



Registration of a Charge

Company name: **M.A.L. CONTRACTING LIMITED**

Company number: **04380258**



X89KVN7K

Received for Electronic Filing: **12/07/2019**

Details of Charge

Date of creation: **03/07/2019**

Charge code: **0438 0258 0001**

Persons entitled: **RESIDENTIAL LOANS LTD.**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

ALLAN LEAL



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4380258

Charge code: 0438 0258 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd July 2019 and created by M.A.L. CONTRACTING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th July 2019 .

Given at Companies House, Cardiff on 15th July 2019

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

~~Burness Paul~~

DATED: 3 JULY 2019

M.A.L. CONTRACTING LIMITED

as Chargor

and

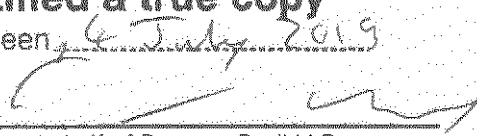
RESIDENTIAL LOANS LTD

as Lender

DEBENTURE

Certified a true copy

Aberdeen 6 July 2019


for and on behalf of Burness Paul LLP


For and on behalf of Burness Paul LLP at Edinburgh on 12.7.19
I certify that, save for the material redacted pursuant to section 859G of
the Companies Act 2006, this copy instrument is a correct copy of the
original instrument.

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THIS DEED is dated 3 JULY 2019 and is made between:

- (1) **M.A.L. CONTRACTING LIMITED**, a company incorporated and registered in England and Wales with registered number 04380258 and having its registered office at Bank House, Southwick Square, Southwick, West Sussex, BN42 4FN (the "Chargor"); and
- (2) **RESIDENTIAL LOANS LTD**, a company incorporated and registered in England and Wales with registered number 03612626 and having its registered office at c/o Richard's Solicitors, 1st Floor, Grosvenor House, 1 High Street, Edgware, Middlesex, HA8 7TA (the "Lender").

CONSIDERING THAT:

- (A) the Lender has agreed or will agree to make a loan facility available to the Chargor under the Loan Agreement (as defined below);
- (B) one of the conditions precedent to the availability of the facility referred to in paragraph (A) above is that the Chargor grants to the Lender this Debenture;

IT IS AGREED as follows:

I. INTERPRETATION

1.1 Definitions

In this Deed:

"Account" means

"Act" means the Law of Property Act 1925;

"Bridging Loan Offer Letter" means the offer letter by the Lender to the Chargor dated 24 January 2019;

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

"Event of Default" means

- (a) A default in accordance with either (i) clause 2 (*Default*) of the terms and conditions to the Loan Agreement or (ii) condition 3(i) of the Bridging Loan Offer Letter; and
- (b) will also be deemed to occur if any of the following events take place:

- (i) any breach by the Chargor of this Debenture; or
- (ii) a petition being presented for the making of an administration order in respect of the Chargor, an application being made or a resolution being passed for the winding up of the Chargor or a receiver being appointed in respect of any of the property, undertakings or assets of the Chargor; or
- (iii) any other event designated as an event of default or any similar expression or which otherwise entitles the Lender to demand payment from the Chargor in terms of any loan or other documentation in force from time to time;

"Finance Documents" means this Deed, the Loan Agreement, the Bridging Loan Offer Letter and any other deeds or document the Lender defines as a Finance document in its sole discretion;

"Loan Agreement" means the £500,000 loan agreement dated 28 JANUARY 2019 between the Chargor and the Lender;

"Mortgaged Property" means (including as provided in Clauses 1.2.4 and 3.2.2) all freehold or leasehold property included in the definition of Secured Assets, including any property specified in Schedule 1 (Mortgaged Property);

"Party" means a party to this Deed;

"Plant and Machinery" means all plant, machinery, office equipment, computers, tools, vehicles, furniture, fittings and other tangible moveable property and chattels included in the definition of Secured Assets in this Clause 1.1 (Definitions) (excluding any for the time being forming part of the Chargor's stock in trade or work in progress);

"Receiver" means an administrative receiver, receiver and manager or a receiver, in each case, appointed under this Deed;

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale or rental of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of or derived from that asset; and

(d) any monies and proceeds paid or payable in respect of that asset.

"Secured Assets" means all present and future assets of the Chargor being the subject of any security created by this Deed;

"Secured Liabilities" means all present and future obligations and liabilities of the Chargor to the Lender, whether actual, contingent, sole, joint and/or several or in any other capacity whatsoever and whether originally incurred by the Chargor or by some other person including, without prejudice to the foregoing generality, all obligations to indemnify the Lender;

"Security" means any security created by this Deed;

"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 the date of this Deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding; and

1.2 Construction

1.2.1 A Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, extended or restated, and includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that Finance Document or other agreement or instrument, including any amendment providing for any increase in the amount of a facility or any additional facility.

1.2.2 The absence of or incomplete details of any Secured Assets in any Schedule shall not affect the validity or enforceability of any Security under this Deed.

1.2.3 Any covenant of the Chargor under this Deed (other than a payment obligation) remains in force during the Security Period.

1.2.4 The terms of the other Finance Documents and of any side letters between any Parties in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition of any Mortgaged Property contained in this Deed is a valid disposition in

accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.2.5 If the Lender considers that an amount paid to it is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.

1.2.6 Unless the context otherwise requires, a reference to a Secured Asset includes the proceeds of sale of that Secured Asset.

1.3 Separate Security

Clauses 3.2 (Land) to 3.11 (Floating Charge) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment over each relevant asset within any particular class of assets defined in this Deed and the failure to create an effective mortgage, fixed charge or assignment over any one asset shall not affect the nature or validity of the mortgage, charge or assignment imposed on any other asset whether within that same class of assets or not.

1.4 Lender Assumes No Obligation

The Lender shall not be under any obligation in relation to the Secured Assets as a consequence of this Deed and the Chargor shall at all times remain liable to perform all obligations in respect of the Secured Assets.

2 COVENANT TO PAY

The Chargor undertakes to the Lender that it will pay or discharge to the Lender all the Secured Liabilities on demand in writing when the Secured Liabilities become due (whether by acceleration or otherwise).

3 CREATION OF SECURITY

3.1 General

3.1.1 All the security created under this Deed is:

- (a) created in favour of the Lender;
- (b) created over present and future assets of the Chargor;
- (c) security for the payment and satisfaction of all the Secured Liabilities; and

- (d) made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.1.2 Consent for Fixed Security

The Chargor creates each Security under Clauses 3.2 (Land) to 3.11 (Floating Charge) (inclusive) of this Deed subject to obtaining any necessary consent to such Security from any relevant third party.

3.1.3 Third Party Consents

Notwithstanding any other provision of this Deed, to the extent that the Chargor has an interest in an asset (including any undertaking, property, assets, revenues and rights of every description) that requires any third party consent or waiver of prohibition in order to grant the security interest envisaged by Clauses 3.2 (Land) to 3.11 (Floating Charge) (inclusive) of this Deed the Chargor shall:

- (a) remove such restrictions and prohibitions and obtain such consents and waivers as may be necessary within five Business Days of its execution of this Deed;
- (b) on request, keep the Lender informed of the progress of its negotiations with any such third party; and
- (c) provide the Lender with a copy of each such consent or waiver promptly after its receipt.

- 3.1.4 Immediately on receipt by the Chargor of the relevant consent or waiver, the relevant asset shall stand charged or assigned (as appropriate) to the Lender under Clause 3 (Creation of Security) of this Deed. If required by the Lender at any time following receipt of that waiver or consent, the Chargor shall promptly execute a valid legal mortgage, fixed charge and/or assignment in such form as the Lender requires.

3.2 Land

3.2.1 The Chargor charges:

- (a) by way of a first legal mortgage all estates or interests in any freehold or leasehold property now owned by it; this includes the real property (if any) specified in Schedule 1 (Mortgaged Property); and
- (b) (to the extent that they are not either the subject of a mortgage under Clause 3.2.1(a) above or freehold, feuhold or leasehold

property in Scotland) by way of first fixed charge all of its rights, title and interest from time to time in any freehold or leasehold property now or subsequently owned by it and all Related Rights.

3.2.2 A reference in this Clause 3.2 to a mortgage or charge of any freehold or leasehold property includes:

- (a) all buildings, fixtures, fittings and fixed plant and machinery from time to time on that property; and
- (b) all Related Rights.

3.3 Plant and Machinery

The Chargor charges by way of a first fixed charge all of its rights, title and interest from time to time in the Plant and Machinery and all Related Rights.

3.4 Contracts

The Chargor charges by way of a first fixed charge all of its rights, title and interest from time to time in and to any contract or agreement to which the Chargor is a party including all Related Rights.

3.5 Securities

3.5.1 The Chargor charges by way of a first fixed charge all of its rights, title and interest from time to time in all shares, stocks, debentures, bonds or other securities and investments owned by it or held by any nominee on its behalf and all Related Rights.

3.5.2 A reference in this Clause 3.3 to a mortgage or charge of any stock, share, debenture, bond or other security includes:

- (a) any dividend or interest paid or payable in relation to it; and
- (b) any right, money or property accruing or offered at any time in relation to it by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise.

3.6 Credit Balances

The Chargor charges by way of a first fixed charge all of its rights, title and interest from time to time in respect of any amount standing to the credit of any account (including any account contemplated by the Loan Agreement or this Deed) it has with any person and the debt represented by it and all Related Rights.

3.7 Book Debts etc.

The Chargor charges by way of a first fixed charge all of its rights, title and interest from time to time in:

- 3.7.1 all of its book and other debts;
- 3.7.2 all other moneys due and owing to it; and
- 3.7.3 all Related Rights.

3.8 Miscellaneous

The Chargor charges by way of first fixed charge:

- 3.8.1 any beneficial interest, claim or entitlement it has in any pension fund;
- 3.8.2 all of its rights, title and interest from time to time in and to its goodwill;
- 3.8.3 the benefit of any authorisation (statutory or otherwise) held in connection with its use of any Secured Asset;
- 3.8.4 the right to recover and receive compensation which may be payable to it in respect of any authorisation referred to in Clause 3.8.3;
- 3.8.5 its rights and claims in relation to its uncalled capital; and
- 3.8.6 all Related Rights.

3.9 Insurances

The Chargor assigns absolutely all of its rights, claims, title and interest from time to time:

- 3.9.1 under any contract of insurance taken out by it or on its behalf or in which it has an interest;
- 3.9.2 in and to all monies payable and all monies paid to it under or in respect of all such contracts of insurance; and
- 3.9.3 and all Related Rights.

3.10 Specific Contracts

The Chargor assigns absolutely all of its rights, claims, title and interest from time to time in and to each Specific Contract and all Related Rights.

3.11 Floating Charge

The Chargor charges by way of a first floating charge all its assets (including, but not limited to, its heritable and moveable property and other property, assets and rights in Scotland or governed by the laws of Scotland):

3.11.1 not otherwise effectively mortgaged, charged or assigned by way of fixed mortgage, charge or assignment under this Clause 2.

3.11.2 Except as provided in Clause 3.11.3 below, the Lender may by notice to the Chargor convert the floating charge created by this Clause 3.11 into a fixed charge as regards any of the Chargor's assets specified in that notice, if:

- (a) an Event of Default has occurred; or
- (b) the Lender considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

3.11.3 The floating charge created by this Clause 3.11 may not be converted into a fixed charge solely by reason of:

- (a) the obtaining of a moratorium; or
- (b) anything done with a view to obtaining a moratorium,

under section 1A of the Insolvency Act 1986.

3.11.4 The floating charge created by this Clause 3.11 will automatically and with immediate effect convert (without notice) into a fixed charge over all of the assets subject to that floating charge if an administrator is appointed or the Lender receives notice of an intention to appoint an administrator of the Chargor.

3.11.5 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by this Clause 3.11.

3.11.6 Clauses 3.11.2 and 3.11.4 shall not apply to assets situated in Scotland or governed by the laws of Scotland.

4 REPRESENTATIONS AND WARRANTIES

4.1 Nature of Security

The Chargor represents and warrants to the Lender that this Deed creates those Security Interests it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

4.2 Times for Making Representations and Warranties

The representations and warranties set out in this Clause 4 are made on the date of this Deed and are deemed to be repeated by the Chargor on every day thereafter until the expiry of the Security Period.

5 RESTRICTIONS ON DEALINGS

5.1 Security

The Chargor must not create or permit to subsist any Security Interest on any Secured Asset except (i) as expressly allowed in the Loan Agreement and (ii) for this Security.

5.2 Disposals

The Chargor must not sell, transfer, licence, lease or otherwise dispose of or deal with any Secured Asset, except (i) as expressly allowed in the Loan Agreement and (ii) for the disposal of or dealing with in the ordinary course of trade any Secured Asset which is subject to the uncrystallised floating charge created by this Security.

6 COVENANTS - LAND

6.1 Notification

The Chargor shall immediately notify the Lender of any contract, conveyance, transfer or other disposition for the acquisition by the Chargor (or its nominee(s)) of any freehold or leasehold property.

6.2 Repair

The Chargor must keep:

- 6.2.1 the Mortgaged Property and all buildings and erections on it in good and substantial repair and condition and adequately and properly painted and decorated; and

- 6.2.2 the fixtures and all plant, machinery, implements and other effects owned by it and which are in or on the Mortgaged Property or Secured Assets in a good state of repair and in good working order and condition.

6.3 Compliance with Leases and Covenants

The Chargor must:

- 6.3.1 perform all its obligations contained in any lease or agreement for lease or other right to occupy to which all or any part of the Mortgaged Property is at any time subject;
- 6.3.2 not do or allow to be done any act as a result of which any lease or agreement for lease or other right to occupy to which all or any part of the Mortgaged Property is at any time subject may become liable to forfeiture or otherwise be terminated; and
- 6.3.3 duly and punctually comply with, and indemnify the Lender in respect of any breach of, any covenant or stipulation (restrictive or otherwise) affecting the Mortgaged Property.

6.4 Compliance with Works in Progress Requirements

The Chargor must complete and progress reasonable works in progress on a monthly basis to the Lender's satisfaction.

6.5 Compliance with Applicable Laws and Regulations

The Chargor must perform all its obligations under any law or regulation in any way related to or affecting the Mortgaged Property.

6.6 H.M. Land Registry

The Chargor consents to a restriction in the following terms being entered on the Register of Title relating to any Mortgaged Property registered at H.M. Land Registry:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of [●] referred to in the charges register or their conveyancer. (Standard Form P)";

6.7 Power to Remedy

If the Chargor fails to comply with any of the undertakings contained in this Clause 6, the Chargor must allow the Lender or its agents and contractors:

- 6.7.1 to enter any part of the Mortgaged Property;
- 6.7.2 to comply with or object to any notice served on the Chargor in respect of the Mortgaged Property; and
- 6.7.3 to take any action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of any such undertaking or to comply with or object to any such notice.

The Chargor must immediately on request by the Lender pay the costs and expenses of the Lender or its agents and contractors incurred in connection with any action taken by it under this Clause 6.7.

7 COVENANTS - SECURITIES

7.1 General

In this Clause 7:

“Investments” means:

- (a) all shares, stocks, debentures, bonds or other securities and investments included in the definition of Secured Assets in Clause 1.1 (Definitions);
- (b) any dividend, interest or other distribution paid or payable in relation to any of the above; and
- (c) any right, money, shares or property accruing, offered or issued at any time in relation to any of the above by way of redemption, substitution, exchange, bonus or preference or otherwise, under option rights or otherwise.

7.2 Deposit

The Chargor must:

- 7.2.1 on the date of this Deed (and on the purchase or acquisition by it of Investments after the date of this Deed), deposit with the Lender, or as the Lender may direct, all certificates and other documents of title or evidence of ownership in relation to any Investment; and
- 7.2.2 promptly execute and deliver to the Lender all share transfer forms and other documents which may be requested by the Lender in order to enable the Lender or its nominees to be registered as the owner or otherwise obtain a legal title to any Investment.

7.3 Changes to Rights

The Chargor must not take or allow the taking of any action on its behalf which may result in the rights or liabilities attaching to any of the Investments being altered or further Investments being issued.

7.4 Calls

7.4.1 The Chargor must pay all calls or other payments due and payable in respect of any Investment.

7.4.2 If the Chargor fails to do so, the Lender may pay the calls or other payments in respect of any Investment on behalf of the Chargor. The Chargor must immediately on request reimburse the Lender for any payment made by the Lender under this Clause 7.4.2.

7.5 Other Obligations in respect of Investments

7.5.1 The Chargor must promptly copy to the Lender and comply with all requests for information which is within its knowledge and which are made under any law or regulation or by any listing or other authority or any similar provision contained in any articles of association or other constitutional document relating to any of the Investments. If it fails to do so, the Lender may elect to provide such information as it may have on behalf of the Chargor.

7.5.2 The Chargor must comply with all other conditions and obligations assumed by it in respect of any Investment.

7.5.3 The Lender is not obliged to:

- (a) perform any obligation of the Chargor;
- (b) make any payment;
- (c) make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor; or
- (d) 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 Investment.

7.6 Dividends and Voting Rights

7.6.1 Dividends

- (a) Prior to the occurrence of an Event of Default, the Chargor shall be entitled to receive all dividends, interest and other monies arising from the Investments.
- (b) Following the occurrence of an Event of Default, the Lender may, at its discretion, in the name of the Chargor or otherwise and without any further consent or authority from the Chargor, apply all dividends, interest and other monies arising from the Investments as though they were the proceeds of sale in accordance with Clause 15 (Application of Enforcement Proceeds).

7.6.2 Voting Rights

- (a) Prior to the giving of notice as set out in paragraph (b) below, the Chargor shall be entitled to exercise all voting rights in relation to the Investments.
- (b) Subject to paragraph (c) below, upon the occurrence of an Acceleration Event, the Lender may (but without having any obligation to do so) give notice to the Chargor that this paragraph applies. With effect from the giving of that notice, the Lender may, at its discretion, in the name of the Chargor or otherwise and without any further consent or authority from the Chargor:
 - (i) exercise (or refrain from exercising) any voting rights in respect of the Investments; and
 - (ii) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Investments including the right, in relation to any company whose shares or other securities are included in the Investments, to concur or participate in (A) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence thereof), (B) the release, modification or variation of any rights or liabilities attaching to such shares or securities, and (C) the exercise, renunciation or assignment of any right to subscribe for any shares or securities, in each case in the manner and on the

terms the Lender thinks fit, and the proceeds of any such action shall form part of the Investments.

- (c) The Lender may, in its absolute discretion and without any consent or authority from the Chargor, at any time, by notice to the Chargor (which notice shall be irrevocable) elect to give up the right to exercise (or refrain from exercising) all voting rights and powers in respect of the Investments conferred or to be conferred on the Lender pursuant to paragraph (b) above.
- (d) Once a notice has been issued by the Lender under paragraph (c) above, on and from the date of such notice the Lender shall cease to have the rights to exercise or refrain from exercising voting rights and powers in respect of the Investments conferred or to be conferred on it pursuant to paragraph (b) above or any other provision of this Deed and all such rights will be exercisable by the Chargor. The Chargor shall be entitled, on and from the date of such notice, to exercise all voting rights and powers in relation to the Investments.

8 COVENANTS – CREDIT BALANCES AND BOOK DEBTS

8.1 Book Debts and Receipts

8.1.1 The Chargor must get in and realise its:

- (a) rent and other amounts due from tenants of the Mortgaged Property; and
- (b) book and other debts and other moneys due and owing to it,

in the ordinary course of its business and hold the proceeds of the getting in and realisation (until payment into an Account if required in accordance with Clause 8.1.2) on trust for the Lender.

8.1.2 The Chargor must, except to the extent that the Lender otherwise agrees, pay all the proceeds of the getting in and realisation into an Account in accordance with the Loan Agreement.

9 NOTICES OF SECURITY

9.1 The Chargor must when requested by the Lender from time to time, promptly deliver to the lender a notice of assignment or a notice of charge (as appropriate) in a form and substance acceptable to the lender duly executed by, or on behalf of, the Chargor in relation to any asset which is the subject of the fixed security created by this Deed,

including any floating charge which is converted into a fixed charge pursuant to Clause 3.11.

- 9.2 The Chargor must use all reasonable endeavours to ensure that each recipient of such notice of assignment or notice of charge (as appropriate) acknowledges that notice in the form set out therein.

10. FURTHER ASSURANCES

- 10.1 The Chargor must, at its own expense, take whatever action the Lender or a Receiver may reasonably require for:

- 10.1.1 creating, perfecting or protecting the Security (including obtaining any consents necessary or removing any restrictions on the creation of the Security and delivering copies of such consents or evidence of such removal promptly to the Lender or Receiver); and/or
- 10.1.2 facilitating the realisation of any Secured Asset, or the exercise of any right, power or discretion exercisable, by the Lender or any Receiver or any of its delegates or sub-delegates in respect of any Secured Asset.

This includes:

- (a) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Lender or to its nominee; or
- (b) the giving of any notice, order or direction and the making of any registration,

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

11. WHEN SECURITY BECOMES ENFORCEABLE

11.1 Event of Default

This Security will become immediately enforceable if an Event of Default occurs.

11.2 Discretion

After this Security has become enforceable, the Lender may in its absolute discretion enforce all or any part of this Security in any manner it sees fit.

11.3 Statutory Powers

The power of sale and other powers conferred by Section 101 of the Act, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable.

12 ENFORCEMENT OF SECURITY

12.1 General

12.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.

12.1.2 Section 103 of the Act (*Regulation of exercise of power of sale*) and Section 93 of the Act (*Restriction on consolidation of mortgages*) do not apply to this Security.

12.1.3 The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender to lease, make agreements for leases, accept surrenders of leases and grant options at any time after this Security has become enforceable and as the Lender may think fit and without the need to comply with any provision of Section 99 or 100 of the Act.

12.2 No Liability as Mortgagee in Possession

Neither the Lender nor any Receiver will be liable, by reason of entering into possession of a Secured Asset or by exercising any of its powers under Clause 6.7 of this Deed, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

12.3 Privileges

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that Section 103 of the Act does not apply.

12.4 Protection of Third Parties

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

12.4.1 whether the Secured Liabilities have become payable;

12.4.2 whether any power which the Lender or a Receiver is purporting to exercise has become exercisable or is being properly exercised;

12.4.3 whether any money remains due under the Finance Documents; or

12.4.4 how any money paid to the Lender or to that Receiver is to be applied.

12.5 Redemption of Prior Mortgages

12.5.1 At any time after this Security has become enforceable, the Lender may:

- (a) redeem any prior Security Interest against any Secured Asset; and/or
- (b) procure the transfer of that Security Interest to itself; and/or
- (c) settle and agree the accounts of the prior mortgagee, chargee or encumbrancer. Any accounts so settled and agreed will be, in the absence of manifest error, conclusive and binding on the Chargor.

12.5.2 The Chargor must pay to the Lender, immediately on demand, the costs and expenses incurred by the Lender in connection with any such redemption and/or transfer, including the payment of any principal and interest.

12.6 Right of Appropriation

To the extent that any of the Secured Assets constitutes "financial collateral" and this Deed and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the "**Regulations**"), the Lender shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be:

12.6.1 in the case of cash, the amount standing to the credit of each of the relevant accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised; and

12.6.2 in the case of any shares, stocks, debentures, bonds or other securities or investments, the market price of such shares, stocks, debentures, bonds or other securities or investments determined by the Lender by reference to a public index or by such other process as the Lender may select, including independent valuation.

In each case, the parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

13 RECEIVER

13.1 Appointment of Receiver

13.1.1 Except as provided below, the Lender may appoint any one or more persons to be a Receiver of all or any part of the Secured Assets if:

- (a) this Security has become enforceable; or
- (b) the Chargor so requests the Lender in writing at any time.

13.1.2 Any appointment under Clause 13.1 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 Lender 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.

13.1.5 The Lender may not appoint an administrative receiver (as defined in section 29(2) of the Insolvency Act 1986) over the Secured Assets if the Lender is prohibited from so doing by section 72A of the Insolvency Act 1986 and no exception to the prohibition on appointing an administrative receiver applies.

13.1.6 The power to appoint a Receiver (whether conferred by this Deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets.

13.2 Removal

The Lender may by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

13.3 Remuneration

The Lender may fix the remuneration of any Receiver appointed by it and the maximum rate specified in Section 109(6) of the Act will not apply. The remuneration of the Receiver shall be a debt secured by this Deed to the extent not otherwise discharged.

13.4 Agent of the Chargor

13.4.1 A Receiver will be deemed to be the agent of the Chargor 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 Chargor alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.

13.4.2 The Lender will not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

13.5 Exercise of Receiver Powers by the Lender

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 Lender in relation to any Secured 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 who is duly appointed by the Lender under this Deed has all of the rights, powers and discretions set out in this Clause 14 in addition to those conferred on it by any law, including:

- (a) all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver); and
- (b) otherwise, all the rights, powers and discretions conferred on a receiver (or a receiver and manager, mortgagor and mortgagee in possession) 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 of 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 Secured Asset.

14.3 Carry on Business

A Receiver may carry on any business of the Chargor in any manner he thinks fit.

14.4 Employees

14.4.1 A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.

14.4.2 A Receiver may discharge any person appointed by the Chargor.

14.5 Borrow Money

A Receiver may raise and borrow money either unsecured or on the security of any Secured Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

14.6 Sale of Assets

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

14.6.2 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.

14.6.3 Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Chargor.

14.7 Leases

A Receiver may let any Secured Asset for any term and at any rent (with or without a premium) which he thinks fit and may accept a surrender of any lease or tenancy of any Secured Asset on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

14.8 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 Chargor or relating in any way to any Secured Asset.

14.9 Legal Actions

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

14.10 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 Secured Asset.

14.11 Subsidiaries

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Secured Asset.

14.12 Delegation

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

14.13 Lending

A Receiver may lend money or advance credit to any customer of the Chargor.

14.14 Protection of Assets

A Receiver may:

14.14.1 effect any repair or insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Secured Asset;

14.14.2 commence and/or complete any building operation; and

14.14.3 apply for and maintain any planning permission, building regulation approval or any other authorisation,

in each case as he thinks fit.

14.15 Other Powers

A Receiver may:

- 14.15.1 do all other acts and things which he may consider desirable or necessary for realising any Secured 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;
- 14.15.2 exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Secured Asset; and
- 14.15.3 use the name of the Chargor for any of the above purposes.

15 APPLICATION OF ENFORCEMENT PROCEEDS

15.1 All monies received by the Lender or any Receiver under or by virtue of this Deed following enforcement of the Security shall be applied, subject to the claims of any creditors having prior rights thereto and by way of variation of the provisions of the Act, in the following order:

- 15.1.1 firstly, in or towards payment of all costs, charges and expenses of or incidental to the appointment of the Receiver and the exercise of all or any of his powers, including his remuneration and all outgoings paid by and liabilities incurred by him as a result of such exercise;
- 15.1.2 secondly, in or towards satisfaction of the Secured Liabilities in such order as the Lender shall in its absolute discretion decide; and
- 15.1.3 thirdly, any surplus shall be paid to the Chargor or any other person entitled to it.

15.2 If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Lender or any Receiver may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

15.3 Nothing contained in this Deed shall limit the right of the Receiver or the Lender (and the Chargor acknowledges that the Receiver and the Lender are so entitled) if and for so long as the Receiver or the Lender, in their discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of the Security into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Liabilities.

16 DISCRETION AND DELEGATION

16.1 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Lender or any Receiver may, subject to the terms and conditions of the Loan Agreement, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

16.2 Power of Attorney

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed. Such delegation will not preclude the subsequent exercise, any subsequent delegation or any revocation of such rights, powers or discretions by the Lender or Receiver itself.

16.3 Terms

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

16.4 Liability

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

17 POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Lender, each Receiver and any of its delegates or sub-delegates to be its attorney and to take any action which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any such attorney does in the proper and lawful exercise, or purported exercise, of the powers given to it by its appointment under this Clause 17.

18 PRESERVATION OF SECURITY

18.1 Continuing Security

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

18.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored on insolvency, liquidation, administration or otherwise without limitation, then the liability of the Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

18.3 Waiver of Defences

The obligations of the Chargor under this Deed will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to the Chargor or the Lender). This includes:

- 18.3.1 any time, waiver or consent granted to, or composition with, any person;
- 18.3.2 the release of any person under the terms of any composition or arrangement with any creditor of any member of any group of companies the Chargor is part of;
- 18.3.3 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;
- 18.3.4 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;
- 18.3.5 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- 18.3.6 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or any increase in any facility or the addition of a new facility under any Finance Document or any other document or security or of the Secured Liabilities;
- 18.3.7 any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Finance Document or any other document or security or of the Secured Liabilities; or
- 18.3.8 any insolvency or similar proceedings.

18.4 Immediate Recourse

- 18.4.1 The Chargor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed.
- 18.4.2 This waiver applies irrespective of any law or provision of a Finance Document to the contrary.

18.5 Appropriations

At any time during the Security Period and without affecting the liability of the Chargor under this Deed, the Lender (or any trustee or agent on its behalf) may:

- 18.5.1 refrain from applying or enforcing any other moneys, security or rights held or received by the Lender (or any trustee or agent on its behalf) against those amounts; or
- 18.5.2 apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise); and
- 18.5.3 hold in a suspense account any moneys received from the Chargor or on account of the liability of the Chargor under this Deed.

18.6 Non-Competition

Unless the Security Period has expired or the Lender otherwise requests, the Chargor will not, after a claim has been made under this Deed or by virtue of any payment or performance by it under this Deed:

- 18.6.1 be subrogated to any rights, security or moneys held, received or receivable by the Lender (or any trustee or agent on its behalf);
- 18.6.2 be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Chargor's liability under this Deed;
- 18.6.3 claim, rank, prove or vote as a creditor of any Obligor or its estate in competition with the Lender (or any trustee or agent on its behalf); or
- 18.6.4 receive, claim or have the benefit of any payment, distribution or security from or on account of any Obligor, or exercise any right of set-off as against any Obligor.

The Chargor must hold in trust for and immediately pay or transfer to the Lender for the Finance Parties any payment or distribution or benefit of security received by it contrary to this Clause or in accordance with any directions given by the Lender under this Clause 18.

18.7 Additional Security

This Security is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Lender.

19 RELEASE

19.1 Subject to Clause 18.2 (Reinstatement), on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to:

19.1.1 release the Secured Assets from the security constituted by this deed; and

19.1.2 reassign the Secured Assets to the Chargor,

in each case without recourse to, or any representation or warranty by, the Lender or any of its nominees.

20 MISCELLANEOUS

20.1 New Accounts

20.1.1 If any subsequent charge or other security interest affects any Secured Asset, the Lender may open a new account with the Chargor.

20.1.2 If the Lender does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other security interest.

20.1.3 As from the time of receipt or deemed receipt of the relevant notice by the Lender, all payments made by the Chargor to the Lender will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

20.2 Time Deposits

Without prejudice to any right of set-off the Lender may have under any other Finance Document or otherwise, if any time deposit matures on any account the Chargor has with the Lender within the Security Period when:

20.2.1 this Security has become enforceable; and

20.2.2 no Secured Liability is due and payable,

that time deposit will automatically be renewed for any further maturity which the Lender considers appropriate.

20.3 Notice of Assignment

This Deed constitutes notice in writing to the Chargor of any charge or assignment of a debt owed by the Chargor to any other member of the Group and contained in any other Security Document.

21 EXPENSES AND INDEMNITY

21.1 The Chargor must:

21.1.1 immediately on demand pay all costs and expenses (including legal fees and any VAT on those costs and expenses) incurred by the Lender, Receiver, an attorney, manager, agent, nominee or other person appointed by the Lender under this Deed in connection with the:

- (a) negotiation, preparation and execution of this Deed;
- (b) completion of the transactions and perfection of the Security;
- (c) exercise, preservation and/or enforcement of the Security or of any of the rights, powers or remedies conferred on the Lender by this Deed;
- (d) Secured Assets; and
- (e) enforcement of rights and determination of the existence and extent of those rights under this Deed,

including any costs and expenses arising from any actual or alleged breach by any person of the provisions of this Deed or of any law or regulation, whether relating to the environment or otherwise; and

21.1.2 keep each of them indemnified against any failure or delay in paying those costs or expenses.

22 GOVERNING LAW

This Deed and all non-contractual obligations arising out of or in connection with it are governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts.

23 JURISDICTION

23.1 Jurisdiction of English Courts

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

23.1.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

23.1.3 This Clause 23 is for the benefit of the Lender only. As a result and notwithstanding Clause 23.1, it does not prevent the Lender from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Lender may take concurrent proceedings in any number of jurisdictions.

23.2 Service of Process

The Chargor agrees that the documents which start any proceedings in relation to this Deed, and any other document required to be served in connection with those proceedings, may be served on it by being delivered to the Chargor at Mactalla, Connel, Oban, Argyll, PA37 1PJ, or to such other address in England and Wales as the Chargor may specify by notice in writing to the Lender. Nothing in this paragraph shall affect the right of the Lender to serve process in any other manner permitted by law. This Clause applies to proceedings in England and elsewhere.

This Deed has been delivered as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1
MORTGAGED PROPERTY

[N/A]

SIGNATORIES

CHARGOR

Executed and delivered as a Deed by M.A.L. CONTRACTING LTD

ALAN ANGUS KILL
Print Full Name

Director

SHARON KILL
Print Full Name

Director

in the presence of:

ANDREW ROSS VENNARD
Print Full Name

Witness

Address:

17-19 LOCHSIDE STREET
OBAN, PA34 4HP

LENDER

Executed and delivered as a Deed by RESIDENTIAL LOANS LTD acting by:

DAVID LUISE LEVITAS
Print Full Name

Director

in the presence of:

DOROTHY FLEMING
Print Full Name

Witness

Address:

65 BATH STREET
GLASGOW
G2 2BX