



**Registration of a Charge**

Company name: **SUNDIAL PROPERTIES LIMITED**

Company number: **SC068924**



X96DEM8P

Received for Electronic Filing: **02/06/2020**

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**Details of Charge**

Date of creation: **01/06/2020**

Charge code: **SC06 8924 0150**

Persons entitled: **LENDINVEST SECURITY TRUSTEES LIMITED**

Brief description: **39 HILL STREET NORTH LANE, EDINBURGH EH2 3LQ (TITLE NUMBERS MID142717, MID147721 AND THAT AREA SHADED BLUE ON THE TITLE PLAN FOR MID142716)**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **BRODIES LLP**



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

Company number: 68924

Charge code: SC06 8924 0150

The Registrar of Companies for Scotland hereby certifies that a charge dated 1st June 2020 and created by SUNDIAL PROPERTIES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd June 2020 .

Given at Companies House, Edinburgh on 3rd June 2020

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**



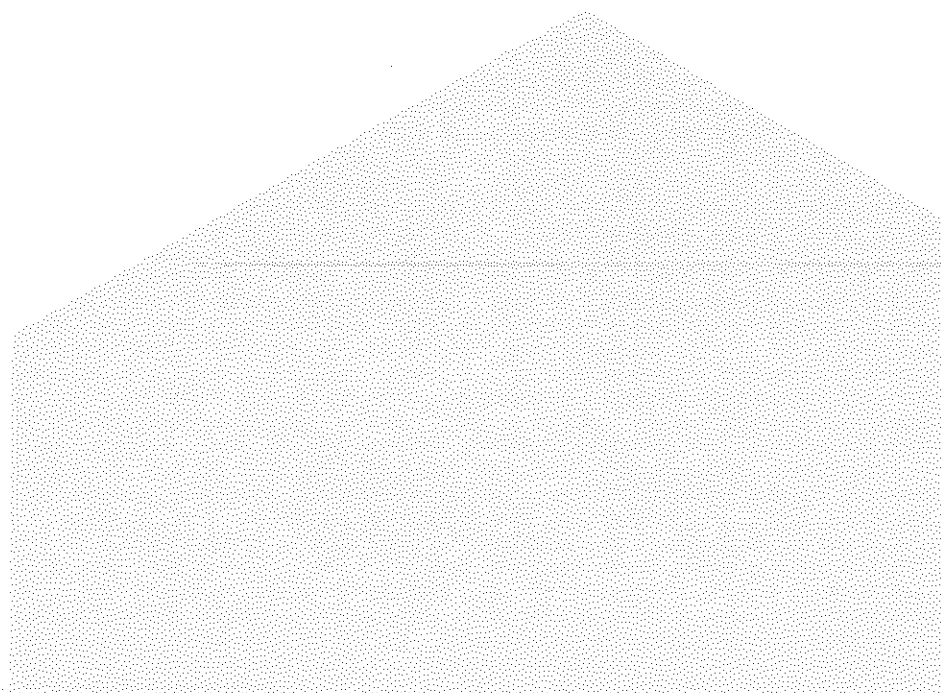
**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**



# **LendInvest**

# **Standard Security**

Scotland



**LENDINVEST – STANDARD SECURITY (UNREGULATED LENDING) AND GENERAL STANDARD SECURITY CONDITIONS (SCOTLAND)**

**STANDARD SECURITY**

**THIS IS AN IMPORTANT LEGAL DOCUMENT. ONCE YOU HAVE SIGNED IT YOU WILL BE LEGALLY BOUND BY ITS TERMS. WE MAY BECOME ENTITLED TO ENFORCE OUR RIGHTS AGAINST THE PROPERTY IF YOU FAIL TO PAY THE MONIES OWED UNDER THE TERMS OF THE MORTGAGE DOCUMENTS WHEN DUE. YOU MUST OBTAIN INDEPENDENT LEGAL ADVICE BEFORE SIGNING THIS DOCUMENT.**

Standard Security delivered on 27 day of May 2020

By this standard security made by you:

**BOX A (Customer details)**

Sundial Properties Limited a company incorporated under the Companies Acts in Scotland with Company Number SC068924 having its registered office at 46 Charlotte Square, Edinburgh, EH2 4HQ

in favour of us, LendInvest Security Trustees Limited a company incorporated in England under the Companies Acts (company number: 08743617) having our registered office at 8 Mortimer Street, London, England, W1T 3JJ, you charge the *Property* to secure your liabilities to the *Secured Parties* on the terms which appear in this *Mortgage Deed* (including the *Standard Security Conditions*).

**BOX B (Description of the heritable property to be secured)**

ALL and WHOLE the property known as and forming 39 Hill Street North Lane, Edinburgh EH2 3LQ being the subjects registered in the Land Register of Scotland under Title Numbers MID142717, MID147721 and that area shaded blue on the title plan for MID142716 Together with, in respect of the area shaded blue on the title plan for MID142716, a right in common with the proprietors of that part of the parking area tinted yellow on the said last mentioned title plan and with the proprietors of that part of the parking area tinted brown on the said last mentioned title plan to the solum of the whole parking area tinted yellow, brown and blue on the said last mentioned title plan, the foundations, the walls, and fences and all others common and mutual to the whole parking area.

- (1) This *Mortgage Deed* incorporates our General Standard Security Conditions (Scotland) (2016) (as specified in the schedule to this *Mortgage Deed*) (the **Standard Security Conditions**). You acknowledge that you have received a copy of the Standard Security Conditions and agree that you will observe and perform them.

- (2) Terms in italics used in this *Mortgage Deed* are defined in or, as applicable, interpreted in accordance with, the Standard Security Conditions.
- (3) *You* undertake to pay us, on demand, the amounts outstanding in respect of the *Debt* when they become due.
- (4) As continuing security for the payment and discharge of *your* obligations hereunder and in respect of the *Debt*, *you* hereby grant a standard security in favour of *us* over the *Property*.
- (5) The standard conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended by the Redemption of Standard Securities (Scotland) Act 1971 and any lawful variation thereof operative for the time being shall apply as varied by the Standard Security Conditions.
- (6) As security for the payment and discharge of *your* obligations hereunder and in respect of the *Debt*, *you* hereby assign absolutely and agree to assign absolutely to *us* (subject to re-assignment on discharge of the *Debt*) all rights and claims to which *you* are now or may hereafter become entitled in relation to the *Property*.
- (7) *You* shall at any time if and when required by *us* execute such further standard securities, legal or other mortgages, fixed or floating charges or assignments in favour of *us* as *we* may from time to time require over all or any of the *Property* or any other property or rights belonging to *you*, both present and future including but not limited to all heritable or freehold or leasehold properties and all rights and remedies relating thereto both present and future (including any lien) to secure the *Debt*, such further standard securities or mortgages or assignments or assignments to be prepared by or on behalf of *us* at *your* cost (such cost, however, comprising part of the *Debt*) and in a form and substance satisfactory to *us* in all respects.
- (8) *You* undertake to deposit with *us*, upon the date of execution hereof, the deeds and documents of title relating to the *Property*
- (9) *You* grant warrandice.

(10) You consent to the registration of this *Mortgage Deed* at the Books of Council and Session for preservation and execution.

IN WITNESS WHEREOF: this *Mortgage Deed* has been executed as follows and delivered and takes effect on the date stated at the top of the first page of this *Mortgage Deed*

**THIS IS AN IMPORTANT LEGAL DOCUMENT. ONCE YOU HAVE SIGNED IT YOU WILL BE LEGALLY BOUND BY ITS TERMS. WE MAY BECOME ENTITLED TO ENFORCE OUR RIGHTS AGAINST THE PROPERTY IF YOU FAIL TO PAY THE MONIES OWED UNDER THE TERMS OF THE MORTGAGE DOCUMENTS WHEN DUE. YOU MUST OBTAIN INDEPENDENT LEGAL ADVICE BEFORE SIGNING THIS DOCUMENT.**

Where you are a limited company and are signing by a director/company secretary in the presence of a witness

.....  
Sig 

A Director for and on behalf of  
**Sundial Properties Limited**

Name (print name): *William GRAY M.D.*

In the presence of:

  
Signature of Solicitor witness

Name of solicitor witness: *GILLIAN STEWART BLACK*

Address of solicitor witness: *16 HERIOT ROW, EDINBURGH*

Occupation: Solicitor

All together at: *EDINBURGH*..... (Location)

On: *14 MAY 2010*..... (Date)

**NOTE: The director/the company secretary must sign the plan (if applicable)**



THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING STANDARD SECURITY GRANTED BY SUNDIAL PROPERTIES LIMITED IN FAVOUR OF LENDINVEST SECURITY TRUSTEES LIMITED

**SCHEDULE - LENDINVEST GENERAL STANDARD SECURITY CONDITIONS (SCOTLAND) (2016)**

**SUMMARY OF CONTENTS**

SECTION	TITLE	DESCRIPTION
A	About the Standard Security Conditions	This section is a general description of the Standard Security Conditions and how they interact with the other documents you have been sent and/or are entering into in connection with the Mortgage.
B	Glossary	This section sets out the meaning of the capitalised terms and certain other terms which are used repeatedly throughout the Mortgage Deed and the Standard Security Conditions.
C	Joint Mortgagors	This section provides for the circumstances where there is more than one of you entering into the Mortgage Deed.
D	Amounts Secured by the Mortgage Deed	This section sets out what liabilities are secured by the Mortgage Deed.
E	Your Obligations	Your obligations in respect of the Property are primarily set out in each Loan Agreement entered into by you in connection with the financing or refinancing of the Property. This section provides for the continuation of those obligations for so long as any Debt is outstanding and you are the owner of the Property as well as certain additional obligations on you.
F	Our Rights and Remedies	This section sets out our rights under the Mortgage Deed generally and our rights in the event that (i) a Secured Party demands repayment from you of amounts owing under a Mortgage Document and you fail to repay them and/or (ii) any other monies you owe to a Secured Party which are secured by the Mortgage Deed are due and payable but have not been paid.
G	Other Provisions	This section sets out certain other matters relating to the Mortgage Deed including, but not limited to, our ability to assign/transfer all or any of our rights under the Mortgage Deed to other persons, your liability to us for certain costs and expenses that may be incurred in connection with the Mortgage Deed and the process for releasing the security under the Mortgage Deed at the end of the Security Period.

**SECTION A: ABOUT THESE GENERAL STANDARD SECURITY CONDITIONS**

- (1) These terms and conditions constitute the Standard Security Conditions and form part of the Mortgage Deed and are to be read together with the Mortgage Deed. The Standard Security Conditions apply whether the Mortgage Deed constitutes a first, second or other charge on the Property. Please read the Standard Security Conditions carefully as, when the Mortgage Deed is dated and delivered, you will be bound by them. You should retain a copy of the Standard Security Conditions as they contain important terms relating to your liabilities and obligations to us and our rights against you and/or the Property should you default in the performance of your obligations in respect of the Debt. If you are unsure as to the meaning of the Standard Security Conditions or their consequences for you (or the meaning or consequences of any other Mortgage Document) then you should ask for advice from your solicitor.
- (2) The Mortgage Deed should be read together in conjunction with each Loan Agreement you have entered as the relevant Loan Agreement will contain a number of important obligations on you regarding, amongst other things, the use, maintenance and insurance of the Property and a number of representations relating to your capacity, power and authority to enter into the Mortgage Deed. If you are in breach of such obligations and/or representations we may have rights against you and/or the Property under the Mortgage Deed.

**SECTION B: DEFINITIONS AND INTERPRETATION**

- (1) In the Mortgage Deed (including the Standard Security Conditions) the following terms have the following meanings:

**Advance** means each amount of money lent to you under the Mortgage;

**Affiliate** means, in respect of any person, any other person controlling, controlled by or under the common control of that person. For the purposes of this definition:

- (A) **control** means: (A) the direct or indirect legal and/or beneficial ownership of (i) 50 per cent. or more of the shares, voting securities or other voting interests in a person; (ii) 50 per cent. or more of the interest in the profit or income of a person; or (iii) in the case of a limited partnership, any other comparable interest in the general partner; or (B) the ability to give directions with respect to the operating, financial and/or investment policies of a person which the directors or other equivalent officers of that person are obliged to comply and **controlling** and **controlled** shall be construed accordingly; and

- (B) a fund shall be deemed to be controlled by (and be an Affiliate of) its investment adviser;

**Agreement for Lease** means all agreements, contracts, options or undertakings for or in relation to the creation of any estate, interest or right in or over the Property (including, without limitation, in relation to any lease, licence, tenancy or right to occupy whether on a fixed term or periodic basis and whether in respect of the whole or any part of the Property);

**Authorisations** means all authorisations (statutory or otherwise) held or required in connection with the use of all or any part of the Charged Property;

**Business Day** means any day other than a Saturday, a Sunday or a public holiday in England and Wales or Scotland;

**Charged Property** means the Property and any of your other assets charged or assigned by you by way of security pursuant to the Mortgage Deed and any reference to the Property or the Charged Property includes any part of it;



**Debt** means the Mortgage Debt and, if applicable, any Other Debt;

**Delegate** means any delegate, sub-delegate, agent, attorney or co-trustee appointed by us;

**Enforcement Event** means:

- (A) any demand made by us (or any other Secured Party) on you for repayment of all or any part of the Mortgage Debt in accordance with the Mortgage Documents; or
- (B) any of the Other Debt becoming due and payable by you in accordance with its terms but remaining unpaid;

**First Advance** means the first Advance made to you under the Mortgage;

**Further Advance** means, subsequent to the First Advance, any further Advance made to you under the Mortgage;

**Lender** means the member of our Group which is named as lender under a Loan Agreement and any assignee, transferee or successor of such Lender;

**Loan Agreement** means each loan agreement (including any applicable Loan Conditions) between you and the Lender under which you have been advanced (and there remains outstanding) a loan for the purposes of financing or refinancing the Property;

**Loan Conditions** means, in relation to a Loan Agreement, any conditions incorporated by reference into that Loan Agreement;

**Mortgage** means, in relation to the financing or refinancing of the Property, the mortgage contract between you, us and each other applicable Secured Party including the Mortgage Deed, together with each other Mortgage Document;

**Mortgage Debt** means all present and future amounts owed by you to a Secured Party under a Mortgage Document, whether actual or contingent and whether owed jointly or severally, including all interest accruing in respect of those amounts;

**Mortgage Deed** means the standard security between you and us under which you have charged the Charged Property in our favour as security for the Debt and in respect of which the Standard Security Conditions form part and any deed of substituted or additional security relating to the Charged Property which you have given to secure the Debt;

**Mortgage Document** means the Mortgage Offer, the Mortgage Deed (including the Standard Security Conditions), any Loan Agreement, the Tariff of Charges, any guarantee granted by any person in respect of your obligations under a Loan Agreement, any other security document entered into by you in connection with a Loan Agreement and any other document that you and we designate as a Mortgage Document;

**Mortgage Offer** means, in relation to the financing or refinancing of the Property, any mortgage offer or offer of additional borrowing by which we (or a member of our Group) offer to make available to you a loan on the security of the Property, including any subsequent or other offers or documents we (or a member of our Group) provide to you and which you agree to which add to or change an earlier offer and, for the avoidance of doubt, where an offer of a Further Advance is made to you, references to the Mortgage Offer in any Mortgage Document cover, as applicable, both the offer relating to the Advance(s) originally contemplated by the relevant Loan Agreement and any offer relating to such Further Advance;

**Other Debt** means all present and future amounts owed by you to a Secured Party which is a member of our Group under any agreement other than a Mortgage Document (including, but not limited to, any loan agreement in relation to the financing or refinancing of a property other than the Property), whether actual or contingent and whether owed jointly or severally, including all interest accruing in respect of those amounts but excluding any amount you owe under any existing or future agreement regulated by the Consumer Credit Act 1974 which does not provide that that agreement is to be secured by the Mortgage Deed;

**Permitted Security** means any Security over any of the Charged Property in favour of a third party which we (or another member of our Group) have consented to in writing;

**Property** means the property identified in Box B on the first page of the Mortgage Deed;

**Property Notice** means any notice, application or requirement given or made by any public or local body or authority that specifically applies to the Property or to the locality in which it is situated;

**Regulatory Requirements** means any obligation we or any other Secured Party have to comply with any law, regulation or rule or decision of any court, ombudsman or any other regulatory authority;

**Representatives** means, in relation to any person, their employees, directors, professional advisers and/or agents;

**Secured Party** means us, the Lender, any other party to a Mortgage Document for whom we may hold the benefit of the security created under the Mortgage Deed on trust (including any assignee or transferee under a Loan Agreement), any other member of our Group to whom you owe any Other Debt and any Delegate;

**Security** means any mortgage, standard security, charge (whether fixed or floating), pledge, lien, assignment or assignation by way of security 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 starting on the date you receive the First Advance and ending on the date on which all the Debt has been unconditionally and irrevocably paid and discharged in full and no further Debt is capable of being outstanding to a Secured Party;

**Standard Security Conditions** means these general mortgage conditions (2016) (as may be amended, varied or substituted from time to time in accordance with the terms of the Standard Security Conditions); and

**Tariff of Charges** means the tariff of charges as referred to in the Mortgage Offer (as available at <https://www.lendinvest.com/wp-content/uploads/2016/02/LendInvest--Tariff-of-Mortgage-Fees-Charges-2.pdf> or such other website as we (or the Lender) may provide from time to time) as may be varied by us (or the Lender) (in each case acting reasonably) from time to time on notice to you.

(2) Unless otherwise provided to the contrary or the context otherwise requires, a reference in the Mortgage Deed (including the Standard Security Conditions) to:

(A) **we** means LendInvest Security Trustees Limited (company number: 08743617) and our successors and any transferees or assignees of our (or our successor's) rights (and **us** and **our** shall be construed accordingly);

- (B) **you** means the person or persons named in Box A on the first page of the Mortgage Deed and that person's or persons' successors or, where applicable, legal representatives including, in the case of an individual after their death, any personal representative to whom the Property passes (and **your** shall be construed accordingly);
- (C) a **charge** or **standard security** of, or over, the Property includes:
  - (i) all buildings and fixtures and fittings which are situated on, or form part of, the Property at any time;
  - (ii) the proceeds of sale of any part of the Property and any other monies paid or payable in respect of the Property; and
  - (iii) the benefit of any covenants for title given, or entered into, by any previous owners of the Property and any monies paid or payable in respect of those covenants.
- (D) any party to a Mortgage Document (including the Mortgage Deed) shall include that party's successors, permitted assignees and permitted transferees and that Mortgage Document shall be binding on, and enure to the benefit of, the parties to that Mortgage Document and their respective personal representatives, successors, permitted assignees and permitted transferees;
- (E) a provision in a statute includes any changes which are made to it and to any provision which replaces it;
- (F) the singular includes the plural and vice versa;
- (G) a Mortgage Document (or any provision of it) or to any other agreement or document referred to in a Mortgage Document is a reference to that Mortgage Document, that provision or such other agreement or document as amended, varied, supplemented or replaced from time to time (including, but not limited to, under the provisions of paragraph 1(E) of Section F (*Our Rights and Remedies*));
- (H) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (I) a paragraph or Section is to the relevant paragraph and/or Section of the Standard Security Conditions;
- (J) an **amendment** includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- (K) any **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (L) an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (M) a **person** includes a natural person, corporate or unincorporated body or any state or any agency of any person; and
- (N) a person's **Group** means that person and each of that person's Affiliates.

- (3) The headings and summary of contents used in the Standard Security Conditions are for guidance and ease of reference only.

#### SECTION C: JOINT MORTGAGORS

If there is more than one of you named in Box A on the first page of the Mortgage Deed (whether acting in partnership or otherwise), the Mortgage Deed (including the Standard Security Conditions) applies to all of you together and to each of you on your own such that:

- (1) a reference in the Mortgage Deed to **you** or **your** refers to both or all of you together and each of you separately;
- (2) if any of you breaches the terms of the Mortgage Deed, any rights we have as a result will be exercisable against each and all of you;
- (3) if any of you, as applicable, becomes insolvent, dies or otherwise becomes unable to manage your affairs, this will not affect the liability of the remainder of you;
- (4) each of you are jointly and severally liable to us for the Debt (meaning that each person named on the first page of the Mortgage Deed will be responsible for paying us the whole of the Debt when due and not just a share or proportion of the Debt); and
- (5) if we make an agreement or arrangement with one of you with respect to your liabilities or obligations under the Mortgage Deed this will not alter or discharge the liabilities and obligations of each other of you unless we expressly agree.

#### SECTION D: THE MORTGAGE

- (1) The Mortgage Deed secures the Debt and the Charged Property constitutes security for the Secured Parties under the Mortgage.
- (2) The Mortgage Deed does not secure any loan which is regulated by the Consumer Credit Act 1974 unless the agreement for that loan states that it will be secured by the Mortgage Deed.
- (3) The Mortgage Deed shall remain in full force and effect as a continuing security for the repayment of all of the Debt (notwithstanding any settlement of account or intermediate payment) and we shall not be obliged to release the Charged Property from the security created by the Mortgage Deed except, subject to paragraph (4) of Section G (*Other Provisions*), where the Debt has been repaid in full and no Secured Party has any continuing liability to make any amount available to you.
- (4) The Mortgage Deed secures both the First Advance and any Further Advance. Subject to the terms of the relevant Mortgage Document, each Secured Party agrees that it must perform its obligations under each Mortgage Document.
- (5) The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended by the Redemption of Standard Securities (Scotland) Act 1971 and any lawful variation thereof operative for the time being (hereinafter referred to as the "Standard Conditions") shall apply and the Standard Conditions shall be varied firstly in accordance with the provisions of this Mortgage Deed and secondly to the effect that the following provisions shall apply:-

- (A) Standard Condition 7 shall be varied to the effect that:-

We shall not be required to give any notice of our exercise of the right of entry referred to in Standard Condition 7(2); and

The interest rate for the purposes of Standard Condition 7(3) shall be the Standard Rate (as defined in the Mortgage Documents).

- (B) For the purposes of Standard Condition 9(1) you shall be held to be in default on an Enforcement Event.

## **SECTION E: YOUR OBLIGATIONS**

- (1) With respect to the Property, you acknowledge and agree your obligations and undertakings in respect of the Property as provided for in the relevant Loan Agreement (the **Property Obligations**). You agree that notwithstanding the discharge of the Mortgage Debt you shall, until this Mortgage Deed is released in accordance with paragraph (4) of Section G, remain bound by the Property Obligations for so long as you remain the owner of the Property and are liable for Other Debt.
- (2) Promptly upon our request you agree to execute any document or do any act or thing which we may reasonably require you to do in order to perfect any security created or intended to be created under the Mortgage Deed or any related security or which we may require to facilitate the exercise or the purported exercise of any of our or another Secured Party's rights or in connection with the protection, management and realisation of the Charged Property. If you fail to do so promptly following our request we or any Delegate that we appoint have the right to execute such documents or do such things using the power of attorney provided for in paragraph (7) of Section F (*Our Rights and Remedies*). Any fees, costs or expenses we (or any Delegate) incur in so doing shall be payable by you.
- (3) Without prejudice to the generality of paragraph (1) above, you shall not create any Security over any of your assets or undertaking unless such Security is permitted by the terms of a Mortgage Document.

## **SECTION F: OUR RIGHTS AND REMEDIES**

### **(1) OUR GENERAL RIGHTS UNDER THE MORTGAGE DEED**

- (A) Our rights and powers under the Mortgage Deed are cumulative, may be exercised as often as we require and are in addition to any of our rights under the general law.
- (B) No act, course of conduct or negotiation by us or another Secured Party (or on behalf of us or another Secured Party) shall preclude us from exercising any right or power under the Mortgage Deed or constitute a suspension or variation of any such right or power.
- (C) Any omission, failure or delay on our part in exercising any of our rights under the Mortgage Deed shall not prevent us from doing so either later or on another occasion.
- (D) Subject to paragraph (E), any waiver or variation of our rights under, or amendment of, the Mortgage Deed shall only be effective if such waiver, variation or amendment is in writing and signed or acknowledged by us. Such waiver, variation or amendment shall only take effect in accordance with the specific terms of such waiver, variation or amendment.
- (E) We may change, vary, substitute, remove or add to any part of the terms and conditions which govern the Mortgage (including amending any Mortgage Document or the standard terms and conditions applicable to such Mortgage Document or issuing new standard conditions) at any time for the following reasons:

- (i) to take account, in a proportionate way, of any changes in general mortgage provider practice for the benefit of our customers as a whole;
- (ii) to be more fair to our customers as a whole;
- (iii) to take account of, in a proportionate way, any code of conduct which is applicable to our business now or in the future;
- (iv) to correct any errors or to otherwise make the terms and conditions of the Mortgage more easy to understand;
- (v) to enable us (or a member of our Group) to comply with a Regulatory Requirement or to otherwise reflect a change in the relevant law to which we (or a member of our Group) are subject or the way in which we (or a member of our Group) are regulated; or
- (vi) to reflect, in a way which does not disadvantage you, a change in our systems or procedures, including any change arising from any reorganisation of our business as a result of it being acquired by, or by our (or a member of our Group) acquiring, another mortgage provider or organisation.

We will give you 14 days' notice before we exercise our right under this paragraph (E) above provided that where we, acting reasonably, consider any change, variation, substitution, removal or addition is not to your disadvantage we may make that change, variation, substitution, removal or addition immediately and we will then advise you within 14 days of the change, variation, substitution, removal or addition which has been made.

- (F) We (or any other Secured Party) may, at our/the other Secured Party's discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to the Mortgage Deed (whether or not such person is jointly liable with you for the Debt) in respect of any of the Debt (or of any other Security for it) without prejudice either to the Mortgage Deed or your liability for the Debt.
- (G) We shall be entitled (but shall not be obliged) to remedy, at any time, a breach by you of any of your obligations contained in a Mortgage Document and you irrevocably authorise us and our agents to do all things that are necessary or desirable for that purpose.
- (H) In remedying any breach in accordance with paragraph (G) above, we, our agents and our and their respective officers, agents and employees shall be entitled, at any reasonable time after we have given you reasonable advance notice, to enter onto the Property and to take any action as we may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.
- (I) If we receive, or are deemed to have received, notice of any subsequent Security or other interest, affecting all or part of the Charged Property, we may open a new account for you in our books. Without prejudice to our right to combine accounts, no money paid to the credit of you in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Debt. If we do not open a new account immediately on receipt of the notice, or deemed notice, referred to above, then, unless we give express written notice to the contrary to you, all payments made by you to us (or another member of our Group as applicable) shall be treated as having been credited to your new account and not as having been applied in reduction of the Debt, as from the time of receipt or deemed receipt of the relevant notice by us.

- (J) We may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested by the Mortgage Deed. That delegation may be made upon any terms and conditions (including the power to sub delegate) and subject to any restrictions that we may, in our discretion, think fit and we shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub delegate.
- (K) Neither we nor any Delegate shall be liable to account as mortgagee in possession in respect of all or any of the Charged Property by reason of the exercise of any powers or rights under the Mortgage Deed nor otherwise, nor shall any of us be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Charged Property for which a mortgagee in possession might be liable as such.
- (L) If we or any Delegate enters into or takes possession of the Charged Property, we or the Delegate (as applicable) may at any time relinquish possession.

## **(2) OUR RIGHTS ON AND AFTER AN ENFORCEMENT EVENT**

- (A) The security constituted by the Mortgage Deed shall be immediately enforceable if an Enforcement Event occurs and, in these circumstances, we may in our absolute discretion and without further notice to you enforce all or any part of the security constituted by the Mortgage Deed at the times, in the manner and on the terms as we think fit including:
  - (i) taking possession of the Property or, if the Property is let, collecting any rent or other income payable in respect of the Property;
  - (ii) selling the Property; or
  - (iii) exercising any other enforcement powers which we have under the laws of Scotland.
- (B) You waive any right you may have to require us to enforce any Security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing the Mortgage Deed against you.
- (C) At any time after an Enforcement Event or if you have otherwise defaulted in the performance of your obligations under the Mortgage Deed or any other Mortgage Document, you will allow us, without further notice or demand, immediately to exercise all our rights, powers and remedies in particular (and without limitation) to take possession of any Charged Property and for that purpose to enter on any premises where any Charged Property is situated (or where we reasonably believe Charged Property to be situated) without incurring any liability to you for, or by any reason of, that entry. You must, at all times, use your best endeavours to allow us access to any premises for the purpose of this paragraph (2)(C) (including obtaining any necessary consents or permits of other persons) and ensure that, where applicable, your employees and officers do the same.
- (D) In circumstances where the Charged Property has been mortgaged or charged (including pursuant to any Permitted Security) in a way that gives another person a first claim on the Charged Property or a person has an interest in the Charged Property which ranks in priority to the security constituted by the Mortgage Deed, we may at any time after:
  - (i) an Enforcement Event; or

- (ii) any powers conferred by the prior ranking interest in the Charged Property have become exercisable,

buy out (whether by redemption or settlement) that other person's rights and our agreement or settlement with that other person will be conclusive and binding on you. All monies paid by us to that other person in connection with their buy-out shall be, as from its payment by us, due from you to us and be secured and accrue interest as part of the Mortgage Debt.

### **(3) PROTECTION OF THIRD PARTIES**

- (A) No purchaser, mortgagee or other person dealing with us or any Delegate shall be concerned to enquire (i) whether any of the Debt has become due or payable, or remains unpaid or undischarged, (ii) whether any power we or any Delegate is purporting to exercise has become exercisable or is properly exercisable or (iii) how any money paid to us or any Delegate is to be applied.
- (B) The receipt by us or any Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property or in making any acquisition in the exercise of their respective powers, we and every Delegate may do so for any consideration, in any manner and on any terms that we or the relevant Delegate thinks fit.

### **(4) APPLICATION OF PROCEEDS**

- (A) All monies received by us or any Delegate under or in connection with the Mortgage Deed, shall (subject to the claims of any person having prior rights) be applied in the following order of priority:
  - (i) *first*, in or towards payment of all costs, charges and expenses incurred by us and any Delegate in connection with the Mortgage Deed (including, but not limited to, payment of any fees (at the rate we agree with the Delegate) due to any Delegate we may appoint);
  - (ii) *second*, in or towards payment to the relevant Secured Party to discharge the Debt in any order and manner that we may determine (or are otherwise directed by the relevant Secured Party); and
  - (iii) *third*, in payment of the surplus (if any) to you or any other person entitled to it.
- (B) Neither we nor any other Secured Party shall be bound to pay any monies first towards interest rather than principal or otherwise in any particular order in respect of the Debt or to pay off the Mortgage Debt or the Other Debt in any particular order.
- (C) All monies received by us or a Delegate under the Mortgage Deed:
  - (i) may, at the discretion of us or the relevant Delegate, be credited to any interest-bearing suspense or securities realised account;
  - (ii) may be held in that account for so long as we or the relevant Delegate think expedient without having any obligation to apply the monies towards the discharge of the Debt.

### **(5) POWER OF ATTORNEY**



- (A) For the purposes of securing our interest in the Charged Property, you irrevocably appoint us for the duration of the Security Period and (as a separate appointment) every Delegate to be your attorney (with full power of substitution and delegation) to do the following in your name and on your behalf:
  - (i) execute any document and do any act and thing that you are required to execute and/or do under a Mortgage Document but have not done; and
  - (ii) execute any document and do anything which is needed to allow any of our (or another Secured Party's) rights, powers and remedies under a Mortgage Document or by law to be effectively exercised, enforced or defended.
- (B) We will not be (and no Delegate will be) liable for anything done under this power of attorney unless we (or the Delegate) have failed to use reasonable care in exercising that power.
- (C) You hereby ratify and confirm, and agree to ratify and confirm, anything that any of your attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in this paragraph (5).

## **SECTION G: OTHER PROVISIONS**

### **(1) ASSIGNMENTS AND TRANSFERS**

- (A) We may:
  - (i) assign all or any of our rights under the Mortgage Deed; or
  - (ii) transfer all or any of our rights or obligations under the Mortgage Deed by novation, to any person at any time and for any purpose (including, but not limited to, in connection with any securitisation of all or part of the Debt) and without the consent of, or any obligation to consult with or notify, you.
- (B) The power for us to assign or transfer, as applicable, our rights under the Mortgage Deed includes the power for us to assign or transfer such rights as security for any borrowing by us or any other member of our Group.
- (C) Unless the terms of the assignment or transfer provide otherwise, an assignee or transferee of any of our rights under the Mortgage Deed will be able to exercise those rights (and related powers and remedies) in the same manner as we could prior to the transfer or assignment.
- (D) You may not assign or transfer any of your rights or obligations under the Mortgage Deed.

### **(2) NOTICES**

- (A) Each notice or other communication given under or in connection with the Mortgage Deed shall be in writing, delivered personally or sent by pre-paid first-class letter, fax or e-mail, and sent:
  - (i) to you at:

- (a) your address which is set out on the first page of the Mortgage Deed or such other address as you may notify to us in writing from time to time after the date of the Mortgage Deed; and/or
  - (b) your fax number (if any) last provided to us; and/or
  - (c) your e-mail address (if any) last provided to us;
- (ii) to us at the address or email address provided to you for this purpose in the Mortgage Documents or such other address or email address as we may notify you in writing from time to time.
- (B) You agree that any notices to be sent by us under the Mortgage Deed, or any service of any proceedings, may be served by us on you as set out in paragraph (A)(i) above and the service of any such notices or proceedings shall be deemed to be received by you:
  - (i) if sent by fax or e-mail, when it is transmitted;
  - (ii) if given by hand, at the time of actual delivery; and
  - (iii) if posted, on the second Business Day after the day it was sent by pre-paid first-class post.
- (C) Any notice or other communication given to us by you shall be deemed to have been received only on actual receipt.
- (D) You must tell us if your name or any of your contact details change. If you do not tell us we will continue to use the details you last gave us or, if those details have not been updated, as otherwise provided for in paragraph (A)(i) above. We will not be responsible if we fail to contact you because we are using the details you last gave us or, if those details have not been updated, as otherwise provided for in paragraph (A)(i) above. We will also not be responsible if we send you any information relating to the Mortgage to the wrong address (including an electronic address) using the details you last gave us.
- (E) In the case of an individual, a demand or notice addressed by us to you when you have become insolvent or you have died or are otherwise unable to manage your affairs operates as a demand or notice on your legal representatives.
- (F) Where there is more than one of you (as specified in Box A on the first page of the Mortgage Deed) and:
  - (i) you both share the same address, we may write to you both together at the same address (either using one notice or other written communication addressed to you both or the same notice or other communication sent to you separately at the same time); and
  - (ii) you have different addresses, we will send a separate notice (or other written communication) to both addresses provided that is acknowledged that any demand for payment served on one of you will be deemed to be effective notice to all of you.
- (G) All notices and communications given in connection with the Mortgage shall be in English.

### **(3) PRESERVATION OF OTHER SECURITY AND RIGHTS**

- (A) The Mortgage Deed is in addition to, and independent of, any other security or guarantee for the Debt which is held by us (or any other Secured Party) now or in the future.
- (B) We may consolidate the Mortgage Deed with any other Security held by us from you so that they have to be redeemed by you together, but it will not merge with or prejudice any other Security or guarantee or any of our other rights.

#### **(4) SECURITY RELEASE**

- (A) Subject to paragraphs (4)(B) and (4)(C) below, on the expiry of the Security Period (but not otherwise) we shall, where you request and at your cost, take whatever action you may reasonably require to release the Charged Property from the security constituted by the Mortgage Deed.
- (B) Any release, discharge or settlement between you and us shall be conditional on no payment or security received by us in respect of the Debt being avoided, reduced or ordered to be refunded under any law in any jurisdiction relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. As a result, notwithstanding such release, discharge or settlement:
  - (i) we may retain the Mortgage Deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Charged Property, for any period that we deem necessary to provide us with security against any such avoidance, reduction or order for refund;
  - (ii) we may recover the value or amount of such security or payment from you subsequently as if the release, discharge or settlement had not occurred.
- (C) If we consider that an amount paid by you in respect of the Debt is capable of being avoided or otherwise set aside on your bankruptcy or insolvency or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of the Mortgage Deed.

#### **(5) COSTS AND INDEMNITIES**

You shall on demand reimburse us and any Delegate, on a full indemnity basis, in respect of all costs, charges, expenses, taxes, losses and any other liabilities of any kind (including legal and out-of-pocket costs and expenses and any value added tax on those costs and expenses) suffered or incurred by us or any Delegate in connection with:

- (i) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under the Mortgage Deed or by law in respect of the Charged Property;
- (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of their rights under the Mortgage Deed;
- (iii) any actual or proposed amendment, variation, supplement, waiver or consent under or in connection with the Mortgage Deed;
- (iv) taking proceedings for, or recovering, any of the amounts demanded from you under, or in connection with, the Mortgage Deed;

- (v) all stamp duty, registration and other similar Taxes payable in respect of the Mortgage Deed;
- (vi) remedying a breach by you of your obligations contained in the Mortgage Deed or any other Mortgage Document; and
- (vii) the release of the Mortgage Deed and/or any part of the Charged Property from the security constituted by the Mortgage Deed.

**(6) GENERAL / MISCELLANEOUS**

- (A) The Mortgage Deed may be executed and delivered in any number of counterparts, and on such execution, the counterparts shall be treated as a single document pursuant to the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015.
- (B) If any provision (or part of a provision) of the Mortgage Deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this paragraph (6)(B) shall not affect the legality, validity and enforceability of the rest of the Mortgage Deed.
- (C) Unless expressly provided to the contrary (including under paragraph (D) below), it is not intended that a third party should have the right to enforce a provision of the Mortgage Deed under the Contract (Third Party Rights) (Scotland) Act 2017.
- (D) Where the Mortgage Deed grants any right or benefit to a Secured Party which is not party to the Mortgage Deed or to a member of our Group or to any of our Representatives then such person may rely on and enforce that right or benefit notwithstanding that they are not party to the Mortgage Deed.

**(7) GOVERNING LAW AND JURISDICTION**

- (A) The Mortgage Deed and any non-contractual obligations arising out of or in relation to the Mortgage Deed shall be governed by the laws of Scotland.
- (B) The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with the Mortgage Deed (including a dispute relating to the existence, validity or termination of the Mortgage Deed or any non-contractual obligation arising out of or in connection with the Mortgage Deed) (a *Dispute*).
- (C) You agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly you will not argue to the contrary.
- (D) We shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, we may take concurrent proceedings in any number of jurisdictions.

