their directors, employees, agents or affiliates.
- (c) Notwithstanding any other provisions of this deed, in acting under and in accordance with this deed the Security Agent is entitled to seek instructions from the Secured Parties in accordance with the provisions of the Agreement and at any time, and where it so acts or refrains from acting on the instructions of a Secured Party or Secured Parties entitled to give it instructions, the Security Agent shall not incur any liability to any person for so acting or refraining from acting.

### **26. Law**

This deed and any non-contractual obligations arising out of or in connection with this deed shall be governed by English law.

### **27. Jurisdiction of English courts**

- 27.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed and a dispute regarding a non-contractual obligation referred to in clause 26 (Law)) (a "**Dispute**").
- 27.2 The Security Agent and each Assignor agree that the courts of England are the most appropriate and convenient courts to settle Disputes. No Assignor will argue to the contrary.
- 27.3 This clause 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 executed and delivered as a deed by each Assignor and signed on behalf of the Security Agent on the date shown at the beginning of this deed.



SCHEDULE 1

Notice of Assignment

To: **Lethendy Bolton Limited**  
**Lethendy Elstree Limited**  
**Lethendy Stoke-on-Trent Limited**

(in each case)  
5 Carden Place  
Aberdeen  
AB10 1UT

[OR]

**Michels & Taylor Opco B Limited**  
**Michels & Taylor Opco E Limited**  
**Michels & Taylor Opco S Limited**

(in each case)  
Suite 3  
Caspian House  
Elstree Road, Elstree  
England  
WD6 3BS

Dated: [●]

Dear Sirs,

We refer to a subordination deed (the "**Subordination Deed**") dated [on or around the date of this deed]/[●] between Situs Asset Management Limited (the "**Security Agent**"), us and you and to an assignment dated [on or around the date of this deed]/[●] (the "**Assignment**") entered into between us and the Security Agent. Terms defined in the Subordination Deed have the same meanings in this letter.

We give you notice that we have assigned to the Security Agent all our present and future rights and interest in:

- (a) all indebtedness owed or expressed to be owed by you to us including:
- (i) any obligation (whether incurred jointly or severally or as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (ii) any obligation (such as post insolvency interest) which would be included in (i) above but for the fact that it is invalid or unenforceable;
  - (iii) any liability for damages or in respect of a restitutionary claim; and
  - (iv) any liability flowing from any recovery of a payment or discharge in respect of any obligation referred to in (i) above on grounds of preference or otherwise,
- (the "**Subordinated Debt**");

**EXECUTION VERSION**

- (b) any document creating or evidencing Subordinated Debt (a "**Junior Finance Document**") and all rights and remedies for enforcing any Junior Finance Document; and
- (c) all security, guarantees, indemnities, promissory notes, bills of exchange and other security of any nature now or in the future held by us in respect of any Junior Finance Document or Subordinated Debt and all money now or at any time in the future due or owing to us under or in connection with any of them and all rights and remedies for enforcing any of them in our name or otherwise,

(together the "**Assigned Assets**").

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous instructions whatsoever which we may have given to you to the contrary):

- (i) to pay to the Security Agent at such account or accounts and/or bank or banks (as may from time to time be notified to you by the Security Agent) all moneys forming part of the Assigned Assets other than any Permitted Payments which you are entitled to receive and retain under the terms of the Subordination Deed and otherwise to act in accordance with the instructions of the Security Agent in connection with the Assigned Assets;
- (ii) to comply with the terms of any written notice, statement or instructions in any way relating or purporting to relate to the Assignment and/or the Assigned Assets which you receive at any time from the Security Agent; and
- (iii) to disclose to the Security Agent, such information relating to the Assigned Assets as the Security Agent may, at any time request.

In each case without any reference to or further authority from us and without any enquiry by you as to the justification for such instructions, notice, statement, instructions or disclosure.

The instructions and authorisations which are contained in this letter will remain in full force and effect until the Security Agent gives you notice in writing revoking them.

This letter and any non-contractual obligations arising out of or in connection with this letter are governed by the law of England.

Would you please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by signing the attached form of acknowledgement and returning it to the Security Agent at 34th Floor, 25 Canada Square, Canary Wharf, London, E14 5LB.

Yours faithfully,

.....  
Director for and on behalf of  
**Lethendy Estates Limited**

[OR]



***EXECUTION VERSION***

Director for and on behalf of  
**Michels & Taylor (London) Limited**

**EXECUTION VERSION**

**SCHEDULE 2**

**Acknowledgement**

To: **Situs Asset Management Limited**  
34th Floor  
25 Canada Square  
Canary Wharf  
London E14 5LB

Dated: [•]

Dear Sirs,

We acknowledge receipt of a letter (a copy of which is attached) dated on or around the date of this notice and addressed to us by [[Lethendy Estates Limited] or [Michels & Taylor Midco Limited]] (the "**Assignor**") with respect to an Assignment dated on or around the date of this notice (the "**Assignment**") entered into between you and the Assignor. Expressions defined in such letter have the same meanings in this acknowledgement.

We acknowledge and confirm that:

- (a) we consent to the Assignment and, to the extent applicable, irrevocably waive any breach of any Junior Finance Document arising from the Assignment;
- (b) we have not claimed or exercised, has no outstanding right to claim or exercise and will not exercise, any right of set-off, counterclaim or other right relating to any payments to be made by us in respect of the Subordinated Debt;
- (c) the Security Agent shall not be under any obligation in relation to any Subordinated Debt or any Junior Finance Document as a consequence of the Assignment and each Assignor shall at all times remain liable to perform all obligations expressed to be assumed by it in respect of the Subordinated Debt and any Junior Finance Document; and
- (d) we have made the acknowledgements and confirmations and have given the undertakings set out in this letter in the knowledge that they are required by you in connection with the security which is to be constituted by the Assignor in your favour under the Assignment (a copy of which has been furnished to us).

This letter and any non-contractual obligations arising out of or in connection with this letter are governed by the law of England and in connection with any proceedings with respect to this letter and any such non-contractual obligations we submit to the jurisdiction of the Courts of England for your exclusive benefit.



**EXECUTION VERSION**

Yours faithfully,

.....  
Director for and on behalf of  
**Lethendy Bolton Limited**

.....  
Director for and on behalf of  
**Lethendy Elstree Limited**

.....  
Director for and on behalf of  
**Lethendy Stoke-on-Trent Limited**

[OR]

.....  
Director for and on behalf of  
**Michels & Taylor OpCo B Limited**

.....  
Director for and on behalf of  
**Michels & Taylor OpCo E Limited**

.....  
Director for and on behalf of  
**Michels & Taylor OpCo S Limited**

## SCHEDULE 3

## The Assignors

Company Name	Registered No.	Registered Office	Address, email and fax number for notices
Lethendy Estates Limited	SC589431	5 Carden Place, Aberdeen, AB10 1UT	Infinity Partnership Limited, 5 Carden Place, Aberdeen AB10 1UT  <a href="mailto:vnazarov@lethendyestates.co.uk">vnazarov@lethendyestates.co.uk</a>
Michels & Taylor Midco Limited	07886297 TW: 13735127	Suite 3, Caspian House, Elstree Road, Elstree, England WD6 3BS	Suite 3 Caspian House, Elstree Road, Elstree, England WD6 3BS  <a href="mailto:Ian.Noble@michelsandtaylor.com">Ian.Noble@michelsandtaylor.com</a>

EXECUTION VERSION

SIGNATURE PAGES OF THE SUBORDINATED DEBT ASSIGNMENT

SUBORDINATED CREDITORS

SIGNED as a deed on behalf of ) Signature in the name of the company  
LETHENDY ESTATES LIMITED, ) **LETHENDY ESTATES LIMITED**  
a company incorporated in ) .....  
Scotland )  
by )  
..... )  
who in accordance with the laws of )  
that territory are acting under the )  
authority of the company, **LETHENDY** )  
**ESTATES LIMITED** ) Authorised Signatory  
in the presence of:

WITNESS SIGNATURE:

WITNESS NAME:

WITNESS ADDRESS:

OCCUPATION OF WITNESS:

EXECUTED and delivered as a deed by )  
**MICHELS & TAYLOR MIDCO LIMITED** )  
acting by Jan Nijls, a )  
director, in the presence of:



.....  
Director

Signature of witness



.....  
LISA RICHARDS

Name of witness

Address of witness



Occupation of witness

.....  
P.A.

SIGNATURE PAGES OF THE SUBORDINATED DEBT ASSIGNMENT

SUBORDINATED CREDITORS

SIGNED as a deed on behalf of  
**LETHENDY ESTATES LIMITED**,  
a company incorporated in  
Scotland

by VIACHESLAV NAZAROV

who in accordance with the laws of  
that territory are acting under the  
authority of the company, **LETHENDY  
ESTATES LIMITED**

in the presence of:

WITNESS SIGNATURE:

WITNESS NAME: MARIA NAZAROVA

WITNESS ADDRESS:

OCCUPATION OF WITNESS: MANAGER

) Signature in the name of the company  
) **LETHENDY ESTATES LIMITED**

) .....

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) Authorised Signatory

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***EXECUTION VERSION***

**SECURITY AGENT**

**SIGNED** for and on behalf of  
**SITUS ASSET MANAGEMENT LIMITED**

)  
)



Edward Baker  
Vice President