



Registration of a Charge

Company name: **EGLINTON DEVELOPMENTS LIMITED**

Company number: **NI631064**



X8KXHBNC

Received for Electronic Filing: **23/12/2019**

Details of Charge

Date of creation: **23/12/2019**

Charge code: **NI63 1064 0008**

Persons entitled: **THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND**

Brief description: **ALL OF THE LANDS AND PREMISES COMPRISED IN FOLIO AN142971L COUNTY ANTRIM DESCRIBED IN PART 1 OF THAT FOLIO AS A PLOT OF LAND KNOWN AS 33 NOTTINGHILL PARADE, BELFAST. THOSE PARTS OF THE LANDS AND PREMISES COMPRISED IN FOLIOS AN94175L AND AN140455L COUNTY ANTRIM WHICH ARE HATCHED AND EDGED RED ON THE PLAN ATTACHED TO THE TRANSFER DEED DATED ON OR ABOUT THE DATE HEREOF MADE BETWEEN (1) MOUNT PROPERTY DEVELOPMENT LIMITED AND (2) EGLINTON DEVELOPMENTS LIMITED.**

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: **ARTHUR COX**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI631064

Charge code: NI63 1064 0008

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 23rd December 2019 and created by EGLINTON DEVELOPMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd December 2019 .

Given at Companies House, Belfast on 23rd December 2019

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 23 DECEMBER 2019

EGLINTON DEVELOPMENTS LIMITED

AND

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND

SECURITY AGREEMENT

LAND REGISTRY OF NORTHERN IRELAND

FOLIO(S): AN142971L (All), AN94175L (Part) AN140455L (Part)

COUNTY: ALL ANTRIM

PERSON ENTITLED TO BE REGISTERED OWNER: EGLINTON DEVELOPMENTS LIMITED

THIS DEED is dated 23 December 2019 and made between:

- 1. EGLINTON DEVELOPMENTS LIMITED**, a company incorporated in Northern Ireland with company number NI631064 having its registered office at 1 Campsie Business Park, Mclean Road, Eglinton, Londonderry, Northern Ireland, BT47 3XX ("Chargor") of the one part; **AND**
- 2. THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND** having its registered office at 40 Mespil Street, Dublin 4, Ireland and with an address for service in Northern Ireland at 1 Donegall Square South, Belfast, BT1 5LR (the "Bank", which expressions where the context so admits shall include the person for the time being deriving title under it and its assigns) acting as security trustee for each of The Governor and Company of the Bank of Ireland and Bank of Ireland (UK) PLC (together the "Secured Parties" and each a "Secured Party", which expressions where the context so admits shall include the person for the time being deriving title under it and its assigns).

RECITALS:

- A.** The Chargor is now or may from time to time after the date of this Deed become indebted whether as principal, surety or otherwise to the Secured Parties. It has been agreed between the Chargor and the Secured Parties that all such Indebtedness shall be secured, inter alia, by the security specified in this Deed.

IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

1.1 In this Deed (including its Recitals):

"Act" means the Conveyancing and Law of Property Act 1881;

"Administrator" means an administrator appointed pursuant to the Insolvency Order;

"Affiliate" means, in relation to any person, a subsidiary of that person or a Holding Company of that person or any other subsidiary of that Holding Company;

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

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in Belfast;

"Certificate of Title" means any certificate of title on the Charged Property provided to the Bank;

"Charged Property" means all freehold or leasehold property whether registered or unregistered owned specified in Part 1 of Schedule 1 (*Security Assets*) and all rights and appurtenances thereunto belonging or appertaining;

"Companies Act" means the Companies Act 2006;

"Default Rate" means the rate of interest specified in the Finance Documents for payment if the Chargor fails to pay any sum due on its due date.

above the rate which would be the cost to the Secured Parties as certified by the Secured Parties (without the necessity to provide proof or evidence of actual cost) if it were to fund the relevant amount on the London interbank market or such other appropriate interbank market as chosen by the Secured Parties for such period or periods as the Secured Parties may in its absolute discretion select;

"Delegate" means any delegate, agent, manager, attorney or co-trustee appointed by the Bank or any Receiver;

"Enforcement Date" means the date on which:

- (i) an Event of Default has occurred so long as it is continuing; or
- (ii) any of the Secured Obligations is not paid and/or discharged in accordance with the terms of this Deed;

"Environmental Claim" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;

"Environmental Law" means any applicable law, regulation or other requirement having legal effect which relates to:

- (a) the pollution of, protection of or prevention of harm to the environment;
- (b) harm to or the protection of human health;
- (c) harm to or the protection of the health of flora, fauna or other living organism;
- (d) the conditions of the workplace or worker's health and safety;
- (e) planning, development or building control; or
- (f) any emission or substance capable of causing harm to any living organism or the environment;

in all cases relates to the use and enjoyment of the Charged Property and the business of the Chargor;

"Environmental Licences" means any permit, licence, approval, consent, registration or other authorisation required by or pursuant to any Environmental Law or relating to Environmental Matters;

"Environmental Matters" means any matter arising out of, relating to, or resulting from pollution, contamination, protection of the environment, human health or safety (including health and safety of employees), health and safety of animal and plant life, sanitation and any matters relating to actual or threatened emissions, discharges, disseminations, releases of hazardous materials into the environment or otherwise arising out of, or relating to, or resulting from the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of hazardous materials;

"Event of Default" has the meaning given to that term in the Facility Agreement;

"Facility Agreement" means the facility letter 16th December 2019 from The Governor and Company of the Bank of Ireland to the Chargor, accepted by the Chargor on 16 December 2019 which is known as, and referred to therein as, the "Notting Hill Facility Letter" (as may be amended, varied, supplemented or replaced from time to time);

"Finance Documents" means:

- (a) the Facility Agreement;

- (b) any Security Document entered into as security in support of obligations under the Facility Agreement;
- (c) any hedging document entered into in connection with the Facility Agreement now or in the future;
- (d) any document designated in writing by the Bank and the Chargor as a “finance document”⁴³ for the purposes of this Deed now or in the future,

in each case, as that document same may be amended, varied, supplemented, restated or replaced from time to time.

“**Fixtures**” means all fixtures and fittings (including trade fixtures and fittings) and fixed Plant and Machinery of the Chargor in or on the Security Assets;

“**Holding Company**” has the meaning given to it in Section 1159 of the Companies Act;

“**Indebtedness**” means all monies, obligations and liabilities now or hereafter due, owing or incurred by the Chargor to any of the Secured Parties arising under the Finance Documents at any time, whether actual or contingent and whether incurred solely or jointly or surety or in any other capacity.

“**Insolvency Order**” means the Insolvency (Northern Ireland) Order 1989;

“**Insurances**” means any contract of insurance or re-insurance taken out by or on behalf of the Chargor in respect of or relating to the Charged Property or under which it has a claim including but not limited to the insurance contracts listed in Part 4 of Schedule 1 (*Security Assets*);

“**Lease**” means any lease, licence or contract or agreement to lease, license or let or any contract of occupation entered into in relation to the Charged Property or any part(s) thereof;

“**Legal Reservations**” means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;
- (b) the time barring of claims and defences of set-off or counterclaim; and
- (c) similar principles, rights and defences under the laws of any Relevant Jurisdiction;

“**Licence**” means any lease, licence or contract or agreement to lease, licence or let or any contract of occupation entered into in relation to the Charged Property;

“**Party**” means a party to this Deed;

“**Permitted Security**” means

- (a) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by the Chargor;
- (b) the Security; or
- (c) any other Security Interest permitted in writing by the Bank;

“**Planning Acts**” means all laws in any jurisdiction (whether criminal, civil or administrative) including common law, statute, statutory instruments, directives, regulations, bye-laws, orders, codes, judgments and other legal measures having the force of law concerning planning matters including, without limitation in Northern Ireland, the Planning (Northern Ireland) Order 1991 and the Planning Act (Northern Ireland) 2011 and any extant act, order or regulation made or confirmed under any of them;

“Plant and Machinery” means all plant, machinery, computers, office equipment or vehicles of the Chargor used in connection with the Charged Property including the items set out in Part 2 of Schedule 1;

“Premises” means all buildings and erections included in the Charged Property;

“Receivables” means the aggregate of all amounts payable to or for the benefit or account of the Chargor as lessor or licensor arising from or in connection with the letting, use or occupation of the Charged Property (or any part thereof), including (without limitation and without double counting):

- (a) rents (including turnover rent), licence fees and equivalent sums reserved or made payable;
- (b) sums received on any deposit held as security for the performance of any tenant’s or licensee’s obligations save to the extent the Chargor is obliged to hold any such deposit on trust for a tenant or a licensee;
- (c) any premium paid for any Lease;
- (d) any other monies paid in respect of use and/or occupation;
- (e) proceeds of insurance in respect of loss of rent;
- (f) receipts from or the value of consideration given for the surrender or variation of any letting;
- (g) proceeds paid by way of reimbursement of expenses incurred in the management, maintenance and repair of, and the payment of insurance premiums for, the Charged Property, save to the extent that the Chargor is obliged to hold such proceeds on trust for tenants;
- (h) proceeds paid for a breach of covenant under any Lease and for expenses incurred in relation to any such breach;
- (i) any contribution to a sinking fund paid by any tenant save to the extent that the Chargor is obliged to hold such proceeds on trust for tenants;
- (j) payments from a guarantor in respect of any of the items listed in this definition;
- (k) interest, damages or compensation in respect of any of the items listed in this definition,

but in each case excluding any VAT and Service Charge Income on any sum mentioned in this definition;

“Receiver” means any one or more administrative receivers, receivers and/or managers appointed in respect of the Chargor (whether appointed pursuant to this Deed, pursuant to any statute, by account or otherwise);

“Related Company” means a company which is a Holding Company of the Chargor or a Subsidiary of a Holding Company of the Chargor or of the Chargor itself;

“Relevant Contract” means:

- (a) any agreement specified in Part 3 of Schedule 1 (*Security Assets*);
- (b) any other agreement to which the Chargor is a party and which the Chargor and the Bank may from time to time designate a Relevant Contract.

“Relevant Jurisdiction” means, in relation to the Chargor, its jurisdiction of incorporation, any jurisdiction where any asset subject to or intended to be subject to the Security to be created by it is situated, any jurisdiction where it conducts its business and the jurisdiction whose laws govern the perfection of any of the Security entered into by it;

“Secured Obligations” means all monies, obligations and liabilities herein covenanted to be paid or discharged by the Chargor and secured on the Security Assets and **“Secured Obligation”** means any of such monies, obligations or liabilities;

“Security” means any Security Interest created, evidenced or conferred by or under this Deed;

“Security Account” means any account specified in Part 5 of Schedule 1 (*Security Assets*) Account (and each other account (as may be notified to the Bank) which may replace or be substituted for those accounts);

“Restricted Security Account” means any account specified in Part 5 of Schedule 1 (*Security Assets*) which is stated to be a Restricted Account (and each other account (as may be notified to the Bank) which may replace or be substituted for those accounts);

“Security Assets” means all assets of the Chargor the subject of this Security and **“Security Asset”** means any such asset;

“Security Interest” means a mortgage, charge, assignment, pledge, lien, encumbrance or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect;

“Security Period” means the period beginning on the date of this Deed and ending on the date on which the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and the Secured Parties are not under any obligation to grant or continue any loans, advances or other banking facilities to the Chargor under the Finance Documents;

“Service Charge Income” means all monies receivable by the Chargor pursuant to the Leases to fund the cost of the maintenance and insurance obligations assumed by it pursuant to the Leases;

“Tax” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same);

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland; and

“VAT” means value added tax as provided for in the Value-Added Tax Act 1994 and any Tax which may be levied in accordance with Directive 2006/112/EC whether in the United Kingdom or elsewhere and any other tax of a similar nature.

1.2 Unless a contrary indication appears, any reference in this Deed to:

- (a) the **“Chargor”**, the **“Bank”**, any **“Secured Party”** or **“Party”** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (b) an **“agreement”** includes any agreement, arrangement, instrument, contract or deed (in each case whether oral or written);
- (c) an **“amendment”** includes a supplement, restatement, novation or re-enactment and **“amended”** shall be construed accordingly;
- (d) **“assets”** includes present and future assets, properties, revenues and rights of every description;

- (e) an Event of Default is “**continuing**” unless it has been expressly waived in writing by the Bank;
 - (f) “**this Deed**” means this security agreement;
 - (g) “**dispose**” includes part with possession of, grant any interest in, sell, lease, licence, discount, factor, loan, assign, convey, agree to convey, transfer, release, exchange and set-off and “**disposal**” shall be construed accordingly;
 - (h) a “**filing**” includes any filing, registration, recording or notice and “**filed**” shall be construed accordingly;
 - (i) “**including**” means including without limitation and “**includes**” and “**included**” shall be construed accordingly;
 - (j) “**indebtedness**” includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
 - (k) “**insolvency**” includes insolvency, winding-up, dissolution, administration, the granting of court protection, liquidation, bankruptcy, composition or arrangement and other similar events under the laws of any jurisdiction;
 - (l) “**losses**” includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and “**loss**” shall be construed accordingly;
 - (m) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (n) a “**regulation**” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (o) a provision of law or regulation is a reference to that provision as amended; and
 - (p) a time of day is a reference to Belfast time.
- 1.3 Words in the singular shall include the plural and vice versa.
- 1.4 Clause and Schedule headings are for ease of reference only.
- 1.5 Any covenant, undertaking or agreement of the Chargor under this Deed remains in force during the Security Period.
- 1.6 It is intended that this document takes effect as a deed notwithstanding the fact that the Bank may execute this document only under hand or not at all.
- 1.7 If an amount paid to the Bank is capable of being avoided or otherwise set aside on the insolvency of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.8 Reference to this Deed and any provision of this Deed or any other documents or agreement, are to be construed as reference to this Deed, those provisions or that document or agreement in force for the time being and as amended, varied, supplemented, substituted or novated from time to time.
- 1.9 References to liability are to include any liability whether actual, contingent, present or future.

- 1.10 Any reference to a statute (whether specifically named or not) or to any sections or sub-sections of a statute includes any amendments or re-enactments of that statute for the time being in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans for the time being made, issued or given under or deriving validity from such statute, and unless otherwise stated any reference to a statute shall be a reference to a statute or order of the United Kingdom or of any local assembly in Northern Ireland.
- 1.11 Unless expressly provided to the contrary in this Deed, a person who is not party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any of the terms of this Deed.
- 1.12 Unless the context otherwise requires, a reference to a Security Asset includes:
- (a) any part of that Security Asset;
 - (b) the proceeds of sale of all or any part of that Security Asset;
 - (c) any monies and proceeds paid or payable in respect of that Security Asset including all rights to be paid or receive compensation under any statute or enactment by reason of any compulsory acquisition or other exercise of compulsory or similar powers in relation to that Security Asset by any local or other authority or government agency or body or any refusal, withdrawal or modification of any planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of that Security Asset;
 - (d) all rights under any licence, agreement for sale or agreement for lease in respect of that Security Asset;
 - (e) all rights, powers, benefits, claims, contracts, warranties, remedies, Security Interests, guarantees, indemnities, covenants, agreements or undertakings in respect of that Security Asset; and
 - (f) any present and future assets of that type.
- 1.13 Unless the context otherwise requires, a reference in this Deed to the Charged Property includes:
- (a) all Premises and Fixtures from time to time on the Charged Property owned by the Chargor; and
 - (b) the benefit of any covenant for title given or entered into by any predecessor in title of the Chargor in respect of the Charged Property and any monies paid or payable in respect of that covenant.
- 1.14 The fact that no, or incomplete, details of any Security Asset are inserted in Schedule 1 (*Security Assets*) does not affect the agreement of the Parties to create a mortgage, an assignment or a first fixed charge as applicable over that Security Asset.

2. COVENANT TO PAY

- 2.1 The Chargor (as primary obligor and not merely as surety) unconditionally and irrevocably covenants with the Bank (for the benefit of itself and the Secured Parties) that it will on the Bank's written demand:
- (a) pay or discharge its Indebtedness when such Indebtedness becomes due for payment or discharge; and
 - (b) pay or discharge on demand to the Bank all costs, charges, expenses and other sums (banking, legal or otherwise) on a full indemnity basis howsoever incurred or to be incurred by the Secured Parties or by or through any Receiver or Delegate (including, without limitation, the remuneration of any of them) for any of the purposes referred to in this Deed or in relation to the enforcement of this Security.

- 2.2 Subject to clause 2.1, the Secured Obligations shall immediately become due and payable on demand by the Bank.
- 2.3 The making of one demand shall not preclude the Bank from making any further demands or negate or invalidate any previous demands made by the Bank.

3. INTEREST

The Chargor shall pay interest at the Default Rate (as well after as before judgment) on any amount for the time being due from the Chargor to any Secured Party under this Deed from the date of a demand for payment under this Deed until payment in full. Interest payable under this clause shall be compounded with rests on such days as that Secured Party shall from time to time decide but without prejudice to the right of that Secured Party to require payment of such interest when due.

4. PAYMENTS

- 4.1 All payments by the Chargor under this Deed shall be made to the relevant Secured Party to its account at such office or such bank as it may notify to the Chargor for this purpose.
- 4.2 Payments under this Deed to the relevant Secured Party shall be made for value on the due date at such times and in such funds specified by the relevant Secured Party as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.
- 4.3 If a payment under this Deed is due on a day which is not a Business Day, the due date for that payment shall instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- 4.4 The Chargor shall pay all monies due under this Deed free and clear and without deduction for or on account of either any set-off or counterclaim or any and all present or future taxes, levies, imposts, charges, fees, deductions or withholdings. If any sums payable under this Deed shall be or become subject to any such deduction or withholding, the amount of such payments shall be increased so that the net amount received by the relevant Secured Party shall equal the amount which, but for such deduction or withholding, would have been received by the Bank under this Deed.

5. CREATION OF SECURITY

- 5.1 All security created under this Deed:
- (a) is created in favour of the Bank (in its capacity as security trustee for itself and the Secured Parties);
 - (b) is created over the present and future assets of the Chargor;
 - (c) is continuing security for the payment, discharge and performance of the Secured Obligations;
 - (d) is created by the Chargor as legal and beneficial owner.
- 5.2 The Bank holds the benefit of this Deed on trust for the Secured Parties.
- 5.3 Subject to Clause 33 (*Release*) below, as continuing security for the payment, performance and discharge of the Secured Obligations and as legal and beneficial owner and registered owner or as the person entitled to be registered as registered owner as the case may be, the Chargor hereby:
- (a) GRANTS, CONVEYS, TRANSFERS AND DEMISES unto the Bank ALL THAT AND THOSE its freehold and leasehold lands, hereditaments, premises, property and all chattels both present and future, particulars of which are specified in Part I of Schedule 1 (*Security Assets*), title to which is not registered or registerable in the Land Registry pursuant to the provisions of the Land Registration Act (Northern Ireland)

1970 and all chattels both present and future, including its interest in all buildings, fixtures (including, without limitation, trade fixtures) and its fixed plant and machinery from time to time thereon TO HOLD the same as to so much thereof as is of freehold tenure unto the Bank in fee simple and as to so much thereof as is of leasehold tenure unto the Bank for the residue of the respective terms of years for which the Chargor from time to time holds the same less the last three days of each such term, subject to the proviso for redemption contained in clause 33 (*Release*) PROVIDED that the Chargor hereby declares that it shall henceforth stand possessed of such of the said property as is of leasehold tenure for the last three days or respective last days of the term or terms of years for which the same is held by it, and for any further or other interest which it now has or may hereafter acquire or become entitled to in the same or any part thereof by virtue of any Act or Acts of Parliament or otherwise howsoever, in trust for the Bank and to be conveyed assigned or otherwise dealt with whether to the Bank or its nominee or otherwise as the Bank shall direct but subject to the same equity of redemption as may for the time being be subsisting in the said property, and the Chargor further agrees that (subject as aforesaid) the Bank shall be entitled to the custody of all the title deeds of the said property, and the Chargor hereby further authorises the Bank as mortgagee during the continuance of this security to remove it or any other person from being a trustee in respect of the trust hereinbefore declared and to appoint the Bank or any other person or persons to be a trustee or trustees in respect of the said property, and whereupon to make a declaration vesting all and any of its estate and interest in the said property in such new trustee or trustees, and so (but without prejudice to the generality of the foregoing) that any such trustee or trustees, may be any Receiver or Receivers of the said property appointed by the Bank under the powers herein contained PROVIDED FURTHER that the Chargor doth hereby irrevocably appoint the Secretary for the time being of the Bank to be its attorney, in its name and on its behalf, and as its act and deed to sign seal and deliver and otherwise perfect every or any Deed of Conveyance of the leasehold reversion which may be desired by the Bank, in order to vest in the Bank or in any person or persons in trust as agent for the Bank, subject as aforesaid, or in any purchaser of the said property or any part thereof, the said leasehold reversion and any further or other interest which the Chargor now has or may hereafter acquire or become entitled to in the said leasehold premises or any part thereof by virtue of any Act or Acts of Parliament or otherwise howsoever;

- (b) charges unto the Bank ALL THAT AND THOSE its freehold and leasehold lands, hereditaments, premises and property registered under the Land Registration Act (Northern Ireland) 1970 specified in Part 1 of Schedule 1 (*Security Assets*) title to which is registered or registerable in the Land Registry together with all buildings, fixtures and fixed plant and machinery from time to time thereon with the payment, performance and discharge of the Secured Obligations;
- (c) assigns absolutely all its rights in respect of:
 - (i) the Receivables;
 - (ii) the Insurances;
 - (iii) its Plant and Machinery: this includes any specified in Part 2 of Schedule 1 (*Plant and Machinery*);
 - (iv) its interest in any plant, machinery, computers, office equipment and vehicles in its possession to the extent of that interest;
 - (v) the Relevant Contracts;

in each case, subject to the proviso for reassignment on redemption specified in Clause 33 (*Release*);

(d) by way of first fixed charge all the Chargor's present and future right, title and interest in and to all sums from time to time standing to the credit of each Security Account and all rights, benefits and proceeds thereof;

(e) assigns absolutely in favour of the Bank all its present and future benefits, rights, title and interest in and to (but not obligations under):

(i) any deeds of easements or rights of way used in connection with the Charged Property;

(ii) the Leases, leasing agreements or hire purchase agreements entered into in connection with the Charged Property and the full benefit of all rights and remedies relating thereto, including all negotiable and non-negotiable instruments, guarantees, indemnities and rights of tracing and all its powers of recovery in respect thereof;

(iii) all rental income, sales proceeds and other sums arising out of the ownership, use or occupation of the Charged Property;

(iv) all agreements and contracts from time to time made by the Chargor for the sale of all or any part of the Charged Property, the granting of a lease of all or any part of the Charged Property, the granting of any rights, easements or licences over, in respect of or benefitting the Charged Property and for carrying out any works on all or any part of the Charged Property;

(v) all rights and claims to which the Chargor is now or may hereafter become entitled in relation to the freehold, leasehold or immovable property charged hereunder but not otherwise,

subject to the proviso for reassignment on redemption specified in Clause 33 (*Release*);

(f) charges by way of first fixed charge:

(i) any covenant agreement or undertaking in relation to the construction and maintenance of roads, pavements and utilities for services abutting and serving the Charged Property or charges, levies or such like in respect of the same or the taking in charge thereof by the local authority and any indemnity in respect of the matters aforesaid;

(ii) any right, benefit or agreement made between it and the local authority pursuant to which it has been or may be granted rights of access or rights of way in relation to the Charged Property or otherwise;

(iii) any covenant, agreement, guarantee or indemnity in respect of the construction and maintenance of the Premises now erected or in the course of erection or hereafter to be erected on the Charged Property the benefit of which is vested in it;

(iv) all of its rights to be paid or receive compensation under any statute by reason of any compulsory acquisition or other exercise of compulsory powers in relation to the Charged Property or any refusal, grant subject to conditions, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of the Charged Property and so that the production of these presents to the person liable to pay such compensation shall be sufficient authority to it to pay such moneys to the Bank;

(v) all of its rights to be paid or receive compensation under any statute by reason of any compulsory acquisition or other exercise of compulsory powers or in respect of criminal damage pursuant to the Criminal Damage (Compensation) (Northern Ireland) Order 1977 as amended by the Criminal Damage

(Compensation) (Amendment) Order 2009 in relation to the Charged Property or any refusal, grant subject to conditions, withdrawal or modification of planning permission or approval relative thereto or any control or limitation imposed upon or affecting the use of the Charged Property and so that the production of these presents to the person liable to pay such compensation shall be sufficient authority to it or him to pay such monies to the Bank.

- 5.4 To the extent that any Security Asset is not effectively mortgaged or assigned under this Deed, the Chargor as beneficial owner charges by way of first fixed charge that Security Asset in favour of the Bank.

6. REPRESENTATIONS AND WARRANTIES

The Chargor makes the representations and warranties set out in this clause 6 (*Representations and Warranties*) to the Bank.

- 6.1 It is a company, duly incorporated, validly existing under the laws of its jurisdiction of incorporation and its annual returns due to be filed in Companies House or any relevant companies registry have been so filed.
- 6.2 It has the power to enter into, exercise its rights and perform and comply with its obligations under this Deed.
- 6.3 All Authorisations required or desirable:
- (a) to enable it to enter into, exercise its rights and perform and comply with its obligations under this Deed, and
 - (b) to ensure that those obligations are valid and legally binding and enforceable subject to the Legal Reservations,
- have been obtained or effected and are in full force and effect except any Authorisation referred to in clause 6.7, which Authorisation will be promptly obtained or effected after the date of this Deed and in any event prior to the time by which such Authorisation is required to be obtained or effected.
- 6.4 Its obligations under this Deed rank and will rank at least *pari passu* with the claims of all of its other unsecured and unsubordinated creditors, except as otherwise provided for in this Deed and for obligations mandatorily preferred by law applying to companies generally.
- 6.5 Its entry into, exercise of its rights and/or performance of or compliance with its obligations under this Deed do not conflict with, or exceed any charging or other power or restriction granted or imposed by any law or regulation applicable to it or its constitutional documents.
- 6.6 Its obligations under this Deed are valid and legally binding and enforceable subject to the Legal Reservations.
- 6.7 It is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in Northern Ireland or any of its Relevant Jurisdictions or that any stamp, registration or similar Tax be paid on or in relation to this Deed except registration of particulars of this Deed pursuant to the Companies Act and particulars of this Deed at the Land Registry in Northern Ireland and/or the Registry of Deeds in Northern Ireland and payment of the associated fees, which registrations, filings, Taxes and fees will be made and paid promptly after the date of this Deed and in any event prior to the time required to be made and paid if this Deed is to remain valid or if interest or penalties are to be avoided with respect to the registration, filing Taxes or fees.
- 6.8 Its entry into, exercise of its rights and/or performance of or compliance with its obligations under this Deed do not and will not:

- (a) conflict with any agreement to which it is a party or which is binding on it or any of its assets; or
 - (b) result in the existence of, or oblige it to create any Security Interest over those assets (other than the Security Interests created hereunder).
- 6.9 None of its Security Assets are affected by any Security Interest except Permitted Security and it is not a party to, nor are any of its assets bound by, any order or agreement under which it is, or in certain events may be, required to create, assume or permit to arise any Security Interest except Permitted Security, nor is any guarantee, indemnity or other contingent liability held by or owing to a third party from or by it.
- 6.10 No litigation, arbitration or administrative proceeding is current, (or to its knowledge) pending or threatened:
 - (a) to restrain the entry into, exercise of any of its rights under and/or performance or enforcement of or compliance with any of its obligations under this Deed; or
 - (b) which has or is reasonably likely to have an adverse effect on its financial condition or on its ability to perform its obligations under this Deed.
- 6.11 All amounts payable by it under this Deed may be made free and clear of and without deduction for or on account of any Tax.
- 6.12 It will not be entitled to claim immunity from suit, execution, attachment or other legal process in any proceedings taken in relation to this Deed.
- 6.13 it is not unable and has not been deemed unable to pay its debts within the meaning of Article 103 of the Insolvency Order or any analogous legislation at the time of entering into this Deed and remains able to pay its debts and did not become unable to pay its debts as a consequence of entering into this Deed.
- 6.14 It has not taken or received the benefit of any Security Interest from any person in respect of its obligations under this Deed.
- 6.15 Its centre of main interests (as that term is used in Article 3(1) of Regulation (EU) 2015/848 of the European Parliament and Council of 20 May 2015 (the "Regulation")) is situated in Northern Ireland and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.
- 6.16 This Deed creates the Security Interests it purports to create (subject to the Legal Reservations) and is not liable to be avoided or otherwise set aside on its insolvency or otherwise.
- 6.17 Subject to clause 6.19 it is the sole legal and beneficial owner of the Security Assets.
- 6.18
 - (a) The information supplied to the solicitors who prepared any Certificate of Title relating to any of the Charged Property for the purpose of that Certificate of Title was true in all material respects at the date it was expressed to be given.
 - (b) The information referred to in paragraph (a) above was at the date it was expressed to be given complete and did not omit any information which, if disclosed, would make that information untrue or misleading in any material respect or would cause any Certificate of Title relating to any of the Charged Property to be qualified in any way.
 - (c) As at the date of this Deed, nothing has occurred since the date any information referred to in paragraph (a) above was given which, if disclosed, would make that information untrue or misleading in any material respect.
- 6.19 In relation to the Charged Property:
 - (a) it is the sole legal and beneficial owner of the Charged Property;

- (b) no breach of any law, regulation or covenant is outstanding which affects or would be reasonably likely to adversely affect the value, saleability or use of the Charged Property;
- (c) there are no covenants, agreements, stipulations, exceptions, reservations, conditions, interest, rights or other matters whatsoever affecting the Charged Property which conflict with its present use or adversely affect the value, saleability or use of any of the Charged Property;
- (d) nothing has arisen or has been created or is subsisting which is a burden affecting any of the Charged Property;
- (e) all facilities (including access and services) necessary for the enjoyment and use of the Charged Property (including those necessary for the carrying on of its business) are enjoyed by the Charged Property and none of those facilities are on terms entitling any person to terminate or curtail its use or on terms which conflict with or restrict its use;
- (f) it has received no notice of any adverse claims by any person in respect of the Charged Property or any interest in it; and
- (g) the Charged Property is held by it free from any Security Interest (except for those created by or under this Deed) or any lease or licence which would be reasonably likely to adversely affect its value, saleability or use.

6.20 The Chargor is:

- (a) performing all the terms on its part contained in any lease, agreement for lease, licence or other agreement which gives the Chargor a right to occupy or use property comprised in the Charged Property;
- (b) not doing or allowing to be done any act as a result of which any lease under which it holds the Charged Property may become liable to forfeiture or otherwise be terminated; and
- (c) duly and punctually complying with all covenants and stipulations affecting the Charged Property or the facilities (including access) necessary for the enjoyment and use of the Charged Property.

- 6.21
- (a) Its obligations (and the obligations of each other party to the Relevant Contracts to which it is party) under the Relevant Contracts are valid and legally binding and enforceable.
 - (b) It is not (and no other party to any of the Relevant Contracts to which it is party is) in default of any of its obligations under any of the Relevant Contracts.
 - (c) There is no prohibition on assignment to the Bank (or requirement to obtain the consent or waiver of any person to the assignment to the Bank) in any of the Relevant Contracts.
 - (d) Its entry into and performance of this Deed will not conflict with any term of any Relevant Contract.
 - (e) Except for the rights and obligations expressly created by the Relevant Contracts there are no rights or obligations in existence as between the parties to each Relevant Contract which may act to the detriment of the Bank as assignee of the Relevant Contract.

- 6.22 There is no prohibition on assignment to the Bank (or requirement to obtain the consent or waiver of any person to the assignment to the Bank) in any Insurance, and its entry into and performance of this Deed does not and will not constitute a breach of any Insurance.

- 6.23 It has, at all times, complied in all respects with all Environmental Law and Environmental Licences.
- 6.24 (a) No breach of any law, regulation or covenant is outstanding which adversely affects or would be reasonably likely to adversely affect the value, saleability or use of the Security Assets.
- (b) There are no covenants, agreements, stipulations, exceptions, reservations, conditions, interests, rights or other matters whatsoever affecting the Security Assets which conflict with the present use or adversely affect the value, saleability or use of any Security Asset.
- (c) It has received no notice of any adverse claims by any person in respect of the Security Assets or any interest in it.
- 6.25 (a) The Chargor makes the representations and warranties set out in this clause 6 on the date of this Deed.
- (b) The representations and warranties in this clause 6 shall continue and are deemed to be made by the Chargor on each day until this Deed is released by the Bank.
- (c) Each representation and warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation and warranty is deemed to be made.

7. RESTRICTIONS ON DEALINGS

- 7.1 The Chargor shall not without the prior written consent of the Bank:
- (a) create or permit to subsist any Security Interest over any of the Security Assets;
- (b) enter into any arrangement under which money or the benefit of a bank account or other account may be applied, set-off or made subject to a combination of accounts; or
- (c) either in a single transaction or in a series of transactions (whether related or not) and whether voluntarily or involuntarily dispose of any Security Asset.
- 7.2 The Chargor shall at all times conduct and carry on its business in a proper and efficient manner and not make any substantial alteration in the nature of or mode of conduct of that business and keep, or cause to be kept, proper books of account relating to such business.
- 7.3 The Chargor shall not do or cause or permit to be done anything which may in any way jeopardise or otherwise prejudice this Security.

8. REAL PROPERTY

- 8.1 The Chargor shall:
- (a) obtain all Environmental Licences required by it;
- (b) comply in all respects with any Environmental Licence or Environmental Law applicable to it;
- (c) not without the prior written consent of the Bank, place or allow to be placed on any part of the Charged Property any waste or noxious material;
- (d) procure that any occupier of the Charged Property complies with any Environmental Licence or Environmental Law applicable to it;
- (e) ensure that the Bank does not incur any liability by reason of any breach by it of any Environmental Law or Environmental Licence; and

- (f) immediately upon becoming aware, notify the Bank of:
 - (i) any Environmental Claim past, current or, to its knowledge pending or threatened; or
 - (ii) any circumstances reasonably likely to result in an Environmental Claim.
- 8.2 The Chargor shall keep:
 - (a) its Premises in good and substantial repair and condition (ordinary wear and tear excepted); and
 - (b) its Fixtures in a good state of repair and in good working order and condition (ordinary wear and tear excepted).
- 8.3 The Chargor shall:
 - (a) perform all the terms on its part contained in any lease, agreement for lease, licence or other agreement which gives it a right to occupy or use property comprised in the Charged Property;
 - (b) not do or allow to be done any act as a result of which any lease under which it holds the Charged Property may become liable to forfeiture or otherwise be terminated; and
 - (c) duly and punctually comply with all covenants and stipulations affecting the Charged Property or the facilities (including access) necessary for the enjoyment and use of the Charged Property and indemnifies the Bank in respect of any breach of those covenants and stipulations.
- 8.4 The Chargor shall, within 14 days after the receipt by it of any application, requirement, order or notice served or given by any public or other authority with respect to the Charged Property (or any part of it) which would or would be reasonably likely to have an adverse effect on the business, operations, assets generally or condition (financial or otherwise) of the Chargor:
 - (a) deliver a copy to the Bank; and
 - (b) inform the Bank of the steps taken or proposed to be taken to comply with the relevant application, requirement, order or notice.
- 8.5 The Chargor shall not in respect of the Charged Property or any part of it (except with the prior written consent of the Bank):
 - (a) grant or agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy or confer upon any person any contractual licence or right to occupy or use the Charged Property;
 - (b) accept a surrender of any lease or tenancy or do any act or thing whereby any lease or other agreement which gives any right to occupy the Charged Property or any parts thereof becomes or may become subject to determination or any right of re-entry or forfeiture becomes exercisable prior to the expiration of its term; or
 - (c) alter or vary or agree to alter or vary the terms of any lease under which it holds the Charged Property or any parts thereof or any lease to which the Charged Property or any parts thereof is subject.
- 8.6 The Chargor assents to the registration as burdens on the folio of the Charged Property that is registered land of which it is the registered owner or the person entitled to be registered owner:
 - (a) of the fixed or specific charge hereby created on the said registered land; and
 - (b) of the power of any Receiver appointed hereunder to charge the said registered land.

The address of the Bank in Northern Ireland for service of notices and its description is 1 Donegall Square South, Belfast, BT1 5LR.

- 8.7 The Chargor shall upon the execution of this Deed deliver (or procure delivery) to the Bank and the Bank shall be entitled to hold and retain, all deeds, certificates and other documents of title relating to the Charged Property as well as Environmental Licences and any documents issued or required under the Planning Acts in connection with the Charged Property.
- 8.8 The Chargor shall not without prior written consent of the Bank;
- (a) pull down or remove the whole or any part of the Premises;
 - (b) make any material alterations to the Charged Property;
 - (c) change or permit or suffer to be changed the use of the Charged Property;
 - (d) sever or remove any Fixture or Plant and Machinery (other than stock in trade or work in progress) on or in the Charged Property (except for the purpose of any necessary repairs or replacement of it); or
 - (e) carry out any development (within the meaning of the Planning Acts) on the Charged Property.
- 8.9 The Chargor shall comply with and observe and perform:
- (a) all applicable requirements of all laws (including the Planning Acts), legislation, regulations and bye-laws relating to the Charged Property;
 - (b) any conditions attaching to any planning permissions or licence issued under any law or regulation of any jurisdiction relating to or affecting the Charged Property; and
 - (c) any notices or other orders made by any planning, environmental or other public body in respect of all or any part of the Charged Property.
- 8.10 The Chargor shall:
- (a) not do anything or permit anything to be done in respect of the Security Assets that may prejudicially affect any insurance thereon or that may increase or cause the premium payable for any such insurance to be increased;
 - (b) keep the Security Assets in good and substantial repair and condition and working order as will permit the efficient and economic carrying on of the Chargor's business and permit the Bank or any person as it shall from time to time in writing for that purpose appoint to enter into any property of the Chargor to view the state and condition of the Security Assets. If the Chargor is at any time in default in complying with this covenant the Bank shall be entitled but not bound to repair and maintain such property with power for the Bank, its agents and their respective employees to enter any of the Chargor's property for that purpose or to inspect such property and any sum so expended by the Bank shall be repayable by the Chargor to the Bank on demand together with interest thereon at the Default Rate from the date of expenditure by the Bank;
 - (c) complete in a proper and workmanlike manner within such period as may be specified by the Bank in writing the repairs (if any) prescribed by the Bank to be carried out at the Chargor's expense on the Security Assets to the satisfaction of a valuer or surveyor approved by the Bank and to repay to the Bank any fees and expenses incurred by the Bank in connection with the approval of such works. In the event of the Chargor defaulting in this obligation, it shall be lawful for the Bank and its agents, workmen and valuers with all necessary machinery and equipment to enter upon such fixed property and so complete the said repairs at the cost of the Chargor and such cost shall be deemed a further charge on the Security Assets;

- (d) at all times observe and perform (and ensure the observance and performance where appropriate by any other person or persons) of all restrictive and other covenants and stipulations to which the Security Assets may from time to time be subject, all obligations on the part of the Chargor contained in any lease, licence or other agreement, all building regulations and all restrictions conditions and stipulations for the time being affecting any of the Security Assets or the mode of user or enjoyment of the same and permit the Bank and any person nominated by it to enter upon the property in or on which the Security Assets are situated and to view the state of the property and will use its best endeavours to obtain renewals of leases, licences or agreements as the case may be relating to the Security Assets on the most favourable terms available so long as such property shall have utility or commercial value; and
 - (e) punctually pay and indemnify the Secured Parties and any Receiver appointed against all existing and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether imposed by agreement statute or otherwise and whether in the nature of capital or revenue and even if wholly novel) now or at any time during the Security Period payable in respect of the Security Assets or any part thereof or by the owner or occupier thereof; if any such sums should be paid by the Secured Parties or by any Receiver such sums shall be repaid by the Chargor on demand together with interest at the Default Rate.
- 8.11 The Chargor shall grant the Bank or its solicitors on request all facilities within the power or procurement of the Chargor to enable the Bank or its solicitors (at the expense of the Chargor) to:
- (a) carry out investigations of title to the Charged Property; and
 - (b) make such enquiries in relation to any part of, or any matter relating to, the Charged Property as a prudent mortgagee might carry out.
- 8.12 If the Chargor fails to perform any covenant or stipulation or any term of this Deed affecting the Charged Property, the Chargor shall allow the Bank or its agents and/or contractors:
- (a) to enter any part of the Charged Property to carry out an inspection of it;
 - (b) to comply with or object to any notice served on it in respect of the Charged Property; and
 - (c) to take any action as the Bank may consider necessary or desirable to prevent or remedy any breach of any such covenant, stipulation or term or to comply with or object to any such notice.

The Chargor shall within three Business Days of demand by the Bank pay the costs and expenses of the Bank or its agents and contractors incurred in connection with any action taken by it under this clause, and pending payment, that payment will constitute part of the Secured Obligations and be deemed to be a further charge on the Security Assets.

9. PLANT AND MACHINERY

- 9.1 The Chargor shall:
- (a) keep its Plant and Machinery in good and serviceable condition (ordinary wear and tear excepted);
 - (b) not permit any of its Plant and Machinery to be:
 - (i) used or handled, other than by properly qualified and trained persons; or
 - (ii) overloaded or used for any purpose for which it is not designed or reasonably suitable;

- (c) keep its Plant and Machinery at the location or locations (if any) from time to time approved in writing by the Bank and not remove any such Plant and Machinery from its location without the prior written consent of the Bank, except for the purpose of maintenance or repair;
- (d) if it has not already done so, in the case of any Plant and Machinery located on leasehold premises, obtain evidence in writing from any lessor of any such premises that he waives absolutely all and any rights he may have now or at any time in the future over any such Plant and Machinery; and
- (e) if so requested by the Bank place and maintain on each item of Plant and Machinery in a conspicuous place and clearly legible identification plate containing the following wording:

“Notice of Charge

The [Description of item] and all additions to it and ancillary equipment is subject to a first fixed charge dated [date] in favour of The Governor and Company of the Bank of Ireland (as security trustee)”

10. SECURITY ACCOUNTS

- 10.1 The Chargor shall get in and realise its Receivables and hold the proceeds of the getting in and realisation (until payment into the relevant Security Account but subject always to clause 5 (*Creation of Security*)) on trust for the Bank.
- 10.2 The Chargor shall, except to the extent that the Bank otherwise agrees, pay promptly all the proceeds of the getting in and realisation referred to in clause 10.1 into the Security Account designated as the Rent Account.
- 10.3 The Chargor shall not be entitled to withdraw or otherwise transfer any credit balance from time to time in any Restricted Security Account except with the prior written consent of the Bank.
- 10.4 Before the Enforcement Date, the Chargor may freely withdraw amounts standing to the credit of any account which is not a Restricted Security Account. With effect from the Enforcement Date, the Bank may exercise (without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor) any of the Chargor’s rights under any Security Account and withdrawals by the Chargor will not be permitted.
- 10.5 The Chargor shall;
 - (a) in the case of each Restricted Security Account serve a notice of charge, substantially in the form of Part 1 of Schedule 4 (*Forms of Notice for Security Account*), on each of the banks holding that Restricted Security Account;
 - (b) in the case of each Security Account which is not a Restricted Security Account serve a notice of charge, substantially in the form of Part 1 of Schedule 4 (*Forms of Notice for Security Account*), on each of the banks holding that Security Account;
 - (c) use its reasonable endeavours to procure that each bank holding a Security Account acknowledges that notice, substantially in the form of Part 2 of Schedule 4 (*Forms of Notice for Security Account*).

11. RELEVANT CONTRACTS

- 11.1 The Chargor may not, without the prior written consent of the Bank:
 - (a) amend or waive any term of, or terminate, any of its Relevant Contracts; or
 - (b) do, omit or suffer to be done or omitted anything which might jeopardise the existence or enforceability of any of its Relevant Contracts.

11.2 (a) The Chargor shall:

- (i) duly and promptly perform its obligations and diligently pursue its rights under each Relevant Contract to which it is a party; and
 - (ii) promptly upon request of the Bank supply the Bank and any Receiver with copies of each of its Relevant Contracts and any information and documentation relating to any of its Relevant Contracts requested by the Bank or any Receiver.
- (b) Unless the Enforcement Date has occurred, the Chargor may exercise its discretion and shall be entitled to receive all proceeds arising under each Relevant Contract, in each case subject always to the other terms of this Deed.

11.3 With effect from the Enforcement Date, the Bank may exercise (without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor) any of the Chargor's rights under its Relevant Contracts.

11.4 The Chargor shall:

- (a) (i) in the case of each Relevant Contract subsisting at the date of this Deed immediately upon execution of this Deed; and
- (ii) in the case of each Relevant Contract coming into existence or being designated as such after the date of this Deed, on the later of that agreement coming into existence or being designated a Relevant Contract,

serve a notice of assignment, substantially in the form of Part 1 of Schedule 3 (*Forms of Letter for Relevant Contracts*), on each of the other parties to each of its Relevant Contracts; and

- (b) use its reasonable endeavours to procure that each of those other parties acknowledges that notice, substantially in the form of Part 2 of Schedule 3 (*Forms of Letter for Relevant Contracts*).

12. INSURANCES

12.1 (a) The Chargor shall maintain or procure the maintenance of insurances on and in relation to the Charged Property against those risks and to the extent as is usual for companies carrying on the same or substantially similar business and such other insurances as the Bank may reasonably direct including:

- (i) insurance against all risks of loss or damage to the Charged Property including all fixtures and improvements and the plant and machinery thereon which belong to the Chargor or for which the Chargor is responsible on a full reinstatement basis, including, inter alia, site clearance, professional fees, VAT, subsidence and three years' loss of rent and service charge on all leases in respect of the Charged Property (or such longer period as may be required by any tenant pursuant to their leases);
- (ii) third party public liability insurances; and
- (iii) employer's liability insurances.

(b) All Insurances must be in amount and form and with reputable independent insurance companies or underwriters acceptable to the Bank.

(c) All monies received or receivable under any Insurance shall be applied at the option of the Bank:

- (i) in replacing, restoring or reinstating the insured assets destroyed or damaged or in any other manner which the Bank may agree; or
 - (ii) in or towards satisfaction of the Secured Obligations.
- (d) The Chargor will ensure that the Bank is named as co-insured on all its Insurances specified in clause (a)(a) other than those specified in clauses 12.1(a)(ii) and (iii). The Chargor will ensure that the Bank is noted as an indemnified party under the indemnity to principals clause on all its Insurances specified in clause 12.1(a)(ii) and (iii) and where appropriate any other of its Insurances.
- (e) The Chargor shall procure subject only to the agreement of the insurers of the Charged Property that each of its Insurances shall:
 - (i) in the case of its Insurances specified in clause 12.1(a)(i), contain a non invalidation clause whereby those Insurances shall not be vitiated or avoided as against the Bank in the event or as a result of any fraud, misrepresentation, act or neglect or failure to make disclosure on the part of the Chargor, any tenant, any occupier or other insured party or breach of any warranty or condition of the insurance policy, or any circumstances beyond the control of the Bank;
 - (ii) contain a waiver of all rights of subrogation against the Bank and the Chargor;
 - (iii) contain terms providing that it shall not be invalidated so far as the Bank is concerned for failure to pay any premium due without the insurer first giving to the Bank not less than thirty days' written notice. The Bank shall not owe the Chargor any duty of care or responsibility in respect of the requirement to act on such notice;
 - (iv) contain terms providing that the insurer shall give the Bank not less than thirty days' written notice of any cancellation or non renewal of insurances and in the case of non renewal, subject to payment being made by or on behalf of the Bank of the pro rata amount of the premium for such thirty day notice period, the insurer shall not cancel cover during that thirty day period. The Chargor shall indemnify the Bank for all costs, expenses and losses suffered in connection with any such payments being made and the Bank shall not owe the Chargor any duty of care or responsibility to make any such payments; and
 - (v) provide that the Bank is named sole loss payee save in respect of any payments made under the third party liability insurances and/or employer's liability which are attributable to claims made by third parties.
- (f) The Chargor shall procure that there will be given to the Bank such information in connection with its Insurances and copies of the insurance policies as the Bank may require and shall promptly notify the Bank of renewals made, and/or any variations or cancellations of policies made or, to the knowledge of the Chargor, threatened or pending.
- (g) The Chargor shall not do or permit anything to be done which may make void or voidable any of its Insurances.
- (h) The Chargor shall procure prompt payment of all premiums (and the Chargor shall provide evidence of the same to the Bank upon request) and shall do all other things necessary to keep and maintain all of its Insurances in force.
- (i) If the Chargor fails to comply with any of the provisions of clause (a) (a) to (h), the Bank shall immediately be entitled (but not obliged) to effect or renew the insurances concerned on such terms, in such name(s) and in such amount(s) as it considers appropriate provided however the Bank shall not be obliged to comply with the

provisions of Section 23 of the Act, and all monies expended by the Bank in so doing shall be reimbursed by the Chargor to the Bank within three Business Days of demand and failing which such monies expended shall be deemed a further charge on the Security Assets.

- (j) The Chargor shall assist the Bank with regard to the prosecution of claims against insurers and if requested by the Bank, enforce any rights which it may have against any insurance broker or adviser.
- (k) The Chargor undertakes to disclose to the insurers and the Bank promptly all facts, circumstances or occurrences material to the risks insured against under any of its Insurance.
- (l) The Chargor undertakes to disclose to the Bank promptly all facts, circumstances or occurrences which may give rise to a risk which is not insured under the above insurances.
- (m) After this Security has become enforceable:
 - (i) the Bank may exercise (without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor) any of the rights of the Chargor in connection with any amounts payable to it under any of its Insurances provided always that nothing in this clause shall be deemed to alter the provisions of clause 12.1(c) in relation to the application of the proceeds of such insurance;
 - (ii) the Chargor shall take such steps (at its own cost) as the Bank may require to enforce those rights; this includes initiating and pursuing legal or arbitration proceedings in the name of the Chargor; and
 - (iii) the Chargor shall hold any payment received by it under any of its Insurances on trust for the Bank.
- (n) Before this Security has become enforceable the Chargor may exercise all of its rights under each Insurance as contemplated in the form of notice of assignment set out in Part 1 of Schedule 2 (*Forms of Letter for Insurances*).

12.2 The Chargor shall:

- (a)
 - (i) in the case of each of its Insurances subsisting at the date of this Deed immediately upon execution of this Deed; and
 - (ii) in the case of each of its Insurances coming into existence after the date of this Deed, on those Insurances being put on risk,

give notice of this Deed to each of the other parties to the relevant Insurances by sending a notice substantially in the form of Part 1 of Schedule 2 (*Forms of Letter for Insurances*); and
- (b) use its reasonable endeavours to procure that each such other party delivers a letter of undertaking to the Bank in the form of Part 2 of Schedule 2 (*Forms of Letter for Insurances*).

12.3 All monies expended by the Bank when exercising its rights under Section 23 of the Act shall be reimbursed by the Chargor to the Bank on demand and shall form part of the Secured Obligations for the purpose of this Deed.

13. GENERAL COVENANTS

13.1 The Chargor shall from time to time on request of the Bank, furnish the Bank with such information as the Bank may reasonably require about its business and affairs, the Security

Assets and its compliance with the terms of this Deed and the Chargor shall permit the Bank, its representatives, professional advisers and contractors, free access at all reasonable times and on reasonable notice to:

- (a) inspect and take copies and extracts from its books, accounts and records; and
 - (b) to view the Security Assets (without becoming liable as mortgagee in possession).
- 13.2 The Chargor shall ensure that all Tax liabilities which if unpaid would or might with the service of any notice or otherwise have priority over this Security or require payment by the Bank be paid and discharged when the same must be paid.
- 13.3 The Chargor shall at all times during the Security Period, comply with its obligations under the Companies Act.
- 13.4 The Chargor shall give five Business Days' written notice to the Bank of its intention and promptly notify the Bank of any intention on the part of any person of which it becomes aware, to present a petition or analogous proceeding or actions for the appointment of an administrator, liquidator or similar officer to, or over the whole or any part of its assets or those of a Related Company of the Chargor.
- 13.5 Without prejudice to clauses 8.12 and 12.1(i), in the case of breach of any covenant, undertaking or agreement on the part of the Chargor contained in this Deed the Bank may (but shall not be obliged to) do whatever may be necessary to make good such breach and all monies expended by the Bank in so doing shall be paid by the Chargor within three Business Days of demand and pending payment, such monies will constitute part of the Secured Obligations.

14. WHEN SECURITY BECOMES ENFORCEABLE

- 14.1 At any time on or after the Enforcement Date, this Security will become immediately enforceable and the Secured Obligations will be deemed to have become due and payable and the statutory power of sale will become exercisable.
- 14.2 At any time on or after the Enforcement Date, the Bank may in its absolute discretion enforce all or any part of this Security in any manner it sees fit and the power of sale and other powers conferred on mortgagees by the Act shall apply to this Deed in each case as varied or amended by this Deed. Neither the Bank nor any Receiver shall be obliged to take any steps to sell or lease the Security Assets or any part thereof after taking possession of them and the Bank and any Receiver shall have absolute discretion as to the time of exercise of the power of sale and the power of leasing and all other powers conferred on them by the Act or otherwise.

15. ENFORCEMENT OF SECURITY

- 15.1 (a) At any time after the security constituted by this Deed has become enforceable the power of sale and all other powers conferred on mortgagees by law (including by the Act) shall be exercisable immediately without any requirement:
- (i) for the occurrence of any of the events specified in Section 20 of the Act; or
 - (ii) to give any notice to the Chargor specified in Section 20 of the Act; or
 - (iii) to obtain the consent of the Chargor; or
 - (iv) to give any notice to the Chargor.
- (b) For the purposes of all powers implied by law, the Secured Obligations are deemed to have become due and payable on the date of this Deed but such power shall not be exercised by the Bank until this Security has become enforceable.

- (e) Any restriction imposed by law (including under the Act) or the power of sale and on the right of a mortgagee to consolidate mortgages, including under Section 17 of the Act does not apply to this Security.
- 15.2 At any time after the security constituted by this Deed has become enforceable, the Bank may, without further notice or demand, enter into possession of the Security Assets or any part thereof. The rights of the Bank under this clause are without prejudice to and in addition to any right of possession (express or implied) to which it is at any time otherwise entitled (whether by virtue of this Deed, operation of law, contract or otherwise).
- 15.3 The statutory powers of leasing conferred on the Bank and any Receiver are extended so as to authorise the Bank and any Receiver to lease, make arrangements for leases, accept surrenders of leases and make agreements to accept surrenders of leases as it or he may think fit and without any requirement to comply with any restrictions imposed by law (including any provision of Section 18 of the Act). Without prejudice to the generality of the foregoing the Bank and any Receiver may exercise the statutory power to accept surrenders of leases conferred by the Act for any purpose that it or he thinks fit and not merely for the purpose of granting new leases under Section 18(1) of the Act and any new lease granted by the Bank or any Receiver following the acceptance of a surrender need not comply with the requirements of Section 3(5) of the Conveyancing Act 1911.
- 15.4 Neither the Bank, any Receiver, nor any Delegate will be liable, by reason of entering into possession of a Security Asset:
 - (a) to account as mortgagee in possession or for any loss on realisation or in connection with the Security Assets; or
 - (b) for any default or omission for which a mortgagee in possession might be liable.
- 15.5 Each Receiver and the Bank is entitled to all the rights, powers, privileges and immunities conferred by law (including the Act) on mortgagees and receivers duly appointed under any law (including the Act), but so that the power of sale and other powers by any law (including the Act) shall be as varied and modified by this Deed.
- 15.6 No person (including a purchaser) dealing with the Bank or a Receiver or its or his agents will be concerned to enquire:
 - (a) whether any Secured Obligations have become payable;
 - (b) whether any power which the Bank or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
 - (c) whether any Secured Obligations or other money remains due;
 - (d) how any money paid to the Bank or to that Receiver is to be applied; or
 - (e) as to the status, propriety or validity of the acts of the Bank or the Receiver.
- 15.7 Subject to Clause 15.8, all the protections for purchasers contained in Sections 21(2), 22 and 24(4) of the Act shall apply to any person purchasing from, or dealing with the Bank or any Receiver, Delegate or sub-delegate in like manner as if the statutory powers of sale and of appointing a Receiver in relation to the Security Assets had not been varied or extended by this Deed.
- 15.8 No purchaser from the Bank, any Receiver, Delegate or sub-delegate shall be entitled to rely on Section 21(2) of the Act which is disapplied by this Deed.
- 15.9 The receipt by the Bank or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Bank or any Receiver.

- 15.10 (a) At any time after this Security has become enforceable, the Bank may:
- (i) redeem any prior Security Interest against any Security Asset; and/or
 - (ii) procure the transfer of that Security Interest to itself; and/or
 - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer and any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.
- (b) The Chargor shall pay to the Bank, immediately on demand, the costs and expenses incurred by the Bank in connection with any such redemption and/or transfer, including the payment of any principal or interest and pending payment, such costs and expenses will constitute part of the Secured Obligations.

16. RECEIVER

- 16.1 (a) The Bank may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
- (i) this Security has become enforceable; or
 - (ii) the Chargor so requests the Bank in writing at any time.
- (b) Any appointment under Clause (a)(a) above may be made regardless of whether any of the events specified in paragraphs (a) to (c) of Section 24(1) of the Act have occurred, and whether or not the Bank has entered into or takes possession of any of the Security Assets or any part thereof.
- (c) Any appointment under Clause (a)(a) above may be by deed, under seal or in writing under hand of any employee or agent of the Bank.
- 16.2 The Bank may by writing under hand of any employee or agent of the Bank remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.
- 16.3 The Bank may fix the remuneration of any Receiver appointed by it and any maximum rate imposed by any law (including under Section 24(6) of the Act) will not apply.
- 16.4 (a) A Receiver will be deemed to be the agent of the Chargor for all purposes. The Chargor is solely responsible for the remuneration, contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.
- (b) The Bank will not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for the actions or inactions of any Receiver appointed in accordance with this Deed.
- 16.5 The foregoing powers of appointment shall be in addition to and not be to the prejudice of all statutory and other powers of the Bank (or any Receiver appointed by it) under the Act and to the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may be exercised by the Bank in relation to any Security Asset without first appointing a Receiver or notwithstanding the appointment of a Receiver.

17. POWERS OF RECEIVER

- 17.1 (a) Any Receiver appointed hereunder shall have all the rights, powers and discretions set out in this Deed in addition to those conferred on him by any law including, without limitation, the Act.

- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all the powers conferred on a Receiver under this Deed individually.

17.2 A Receiver shall have the power either in his or her own name or in the name of the Chargor:

- (a) to take immediate possession of, get in and collect any of the Security Assets or any part of it in respect of which he or she is appointed and to make such demands and take such proceedings as may seem expedient for that purpose, and to take possession of the Security Assets,
- (b) to sell, realise or otherwise dispose of the Security Assets;
- (c) to carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying any business of the Chargor in any manner he or she thinks fit;
- (d) to appoint and discharge managers, officers, agents, professional advisers, consultants, servants, workmen, employees and other for the purposes specified in this clause 17.2 upon such terms as to remuneration or otherwise as he or she thinks fit and to remove any person so appointed to any such position by the Chargor
- (e) to raise and borrow money or incur any other liability, either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose he or she thinks fit;
- (f) to grant rights, options or easements over, dispose of, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms he or she thinks fit; the consideration for any such transaction may consist of cash, debentures or other obligation, shares, stock or other valuable consideration any such consideration may be payable in a lump sum or by instalments spread over any period he or she thinks fit. Fixtures, Plant and Machinery may be severed and sold separately from the property containing them without the consent of the Chargor;
- (g) to let, hire, lease, licence or grant any interest in any Security Asset for any term and at any rent (with or without a premium) he or she thinks fit and to vary the terms, surrender or accept a surrender of any lease or tenancy of any Security Asset on any terms which he or she thinks fit (including the payment of money to a lessee or tenant on a surrender);
- (h) to require the Chargor, or the directors of the Chargor, to make calls conditionally or unconditionally upon the shareholders of the Chargor in respect of any uncalled capital of the Chargor and enforce payment of any call so made by action (in the name of the Chargor or the Receiver as he or she may think fit) or otherwise;
- (i) to sell or assign all or any of the book debts in respect of which he or she is appointed in such manner, and generally on such terms and conditions as he or she thinks fit;
- (j) to exercise in respect of any Security Asset all voting or other powers or rights in such manner as he or she thinks fit;
- (k) to purchase or acquire any land or any interest in or rights over land.
- (l) to exercise on behalf of the Chargor, and without the consent of or notice to the Chargor, all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Security Assets;
- (m) to exercise on behalf of the Chargor and in the name of the Chargor all powers and rights of the Chargor relevant to effecting and necessary to effect the registration in the

Land Registry of any fixed or specific charge created and on any registered land, of the crystallisation of any floating charge or his or her appointment as Receiver.

- (n) to settle, adjust, refer to arbitration, allow time for payment, compromise and arrange any claim, contract, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset.
- (o) to bring, prosecute, enforce, defend and abandon any action, suit, or proceedings both in his or her own name and in the name of the Chargor in relation to any Security Asset which he or she thinks fit;
- (p) to give a valid receipt for any money and execute any assurance or thing that may be necessary or desirable for realising any Security Asset;
- (q) to form a subsidiary of the Chargor, arrange for any such subsidiary to trade or cease to trade as he or she sees fit, in his or her capacity as shareholder and transfer to that subsidiary any Security Asset and sell or otherwise dispose of any such subsidiary;
- (r) to delegate his or her powers;
- (s) to appoint managers, officers, agents, professional advisers, consultants, servants, workmen, employees and others, for the purpose of exercising his or her powers at such salaries, for such periods and on such terms as he or she determines;
- (t) to enter into, abandon, perform, repudiate, rescind, vary or cancel any contracts as he or she thinks fit;
- (u) to lend money or advance credit to any customer of the Chargor;
- (v) to make substitutions of, or improvements to the Plant and Machinery as he or she thinks fit;
- (w) to effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurances required to be maintained under any security document or loan facility agreement entered into by the Chargor which is held by the Bank;
- (x) to make any election for VAT purposes that he or she thinks fit;
- (y) to run the tax affairs of the Chargor in any manner that he or she thinks fit;
- (z) to conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other action required by law or by the Bank and comply with all lawful orders and directives of any authority under an Environmental Law;
- (aa) to take all steps necessary to effect any registration, renewal, application or notification that he or she thinks fit to maintain in force or protect any intellectual property;
- (bb) to redeem any prior Security Interest and to settle and pass the accounts to which that Security Interest relates; any accounts so settled and passed are conclusive and binding on the Chargor, and any money so paid shall be taken to be an expense properly incurred by him or her.
- (cc) to effect any repair, or insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Security Asset.
- (dd) to commence and complete any building operation, and to complete any building operation already begun.
- (ee) to arrange for or provide any service proper for the efficient use or management of the Security Assets;

- (ff) to apply for and maintain any planning permission, building regulation approval, or any other Authorisation;
 - (gg) to do all other acts and things which he or she may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver;
 - (hh) to exercise in relation to a Security Asset all the rights, powers and authorities that he or she could exercise if he or she were the absolute beneficial owner of the Security Asset;
 - (ii) to use the name of the Chargor when exercising any of the rights, powers or discretions conferred on him or her;
 - (jj) to do all acts and execute in the name and on behalf of the Chargor any deed, receipt or other document;
 - (kk) to draw, accept, make or endorse any bill of exchange or promissory note in the name of and on behalf of the Chargor;
 - (ll) to make any payment which is necessary or incidental to the performance of his or her functions;
 - (mm) to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the Chargor and to receive dividends, and to accede to the trust deeds for the creditors of any such person; and
 - (nn) to change the location of the Chargor's registered office.
- 17.3 Any exercise of any of the rights, powers and discretions by the Receiver in this clause 17 may be on behalf of the Chargor, the directors of the Chargor or himself or herself.
- 17.4 The Bank and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers save as varied and modified by this Deed.

18. APPLICATION OF PROCEEDS

- 18.1 Unless otherwise determined by the Bank, any monies received by the Bank or a Receiver after this Security has become enforceable shall be applied by the Bank in the following order of priority:
- (a) in or towards payment of or provision for all costs and expenses incurred by the Bank or any Receiver under or in connection with this Deed and of all remuneration due to any Receiver under or in connection with this Deed;
 - (b) in payment to the Secured Parties for application towards the balance of the Secured Obligations; and
 - (c) in payment of the surplus (if any) to the Chargor or other person entitled to it.
- 18.2 This clause is subject to the payment of any claims having priority over this Security.
- 18.3 Sections 22(2), 21(3) and 24(8) of the Act shall not apply to the application of any monies received or realised under the powers conferred by this Deed.

19. EXPENSES AND INDEMNITY

- 19.1 The Chargor shall promptly on demand pay the Bank the amount of all costs and expenses (including registration and legal fees) incurred by the Secured Parties in connection with the negotiation, preparation, printing, execution and perfection of this Deed.

19.2 If the Chargor requests an amendment, waiver or consent, the Chargor shall, within three Business Days of demand, reimburse the Bank for the amount of all costs and expenses (including legal fees) incurred by the Secured Parties and by any Receiver or Delegate in responding to, evaluating, negotiating or complying with that request.

19.3 The Chargor shall, within three Business Days of demand, pay to the Bank the amount of all costs and expenses (including registration and legal fees) incurred by it or any Receiver or Delegate in connection with the enforcement of, or the preservation of any rights under, this Deed and any proceedings instituted by or against the Bank as a consequence of taking or holding this Security or enforcing these rights including, in each case, arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise.

19.4 The Chargor shall:

- (a) keep each of the Bank, each Secured Party, any Receiver or any Delegate indemnified against any failure or delay in paying the costs and expenses specified in clauses 19.1 to 19.3; and
- (b) keep indemnified the Bank, each Secured Party, any Receiver or any Delegate for all losses or charges incurred (including, without limitation, under any indemnity given by the Bank (or on its behalf) to any Receiver or Delegate or to any other person) in connection with the actual or alleged failure by the Chargor to comply with this Deed, the preservation of any rights under this Deed or the enforcement of any Security; and

pending payment, such costs, expenses, losses or charges will constitute part of the Secured Obligations.

19.5 Each Party acknowledges that the Bank takes the benefit of the indemnity in clause 19.4 for itself and as trustee for each Secured Party, Receiver and each Delegate.

20. DELEGATION

20.1 The Bank or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

20.2 Any such delegation may be made upon any terms (including power to sub-delegate) which the Bank or any Receiver may think fit.

20.3 Neither the Bank nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate or sub-delegate.

21. POWER OF ATTORNEY

21.1 The Chargor, by way of security, irrevocably appoints the Bank, each Receiver and each of their respective Delegates and sub-delegates and each of them jointly and also severally to be the attorney of the Chargor (with full powers of substitution and delegation), in its name or otherwise and on its behalf and as its act and deed to:

- (a) sign, seal, execute, deliver and perfect and do all deeds, instruments, acts and things which the Chargor may or ought to do under the covenants and provisions in this Deed;
- (b) generally in its name and on its behalf to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Deed or by any statute, or common law on the Bank or any Receiver or which may be required or which the Bank or any Receiver shall deem fit for carrying any sale, lease, charge, mortgage or dealing by the Bank or any Receiver into effect or for giving to the Bank or any Receiver the full benefit of these presents; and

- (c) generally to use its name in the exercise of all or any of the powers, authorities or discretions conferred on the Bank or any Receiver.

21.2 The Chargor ratifies and confirms and agrees to ratify and confirm whatsoever any such attorney referred to in clause 21.1 shall do or purport to do by virtue of this clause 21 and all monies expended by any such attorney shall be deemed to be expenses incurred by the Bank under this Deed.

22. FURTHER ASSURANCES

The Chargor shall, at its own expense, take whatever action the Bank or a Receiver may require for:

- (a) creating, perfecting, maintaining or protecting security intended to be created by or pursuant to this Deed or over any asset of the Chargor referred to in this Deed;
- (b) after this Security has become enforceable, facilitating the realisation of any Security Asset; or
- (c) facilitating the exercise of any right, power or discretion exercisable by the Bank or any Receiver or any of their respective Delegates or sub-delegates in respect of any Security Asset.

This includes:

- (a) the re-execution of this Deed;
 - (b) the execution of any legal mortgage, charge, transfer, conveyance, assignment or assurance of any property, whether to the Bank or to its nominee; and
 - (c) the giving of any notice, order or direction and the making of any filing or registration,
- which, in any such case, the Bank may think expedient.

23. PRESERVATION OF SECURITY

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

23.2 If any payment by the Chargor or any discharge, release or settlement given by the Bank (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is avoided, adjusted or reduced as a result of insolvency:

- (a) the liability of the Chargor will continue as if the payment, discharge, release, settlement, avoidance, adjustment or reduction had not occurred;
- (b) the Secured Parties shall be entitled to recover the value or amount of that security or payment from the Chargor, as if the payment, discharge, release, settlement, avoidance, adjustment or reduction had not occurred; and
- (c) the Bank shall be entitled to enforce this Deed subsequently as if such payment, discharge, release, settlement, avoidance, adjustment or reduction had not occurred and any such payment had not been made.

23.3 The obligations of the Chargor under this Deed will not be affected by any act, omission, matter or thing which, but for this clause 23.3, would reduce, release or prejudice any of its obligations under this Deed or prejudice or diminish those obligations in whole or in part, (whether or not known to it or the Bank) including:

- (a) any time, waiver, consent, indulgence or concession granted to, or composition with, the Chargor or any other person; or

- (b) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor or other person; or
 - (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor 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; or
 - (d) the issuing, confirming, renewing, determining, varying or increasing of any negotiable instrument in any manner whatsoever; or
 - (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status or constitution of the Chargor or any other person; or
 - (f) any amendment, extension (whether of maturity or otherwise), restatement (in each case, however fundamental and of whatsoever nature) or replacement of any loan agreement, facility letter, guarantee, security document or any other document or security including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility or other document or security; or
 - (g) any unenforceability, illegality, invalidity or non-provability of the Secured Obligations or any indebtedness or obligation of the Chargor or other person under any other document or security; or
 - (h) any insolvency or similar proceedings; or
 - (i) any merger or amalgamation (howsoever effected) relating to the Chargor or any other person; or
 - (j) any judgment obtained against the Chargor; or
 - (k) any act, event or omission which but for this provision would or might operate to impair, discharge or otherwise affect the obligations of the Chargor under this Deed.
- 23.4 Without prejudice to the generality of clause 23.3, the Chargor expressly confirms that it intends that this Deed shall extend from time to time to any variation, increase, extension or addition (howsoever fundamental and of whatsoever nature and whether or not more onerous) of any document relating to the Indebtedness and/or any facility or amount made available thereunder including 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 facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.
- 23.5 The Chargor waives any right it may have of first requiring the Secured Parties (or any trustee or agent on its behalf) to make demand upon, proceed against or enforce any other right or security or claim payment from any person or make or file any proof or claim in any insolvency proceedings relative to any other person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of a loan agreement, facility letter, guarantee, security document or other document to the contrary.
- 23.6 Until the end of the Security Period the Secured Parties may:
- (a) refrain from applying or enforcing any other monies, security or rights held or received by the Secured Parties (or any trustee or agent on its behalf) in respect of the Secured Obligations, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and the Chargor 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 Deed.
- 23.7 If this Security is enforced at a time when no amount is due in respect of the Secured Obligations but at a time when amounts may or will become due, the Bank (or the Receiver) may pay the proceeds of any recoveries effected by it into such number of interest-bearing suspense accounts as it considers appropriate.
- 23.8 The Bank shall be entitled to retain this Deed after as well as before payment or discharge of the Secured Obligations for such period as the Bank may determine.
- 23.9 Until the end of the Security Period, unless the Bank otherwise directs, the Chargor shall not, after a claim has been made or by virtue of any payment or performance by it under this Deed:
 - (a) be subrogated to any rights, security or monies held, received or receivable by the Secured Parties (or any trustee or agent on its behalf);
 - (b) be entitled to any right of contribution or indemnity in respect of any payment made or monies received on account of the Chargor's liability under this clause;
 - (c) claim, rank, prove or vote as a creditor of any other person or its estate in competition with the Secured Parties (or any trustee or agent on its behalf); or
 - (d) receive, claim or have the benefit of any payment, distribution or security from or on account of any other person, or exercise any right of set-off as against any other person.

The Chargor shall hold in trust for and shall immediately pay or transfer to the Secured Parties or in accordance with any directions given by the Secured Parties under this clause any payment or distribution or benefit of security received by it contrary to this clause.
- 23.10 This Deed is in addition to and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy or any other guarantee or security for the Secured Obligations or any of them which are now or may hereafter be held by the Bank or Secured Parties whether from the Chargor or otherwise.
- 23.11 The Chargor shall not, without the prior consent of the Bank, hold any security from any other person in respect of the Chargor's liability under this Deed. The Chargor will hold any security held by it in breach of this provision on trust for the Bank and shall immediately transfer the same to the Bank or as the Bank may direct.
- 23.12 The Chargor waives any present or future right of set-off it may have in respect of the Secured Obligations (including sums payable by the Chargor under this Deed).
- 23.13 None of the Bank, its nominee(s) or any Receiver or Delegate shall be liable by reason of:
 - (a) taking any action permitted by this Deed; or
 - (b) any neglect or default in connection with the Security Assets; or
 - (c) taking possession of or realising all or any part of the Security Assets.

24. SET-OFF

The Chargor hereby agrees that the Secured Parties may at any time without notice and notwithstanding any settlement of account or other matter whatsoever:

- (a) set-off any matured obligation due from the Chargor under this Deed (to the extent beneficially owned by the Secured Parties) against any matured obligation owed by the Secured Parties to the Chargor, regardless of the place of payment, booking, branch or currency of either obligation; and/or

- (b) combine or consolidate all or any of the Chargor's then existing accounts wheresoever located (including accounts in the name of the Secured Parties or of the Chargor jointly with others) whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not or subject to a fixed term or not and whether they are denominated in sterling or in any other currency; and/or
- (c) set-off or transfer any sum standing to the credit of any one or more such accounts in or towards the satisfaction of any monies owing or obligations or liabilities to the Secured Parties or any of them of the Chargor, whether such liabilities be present, future, actual or contingent, primary or collateral, several or joint or matured or not.

Where such combination, set-off or transfer requires the conversion of one currency into another, such conversion shall be calculated at the then prevailing spot rate of exchange of the Secured Parties (as conclusively determined by the Secured Parties) for purchasing the currency required with the other currency.

25. MISCELLANEOUS

- 25.1 (a) If any subsequent charge or other Security Interest (other than a Permitted Security) or any expropriation, attachment, sequestration, distress or execution (or analogous process) affects any Security Asset, the Secured Parties may open a new account with any other person.
- (b) If the Secured Parties do not open a new account, it will nevertheless be deemed to have done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to the Secured Parties will be credited or will be deemed to be credited to the new account and will not operate to reduce any Secured Obligation.

25.2 Without prejudice to any right of set-off the Secured Parties may have under this Deed if any time a deposit matures on any account the Chargor has with the Bank within the Security Period when:

- (a) this Security has become enforceable; and
- (b) no Secured Obligation is due and payable,

that time deposit will automatically be renewed for any further maturity which the Secured Parties in its absolute discretion considers appropriate unless the Secured Parties otherwise agrees in writing.

- 25.3 (a) To the extent that the assets mortgaged or charged under this Deed constitute "financial collateral" and this Deed and the obligations of the Chargor under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in Financial Collateral Arrangements (No.2) Regulations 2003 (S.I. No. 3226 of 2003) as amended by the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010 as amended from time to time (the "Regulations")) the Secured Parties shall have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.
- (b) For the purpose of paragraph (a) above, the parties agree that the value of the financial collateral so appropriated shall be the market value of that financial collateral determined reasonably by the Secured Parties by reference to a public index or by such other process as the Bank may select, including independent valuation. The parties further 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.

25.4 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired and, if any part of the security intended to be created by or pursuant to this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

25.5 The obligations of the Chargor under this Deed shall be enforceable notwithstanding:

- (a) any reconstruction, reorganisation or change in the constitution of the Bank or Secured Parties;
- (b) the acquisition of all or any part of the undertaking of the Bank or Secured Parties by any other person; or
- (c) any merger or amalgamation (however effected) relating to the Bank or Secured Parties,

and references to the Bank or Secured Parties shall be deemed to include any person who, under the laws of its jurisdiction of incorporation, domicile or other relevant applicable law has assumed the rights and obligations of the Bank or Secured Parties under this Deed or to which under such laws the same have been transferred.

26. LITIGATION

In any litigation relating to this Deed or any security given by the Chargor, the Chargor irrevocably waives the right to interpose any defence based upon any statute of limitations or any claim of laches or set-off or counter-claim of any nature or description.

27. ENTRIES IN ACCOUNTS

In any proceedings arising out of or in connection with this Deed, the entries made in the accounts maintained by the Secured Parties are *prima facie* evidence of the matters to which they relate.

28. CERTIFICATES AND DETERMINATIONS

Any certification or determination by the Secured Parties of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

29. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Bank, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy of the Secured Parties nor prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

30. ASSIGNMENT

- 30.1 The Chargor may not assign or transfer or enter into any trust arrangement with any third party in respect of any of its rights, benefits and/or obligations under this Deed.
- 30.2 The Bank may assign or transfer all or any of its rights and/or obligations under this Deed to any person without the consent of the Chargor. The Bank will be entitled to disclose any relevant information concerning the Chargor to any proposed assignee, transferee or successor in title.

31. VARIATION

- 31.1 This Deed may not be amended or waived except by an instrument in writing signed by a duly authorised officer or representative of the Bank and the Chargor.

- 31.2 Each of the parties to this Deed agrees that there are no oral understandings between the Bank and the Chargor in any way varying, contradicting or amplifying the terms of this Deed.
- 31.3 This Deed supersedes all prior representations, arrangements, understandings and agreements and sets forth the entire, complete and exclusive agreement and understanding between the parties as to the matters provided for in this Deed.

32. **INHIBITION**

The Chargor consents to the Bank applying to the Northern Ireland Land Registry for the registration of the following inhibition against the Charged Property and the folio(s) (if any) specified in Schedule 1 Part 1 to this Deed (and against any title to any unregistered property specified in Schedule 1 Part 1 to this Deed which is or ought to be the subject of a first registration of title at Land Registry at the date of this Deed or as a result of this Deed having been entered into):

“No disposition of the registered land by the registered owner of the registered land is to be registered without a written consent signed by the registered owner for the time being of the charge dated 23 December 2019 registered on the folio(s) in favour of **THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND** whose address in the United Kingdom for service of notices is 1 Donegall Square South, Belfast, BT1 5LR”

33. **RELEASE**

Subject to clause 23 (*Preservation of Security*), at the end of the Security Period, the Bank shall, at the request and cost of the Chargor, take whatever action is reasonably necessary to release, discharge or re-assign the Security Assets to the Chargor.

34. **NOTICES AND DEMANDS**

- 34.1 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.
- 34.2 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:
- (a) in the case of the Chargor, that identified with its name below;
 - (b) in the case of the Bank, that identified with its name below,
- or any substitute address or department or officer as the Chargor may notify to the Bank (or the Bank may notify to the Chargor, if a change is made by the Bank) by not less than five Business Days' notice.
- 34.3 Any communication or document made or delivered by one person to another under or in connection with this Deed will be effective only, 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.
- 34.4 Any communication or document to be made or delivered to the Bank will be effective only if it is expressly marked for the attention of the department or officer identified with the Bank's signature below (or any substitute department or officer as the Bank shall specify for this purpose).

35. **ENGLISH LANGUAGE**

- 35.1 Any notice given under or in connection with this Deed must be in English.
- 35.2 All other documents provided under or in connection with this Deed must be in English.

36. COUNTERPARTS

This Deed may be executed in any number of counterparts and all of those counterparts taken together shall be deemed to constitute one and the same instrument.

37. LAW AND JURISDICTION

37.1 This Deed shall be governed by and construed in accordance with the laws of Northern Ireland.

37.2 The courts of Northern Ireland 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 or any non-contractual obligation arising out of or in connection with this Deed) (a "Dispute").

37.3 The Parties agree that the Courts of Northern Ireland are the most appropriate and convenient courts to settle Disputes and accordingly the Chargor will not argue to the contrary.

37.4 This clause 37 is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

THIS DEED has been executed and delivered as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1
Security Assets

Part 1– Charged Property

Freehold/Leasehold	Description
Leasehold	All of the lands and premises comprised in Folio AN142971L County Antrim described in Part I of that folio as a plot of land known as 33 Nottinghill Parade, Belfast.
Leasehold	Those parts of the lands and premises comprised in Folios AN94175L and AN140455L County Antrim which are hatched and edged red on the plan attached to the transfer deed dated on or about the date hereof made between (1) Mount Property Development Limited and (2) Eglinton Developments Limited.

SCHEDULE 1

Part 2 – Plant and Machinery

None as of the date of this Deed.

SCHEDULE 1

Part 3— Relevant Contracts

1. Agreement to Surrender Lease dated on or about the date hereof and made between (1) Ryan Morton (as tenant) and (2) Eglinton Developments Limited (as company) in respect of Apartment 4, 41 Notting Hill, Belfast.
2. Option Agreement dated on or about the date hereof made between (1) Mount Property Development Limited and (2) Eglinton Developments Limited relating to a portion of roadway at Nottinghill, Belfast.
3. Option Agreement dated on or about the date hereof made between (1) Notting Hill Property Management Ltd and (2) Eglinton Developments Limited relating to a portion of roadway at Nottinghill, Belfast.

SCHEDULE 1

Part 4 - Insurances

SCHEDULE 1

Part 5 - Security Accounts

Rent Account

Bank: Bank of Ireland (UK) PLC
Sort Code: 904974
Account Number: 83218346
Account Name: Rent Account
Restricted Account: No.

Disposals Account

Bank: Bank of Ireland (UK) PLC
Sort Code: 904974
Account Number: 83217941
Account Name: Disposals Account
Restricted Account: Yes.

SCHEDULE 2

Form of Letters for Insurances

Part 1 – Form of Notice of Assignment

(for attachment by way of endorsement to the insurance policies)

To: [INSURER]

Copy: [THE BANK]

Date:

Dear Sirs,

Mortgage and charge dated [● 1] between [● 2] and [● 6] OR [● 9] (the “Mortgage and Charge”)

This letter constitutes notice to you that under the Mortgage and Charge, [● 2] (the “Chargor”) has assigned in favour of The Governor and Company of the Bank of Ireland (the “Bank”) (acting as security trustee for itself and Bank of Ireland (UK) PLC) as first priority assignee all amounts payable to it under or in connection with any contract of insurance of whatever nature taken out with you by or on behalf of it or under which it has a right to claim (each an “Insurance”) and all of its rights in connection with those amounts.

A reference in this letter to any amounts excludes all amounts received or receivable under or in connection with any third party liability Insurance and required to settle a liability of the Chargor to a third party.

The Chargor confirms that:

- (a) it will remain liable under each Insurance to perform all the obligations assumed by it under that Insurance; and
- (b) none of the Bank, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of any Insurance.
- (c) all amounts payable to the Chargor under each Insurance shall be paid by you to the Bank to such account as the Bank may specify from time to time; and
- (d) any rights of the Chargor in connection with those amounts will be exercisable by, and notices must be given to, the Bank or as it directs.

Subject to the above, the Chargor will also remain entitled to exercise all of its rights under each Insurance and you should continue to give notices under each Insurance to the Chargor, unless and until you receive notice from the Bank to the contrary stating that the Security has become enforceable.

The instructions in this letter may not be revoked or amended without the prior written consent of the Bank.

Please note on the relevant contracts the Bank’s interest as co-insured and the Bank’s interest as first priority assignee of those amounts and rights and send to the Bank at 1 Donegall Square South, Belfast with a copy to the Chargor the attached acknowledgement confirming your agreement to the above and giving the further undertakings set out in the acknowledgement.

The Chargor acknowledges that you may comply with the instructions in this letter without any further permission from it and without any enquiry by you as to the justification for or validity of any request, notice or instruction.

This letter or any non-contractual obligation arising out of or in connection with this letter is governed by the laws of Northern Ireland.

Yours faithfully,

ELGINTON DEVELOPMENTS LIMITED
ELGINTON
over.

SCHEDULE 2

Part 2 – Form of Letter of Undertaking

To: [BANK]

Copy: [EGLINTON DEVELOPMENTS LIMITED]

Date:

Dear Sirs,

Mortgage and charge dated _____ between EGLINTON DEVELOPMENTS LIMITED and THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND (as security trustee) the "Mortgage and Charge"

We confirm receipt from Eglinton Developments Limited the "Chargor") of a notice dated _____ of an assignment by the Chargor upon the terms of the Mortgage and Charge of all amounts payable to it under or in connection with any contract of insurance of whatever nature taken out with us by or on behalf of it or under which it has a right to claim (each an "Insurance") and all of its rights in connection with those amounts.

Terms used in this letter that are not defined in this letter have the same meaning in this letter as in the Mortgage and Charge.

A reference in this letter to any amounts excludes all amounts received or receivable under or in connection with any third party liability Insurance and required to settle a liability of the Chargor to a third party which is not the Chargor.

In consideration of your agreeing to the Chargor continuing its insurance arrangements with us we:

1. accept the instructions contained in the notice and agree to comply with the notice;
2. confirm that we have not received notice of the interest of any third party in those amounts and rights;
3. will not agree to any amendment, waiver or release of any provision in each of those contracts without the prior written consent of the Bank;
4. undertake to note on each of those contracts the interest of the Bank as sole loss payee and as first priority assignee of those amounts and rights;
5. undertake to name on each of those contracts (other than the third party liability Insurances and the employer's liability Insurances) the Bank as co-insured and to note the Bank as indemnified party under the indemnity to principals clause on all third party liability Insurances and employer's liability Insurances;
6. undertake to pay all amounts under each of those contracts to the Bank at the account specified in the notice or such other account as the Bank may specify from time to time;
7. undertake to disclose to you without any reference to or further authority from the Chargor any information relating to each of those contracts which you may at any time request;
8. undertake that each of those contracts shall contain (i) a non invalidation clause whereby each of those contracts shall not be vitiated or avoided as against the Bank in the event or as a result of any fraud, misrepresentation, or neglect or failure to make disclosure on the part of the Chargor, any tenant, any occupier or other insured party or breach of any warranty or condition of the insurance policy, in any

circumstances beyond the control of the Bank; (ii) a waiver of all rights of subrogation against the Bank and the Chargor; (iii) terms providing that each of those contracts shall not be invalidated so far as the Bank is concerned for failure to pay any premium due without the insurer first giving to the Bank not less than 30 days' written notice; (iv) terms providing that we shall give the Bank not less than 30 days' written notice of any cancellation or non renewal of insurances and in the case of non renewal, subject to payment being made by or on behalf of the Bank of the pro rata amount of the premium for such 30 day notice period, we shall not cancel cover during that thirty day period.

9. undertake to notify you of any breach by the Chargor of each of those contracts of which we are aware and to allow you to remedy any breach of each of those contracts; and
10. confirm that we have neither claimed nor exercised, nor will claim or exercise any set-off, counterclaim or other right in respect of each of those contracts.

This letter or any non-contractual obligation arising out of or in connection with this letter is governed by the laws of Northern Ireland.

Yours faithfully,

for []

SCHEDULE 3
Form of Letters for Relevant Contracts

Part 1 - Notice to Counterparty

To: [COUNTERPARTY]

Copy: [BANK]

Date:

Dear Sirs,

**Mortgage and Charge dated _____ 2019 Eglington Developments Limited between and
The Governor and Company of the Bank of Ireland (the "Mortgage and Charge")**

This letter constitutes notice to you that under the Mortgage and Charge, **EGLINTON DEVELOPMENTS LIMITED** (the "**Chargor**") has assigned in favour of The Governor and Company of the Bank of Ireland (the "**Bank**") (acting as security trustee for itself and Bank of Ireland (UK) PLC) as first priority assignee all of its rights in respect of [INSERT DESCRIPTION] (the "**Relevant Contract(s)**")

The Chargor confirms that:

- (a) it will remain liable under each Relevant Contract to perform all the obligations assumed by it under the Relevant Contract; and
- (b) none of the Bank, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of any Relevant Contract.

The Chargor will also remain entitled to exercise all of its rights under each Relevant Contract and you should continue to give notice under each Relevant Contract to the Chargor, unless and until you receive notice from the Bank stating that the security has become enforceable. In this event, all of its rights will be exercisable by, and notices must be given to, the Bank or as it directs.

Please note that the Chargor has agreed that it will not amend or waive any term of or terminate any of the Relevant Contracts without the prior consent of the Bank.

The instructions in this letter may not be revoked or amended without the prior written consent of the Bank.

Please send to the Bank at its address above with a copy to ourselves the attached acknowledgement confirming your agreement to the above and giving the further undertakings set out in the acknowledgement.

The Chargor acknowledges that you may comply with the instructions in this letter without any further permission from it and without any enquiry by you as to the justification for or validity of any request, notice or instruction.

This letter or any non-contractual obligation arising out of or in connection with this letter is governed by the laws of Northern Ireland.

Yours faithfully,

(Authorised signatory)

EGLINGTON DEVELOPMENTS LIMITED

OK.

SCHEDULE 3

Part 2– Acknowledgement of Counterparty

To: [BANK]

Copy: [CHARGOR]

Date:

Dear Sirs,

Mortgage and Charge dated _____ 2019 Eglington Developments Limited between and The Governor and Company of the Bank of Ireland (the “Mortgage and Charge”)

We confirm receipt from Eglington Developments Limited (the “Chargor”) of a notice dated _____ of an assignment on the terms of the Mortgage and Charge of all of the Chargor’s rights in respect of [INSERT DESCRIPTION] (the “Relevant Contracts”).

We confirm that:

1. we accept the instructions contained in the notice and agree to comply with the notice;
2. there has been no amendment, waiver or release of any rights or interests in any of the Relevant Contracts since the date of the Relevant Contracts;
3. we are not aware of any breach by the Chargor of the terms of any of the Relevant Contracts;
4. we have not received notice of the interest of any third party in any of the Relevant Contracts;
5. we undertake to disclose to you without any reference to or further authority from the Chargor any information relating to any of the Relevant Contracts which you may at any time request;
6. we undertake to notify you of any material breach by the Chargor of any of the Relevant Contracts of which we are aware and to allow you to remedy that breach; and
7. we undertake not to amend or waive any term of or terminate any of the Relevant Contracts on request by the Chargor without your prior written consent.

This letter or any non-contractual obligation arising out of or in connection with this letter is governed by the laws of Northern Ireland.

Yours faithfully,

(Authorised signatory)

[COUNTERPARTY]

SCHEDULE 4

Forms of Notice for Security Account

Part 1 – Notice of Charge

From: EGLINTON DEVELOPMENTS LIMITED
To: Bank of Ireland (UK) PLC
Copy: The Governor and Company of the Bank of Ireland

Dated:

Re: Account number [● 18] (the “[Restricted] Security Account”)

Dear Sirs

We hereby give you notice that by a Deed of Mortgage and Charge dated [● 1 (the “Charge”) between us and [The Governor and Company of the Bank of Ireland (the “Bank”) (acting as security trustee on behalf of itself and Bank of Ireland (UK) PLC) we have charged in favour of the Bank by way of first fixed charge all our present and future right, title, benefit and interest in and to sums deposited or to be deposited by us, with you in the [Restricted] Security Account.

We irrevocably instruct and authorise you to:

- (a) disclose to the Bank any information relating to the [Restricted] Security Account requested from you by the Bank;
- (b) comply with the terms of any written notice or instruction relating to the Secured Account received by you from the Bank;
- (c) [hold all sums standing to the credit of the Restricted Security Account to the order of the Bank; and]¹
- (d) [pay or release any sum standing to the credit of the Restricted Security Account in accordance with the written instructions of the Bank.]²

[We are not permitted to withdraw any amount from the Restricted Security Account without the prior written consent of the Bank.]³

[Until you are notified that an Event of Default has occurred, we are permitted to freely withdraw any amounts standing to the credit of the Security Account. Following the occurrence of an Event of Default, we shall not be permitted to withdraw any amounts standing to the credit of the Security Account without the prior written consent of the Bank and from the occurrence of an Event of Default the Secured Account shall have sole signing rights in respect of the Security Account.]⁴

The authority and instructions herein contained may not be revoked or amended without the prior written consent of the Bank.

¹ Only applies to restricted accounts.

² Only applies to restricted accounts.

³ Prior to the occurrence of an Event of Default, only applies to Restricted Accounts

⁴ Only applies to non-restricted accounts.

Please send to the Notice Party at its address above with a copy to ourselves the attached acknowledgement confirming your agreement to the above and giving the further undertakings set out in the acknowledgment.

We acknowledge that you may comply with the instructions in this letter without any further permission from us and without any enquiry by you as to the justification for or validity of any request, notice or instruction.

This letter is governed by Northern Irish law.

Yours faithfully

(Authorised Signatory)

EGLINTON DEVELOPMENTS LIMITED

SCHEDULE 4

Part 2– Acknowledgement of Notice of Charge

From: [ACCOUNT BANK]

To: [BANK]

Attn: [

Copy: [EGLINTON DEVELOPMENTS LIMITED]

Dated:

Re: Account number [●] (the “[Restricted] Security Account”)

Dear Sirs

We hereby acknowledge receipt of a notice of charge from **EGLINTON DEVELOPMENTS LIMITED** (the “Chargor”) dated the [● 1] (the “Notice”), in respect of a Deed of Mortgage and Charge by the Chargor in favour of the Bank of the [Restricted] Security Account.

We confirm that we:

- (a) accept the instructions contained in the notice and agree to comply with the notice;
- (b) have not received notice of the interest of any third party in the [Restricted] Security Account; [and]
- (c) have neither claimed nor exercised, nor will claim or exercise, any security interest, set-off, counter-claim or other right in respect of the [Restricted] Security Account; [and]
- (d) will not permit any amount to be withdrawn from the Restricted Secured Account without your prior written consent.]⁵

We shall procure that payments are made to you or as you may direct in accordance with the authority specified, and the instructions contained in this notice.

Yours faithfully,

For and on behalf of

⁵ Only applies to Restricted Accounts.

Signatories (to Mortgage and Charge)

The Chargor

EXECUTED as a DEED by
EGLINTON DEVELOPMENTS LIMITED
acting pursuant to a resolution
of its board of directors
by a director in the presence of
the following witnesses:

Director

Witness Signature:

Witness Name:

Witness Occupation:

Witness Address:

Witness Signature:

Witness Name:

Witness Occupation:


Witness Address:

Address: 1 Campsie Business Park, Mclean Road, Eglinton, Londonderry, Northern Ireland, BT47 3XX


Signatories (to Mortgage and Charge)

The Chargor

EXECUTED as a **DEED** by
EGLINTON DEVELOPMENTS LIMITED
acting pursuant to a resolution
of its board of directors
by a director in the presence of
the following witnesses:



Director

Witness Signature: 
Witness Name: CLAIRE MONTAGUE
Witness Occupation: SOLICITOR
Witness Address: 40 LINENHALL ST
BELFAST.

Witness Signature:
Witness Name:
Witness Occupation:
Witness Address:

Address: 1 Campsie Business Park, Mclean Road, Eglinton, Londonderry, Northern Ireland, BT47 3XX

THE BANK

SIGNED by _____

for and on behalf of

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND

as security trustee for itself and the Secured Parties

in the presence of:

Witness signature:

Witness name:

Witness address:

Witness occupation:

Address: 1 Donegall Square South, Belfast, BT1 5LR

Attention: Ewan Adair

