



**Registration of a Charge**

Company name: **THE CO-OPERATIVE BANK P.L.C.**

Company number: **00990937**



X5MAR4W1

Received for Electronic Filing: **21/12/2016**

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**Details of Charge**

Date of creation: **21/12/2016**

Charge code: **0099 0937 0019**

Persons entitled: **BRITANNIA PENSION TRUSTEES LIMITED**

Brief description:

**Contains fixed charge(s).**

**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: **WE 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: **GOWLING WLG (UK) LLP**



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

Company number: 990937

Charge code: 0099 0937 0019

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st December 2016 and created by THE CO-OPERATIVE BANK P.L.C. was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st December 2016 .

Given at Companies House, Cardiff on 22nd December 2016

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

THE CO-OPERATIVE BANK P.L.C.  
BRITANNIA PENSION TRUSTEES LIMITED

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SECURITY DEED

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**THIS AGREEMENT** is made by way of DEED dated 21 December 2016 and is made  
**BETWEEN:**

- (1) **THE CO-OPERATIVE BANK P.L.C.**, (registered number 00990937) whose registered office is at PO Box 101, 1 Balloon Street, Manchester M60 4EP (the "Security Provider"); and
- (2) **BRITANNIA PENSION TRUSTEES LIMITED** (registered number 07381420) whose registered office is at Secretariat, Miller Street Tower, Miller Street, Manchester M60 0AL acting in its capacity as a Trustee (as defined below).

**BACKGROUND:**

- (A) The Parties have agreed to enter into this Deed in the context of discussions with respect to the actuarial valuation for the Pension Scheme as at 5 April 2014 (for the purposes of section 224 of the Pensions Act 2004). Such valuation is being agreed on terms which shows a £41,000,000 deficit and it has also been agreed that cash contributions totalling £50,000,000 will be paid into the Pension Scheme over 7 years. However the deficit as at 31 March 2016, if assessed on the same basis as used for the 5 April 2014 valuation, is estimated to be £137,000,000 and security of £137,000,000 is being put in place pursuant to this Deed.
- (B) The Parties desire that the Security Provider charges in favour of the Trustee all of its rights title and interest under and in respect of the Security Assets as security for the Secured Obligations.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

"**Acceptable Custodian**" means a financial institution regulated by the Prudential Regulatory Authority or the Financial Conduct Authority (as applicable) (or an equivalent regulator in the European Union) which has a Requisite Rating.

"**Acceptable Security Asset**" means:

- (a) prior to the occurrence of a Security Asset Default Event in respect of the Warwick II Notes, the Warwick II Notes;
- (b) gilt-edged securities issued by the government of the United Kingdom;
- (c) any debt or equity security that is rated either:
  - (i) AAA by Standard & Poor's Ratings Services, a division of The McGraw Hill Companies, Inc.;

(ii) AAA by Fitch Ratings Ltd.; or

(iii) Aaa by Moody's Investors Service Limited,

or, in each case, any successor to or transferee of the ratings business of such party; or

(d) cash denominated in pounds sterling.

**"Accounts"** means the Charged Securities Account and the Charged Cash Account opened by the Security Provider with the Custodian pursuant to the Custodian Agreement.

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

**"Asset Value"** means:

- (a) with respect to any Unenforced Security Assets, the principal amount outstanding of such Unenforced Security Assets discounted in accordance with the then applicable version of the "Summary of haircuts for securities eligible for the Bank's lending operations" in respect of the Bank of England's Sterling Monetary Framework (and if a document stipulating such haircuts is not then available, then the last available version of the "Summary of haircuts for securities eligible for the Bank's lending operations", or any equivalent terms that are then applied by the Bank of England to their Sterling Monetary Framework) or such other methodology as the Trustee and the Security Provider may jointly agree in writing, including independent valuation;
- (b) with respect to any Enforced Security Assets, such amount as the Receiver or Trustee reasonably determine, having taken, sought and considered independent advice from an investment or accountancy firm of national standing (such firm selected at the Trustee's discretion).

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

**"Charged Cash Account"** shall have the meaning given to it in the Custodian Agreement.

**"Charged Securities Account"** shall have the meaning given to it in the Custodian Agreement.

**"Charged Securities"** means any Acceptable Security Assets recorded in, and represented by, the Charged Securities Account (which, as at the Closing Date, consists of the Warwick II Notes in a principal amount outstanding of £165,100,000 and having the identification numbers XS1255425495 (the **"Charged Warwick II Notes"**)) and/or the Charged Cash Account.

**"Clearance System"** means a person whose business is or includes the provision of clearance services or security accounts or any nominee or depositary for that person.

**"Custodian"** means The Bank of New York Mellon, a banking corporation organised under the laws of the State of New York acting through its branch at One Canada Square, London E14 SAL, United Kingdom.

**"Custodian Agreement"** means the agreement dated on or about the date hereof between the Security Provider, the Trustee and the Custodian.

**"Deed"** means this agreement.

**"Disputed Securities"** shall have the meaning given to such term in Clause 9.2.1.

**"Distributions"** means, in relation to any Security Assets:

- (a) any principal, and other distributions or monies, of a capital nature but excluding (for the avoidance of doubt) Income Distributions arising from or in relation to such Security Assets; and
- (b) any right, money or property accruing or offered at any time in relation to such Security Assets by way of redemption, amortisation payment, substitution, exchange, bonus or preference, under option rights or otherwise.

**"Eligible Dealers"** means, for the purposes of appointment of dealers to obtain bids, each of the following entities (or their Affiliates or any successor thereto): Barclays Bank plc, BNP Paribas, Citigroup Global Markets Limited, Deutsche Bank AG, London Branch, Goldman Sachs International, HSBC Bank plc, J.P. Morgan Securities plc, Lloyds Bank plc, Merrill Lynch International, Morgan Stanley & Co International plc, Nomura International plc, Coöperatieve Rabobank U.A. (Rabobank), Société Générale, The Royal Bank of Scotland plc, UniCredit Bank AG, Wells Fargo Securities International Limited, or any other investment bank of national repute as may be agreed between the Security Provider and the Trustee, provided in each case that an Eligible Dealer may not be an affiliate of the Trustee or the Security Provider.

**"Enforced Security Assets"** means Security Assets in respect of which Security has been enforced in accordance with Clause 12.1 (*When Security becomes enforceable*) or appropriated in accordance with Clause 12.5.

**"Enforcement Event"** means:

- (a) a Non-Payment Event; or
- (b) an Event of Default,

occurs in respect of the Security Provider.

**"Event of Default"** means:

- (a) Breach of this Deed

The Security Provider does not comply with any term of this Deed, unless the non-compliance is capable of remedy, and is remedied within fourteen (14)

days of the earlier of the Trustee giving notice and the Security Provider becoming aware of the non-compliance.

(b) Misrepresentation

A representation made or repeated by the Security Provider in this Deed is incorrect or misleading in any material respect when made or deemed to be repeated, unless the circumstances giving rise to the misrepresentation:

- (i) are capable of remedy; and
- (ii) are remedied within fourteen (14) days of the earlier of the Trustee giving notice and the Security Provider becoming aware of the circumstances giving rise to the misrepresentation.

(c) Insolvency

An Insolvency Event occurs in respect of the Security Provider.

(d) Insolvency proceedings

- (i) Any of the following occurs in respect of the Security Provider:
  - (1) a bank insolvency proceeding pursuant to Part 2 of the Banking Act 2009 is instituted; and/or
  - (2) a bank administration proceeding pursuant to Part 3 of the Banking Act 2009 is instituted;

(e) Cessation of business

The Security Provider ceases, or threatens to cease, to carry on business.

(f) Effectiveness of this Deed

- (i) It is or becomes unlawful for the Security Provider to perform any of its obligations under this Deed.
- (ii) This Deed is not effective in accordance with its terms or is alleged by the Security Provider to be ineffective in accordance with its terms for any reason.
- (iii) The Security Provider repudiates this Deed or evidences an intention to repudiate this Deed.

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

**"Firm Bid"** means a good faith, live, firm, actionable bid on arm's length terms obtained by the Principal Dealer for the entire principal amount of the relevant



Disputed Securities (excluding accrued interest) from a Selected Dealer acting independently (and not on behalf of, as instructed by, or in connection with a bid made directly or indirectly by, the Security Provider) which is executable by the Principal Dealer as a sale in any amount, as determined by the Principal Dealer in its sole discretion under market standard documentation. A bid will not be considered to constitute a Firm Bid unless the Principal Dealer is able to (but is not obliged to) enter into a transaction with such Selected Dealer in accordance with any applicable law and regulations.

**"Firm Bid Deadline"** shall have the meaning given to such term in Clause 9.2.1.

**"Income Distributions"** means, in relation to any Security Assets any interest and other distributions or monies of an income nature but excluding (for the avoidance of doubt) all other Distributions arising from or in relation to such Security Assets and any items falling within paragraph (b) of the definition of Distributions.

**"Insolvency Event"**, means

in respect of a company, means an 'insolvency event' as defined in Section 121 of the Pensions Act 2004 or regulations made from time to time thereunder.

**"Insolvency Official"** means, in respect of a company, a liquidator, provisional liquidator, administrator, bank administrator, bank liquidator, investment bank administrator, administrative receiver, receiver, receiver or manager, compulsory or interim manager, nominee, supervisor, trustee, conservator, guardian or other similar officer in respect of such company or in respect of any arrangement, compromise or composition with any creditors or any equivalent or analogous officer under the law of any jurisdiction.

**"Market Value"** means, in the case of Unenforced Security Assets, the price determined by the accountancy firm or investment bank of international repute referred to in Clause 9.1.2 by applying a methodology that is considered standard for the valuation of securities of the type being valued, in each case at close of business on the previous Business Day.

**"Market Value Dispute Notice"** shall have the meaning given to such term in Clause 9.2.1.

**"Material Adverse Effect"** means a material adverse effect on:

- (a) the ability of the Security Provider to perform its payment obligations under this Deed;
- (b) the validity or enforceability of, or the effectiveness or ranking of the Security;  
or
- (c) any right or remedy of the Trustee under this Deed.

**"Minimum Asset Value"** means the lower of (a) £137,000,000, and (b) £137,000,000 minus the amount of unpaid Secured Obligations in respect of which enforcement action has been taken pursuant to Clause 12 (*Enforcement*) of this Deed.

**"Non-Payment Event"** means a failure by the Security Provider to pay part or whole of the Secured Obligations within five Business Days of the Trustee notifying it of a failure to make a payment when due.

**"Pension Scheme"** means the Britannia Pension Scheme, established under irrevocable trusts by a deed dated 17 June 1947.

**"Pensions Regulator"** has the meaning given to it in the Pensions Act 2004.

**"Principal Dealer"** shall have the meaning given to such term in Clause 9.2.1.

**"Quarterly Revaluation Date"** means 21<sup>st</sup> day of March, June, September and December in each year, **provided that**, if such day is not a Business Day, on the immediately succeeding Business Day.

**"Receiver"** means a receiver, receiver or manager or, where permitted by law, an administrative receiver and that term will include any appointee made under a joint or several appointment.

**"Requisite Rating"** means a current long term issuer rating of:

- (a) A- or better by Fitch; or
- (b) A3 or better by Moody's; or
- (c) A- or better by S&P.

**"Schedule of Contributions"** means a schedule of contributions as defined in section 227 of the Pensions Act 2004.

**"Secured Obligations"** means at any time:

- (a) amounts due and payable at that time from the Security Provider to the Pension Scheme under any Schedule of Contributions agreed by the Security Provider in force from time to time; and
- (b) except where:
  - (i) the Pensions Regulator has exercised any power to wind-up the Pension Scheme or imposed any contribution obligation on the Security Provider in relation to the Pension Scheme or imposed on the Security Provider any other obligation of the sort that could be imposed by a financial support direction pursuant to sections 43 to 51 of the Pensions Act 2004 in relation to the Pension Scheme (whether pursuant to section 11 of the Pensions Act 1995 or sections 38 to 51 of the Pensions Act 2004 or otherwise), and

- (ii) the Security Provider has not given an irrevocable written notice to the Trustee that the exercise of the Pensions Regulator's power pursuant to (i) above should be treated for the purposes of this sub-clause (b) as not having occurred provided that the Security Provider shall consult in good faith with the Trustee about the giving of such a notice and shall not unreasonably refuse to give such a notice,

all other present and future obligations and liabilities which are or become due and payable from time to time by the Security Provider to the Pension Scheme,

up to a maximum amount, in the aggregate for items (a) and (b) above, of £137,000,000.

**"Securities Related Assets"** means:

- (a) the Charged Securities;
- (b) any dividend, interest or other distribution paid or payable in relation to any of the Securities;
- (c) any right, money, shares, securities or property accruing, offered or issued at any time in relation to the above by way of redemption, substitution, exchange, bonus, preference or otherwise, under option rights or otherwise; and
- (d) any right against any Clearance System.

**"Security"** means any Security Interest created, evidenced or conferred by or under this Deed.

**"Security Assets"** means all assets and rights of the Security Provider which are the subject of any Security.

**"Security Asset Default Event"** means an event of default or other default whatsoever and howsoever described that occurs and is continuing with respect to some or all of the Security Assets, including, for the avoidance of doubt, a failure to pay any amount due and payable in respect of the Security Assets.

**"Security Interest"** means a mortgage, charge, pledge, lien 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, and including, the date of this Deed and ending on the earlier of i) 31 July 2022 and ii) the date immediately prior to the occurrence of any of the following circumstances:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full; or
- (b) an actuarial valuation is completed for the purposes of section 224 of the Pensions Act 2004 showing the Pension Scheme to be fully funded on a technical provisions basis

provided that the Security Provider may provide the Trustee with an irrevocable written notice at any time that the Security Period will not end (or has not ended) as a result of the occurrence of a circumstance listed in (b) above as specified in such written notice.

**"Selected Dealers"** shall have the meaning given to such term in Clause 9.2.1.

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

**"Trustee"** means the trustee or trustees of the Pension Scheme at any relevant time.

**"Unenforced Security Assets"** means any Security Assets that are not Enforced Security Assets.

**"Valuation Date"** means any date on which Asset Value or Market Value of any Security Assets is determined in accordance with Clause 9 (*Calculation of Asset Value and Market Value*).

**"Warwick II Issuer"** means Warwick Finance Residential Mortgages Number Two PLC, a public limited liability company incorporated in England and Wales with registered number 9548685.

**"Warwick II Notes"** means Class A mortgage backed floating rate Notes due September 2049 issued by the Warwick II Issuer bearing ISIN XS1255425495 and Common Code 125542549.

## **1.2 Construction**

In this Deed, a reference to:

- 1.2.1 a statutory provision includes a reference to the statutory provision as modified or re enacted or both whether before or after the date of this Deed and any subordinate legislation made or other thing done under the statutory provision whether before or after the date of this Deed;
- 1.2.2 a document is a reference to that document as modified or replaced from time to time;
- 1.2.3 a person includes a reference to a corporation, body corporate, association or partnership;
- 1.2.4 a person includes a reference to that person's legal personal representatives, successors and permitted assigns;
- 1.2.5 the singular includes the plural and *vice versa* (unless the context otherwise requires); and
- 1.2.6 a clause or schedule, unless the context otherwise requires, is a reference to a clause of or schedule to this Deed.

**2. COVENANT TO PAY**

The Security Provider covenants with the Trustee to discharge each of the Secured Obligations on their due date for payment.

**3. CREATION OF SECURITY**

**3.1 General**

3.1.1 All the security created under this Deed:

- (a) is created in favour of the Trustee absolutely, subject in each case to the provisions for release and reassignment contained in Clause 18 (*Release*);
- (b) is created over present and future assets of the Security Provider;
- (c) is security for the payment, discharge and performance of all the Secured Obligations; and
- (d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

**3.2 Security Assets**

3.2.1 The Security Provider charges and agrees to charge, by way of a first fixed charge, in favour of the Trustee, all of its rights in, to and in respect of:

- (a) the Charged Securities;
- (b) the Accounts; and
- (c) to the extent that any asset and/or rights which is expressed to be assigned under Clause 3.2.3 below is not effectively assigned, such asset and/or rights.

3.2.2 A reference in this Clause 3.2 to a charge of the Security Provider's rights in, to and in respect of, the Charged Securities or the Accounts includes a charge of the Security Provider's rights in, to and in respect of:

- (a) any dividend, interest or other distribution paid or payable in relation to the Charged Securities;
- (b) any right, money, shares, securities or property accruing, offered or issued at any time in relation to it by way of redemption, substitution, exchange, bonus, preference or otherwise, under option rights or otherwise; and
- (c) any rights against any clearing system.

- 3.2.3 The Security Provider assigns and agrees to assign absolutely, subject to a proviso for re-assignment on redemption, all of its rights, title and interest in and to the Custodian Agreement, all rights and remedies in connection with the Custodian Agreement and any proceeds and claims arising from it.

**4. FURTHER ASSURANCE**

- 4.1 The Security Provider shall, at its own expense, take whatever action the Trustee or a Receiver may reasonably require for:

- 4.1.1 creating, perfecting or protecting any Security Interest intended to be created by or pursuant to this Deed; or
- 4.1.2 facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Trustee or any Receiver or any of their delegates or sub-delegates in respect of any Security Asset.

- 4.2 The actions contemplated by Clause 4.1 include (without limitation):

- 4.2.1 the re-execution of this Deed;
- 4.2.2 the execution of transfers, conveyance, assignment or assurance, if required, whether to the Trustee or to their nominees; and
- 4.2.3 the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Trustee may think expedient.

- 4.3 A certificate of the Trustee stating that a particular action is reasonably required by it shall be conclusive evidence of the fact.

**5. SECURITY PROVIDER REPRESENTATIONS AND WARRANTIES**

- 5.1 The Security Provider makes the representations and warranties set out in this Clause to the Trustee on the date of this Deed.

**5.2 General**

- 5.2.1 It is a public limited liability company incorporated and validly existing under the laws of England.
- 5.2.2 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise the entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.
- 5.2.3 No limit on its powers will be exceeded as a result of the grant of this Deed.
- 5.2.4 Its obligations under this Deed constitute its legal, valid, binding and enforceable obligations (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally

and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

5.2.5 The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any document which is binding upon it or any of its assets or constitute a default or termination event (however defined) under any such document.

5.2.6 All authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Deed have been obtained or effected (as appropriate) and are in full force and effect.

### **5.3 Security Assets**

Other than any Security Interest imposed in the ordinary course by any Clearance System or Custodian or arising by operation of law:

5.3.1 the Security Assets relating thereto are not subject to any option to purchase or similar right; and

5.3.2 it is the sole beneficial owner of the Security Assets.

### **5.4 No insolvency**

No Insolvency Event has occurred in respect of the Security Provider, or will be expected to occur as a result of the Security Provider entering into this Deed.

### **5.5 Securities**

5.5.1 It is the sole legal and beneficial owner of the Securities Related Assets and the Accounts.

5.5.2 The Charged Securities have been duly authorised and validly issued and are and will be free from any restrictions on transfer or rights of pre-emption.

## **6. THE SECURITY ASSETS**

### **6.1 General**

The Security Provider agrees to be bound by the covenants set out in this Clause 6 so long as any Secured Obligations are outstanding.

**6.2 No obligations in respect of the Security Assets**

The Trustee shall not be obliged to:

- 6.2.1 perform any obligation of the Security Provider;
- 6.2.2 make any payment;
- 6.2.3 make any enquiry as to the nature or sufficiency of any payment received by it or the Security Provider; or
- 6.2.4 present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,

in respect of any Security Assets and/or the Custody Agreement.

**6.3 Voting rights**

- 6.3.1 Subject to the other provisions of this Deed, the Security Provider shall be entitled to exercise the voting rights attached to the Security Assets that are Unenforced Security Assets as it sees fit *provided always* that any such exercise or direction by the Security Provider is not made in a manner inconsistent with the terms of this Deed, which has the effect of changing the forms, the rights attaching to or priority ranking of such Security Assets, or which is materially prejudicial to the interests of the Trustee. The Trustee shall, upon receipt of a request from the Security Provider to do so, provided it is in accordance with the foregoing provisions of this clause, do all acts or things reasonably necessary to become party to and submit a joint instruction to the Custodian such as to procure that the Custodian carry out such exercise or direction on the terms specified by the Security Provider.
- 6.3.2 The Trustee shall be entitled to exercise or direct the exercise of the voting rights attached to the Security Assets that are Enforced Security Assets.

**6.4 Principal, interest and distributions**

- 6.4.1 Notwithstanding Clause 3 (*Creation of Security*), the Security Provider shall be entitled to receive all Income Distributions arising from or in relation to any Unenforced Security Assets and such Income Distributions shall be paid directly to the Security Provider. For the avoidance of doubt all other Distributions shall be retained as cash denominated in pounds sterling in the Charged Cash Account unless and until invested in alternative Acceptable Security Assets in accordance with Clause 6.9.4.
- 6.4.2 The Trustee shall be entitled to apply all Income Distributions and Distributions arising from Enforced Security Assets as though they were the proceeds of sale under this Deed.



**6.5 Financial Collateral**

To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of the Security Provider under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Regulations) each Receiver and the Trustee 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. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the Asset Value. The parties agree that the Asset Value shall constitute a commercially reasonable method of valuation for the purposes of the Financial Collateral Regulations.

**6.6 Notification of Breach and /or Insolvency Event**

The Security Provider must notify the Trustee of the occurrence of any breach of any of the provisions of this Deed and/or an Insolvency Event promptly upon becoming aware of its occurrence.

**6.7 Authorisations**

The Security Provider must promptly obtain, maintain and comply with the terms of any authorisation required under any law or regulation to enable it to perform its obligations under, or for the validity or enforceability of, this Deed.

**6.8 Compliance with laws**

The Security Provider must comply in all respects with all laws to which it is subject where failure to do so has or is reasonably likely to have a Material Adverse Effect.

**6.9 Disposals and negative pledge**

The Security Provider must not:

- 6.9.1 create, purport to create or permit to subsist any Security Interest on any Security Asset (other than this Security and other than any Security Interest imposed in the ordinary course by any Clearance System or Custodian or arising by operation of law);
- 6.9.2 sell, assign, transfer, licence, lease or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interests in, any Security Asset; or
- 6.9.3 create or grant (or purport to create or grant) any interest in any Security Asset in favour of a third party.
- 6.9.4 direct the Custodian to release amounts held in the Charged Cash Account, or sell, transfer, licence, lease or otherwise dispose of any Charged Securities, without the prior written consent of the Trustee, which consent shall not be unreasonably withheld where the Security Provider also directs the Custodian to immediately invest amounts released from the Charged Cash Account or the

proceeds of any such sale or disposal of such Charged Securities in alternative Charged Securities. The Trustee hereby agrees that, at any time when the Trustee consents to a release or other disposition referred to in this Clause 6.9.4, it shall promptly do all acts or things reasonably necessary to become party to and submit a joint instruction to the Custodian such as to procure that the Custodian enacts such release or other disposition.

**6.10 Calls**

- 6.10.1 The Security Provider must pay all calls, instalments or other payments due and payable in respect of any Security Asset.
- 6.10.2 If the Security Provider fails to do so, the Trustee may pay the calls, instalments or other payments on behalf of the Security Provider. The Security Provider must immediately on request reimburse the Trustee for any payment made by the Trustee under this Sub-clause.

**6.11 Other obligations in respect of Security Assets**

The Security Provider must comply with all other conditions and obligations assumed by it in respect of any Security Asset.

**6.12 Deposit of documents**

In respect of all Security Assets, the Security Provider shall immediately upon execution of this Deed or (if later) immediately upon acquisition of an interest in any Security Asset deliver to the Trustee any document representing or evidencing any benefit or entitlement to such Security Asset.

**6.13 Information**

The Security Provider shall provide the Trustee with all information which it may reasonably request in relation to the Security Assets.

**6.14 Notifiable events**

The Security Provider shall promptly notify the Trustee upon becoming aware that any event has occurred in respect of the Security Provider which would (or would if the Security Provider were an employer in relation to the Scheme within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) require notification to the Pensions Regulator in accordance with Section 69 of the Pensions Act 2004 and any regulations and directions made thereunder.

**7. CUSTODIAN**

**7.1 Custodian Arrangements**

- 7.1.1 The Security Provider must:

- (a) immediately serve a notice of assignment, substantially in the form of Part 1 of Schedule 2 (*Forms of notice for Custodian*) on the Custodian; and
- (b) use its best endeavours to ensure that the Custodian acknowledges that notice, substantially in the form of Part 2 of Schedule 2 (*Forms of notice for Custodian*).

## **7.2 Custodian Agreement**

- 7.2.1 The Security Provider must not terminate or make or agree to any amendment or waiver of the Custodian Agreement without the prior written consent of the Trustee.
- 7.2.2 Before this Security becomes enforceable, all of the rights and powers of the Security Provider or the Trustee under the Custodian Agreement may be exercised in any manner which the Security Provider may direct in writing.
- 7.2.3 After this Security has become enforceable the Trustee may exercise all of the rights and powers of the Security Provider under the Custodian Agreement. The Security Provider indemnifies the Trustee against any cost, loss or liability incurred by it as a consequence of acting in respect of the Custodian Agreement.

## **7.3 Acceptable Custodian**

- 7.3.1 The Security Provider must promptly notify the Trustee upon it becoming aware that the Custodian has ceased to be an Acceptable Custodian.
- 7.3.2 If the Custodian ceases to be an Acceptable Custodian the Security Provider must:
  - (a) open a new account with another financial institution which is an Acceptable Custodian (the "**Replacement Account**") and transfer all the Securities from the Charged Securities Account to the Replacement Account; and
  - (b) grant Security Interests over the Replacement Account on the same terms as set out in this Deed,

each as soon as reasonably practicable and in any event within 30 days of the earlier of:

- (i) the Security Provider becoming aware that the Custodian has ceased to be an Acceptable Custodian; and
- (ii) a written request by the Trustee.

**8. CLEARANCE SYSTEMS**

The Security Provider must, after the occurrence of an Enforcement Event, if so requested by the Trustee, instruct any Clearance System to transfer any Security Asset held by it for the Security Provider or its nominee to an account of the Trustee or its nominee with that Clearance System and take whatever action the Trustee may request for the dematerialisation or rematerialisation of any Security Asset held in a Clearance System. The Trustee may, at the expense of the Security Provider, take whatever action is required for the dematerialisation or rematerialisation of any Security Assets held in a Clearance System.

**9. CALCULATION OF ASSET VALUE AND MARKET VALUE**

**9.1 Calculation of Asset Value and Market Value on quarterly (or more frequent) basis**

9.1.1 The Security Provider shall, on each Quarterly Revaluation Date, recalculate the Asset Value of the Unenforced Security Assets and notify the Trustee within 5 Business Days of such Quarterly Revaluation Date.

9.1.2 On each Quarterly Revaluation Date and on any other date which is not a Quarterly Revaluation Date if the Trustee has reasonable grounds to believe that the Market Value of the Unenforced Security Assets may have been adversely affected, the Trustee may, itself or with the assistance of a professional adviser such as an accountancy firm or investment bank of international standing appointed by it, determine (at the cost of the Security Provider, provided that such costs are reasonable) on that Quarterly Revaluation Date or such other date (but only so as to permit a revaluation by the Trustee on one such occasion between two successive Quarterly Revaluation Dates prior to the operation of clause 9.1.3) the Market Value of the Unenforced Security Assets, and, if so determined, notify the Security Provider within 5 Business Days of such determination.

9.1.3 If the Market Value of the Unenforced Security Assets determined in accordance with clause 9.1.2 has fallen to less than 90 per cent. of their nominal value, the Trustee will thereafter, during the Security Period, be entitled to call for valuations more frequently than each Quarterly Revaluation Date.

**9.2 Market Value Disputes**

9.2.1 The Security Provider may in good faith dispute the Trustee's determination of the Market Value of the Unenforced Security Assets before the end of the third Business Day immediately following receipt of notification of such determination, by providing a written notice (a "**Market Value Dispute Notice**") to the Trustee specifying the Securities (the "**Disputed Securities**") whose Market Value is in dispute, as well as the price the Security Provider believes is correct, and requiring the Trustee to appoint one of Merrill Lynch International, Morgan Stanley & Co. International plc or Citigroup Global Markets Limited or such other bank of similar standing as the Trustee may

choose with the consent of the Security Provider (such consent not to be unreasonably withheld in the case either of a bank experienced in the valuation of the Disputed Securities or, where no such bank is available, a bank experienced in the valuation of securities of the same type as the Disputed Securities) as the principal dealer (the "**Principal Dealer**") to obtain (at the cost of the Security Provider) Firm Bids in respect of the Disputed Securities from three Eligible Dealers selected by the Trustee ("**Selected Dealers**") no later than the close of business on the Business Day following the effective receipt of the Market Value Dispute Notice in accordance with clauses 9.2.2 (*Market Value Disputes*) and 23.1 (*Effectiveness*) (the close of business on the Business Day after the Market Value Dispute Notice is deemed to have been effectively received being the "**Firm Bid Deadline**").

- 9.2.2 Any Market Value Dispute Notice which is received by the Trustee at or before 10 a.m. London Time on a Business Day shall become effective on that Business Day, and any Market Value Dispute Notice which is received by Trustee after 10 a.m. London Time on a Business Day or on a day that is not a Business Day shall become effective on the following Business Day.
- 9.2.3 The Trustee shall procure that the Principal Dealer requests Firm Bids from the Selected Dealers, and in doing so does not act in bad faith. For the avoidance of doubt, the Principal Dealer shall have no further obligation beyond sending a request for Firm Bids and shall not be required to request bids from additional Eligible Dealers, notwithstanding that one or more of the Selected Dealers declines, or is unable or unwilling, to provide Firm Bids to the Principal Dealer. Selected Dealers shall have three hours to provide Firm Bids to the Principal Dealer and the parties agree that a failure by a Selected Bidder to provide a Firm Bid within three hours of a request by the Principal Dealer shall be considered a "decline" by such Selected Dealer.
- 9.2.4 If the Principal Dealer receives two or more Firm Bids in respect of the Disputed Securities then the Principal Dealer shall be required to notify the Trustee, who shall notify the Security Provider, of the Firm Bids and use the arithmetic average of the Firm Bids for such Disputed Securities to calculate the Market Value for such Unenforced Security Assets on the date of the Firm Bid Deadline. If the Principal Dealer receives exactly one Firm Bid in respect of the Disputed Securities then the Principal Dealer shall be required to notify the Trustee, who shall notify the Security Provider, of the Firm Bid and calculate the Market Value for such Disputed Securities on the date of the Firm Bid Deadline using the arithmetic average of such Firm Bid and the Trustee's original determination of the Market Value of such Unenforced Security Assets. If the Principal Dealer does not receive at least one Firm Bid for the Disputed Securities by the Firm Bid Deadline, then the Trustee's original determination of the Market Value of such Unenforced Security Assets shall prevail.

**9.3 Calculation of Asset Value on enforcement following a Non-Payment Event**

If, following a Non-Payment Event, any part of the Security is enforced in accordance with Clause 12.1.1 (*When Security becomes enforceable*), the Security Provider shall, within 5 Business Days of the enforcement of the Enforced Security Assets, recalculate the Asset Value of the Unenforced Security Assets.

**10. COVENANT TO REPLENISH SECURITY ASSETS**

10.1 Subject always to Clauses 10.2, 10.3 and 10.4 below, if on any Valuation Date it is determined that the Asset Value of the Unenforced Security Assets is less than the Minimum Asset Value, the Security Provider shall, within 45 Business Days of the relevant Valuation Date, at its own expense, transfer into the Charged Securities Account, additional Acceptable Security Assets, with an Asset Value which, when combined with the Asset Value of the existing Unenforced Security Assets, will amount to at least the Minimum Asset Value as at the date of such transfer into the Charged Securities Account.

10.2 If on any Valuation date, the Market Value of the Unenforced Security Assets is determined to be less than 90% of the nominal value of such Security Assets the Trustee may elect to use Market Value in place of the Asset Value, in which case the Security Provider shall, as soon as practicable, and in any event within 45 Business Days of the relevant Valuation Date, at its own expense, transfer into the Charged Securities Account, additional Acceptable Security Assets, with a Market Value which, when combined with the Market Value of the existing Unenforced Security Assets (such Market Values being adjusted for the purposes of this Clause 10.2 in accordance with Clause 10.3) would have amounted to at least the Minimum Asset Value as at the relevant Valuation Date.

10.3 For the purposes of comparison against Minimum Asset Value in accordance with Clause 10.2, Market Value shall be discounted in accordance with the then applicable version of the "Summary of haircuts for securities eligible for the Bank's lending operations" in respect of the Bank of England's Sterling Monetary Framework (and if a document stipulating such haircuts is not then available, then the last available version of the "Summary of haircuts for securities eligible for the Bank's lending operations", or any equivalent terms that are then applied by the Bank of England to their Sterling Monetary Framework) but substituting a "haircut" of 12% for the percentage "haircut" stipulated by such documents or alternatively discounted in accordance with such other methodology as the Trustee and the Security Provider may jointly agree in writing, including independent valuation.

**11. PRESERVATION OF SECURITY**

**11.1 Continuing security**

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.

## **11.2 Reinstatement**

- 11.2.1 If any discharge or arrangement is made in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation, administration or otherwise without limitation, the liability of the Security Provider under this Deed will continue or be reinstated as if the discharge or arrangement had not occurred.
- 11.2.2 The Trustee may in their absolute discretion concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

## **11.3 Waiver of defences**

The liabilities and obligations of the Security Provider under this Deed shall remain in force and will not be affected by any act, omission or thing (whether or not known to it or the Trustee) which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed.

This includes:

- 11.3.1 any time, waiver, consent or any other accommodation granted to, or composition with, any person;
- 11.3.2 any release of any person under the terms of any composition or arrangement;
- 11.3.3 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, any person;
- 11.3.4 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;
- 11.3.5 any incapacity, lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- 11.3.6 any amendment, novation, supplement, extension or restatement of the Security Assets or this Deed or any other document or security;
- 11.3.7 any unenforceability, illegality, invalidity or non-provability of any obligation of any person under the Security Assets or this Deed or any other document or security; or
- 11.3.8 any insolvency or similar proceedings.

## **11.4 Security Provider Intent**

Without prejudice to the generality of Clause 11.3 (*Waiver of defences*) the Security Provider expressly confirms that it intends that this Security shall

extend from time to time to any (however fundamental) variation, increase, extension or additions of or to any of the Secured Obligations.

**11.5 Immediate recourse**

The Security Provider waives any right it may have of first requiring the Trustee to proceed against or enforce any other right or security or claim payment from any person or file any proof or claim in any insolvency, administration, winding-up or liquidation proceedings relative to the Security Provider or any other person before claiming from the Security Provider under this Deed. This waiver applies irrespective of any law to the contrary.

**11.6 Additional security**

This Security is in addition to and is not in any way prejudiced by any other security now or subsequently held by the Trustee. No prior security held by the Trustee over any Security Asset will merge into this Security.

**11.7 Appropriations**

The Trustee (or any trustee, agent or appointee on its behalf) may at any time during the Security Period without affecting the liability of the Security Provider under this Deed:

**11.7.1**

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

**11.7.2** hold in an interest-bearing suspense account any moneys received from the Security Provider or on account of the liability of the Security Provider under this Deed.

**12. ENFORCEMENT**

**12.1 When Security becomes enforceable**

**12.1.1** Immediately upon the occurrence of a Non-Payment Event, the Security shall become enforceable but only in respect of sufficient Security Assets as are required to discharge any amounts which have become due and payable but which remain unpaid.

**12.1.2** Immediately upon the occurrence of an Event of Default, the Security shall become enforceable in its entirety.



**12.2 Power of sale**

- 12.2.1 The power of sale and any other powers conferred on a mortgagee by law (including under Section 101 of the Act), as amended by this Deed, will be immediately exercisable, subject as provided in Clause 12.1 (*When Security becomes enforceable*), at any time after this Security has become enforceable.
- 12.2.2 For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- 12.2.3 Any restriction imposed by law on the power of sale (including under Section 103 of the Act) or the right of a mortgagee to consolidate mortgages (including under Section 93 of the Act) does not apply to this Security.

**12.3 No liability as mortgagee in possession**

Without prejudice to the provisions of Clause 12.5 (*Appropriation*), the Trustee shall not, nor shall any Receiver appointed pursuant to this Deed or any attorney or agent of the Trustee, by reason of taking possession of the whole or any part of the Security Assets or any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever, be liable to account for anything except actual receipts or be liable for any loss or damage arising from the realisation of the whole or any part of the Security Assets or from any act, default or omission in relation to the whole or any part of the Security Assets or from any exercise or non-exercise by it of any power, authority or discretion conferred upon it in relation to the whole or any part of the Security Assets by or pursuant to this Deed or otherwise unless such loss or damage shall be caused by its own gross negligence, wilful default or fraud.

**12.4 Privileges**

Each of the Receiver and the Trustee are 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), except that Section 103 of the Act does not apply.

**12.5 Appropriation**

To the extent that any of the Security Assets constitutes "financial collateral" and this Deed and the obligations of the Security Provider hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Regulations, the Trustee shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Security Provider.

**12.6 Protection of third parties**

No person (including a purchaser) dealing with the Trustee or a Receiver or its or their agents will be concerned to enquire:

- 12.6.1 whether the Secured Obligations have become payable;
- 12.6.2 whether an Enforcement Event has occurred;
- 12.6.3 whether any money is or remains due in respect of the Secured Obligations;
- 12.6.4 whether any power which the Trustee or a Receiver is purporting to exercise has become exercisable or is being properly exercised; or
- 12.6.5 how any money paid to the Trustee or to that Receiver is to be applied.

**13. RECEIVER**

**13.1 Appointment of Receiver**

- 13.1.1 Except as provided below, the Trustee may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if this Security has become enforceable.
- 13.1.2 Any appointment under sub-clause 13.1.1 above may be by deed, under seal or in writing under its hand.
- 13.1.3 Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the Act) does not apply to this Deed.
- 13.1.4 The Trustee is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Section 1A of the Insolvency Act 1986.

**13.2 Removal**

The Trustee may by writing under their hand remove any Receiver appointed by them and may, whenever they think fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

**13.3 Remuneration**

The Trustee may fix the remuneration of any Receiver appointed by them from time to time, and any maximum rate imposed by law (including under section 109(6) of the Act) will not apply.

**13.4 Agent of the Security Provider**

- 13.4.1 A Receiver will be deemed to be the agent of the Security Provider for all purposes and accordingly will be deemed to be in the same position as a

Receiver duly appointed by a mortgagee under the Act. The Security Provider is solely responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.

- 13.4.2 The Trustee will not incur any liability (either to the Security Provider or to any other person) by reason of the appointment of a Receiver.

### **13.5 Relationship with Trustee**

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 after this Security becomes enforceable be exercised by the Trustee in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

## **14. POWERS OF RECEIVER**

### **14.1 General**

- 14.1.1 A Receiver has all the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law. This includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.

- 14.1.2 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 and to the exclusion of any other Receiver.

### **14.2 Possession**

A Receiver may take immediate possession of, get in and collect any Security Asset.

### **14.3 Sale of assets**

- 14.3.1 A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.

- 14.3.2 The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

### **14.4 Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Security Provider or relating in any way to any Security Asset.

**14.5 Legal Actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

**14.6 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

**14.7 Delegation**

A Receiver may delegate his powers in accordance with this Deed.

**14.8 Other powers**

A Receiver may:

- 14.8.1 do all other acts and things which he 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 under or by virtue of this Deed or law;
- 14.8.2 exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset;
- 14.8.3 treat any part of the Security Assets consisting of money as if it were the proceeds of sale or other disposal; and/or
- 14.8.4 use the name of the Security Provider for any of the above purposes.

**15. APPLICATION OF PROCEEDS**

**15.1 Any moneys received by the Trustee or any Receiver after this Security has become enforceable must be applied in the following order of priority:**

- 15.1.1 *first*, in or towards payment of or provision for all costs and expenses incurred by the Trustee or any Receiver under or in connection with this Deed, of all remuneration due to any Receiver under or in connection with this Deed and the discharge of any liabilities incurred by any Receiver in, or incidental to, the exercise of any of their powers;
- 15.1.2 *second*, in or towards payment of or provision for the Secured Obligations; and
- 15.1.3 *third*, in payment of the surplus (if any) to the Security Provider or other person entitled to it.

This Clause is subject to the payment of any claims having priority over this Security. This Clause does not prejudice the right of the Trustee to recover any shortfall from the Security Provider.

**16. NO WAIVER**

No failure on the part of the Trustee to exercise, and no delay in exercising, any of their rights under this Deed or applicable law shall operate as a waiver hereof, nor shall any single or partial exercise of any Right by the Trustee preclude any other or further exercise thereof or the exercise of any other Right. The remedies of the Trustee are intended to be cumulative and not exclusive of any remedies provided by applicable law. Unless expressly agreed, no variation shall constitute a general waiver of any provisions of this Deed, nor shall it affect any rights, obligations or liabilities under this Deed which have already accrued up to the date of variation, and the rights and obligations of the Trustee under this Deed shall remain in full force and effect, except and only to the extent that they are so varied.

**17. POWER OF ATTORNEY**

- 17.1 The Security Provider, by way of security, irrevocably and severally appoints the Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney, on its behalf and in its name or otherwise, at such time and in such manner as the attorney may think fit:

17.1.1 to execute and do all such assurances, act and things which the Security Provider is obliged to do under this Deed including without limitation to make any demand upon or to give any notice or receipt to any person by whom any Security Assets are for the time being due or owing; and

17.1.2 generally in its name and on its behalf to exercise all or any of the rights conferred on the Trustee, each Receiver and any of their delegates or sub-delegates in relation to the Security Assets or under this Deed.

The Security Provider ratifies and confirms and agrees to ratify and confirm whatever such attorney shall do or purport to do in the exercise or purported exercise of its powers, discretions and authorities under this Clause 14.

**18. RELEASE AND SUBSTITUTION**

- 18.1 The Trustee shall, at the written request, and at the cost and expense, of the Security Provider, take whatever action is reasonably necessary to release the Security Assets from the Security Interest and reassign and/or redeliver such Security Assets to the order of the Security Provider at the end of the Security Period.

- 18.2 The Security Provider shall be permitted to substitute the Charged Securities with alternative Acceptable Security Assets, provided it has obtained the prior written consent of the Trustee, which consent shall not be unreasonably withheld if the substitute securities are Acceptable Security Assets. In relation to such substitution, the Trustee shall, at the cost and expense of the Security Provider, take whatever action is reasonably necessary to release the Security Assets from the Security Interest

and reassign and/or redeliver such Security Assets to the order of the Security Provider.

18.2.1

**19. AMENDMENTS**

Any amendment of this Deed shall be in writing and signed by, or on behalf of, each Party.

**20. EXPENSES**

**20.1 Amendment costs**

If the Security Provider requests an amendment, waiver or consent, the Security Provider shall, within three Business Days of demand, reimburse the Trustee for the amount of all costs and expenses (including legal fees) reasonably incurred by the Trustee in responding to, evaluating, negotiating or complying with that request or requirement.

**20.2 Enforcement and preservation costs**

The Security Provider shall, within three Business Days of demand, pay to the Trustee the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under this Security and any proceedings instituted by or against the Trustee as a consequence of taking, holding or enforcing this Security.

**20.3 Stamp taxes**

The Security Provider shall pay and, within three Business Days of demand, indemnify the Trustee against any cost, loss or liability that the Trustee incurs in relation to all stamp duty, registration and other similar Tax payable in respect of this Deed.

**20.4 Value added taxes**

20.4.1 Any amount payable under this Deed by the Service Provider is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Service Provider must pay to the Trustee (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.

20.4.2 If the Service Provider is required by this Deed to reimburse the Trustee for any cost or expense, the Service Provider shall reimburse the Trustee for the full amount of such cost or expense, including such part thereof as a value added tax or any other Tax of a similar nature, save to the extent that the Trustee reasonably determine that they are entitled to a credit or repayment in respect of such Tax from the relevant tax authority.

**21. DELEGATION**

**21.1 Power of Attorney**

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

**21.2 Terms**

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

**21.3 Liability**

Notwithstanding any delegation of any right, power or discretion exercisable by them or it under this Deed, the Trustee shall remain responsible to the Security Provider for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

**22. THIRD PARTY RIGHTS**

Subject to any provision(s) of this Deed under which rights are granted to third parties by express reference to the Contracts (Rights of Third Parties) Act 1999, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

**23. NOTICES**

**23.1 Effectiveness**

Any notice or other communication in respect of this Deed may be given in any manner described below to the address or number or in accordance with the electronic messaging system or e-mail details provided under Clause 23.3 (*Contact details*) below and will be deemed effective as indicated:

23.1.1 if in writing and delivered in person or by courier, on the date it is delivered;

23.1.2 if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;

23.1.3 if sent by e-mail, then on the date and at the time it was sent,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Business Day, in which case that communication will be deemed given and effective on the first following day that is a Business Day.

**23.2 Change of details**

Any Party may by notice to the other Parties change the address, telex or facsimile number or electronic messaging system or e-mail details at which notices or other communications are to be given to it.

**23.3 Contact details**

All communications under this Deed will be addressed as follows:

**23.3.1 if to the Security Provider:**

The Co-operative Bank p.l.c., PO Box 101, 1 Balloon Street, Manchester M60 4EP

Attn: The Company Secretary

Email: brona.mcKeown@cfs.coop

**23.3.2 if to the Trustee:**

Britannia Pension Trustees Limited, Secretariat, Miller Street Tower, Miller Street, Manchester M60 0AL

Attn: C/O Natalie Wignall

Email: SecretaryBPS@kpmg.com

**24. SEVERABILITY**

**24.1** If a term of this Deed is or becomes illegal, invalid or unenforceable in any respect under any jurisdiction, that will not affect:

**24.1.1** the legality, validity or enforceability in that jurisdiction of any other term of this Deed; or

**24.1.2** the legality, validity or enforceability in any other jurisdiction of that or any other term of this Deed.

**25. WAIVERS AND REMEDIES CUMULATIVE**

**25.1** The rights of each Party under this Deed:

**25.1.1** may be exercised as often as necessary;

**25.1.2** are cumulative and not exclusive of its rights under the general law; and

**25.1.3** may be waived only in writing and specifically.



25.2 Delay in exercising or non-exercise of any right is not a waiver of that right.

**26. COUNTERPARTS**

This Deed may be executed in any number of counterparts, each of which is an original and all of which together evidence the same agreement. This Deed shall not come into effect until each party has executed at least one counterpart.

**27. CERTIFICATE AND DETERMINATION**

Any certification or determination by the Trustee of an amount that it is required or entitled to certify or determine under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**28. GOVERNING LAW AND JURISDICTION**

**28.1 Governing law**

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

**28.2 Jurisdiction**

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

28.2.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle any Dispute and, accordingly, that they will not argue to the contrary.

**SCHEDULE 1  
FORMS OF NOTICE FOR CUSTODIAN**

**PART 1  
NOTICE TO CUSTODIAN**

**[On the letterhead of The Co-operative Bank p.l.c.]**

To: *[Custodian]*

*[Date]*

Dear Sirs,

**Security Agreement dated [●] between The Co-operative Bank p.l.c.  
and Britannia Pension Trustees Limited as trustee of the Britannia Pension Scheme (the  
Security Deed)**

- (a) This letter constitutes notice to you that under the Security Deed we have:
- (i) charged (by way of first fixed charge) in favour of Britannia Pension Trustees Limited as trustee of the Britannia Pension Scheme (the "**Trustee**"):
    - (A) the Charged Securities held in the account numbered [●] maintained by us with you (the "**Charged Securities**"); and
    - (B) all our rights in respect of, and our interest in, the account numbered [●] maintained by us with you (the "**Account**"); and
  - (ii) assigned by way of security to the Trustee all our rights, title and interest in respect of the agreement dated *[insert date]* between us and you (the "**Agreement**").
- (b) We confirm that:
- (i) we will remain liable under the Agreement to perform all the obligations assumed by us under the Agreement;
  - (ii) none of the Trustee, 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 the Agreement;
  - (iii) we will remain entitled to exercise all our rights, powers and discretions under the Agreement, and you should continue to give notices under the Agreement to us, unless and until you receive notice from the Trustee to the contrary stating that the security constituted by the Security Deed has become enforceable. In this event, all the rights, powers and discretions will be exercisable by, and notices must be given to, the Trustee or as it directs (to our exclusion and to the exclusion of any directions given at any time by us); and

- (iv) we have agreed that we will not amend or waive any provision of or terminate the Agreement without the prior consent of the Trustee.
- (c) We irrevocably instruct and authorise you to disclose to the Trustee any information relating to the Accounts or the Charged Securities requested from you by the Trustee.
- (d) We confirm that after you have received notice from the Trustee that the security constituted by the Security Deed has become enforceable:
  - (i) the Trustee may exercise any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Charged Securities, any person who is the holder of any Charged Securities or otherwise;
  - (ii) you shall not act upon any instruction received from us without the prior consent of the Trustee; and
  - (iii) all sums payable by you to us under the Agreement or in respect of the Charged Securities or the Accounts shall be only released in accordance with the written instructions of the Trustee.
- (e) We hereby notify you that:
  - (i) we are only permitted to withdraw Charged Securities from the Charged Securities Account:
    - (A) with the prior written consent of the Trustee; or
    - (B) following confirmation from the Trustee that the withdrawal is in compliance with the requirements agreed between the Trustee and us; and
  - (ii) you are and will at all times be permitted to assume and rely upon the correctness of anything communicated to you by the Trustee including, without limitation, statements that the security constituted by the Security Deed has become enforceable.
- (f) We acknowledge that you may comply with the instructions in this letter without any further permission from us.
- (g) The instructions in this letter may not be revoked or amended without the prior written consent of the Trustee.
- (h) This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Please confirm your agreement to the above by signing the attached acknowledgement and returning it to the Trustee at [●] with a copy to ourselves.

**C L I F F O R D  
C H A N C E**

**CLIFFORD CHANCE LLP**

Yours faithfully,

.....  
(Authorised Signatory)  
The Co-operative Bank p.l.c.

**PART 2  
ACKNOWLEDGEMENT OF CUSTODIAN**

**[On the letterhead of the Custodian]**

To: Britannia Pension Trustees Limited as trustee of the Britannia Pension Scheme

Copy: The Co-operative Bank p.l.c.

[Date]

Dear Sirs,

**Security Agreement dated [●] between The Co-operative Bank p.l.c.  
and Britannia Pension Trustees Limited as trustee of the Britannia Pension Scheme (the  
Security Deed)**

- (a) We confirm receipt from The Co-operative Bank p.l.c. (the **Security Provider**) of a notice dated [●] (the **Notice**) of:
  - (i) a charge upon the terms of the Security Deed over:
    - (A) the Charged Securities held in the account numbered [●] maintained by the Security Provider with us (the "**Charged Securities**"); and
    - (B) all of the Security Provider's rights in respect of, and its interest in, the account numbered [●] maintained by the Security Provider with us (the "**Account**"); and
  - (ii) an assignment on the terms of the Security Deed of all the Security Provider's rights, title and interest in respect of the agreement dated [insert date] between us and the Security Provider (the "**Agreement**").
- (b) We confirm that we:
  - (i) accept the instructions contained in the Notice and agree to comply with the Notice;
  - (ii) have not received notice of the interest of any third party in the Accounts or the Charged Securities;
  - (iii) will not, after we receive notice from the Trustee that the security constituted by the Security Deed has become enforceable, permit any of the Charged Securities to be disposed of without your prior written consent [unless the proceeds of such disposal are applied to purchase replacement securities in accordance with the terms of the Security Deed];
  - (iv) will pay all sums due, and give notices, under the Agreement as directed in that Notice;

- (v) will not amend or waive any provision of the Agreement without the prior consent of the Trustee; and
  - (vi) will not terminate the Agreement without giving 30 days prior written notice to the Trustee.
- (c) We confirm our address for notices is as set out below.

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

Yours faithfully,

.....  
(Authorised signatory)  
[Custodian]

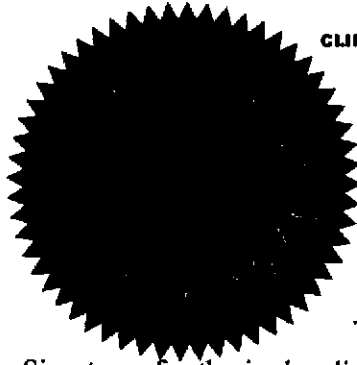
Address for notices:

[•]

**C L I F F O R D  
C H A N C E**

**CLIFFORD CHANCE LLP**

**EXECUTED as a DEED by** )  
**THE CO-OPERATIVE BANK P.L.C.** )  
By affixing the common seal in the presence  
of:



TcB4287

.....  
CATHERINE GREEN

Signature of authorised sealing officer

**EXECUTED as a DEED by** )  
**BRITANNIA PENSION** )  
**TRUSTEES LIMITED** )  
Acting by two directors or by a director and  
its secretary:

..... Signature of director

..... Name of director

..... Signature of director/company secretary

..... Name of director/company secretary

..... Capacity in which signed (i.e. either  
"director" or "company secretary")

**C L I F F O R D  
C H A N C E**

**CLIFFORD CHANCE LLP**

**EXECUTED** as a **DEED** by )  
**THE CO-OPERATIVE BANK P.L.C.** )  
By affixing the common seal in the presence  
of:

..... Signature of authorised sealing officer

**EXECUTED** as a **DEED** by )  
**BRITANNIA PENSION** )  
**TRUSTEES LIMITED** )  
Acting by two directors or by a director and  
its secretary:

.....  
..... Signature of director

..... *John Hope* ..... Name of director

.....  
..... Signature of director/company secretary

..... *PAUL DANTON* ..... Name of director/company secretary

..... *Director* ..... Capacity in which signed (i.e. either  
"director" or "company secretary")