

MR01

Particulars of a charge

89465/26

Laserform

A fee is payable with this form
Please see 'How to pay' on the
last page


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Please go to www.companieshouse.gov.uk

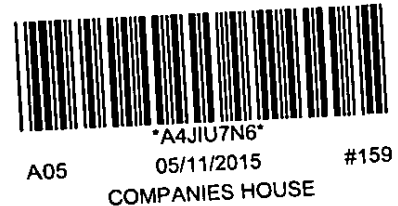
☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument Use form MR08

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery

 You **must** enclose a certified copy of the instrument with this form. This must be scanned and placed on the public record. **Do not send the original**



THURSDAY

1 Company details

Company number 0 2 7 1 4 7 8 1

Company name in full CLS HOLDINGS PLC

32 For official use

→ **Filing in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 03 01 2015

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name WELLS FARGO BANK, N A , LONDON BRANCH

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement ①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X Taylor Wessing LLP X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Alastair Manning

Company name Taylor Wessing LLP

Address 5 New Street Square

Post town London

County/Region

Postcode E C 4 A 3 T W

Country

DX 41 London - Chancery Lane

Telephone +44 (0)207 300 7000



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following.

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland.
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland.
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number 2714781

Charge code: 0271 4781 0032

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th October 2015 and created by CLS HOLDINGS PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th November 2015

DR

Given at Companies House, Cardiff on 11th November 2015



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED

30 October 2015

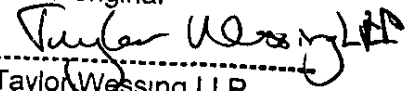
**CLS HOLDINGS PLC
as Chargor**

and

**WELLS FARGO BANK, N.A., LONDON BRANCH
as Agent**

THIRD PARTY SHARE MORTGAGE

Certified to be a true copy
of the original


Taylor Wessing LLP
Anthony Wessing 03/10/15

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THIS DEED is made on

30 October 2015

BETWEEN

- (1) **CLS HOLDINGS PLC** as **Chargor**, and
- (2) **WELLS FARGO BANK, N.A., LONDON BRANCH** as agent and security trustee for the Finance Parties (the "**Agent**")

INTRODUCTION

- (A) The **Chargor** had previously issued a third party share mortgage on 1 November 2010 in favour of the predecessor of the **Agent**, substantially on the terms of this third party share mortgage
- (B) The Agreement is to be amended and restated on or about the date hereof, and as part of this amendment and restatement, the **Chargor** is issuing this supplemental third party share mortgage

AGREED TERMS

1. Definitions and Interpretation

1.1 Definitions

Unless otherwise defined in this deed, terms defined in the Agreement shall have the same meanings when used in this deed and the following expressions have the following meanings

"Agreement" means a loan agreement dated 27 October 2010, as amended and restated on or about the date hereof, made between Apex Tower Limited (1), the banks and financial institutions named therein (2), Wells Fargo Bank, N A , London Branch as the **Agent** (3) and Wells Fargo Securities International Limited as Hedge Counterparty (4),

"Charged Property" means the assets mortgaged by the **Chargor** under this deed,

"Chargor" means CLS Holdings Plc a company incorporated in England and Wales with registration no 02714781 whose registered office is at 86 Bondway, London SW8 1SF,

"Default Rate" means the interest rate provided for in clause 8.3 of the Agreement in relation to any Unpaid Sum,

"Dividends" means all dividends, interest and other money payable in respect of the Investments,

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

"Insolvency Act" means the Insolvency Act 1986,

"Investments" means

- (a) 5,325,000 (five million three hundred and twenty five thousand) ordinary shares of £1 00 each in the issued share capital of Apex Tower Limited (company number 03075022) whose registered office is at 86 Bondway, London SW8 1SF (the "**Company**"), and
- (b) all other stocks, shares and other securities of the Company now or at any time after the date of the deed owned by the Chargor including any offered by way of redemption, bonus, preference or option or otherwise in respect of any of the shares referred to in (a) above,

and all rights and benefits in respect of the assets referred to in (a) and (b) above other than the right to receive Dividends,

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

"**Receiver**" means any one or more persons appointed as a receiver or receiver and manager under this deed,

"**Secured Liabilities**" means

- (a) all obligations of each Obligor owed or expressed to be owed to the Finance Parties under or in connection with the Finance Documents whether owed jointly or severally, as principal or surety or in any other capacity,
- (b) in the case of any Obligor other than the Chargor any obligation referred to in (a) above which is or becomes Unenforceable and any cost, loss or liability which any Finance Party incurs as a result of any such Obligor not paying any amount expressed to be payable by it under any Finance Document on the date when it is expressed to be due, and

"**Unenforceable**" means void, voidable, invalid, unenforceable or otherwise irrecoverable (whether or not known to any Finance Party or the Chargor) and "**Unenforceability**" will be construed accordingly

1 2 *Interpretation*

- (a) This deed is a Finance Document
- (b) The provisions of clauses 1 1 (Definitions and Interpretation), 1 2 (Construction) and 1 3 (Interpretation) of the Agreement shall be deemed to be incorporated into this deed For the purposes of incorporation into this deed the reference to "**this agreement**" in the definition of "**Finance Documents**" in clause 1 1 of the Agreement shall be deemed to be a reference to the Agreement
- (c) In this deed, unless a contrary indication appears
 - (i) "**obligations**" means obligations and liabilities,
 - (ii) references to obligations include the whole or any part of them, present and future, actual and contingent,
 - (iii) any reference to "**powers**" include rights, powers, discretions and authorities, and
 - (iv) any reference to any asset include any proceeds of sale of any such asset

1 3 *Continuation of undertakings*

Any undertaking made by or obligation imposed on the Chargor in this deed will continue in force until the Agent is satisfied (acting reasonably) that the Finance Parties have no further obligation to provide financial accommodation to the Borrower and all the Secured Liabilities have been irrevocably paid or discharged in full

2 **Security**

As continuing security for the payment of the Secured Liabilities the Chargor with full title guarantee assigns to the Agent as trustee for the Finance Parties by way of equitable mortgage all its present and future rights and interest in

- (a) the Investments, and
- (b) all Dividends

3. **Investments**

3 1 *Deposit of certificates*

The Chargor shall deposit with the Agent

- (a) on or before the date of this deed, the certificates or other documents of title to each Investment owned by the Chargor on such date,
- (b) on the date of the acquisition of any Investment acquired by the Chargor after the date of this deed or on the withdrawal of any Investment from any clearance system, the certificates or other documents of title to each such Investment,
- (c) duly executed undated blank transfers in respect of each such Investment and forms of waiver of any pre-emption rights necessary to enable such transfers to be registered

3 2 *Payment of money due*

The Chargor shall promptly pay all money which may from time to time be due in respect of any Investment

3 3 *Nominees*

If any Investment is registered in the name of a nominee the Chargor shall within 3 Business Days of notice from the Agent or on demand if an Event of Default is continuing provide to the Agent an equitable mortgage over such Investment or power of attorney or acknowledgement of the rights created by this deed over such Investment in favour of the Agent in such terms as the Agent may require duly executed by or on behalf of such nominee

3 4 *Transfer into name of Agent*

- (a) After the occurrence of an Event of Default
 - (i) the Agent may transfer any Investment into its own name or into the name of a nominee and the Chargor agrees to waive and to ensure that

any nominees holding any Investment on its behalf waive all rights of pre-emption which may relate to the transfer of any such Investment,

- (ii) pending any such transfer the Chargor shall exercise or procure the exercise of all voting rights in respect of any Investment forming part of the Charged Property as directed by the Agent for the purpose mentioned in paragraph (iv) below,
 - (iii) all Dividends will be payable to the Agent and may be applied by the Agent in reduction of the Secured Liabilities whether or not any Investment is registered in the name of the Agent or any nominee for the Agent or in the name of the Chargor or any nominee for the Chargor, and
 - (iv) the Agent will be entitled at its discretion to exercise or procure the exercise of all voting rights attached to any Investment that is registered in the name of the Agent or any nominee for the Agent for the purpose only of preserving the value of such Investment or realising the security over such Investment created by this deed
- (b) Until the occurrence of an Event of Default the Chargor shall be entitled to exercise all voting and other rights and powers attaching to the Investments provided that it shall not exercise any such voting rights or powers in a manner prejudicial to the interests of the Finance Parties under this deed

3 5 *Dematerialisation*

The Chargor must promptly take all action required for the rematerialisation of any Investments held in dematerialised form in a clearance system

4. **Representations**

4 1 *Duration and Scope*

The Chargor makes the representations and warranties set out in this clause to the Agent on the date of this deed

4 2 *Status*

- (a) It is a limited liability company, duly incorporated and validly existing under the law of England and Wales
- (b) It has the power to own its assets and carry on its business in England and Wales as it is being conducted
- (c) Its centre of main interests for the purposes of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency procedures is in England and Wales

4 3 *Binding obligations*

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

4 4 *Non-conflict with other obligations*

The entry into and performance by it of, and the transactions contemplated by, the Finance Documents to which it is a party do not and will not conflict with

- (a) any law or regulation applicable to it,
- (b) its constitutional documents, or
- (c) any agreement or instrument binding upon it or any of its assets

4 5 *Power and authority*

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents

4 6 *Validity and admissibility in evidence*

All Authorisations required or desirable

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Finance Documents to which it is a party, and
- (b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect

4 7 *No filing or stamp taxes*

It is not necessary under the law of England or of its jurisdiction of incorporation if it is not incorporated in England and Wales that the Finance Documents to which it is a party be filed, recorded or enrolled with any court or other authority or that any stamp, registration or similar tax be paid on or in relation to such Finance Documents or the transactions contemplated by such Finance Documents other than registration of particulars of this deed at the Companies Registration Office in England and Wales under section 860 of the Companies Act 2006

4 8 *No default*

No event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject

4 9 *No misleading information*

- (a) Any factual information provided by the Chargor to the Agent was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated
- (b) The Chargor has not omitted to supply any information which, if disclosed, might adversely affect the decision of any Finance Party to enter into the Finance Documents
- (c) Nothing has occurred since the date on which such information was provided or as at the date (if any) at which it is stated that results in such information being untrue or misleading and which, if disclosed, might adversely affect the decision of any Finance Party to enter into the Finance Documents

4 10 *No proceedings pending or threatened*

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it

4 11 *Security*

There is no Security over any of the Charged Property except for any Permitted Security

4 12 *Security Documents*

The Security Documents create valid Security over the assets to which they relate

4 13 *Shares*

- (a) The shares referred to in paragraph (a) of the definition of Investments in clause 1 1 are fully paid and constitute the entire issued share capital of the Company
- (b) The Investments are not subject to any lien, rights of pre-emption, forfeiture or disenfranchisement under the articles of association of the Company or any shareholders' agreement

4 14 *Repetition*

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

5. Negative Undertakings

5 1 *Negative pledge*

The Chargor shall not create or permit to subsist any Security over any of the Charged Property other than a Permitted Security

5 2 *Disposals*

The Chargor shall not sell, transfer or otherwise dispose or purport or agree to dispose of any Charged Property

5 3 *Centre of main interests*

The Chargor shall not move its centre of main interests for the purposes of Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency procedures outside England and Wales

5 4 *Other restrictions*

The Chargor shall not without first obtaining the Agent's written consent merge or consolidate with any other person

6. General Undertakings

6.1 *Financial statements*

The Chargor shall supply to the Agent (in sufficient copies for all the Banks)

- (a) as soon as the same become available, but in any event within 180 days after the end of each of its financial years its consolidated audited financial statements for its group of companies (being it and its Subsidiaries for the time being (if any)) for that financial year, and
- (b) its half-yearly financial report as soon as it is available but in any event within 90 days of each half-year

6.2 *Requirements as to financial statements*

- (a) Each set of financial statements delivered by the Chargor under clause 6.1 (*Financial statements*) shall be certified by a director of the Chargor as fairly representing its financial condition as at the date as at which those financial statements were drawn up
- (b) The Chargor shall procure that each set of financial statements delivered pursuant to clause 6.1 (*Financial statements*) is prepared using GAAP
- (c) The Chargor shall procure that each set of management accounts delivered pursuant to clause 6.1 (*Financial statements*) fairly states the financial condition of the Chargor as at the end of the financial period to which they relate and the results of its operations for that financial period
- (d) The Chargor shall procure that each set of financial statements delivered pursuant to clause 6.1 (*Financial statements*) is prepared using GAAP, accounting practices and financial reference periods consistent with those applied in the preparation of its Original Financial Statements unless, in relation to any set of financial statements, it notifies the Agent that there has been a change in GAAP, the accounting practices or reference periods and, if the Agents so requests, its auditors deliver to the Agent
 - (i) a description of any change necessary for those financial statements to reflect the GAAP, accounting practices and reference periods upon which its Original Financial Statements were prepared, and
 - (ii) sufficient information, in form and substance as may be reasonably required by the Agent, to enable the Banks to determine whether clause 19 (Financial Undertakings) of the Agreement has been complied with and make an accurate comparison between the financial position indicated in those financial statements and the Chargor's Original Financial Statements

Any reference in this deed to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared

6.3 *Information miscellaneous*

The Chargor shall supply to the Agent (in sufficient copies for all the Banks)

- (a) all documents dispatched by it to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched,

- (b) promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it where such litigation, arbitration or administrative proceedings, if adversely determined, and either individually or in aggregate might reasonably be expected to result in a liability of the Guarantor of £2,500,000 or more, and
- (c) promptly such further information relating to the financial condition, business and operations of any member of the Group and any freehold or leasehold property or any security provided in connection with the Finance Documents as any Finance Party through the Agent may reasonably request

6.4 *Notification of default*

The Chargor shall notify the Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence

6.5 *"Know your customer" checks*

If

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

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

6.6 *Accuracy*

The Chargor shall ensure that all information supplied to the Agent by it is at the time of supply complete and accurate in all material respects

6.7 *Authorisations*

The Chargor shall promptly

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

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents to

which it is a party and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any such Finance Document

6.8 *Compliance with laws*

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

6.9 *Consents*

The Chargor shall ensure that all consents and all documents, registrations, licences and other matters and things required by the Agent to perfect the Security Documents to which it is a party are produced executed obtained or made as required by the Agent in accordance with such Security Documents

7 **Undertakings relating to the Charged Property**

7.1 *Payment of calls*

The Chargor shall promptly pay all money which may from time to time be due in respect of any of the Investments

7.2 *Failure to comply*

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

8. **Enforcement of Security**

8.1 *Agent's powers*

On the occurrence of an Event of Default, this deed shall become enforceable and the Agent may immediately or at any time thereafter

- (a) exercise the power of sale and all other powers conferred by s 101 of the LPA as varied or extended by this deed,
- (b) subject to s 72A of the Insolvency Act, appoint one or more persons as a receiver or receiver and manager of any Charged Property,
- (c) exercise all the powers conferred on a Receiver by this deed, the LPA and the Insolvency Act,
- (d) to the extent that this deed constitutes a "security financial collateral arrangement" as defined in the Financial Collateral Regulations, appropriate any Charged Property which constitutes "financial collateral" as defined in the Financial Collateral Regulations in or towards satisfaction of the Secured Liabilities and the Agent shall value such Charged Property by reference to an independent valuation or other procedure selected by the Agent acting reasonably

8.2 *Powers under the LPA*

- (a) S 103 of the LPA will not apply to this deed

- (b) The power of sale and all other powers conferred by s 101 of the LPA as varied or extended by this deed will arise upon execution of this deed by the Chargor

8.3 *Receivers*

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

9. **Powers of Receiver and Agent**

9.1 *Statutory powers*

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

9.2 *Additional powers*

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

- (a) which the Chargor would have been entitled to do or exercise if no Receiver had been appointed or which the Receiver would have been entitled to do or exercise if the Receiver were the absolute legal and beneficial owner of the Charged Property, and
- (b) which such Receiver in his absolute discretion considers necessary or desirable for maintaining or enhancing the value of any Charged Property or for or in connection with the enforcement of the Security created by this deed or the realisation of any Charged Property,

and may use the name of the Chargor in connection with any exercise of such powers

9.3 *Prior encumbrances*

At any time after the security given by this deed has become enforceable, the Agent may redeem any prior Security against the Charged Property or procure a transfer of such Security to itself and may agree the accounts of the person entitled to that

Security and any accounts so agreed will be binding on the Chargor. Any money paid by the Agent in connection with a redemption or transfer of any prior Security will form part of the Secured Liabilities.

9.4 *Possession*

If the Agent, any Receiver or any delegate of either of them takes possession of any Charged Property it may go out of possession at any time.

10. Delegation of Powers by Agent or Receiver

10.1 *Delegation*

The Agent or any Receiver may from time to time delegate by power of attorney or in any other manner to any person any powers which are for the time being exercisable by the Agent or a Receiver under this deed in relation to any Charged Property and any such delegation may be made upon such terms as the Agent or such Receiver may think fit.

10.2 *Liability for delegates*

Neither the Agent nor any Receiver will be in any way liable or responsible to the Chargor for any loss or damage arising from any act or omission on the part of any such delegate unless such loss or damage is caused by the fraud, gross negligence or wilful misconduct of the delegate.

11. Exclusion of Liability

11.1 *No obligation to recover*

Neither the Agent nor any Receiver is under any obligation to take action to collect any money or enforce any rights comprised in the Charged Property whether or not it is in possession of the relevant Charged Property.

11.2 *Liability as mortgagee in possession*

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

11.3 *Losses on enforcement*

The Agent or any Receiver will not be liable to the Chargor for any loss or damage arising from

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

unless such loss or damage is caused by the fraud, gross negligence or wilful misconduct of the Agent or any Receiver

12. Reimbursement and Indemnity

12 1 *Reimbursement*

The Chargor shall pay to the Agent on demand

- (a) any money paid by the Agent or any Receiver
 - (i) as a result of the Agent or any Receiver taking action which the Agent or any Receiver considers necessary or desirable in connection with any Charged Property or to procure compliance with any obligation of the Chargor in this deed, or
 - (ii) in respect of any action or thing expressed in this deed to be done at the cost of the Chargor, and
- (b) all costs, fees, taxes and expenses incurred by the Agent or any Receiver under or in connection with this deed or its enforcement and/or the preservation of the Agent's rights under this deed

12 2 *Agent's Management Time*

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

12 3 *Indemnity*

The Chargor shall indemnify each of the Agent and any Receiver against all liabilities, claims and expenses whether arising out of contract or in tort or in any other way which it may at any time incur in connection with this deed or for anything done or omitted to be done in the exercise or purported exercise of its powers under this deed unless such liabilities, claims and expenses are caused by its fraud, gross negligence or wilful misconduct

13 Application of Sums Realised

Subject to claims having priority to the Security created by this deed all money recovered by the Agent or any Receiver as a result of the enforcement of this deed or otherwise by reason of the Security created by this deed will be applied in the following order

- (a) in payment of all costs, fees, taxes and expenses incurred by the Agent or any Receiver in or pursuant to the exercise of the powers set out in this deed and all other outgoings properly payable by any Receiver,
- (b) in payment of remuneration to any Receiver,
- (c) in or towards payment to the Finance Parties of the Secured Liabilities as provided for in clause 29 4 of the Agreement, and

- (d) the balance (if any) will be applied as required by law

14. Protection of Persons Dealing with Agent or Receiver

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

- (a) whether any event has happened upon which any of the powers conferred by this deed may have arisen or be exercisable,
- (b) otherwise as to the propriety or regularity of any exercise of the powers conferred by this deed or of any act purporting or intended to be in exercise of such powers, or
- (c) whether any Secured Liabilities remain owing

15. Notice of Subsequent Charge

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

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

16. Further Assurance

When required by the Agent or any Receiver the Chargor shall, at its own cost

- (a) execute a transfer of any Investments into the name of the Agent or a nominee of the Agent or a purchaser from the Agent or a nominee of such purchaser,
- (b) execute any documents or do any other thing which the Agent or any Receiver may require for perfecting or protecting any Security created by this deed or in connection with the exercise of any powers given to the Agent or any Receiver under this deed, and
- (c) convey, transfer, assign or otherwise deal with any Charged Property in such manner as the Agent or any Receiver may require in connection with any enforcement of any Security created by this deed

17. Power of Attorney by Chargor

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

- (a) the Chargor is entitled to execute or do in relation to the Charged Property including

- (i) the exercise of voting rights in respect of the Investments (but in the case of the Agent only to the extent that the Agent is entitled to exercise or directs the exercise of such voting rights under clause 3 4),
 - (ii) executing or completing any transfer in respect of the Investments,
 - (iii) giving a receipt for any money and exercising any rights or remedies forming part of the Charged Property, or
- (b) the Chargor is obliged to execute or do under this deed

18. Protective Provisions

18 1 *Waiver of defences*

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

- (a) any time, waiver or consent granted to, or composition with, any other Obligor or other person,
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor,
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over property of, any other Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security,
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other Obligor or any other person,
- (e) any amalgamation, merger or reconstruction of any Finance Party with any other person or any sale or transfer of the whole or any part of the assets of any Finance Party to any other person,
- (f) the existence of any claim, set-off or other rights which any other Obligor may have at any time against any Finance Party, whether in connection with the Finance Documents or otherwise,
- (g) any novation, amendment (however fundamental) or replacement of a Finance Document or any other document or security,
- (h) any obligation of any person under any Finance Document or any other document or security being Unenforceable, or
- (i) any insolvency or similar proceedings

18 2 *Chargor Intent*

Without prejudice to the generality of clause 18 1 (Waiver of Defences), the Chargor expressly confirms that it intends that the security created by this deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made

available under any of the Finance Documents for the purposes of or in connection with any of the following acquisitions of any nature, increasing working capital, enabling investor distributions to be made, carrying out restructurings, refinancing existing facilities, refinancing any other indebtedness, making available acceptance credit facilities, note purchase facilities, guarantee, stand-by or documentary credit issuance facilities, making facilities available to new borrowers, any other variation or extension of the purposes for which any such facility or amount might be made available from time to time, any Hedging Agreement entered into by the Borrower with the Hedge Counterparty in connection with any such facility, and any fees, costs and/or expenses associated with any of the foregoing

18.3 *Immediate recourse*

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

18.4 *Appropriations*

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

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Agent in respect of the Secured Liabilities, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to the benefit of the same, and
- (b) hold in an interest-bearing suspense account any money received under this deed

18.5 *Deferral of Chargor's rights*

Until the Secured Liabilities have been irrevocably paid in full and unless the Agent otherwise directs, the Chargor will not exercise any rights which it may have by reason of the enforcement of this deed

- (a) to be indemnified by the Borrower,
- (b) to claim any contribution from any other Obligor or any other person in respect of any obligations of that person under the Finance Documents,
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Finance Party under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party,
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Chargor has given security under this deed,
- (e) to exercise any right of set-off against any Obligor, and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party

18.6 *Turnover*

If the Chargor receives any benefit, payment or distribution in relation to the rights referred to in clause 18.5 (Deferral of Chargor's rights) it shall hold that benefit, payment or distribution to the extent necessary to enable the Secured Liabilities to be repaid in full on trust for the Agent as trustee for the Finance Parties and shall promptly pay or transfer the same to the Agent or as the Agent may direct for application as provided in clause 13 (Application of sums realised)

19. *Discharge of Security*

19.1 *Discharge conditional*

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

19.2 *Retention of security*

Following any discharge of the Chargor made by the Agent in reliance on a payment or security the Agent may retain the security constituted by this deed until the expiry of the maximum period within which such payment or security can be avoided, reduced or invalidated for any reason. If the person making such payment or giving such security goes into liquidation or administration or equivalent proceedings in any foreign jurisdiction within that period the Agent may retain the security constituted by this deed for as long as it thinks fit

20. *Redemption*

After the repayment or discharge in full of the Secured Liabilities and provided that the Agent is satisfied that no Finance Party is under any obligation to provide financial accommodation to the Borrower the Agent will at the request and cost of the Chargor re-transfer to the Chargor any Investments registered in the name of the Agent or any nominee of the Agent or otherwise release the Charged Property from the Security created by this deed

21. *Default Interest*

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

22. *Notices*

22.1 *Communications in writing*

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

22 2 *Addresses*

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

(a) in the case of the Chargor

Address 86 Bondway, London SW8 1SF,

Fax number 020 7735 4249,

For the attention of Alain Millet,

(b) in the case of the Agent

Address 4th Floor, 90 Long Acre, London WC2E 9RA

Fax number +44 (0) 207 759 7672

For the attention of Head of Relationship Management,

or any substitute address, fax number or department or officer as the Chargor may notify to the Agent (or the Agent may notify to the Chargor, if a change is made by the Agent) by not less than five Business Days' notice. In the case of the Chargor, the address of its registered office or of any place where it carries on business shall also be addresses of Chargor for the purpose of this clause

22 3 *Delivery*

(a) Any communication or document made or delivered by the Agent on the Chargor under or in connection with this deed will be effective

(i) if left at an address referred to in this clause, when so left,

(ii) if posted by first class post to an address referred to in this clause, on the next working day in the place of receipt following the day when it was posted,

(iii) if transmitted by fax to a fax number referred to in this clause, when the sending fax machine produces a print out which confirms that transmission has taken place

(b) Any communication or document to be made or delivered to the Agent will be effective only when actually received by the Agent and then only if it is expressly marked for the attention of the department or officer specified above (or any substitute department or officer as the Agent shall specify for this purpose)

22 4 *English language*

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

(a) in English, or

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

23. Changes to the parties

23 1 Agent

The Agent may assign or transfer the rights and interests of the Agent under or in connection with this deed to any successor to the Agent as agent and trustee under the Agreement

23 2 Chargor

The Chargor may not assign any of its rights or transfer any of its rights or obligations under this deed

23 3 Disclosure

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

24. Tax Gross-up

- (a) The Chargor shall make all payments to be made by it under this deed without any deduction or withholding for or on account of Tax (a "**Tax Deduction**") unless a Tax Deduction is required by law
- (b) The Chargor shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Agent accordingly
- (c) If a Tax Deduction is required by law to be made by the Chargor, the amount of the payment due from the Chargor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required
- (d) If the Chargor is required to make a Tax Deduction, it shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law
- (e) Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Chargor shall deliver to the Agent evidence reasonably satisfactory to the Agent that the Tax Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority
- (f) The provisions of clauses 12 2(d), (g), (h), (i), (j), (k) and (l) of the Agreement shall be deemed to be incorporated within the terms of this deed and references in such clause to "this agreement" and "the Borrower" shall be construed as references to this deed and the Chargor respectively

25. Set-off

The Agent may set off any obligation whether or not matured due from the Chargor under this deed against any obligation whether or not matured owed by the Agent to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

26. Miscellaneous

26.1 *Trust*

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

26.2 *Incorporation*

Clauses 32 (Calculations and Certificates), 33 (Partial Invalidity), 34 (Remedies and Waivers) and 36 (Counterparts) of the Agreement shall be deemed to be incorporated into this deed.

26.3 *Third Party Rights*

A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this deed.

26.4 *Continuing Security*

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

26.5 *Other Security*

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

26.6 *Consolidation*

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

27. Law

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

28. Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed and a dispute regarding a non-contractual obligation referred to in clause 27 (Law)) (a "**Dispute**").

- (b) The Agent and the Chargor agree that the courts of England are the most appropriate and convenient courts to settle Disputes. The Chargor will not argue to the contrary.
- (c) This clause is for the benefit of the Agent only. As a result, the Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Agent may take concurrent proceedings in any number of jurisdictions.


This deed has been executed and delivered as a deed by the Chargor and signed on behalf of the Agent on the date shown at the beginning of this deed.

EXECUTION PAGE

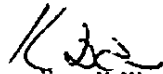
THE CHARGOR

EXECUTED as a DEED by CLS HOLDINGS
PLC acting by a director in the presence of

)
)
)
)


Director
JOHN WHITLEY

Witness signature



Witness name

KAREN JOAN

Witness address

86 BONDWAY
LONDON SW281SF

THE AGENT

EXECUTED by WELLS FARGO BANK, N A,
LONDON BRANCH acting by the under-
mentioned person acting on the authority of
the said company in accordance with the laws
of the territory of its incorporation

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Authonsed signatory

EXECUTION PAGE

THE CHARGOR


EXECUTED as a **DEED** by **CLS HOLDINGS**)
PLC acting by a director in the presence of)
) **Director**
)

Witness signature

Witness name

Witness address

THE AGENT

EXECUTED by **WELLS FARGO BANK, N.A.,**)
LONDON BRANCH acting by the under-)
mentioned person acting on the authority of)
the said company in accordance with the laws)
of the territory of its incorporation)
) 
) **Authorised signatory**
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