



**Registration of a Charge**

Company name: **ALL SAINTS ASSET MANAGEMENT PLC**

Company number: **09571877**



X828CGHN

Received for Electronic Filing: **29/03/2019**

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**Details of Charge**

Date of creation: **22/03/2019**

Charge code: **0957 1877 0003**

Persons entitled: **BANK OF LONDON AND THE MIDDLE EAST PLC**

Brief description: **NOT APPLICABLE.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **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: **ADDLESHAW GODDARD LLP**



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

Company number: 9571877

Charge code: 0957 1877 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd March 2019 and created by ALL SAINTS ASSET MANAGEMENT PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th March 2019 .

Given at Companies House, Cardiff on 1st April 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**



Dated 22 MARCH 2019

ALL SAINTS ASSET MANAGEMENT PLC  
HIGH STREET COMMERCIAL FINANCE LIMITED

and

HIGH STREET ROOFTOP HOLDINGS LIMITED  
as Chargors

OLYMPIUS DEVELOPMENTS LIMITED  
as Purchaser

BANK OF LONDON AND THE MIDDLE EAST PLC  
as Seller

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SUBORDINATED  
CREDITOR'S SECURITY  
AGREEMENT

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This Deed is made on

22 MARCH

2019

## Between

- (1) **All Saints Asset Management Plc** a company incorporated in England and Wales with registration number 09571877 whose registered office is at 2nd Floor Cuthbert House, Newcastle NE1 2ET (**Shareholder**);
- (2) **High Street Commercial Finance Limited** a company incorporated in England and Wales with registration number 07841268 whose registered office is at 6th Floor Stockbridge House, Newcastle Upon Tyne, England, NE1 2HJ (**HSCF**);
- (3) **High Street Rooftop Holdings Limited** a company incorporated in England and Wales with registration number 11309176 whose registered office is at 2nd Floor Cuthbert House, Newcastle Upon Tyne, United Kingdom, NE1 2ET (together with the Shareholder and HSCF, the **Chargors** and each a **Chargor**);
- (4) **Olympius Developments Limited** a company incorporated in England and Wales with registration number 10594675 whose registered office is at 2nd Floor Cuthbert House, Newcastle, United Kingdom, NE1 2ET (**Purchaser**); and
- (5) **Bank of London and The Middle East plc** a public limited company incorporated in England and Wales with registration number 05897786 whose registered office is at Cannon Place, 78 Cannon Street, London EC4N 6HL (**Seller**).

## It is agreed

## 1 Definitions and interpretation

## 1.1 Definitions

In this Deed:

**Master Murabaha Agreement** means the master murabaha agreement between the Purchaser and the Seller dated on or about the date of this Deed as it may be amended, restated, novated or replaced (however fundamentally, including by an increase in the amount of any Facility made available under it, the alteration of the nature, purpose or period of such Facility or the charge of its parties)

**Party** means a party to this Deed

**Receiver** means any receiver, manager or administrative receiver appointed by the Seller in respect of any Chargor or any of the Secured Assets

**Related Rights** means, in relation to any Subordinated Document and/or any Subordinated Advance:

- (a) the proceeds of sale of any part of that asset
- (b) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants of title in respect of that asset and
- (c) all monies and proceeds paid or payable in respect of that asset

**Relevant Jurisdiction** means, in relation to each Chargor:

- (a) its jurisdiction of incorporation
- (b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated
- (c) any jurisdiction where it conducts its business and
- (d) the jurisdiction whose laws govern the perfection of any of the Security Documents entered into by it

**Secured Assets** means all of the assets and undertaking of each of the Chargors the subject of any Security created by or under this Deed in favour of the Seller

**Secured Obligations** means all monies and liabilities now or after the date of this Deed due owing or incurred by any Relevant Party to the Seller under the Facility Documents (or any of them) and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety and all costs, charges and expenses incurred by the Seller, except for any obligation which, if it were included here, would constitute unlawful financial assistance or its equivalent in any other jurisdiction

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Seller is satisfied (acting reasonably) that the Secured Obligations have been irrevocably and unconditionally satisfied in full

**Subordinated Advance** means each subordinated advance of monies provided by the Chargor to the Purchase pursuant to a Subordinated Document or otherwise

**Subordinated Document** has the meaning given to such term in the Subordination Deed

**Subordination Deed** means the subordination deed dated on or about the date of this deed and entered into by the Seller, the Purchaser and the Shareholder and the Chargors as subordination creditors

## 1.2 Interpretation

- (a) Unless otherwise defined in this Deed, a term defined in the Master Murabaha Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.
- (b) In this Deed, the term:
  - (i) **dispose** includes any sale, lease, licence, transfer or loan; and
  - (ii) **assets** includes present and future properties, revenues and rights of every description (including any right to receive such revenues).
- (c) Clause 1.2 (Construction) of the Master Murabaha Agreement is incorporated into this Deed as if set out here in full but so that each reference in that clause to **this Agreement** shall be read as a reference to this Deed.
- (d) Save where the contrary is indicated, any reference in this Deed to this Deed or any other agreement or document shall be construed as a reference to this Deed or, as the case may be, such other agreement as the same may have been, or may from time to time be, amended, varied, novated or supplemented.

- (e) Clause and schedule headings are for ease of reference only.
- (f) If the Chargor comprises more than one person, reference to the Chargor is to all and any of them.
- (g) The liability of the persons comprising the Chargor is joint and several.

### **1.3 Third Party Rights**

- (a) Unless expressly provided to the contrary in any Facility Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Facility Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.
- (b) Unless expressly provided to the contrary in any Facility Document, the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Facility Document issued or entered into under or in connection with it.

## **2 Covenant to pay**

### **2.1 Covenant**

Subject to the provisions of clause 2.2, each Chargor covenants with the Seller, to pay and discharge the Secured Obligations when they become due for payment and discharge in accordance with the terms of the Facility Documents.

### **2.2 Limited Recourse**

Notwithstanding the terms of any other provision of this Deed, the Seller shall have no recourse against any Chargor or its assets, whether by way of court proceedings, a winding up application or otherwise, in respect of its obligations and liabilities under this Deed except by enforcement of its security over the Secured Assets, and the liability of each Chargor shall extend only to and shall not exceed the proceeds of any such enforcement.

## **3 Charging provisions**

### **3.1 General**

All Security created by each of the Chargors under clauses 3.2 and 3.3 is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;
- (c) granted in respect of all the right, title and interest (if any), present and future, of that Chargor in and to the relevant Secured Assets; and
- (d) granted in favour of the Seller.

### **3.2 Assignment**

- (a) Each Chargor assigns all of its rights, benefits, title, claim and interest in and to each Subordinated Document, each Subordinated Advance and all Related Rights.

- (b) Each Chargor shall remain liable to perform all its obligations under each Subordinated Document to which it is a party and in respect of each relevant Subordinated Advance.

### **3.3 Charge**

To the extent not validly and effectively assigned pursuant to clause 3.2, each Chargor charges by fixed charge all its rights, benefits, title, claim and interest in and to each Subordinated Document to which it is a party, each relevant Subordinated Advance and all Related Rights.

## **4 General security provisions**

### **4.1 Continuing security**

The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by any of the Chargors or any other person of the whole or any part of the Secured Obligations.

### **4.2 Additional security**

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

### **4.3 Settlements conditional**

- (a) If the Seller (acting reasonably) believes that any amount paid by any person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- (b) Any settlement, discharge or release between any Chargor and the Seller shall be conditional upon no Security or payment to or for the Seller by any of the Chargors or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

### **4.4 Waiver of defences**

The liability of each the Chargors under this Deed will not be affected by an act, omission, matter or thing which, but for this clause 4.4, would reduce, release or prejudice any of its liability under this Deed (without limitation and whether or not known to it or the Seller) including:

- (a) any time, waiver or consent granted to, or composition with, any Relevant Party or other person;
- (b) the release of any Relevant Party or any other person under the terms of any composition or arrangement with any creditor of any Relevant Party;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, any Relevant Party 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 Relevant Party or any other person;



- (e) any amendment (however fundamental) or replacement of a Facility Document or any other document or Security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Facility Document or any other document or Security; or
- (g) any insolvency or similar proceedings.

#### **4.5 Chargor intent**

Without prejudice to the generality of clause 4.4, each of the Chargors expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Facility Documents and/or any facility or amount made available under any of the Facility Documents for the purposes of or in connection with any of the following:

- (a) acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new Purchasers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### **4.6 Immediate recourse**

Each of the Chargors waives any right it may have of first requiring the Seller (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 enforcing its rights under this Deed. This waiver applies irrespective of any law or any provision of a Facility Document to the contrary.

#### **4.7 Appropriations**

Until all amounts which may be or become payable by the Relevant Parties under or in connection with the Facility Documents have been irrevocably paid in full, the Seller (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other monies, Security or rights held or received by the Seller (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and none of the Chargors shall be entitled to the benefit of the same; and

- (b) hold in an interest-bearing suspense account any monies received from any Chargor or on account of the Chargors' liability under this Deed.

#### **4.8 Deferral of Chargors' rights**

Until all amounts which may be or become payable by the Relevant Parties under or in connection with the Facility Documents have been irrevocably paid in full and unless the Seller otherwise directs, none of the Chargors will exercise any rights which it may have by reason of performance by it of its obligations under the Facility Documents:

- (a) to be indemnified by any Relevant Party;
- (b) to claim any contribution from any guarantor of, or person providing Security for, any Relevant Party's obligations under the Facility Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Seller under the Facility Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Facility Documents by the Seller.

#### **5 Notices of assignment and Purchaser confirmations**

5.1 Pursuant to this clause 5, each of the Chargors notify the Purchaser that, pursuant to this Deed, that each such Chargor has assigned all of its benefits rights, titles, claims and interests in and to each Subordinated Document to which it is a party, each relevant Subordinated Advance and all Related Rights.

5.2 The Purchaser enters into this Deed to:

- (a) acknowledge to the Seller and each of the Chargors that it has notice of the assignments referred to in clause 5.1;
- (b) confirm to the Seller that the Purchaser has not claimed or exercised, has no outstanding right to claim or exercise and will not exercise any right of set off, counter claim or other right relating to any payment to be made by the Purchaser in respect of any Subordinated Document, any Subordinated Advance and/or any Related Right; and
- (c) acknowledge that the Seller shall not be under any obligation in relation to any Subordinated Document and/or any Subordinated Advance as a consequence of this Deed and each of the Chargors shall at all times remain liable to perform all obligations expressed to be assumed by it in respect of each Subordinated Document to which it is a party and/or each relevant Subordinated Advance.

#### **6 Negative pledge**

6.1 None of the Chargors shall create or permit to subsist any Security, other than Security arising under this Deed, over any of the Secured Assets.

6.2 Clause 6.1 does not apply to any Security or arrangement which is security expressly permitted under the Facility Documents.

#### **7 Restrictions on disposals**

None of the Chargors shall enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, assign, lend, factor,

pledge, charge, exchange or otherwise dispose of any of the Secured Assets or the equity of redemption therein nor permit any other person to do any such thing.

## **8 Further assurance**

8.1 Each of the Chargors shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Seller or any Receiver may reasonably specify (and in such form as the Seller or any Receiver may reasonably require) in favour of the Seller or its nominee(s):

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Seller provided by or pursuant to this Deed or by law; and/or
- (b) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.

8.2 Each of the Chargors shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Seller by or pursuant to this Deed.

8.3 Any document required to be executed by a Chargor under this clause 8 will be prepared at the cost of that Chargor.

## **9 Representations**

Each of the Chargors makes the representations set out in this clause 9 in respect of itself only to the Seller.

### **9.1 Status**

- (a) It is a limited liability corporation, 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 as it is being conducted.

### **9.2 Binding obligations**

Subject to the Legal Reservations:

- (a) the obligations expressed to be assumed by it in this Deed are valid, binding and enforceable obligations; and
- (b) without limiting the generality of clause 9.2(a), and subject to the Perfection Requirements, this Deed creates the Security which this Deed purports to create and the Security is valid and effective.

### **9.3 Non-conflict with other obligations**

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

- (a) any law or regulation applicable to it;

- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

**9.4 Power and authority**

- (a) 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, this Deed and the transactions contemplated by this Deed.
- (b) No limit on its powers will be exceeded as a result of the grant of the Security contemplated by this Deed.

**9.5 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 this Deed; and
- (b) to make this Deed admissible in evidence in its Relevant Jurisdictions,

have been obtained or effected and are in full force and effect except any Authorisation referred to in clause 9.8 which Authorisations will be promptly obtained or effected after the date of this Deed.

**9.6 Acting as principal**

It is acting in all matters relating to this Deed as principal for its own account and not as agent or trustee or in any other capacity whatsoever on behalf of any third party.

**9.7 Governing law and enforcement**

- (a) The choice of English law as the governing law of this Deed will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in England in relation to this Deed will be recognised and enforced in its Relevant Jurisdictions.

**9.8 No filing or stamp taxes**

It is not necessary under the laws of its Relevant Jurisdictions that this Deed be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration or similar tax be paid on or in relation to this Deed or the transactions contemplated by this Deed except registration of a statement of particulars and a certified copy of this Deed at Companies House under the Companies Act 2006 and payment of associated fees, which registrations and filings will be made and paid promptly after the date of this Deed.

**9.9 Good title to assets**

It has a good, valid and marketable title to the Secured Assets, in each case, free from Security (other than that created by or pursuant to this Deed).

**9.10 Legal and beneficial ownership**

- (a) It is the sole legal and beneficial owner of the assets over which it purports to grant Security.
- (b) Each Secured Asset is legally and beneficially owned by it free from any claims, third party rights or competing interests other than Security created under the Security Documents.
- (c) No breach of any law or regulation is outstanding which adversely affects or might adversely affect the value of any Secured Asset.

**9.11 No adverse consequences**

- (a) It is not necessary under the laws of its Relevant Jurisdictions:
  - (i) in order to enable the Seller to enforce its rights under this Deed; or
  - (ii) by reason of the execution of any Facility Document or the performance by it of its obligations under this Deed,that the Seller should be licensed, qualified or otherwise entitled to carry on business in any Relevant Jurisdiction of it.
- (b) The Seller is not nor will it be deemed to be resident, domiciled or carrying on business in any Relevant Jurisdiction of that Chargor by reason only of the execution, performance and/or enforcement of this Deed.

**9.12 Subordinated Advances**

Each Subordinated Document to which it is a party is in full force and effect in accordance with its terms and is enforceable (subject to the Facility Documents) by that Chargor against the Purchaser. There are no restrictions on the ability of that Chargor to assign or charge any Subordinated Advance over which it purports to grant Security, whether contained in a Subordinated Document or otherwise.

**9.13 Repetition**

The representations and warranties in this clause 9 are deemed to be made by each Chargor by reference to the facts and circumstances then existing on the date of:

- (a) this Deed;
- (b) each Utilisation Notice; and
- (c) each Value Date.

**10 Undertakings**

**10.1 Duration**

Each Chargor undertakes in respect of itself only to the Seller in accordance with this clause 10. The undertakings in this clause 10 shall remain in force during the Security Period.

## **10.2 Authorisations**

It 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 Seller of,

any Authorisation required under any law or regulation of a Relevant Jurisdiction to enable it to perform its obligations under this Deed and to ensure the legality, validity, enforceability or admissibility in evidence of this Deed.

## **10.3 General**

No Chargor shall do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Seller of the Security created by or under this Deed.

## **10.4 Subordinated Advances**

No Chargor shall take, or omit to take, any action which might result in:

- (a) the alienation or impairment of any of its rights in any Subordinated Advance; or
- (b) any right to terminate a Subordinated Document to which it is a party becoming exercisable by any party to that agreement.

## **10.5 Information**

Each of the Chargors shall provide to the Seller such documents or information relating to the Secured Assets as the Seller (acting reasonably) may from time to time request and shall promptly deliver to the Seller a copy of any notice or proceedings served by any person on that Chargor concerning any Secured Asset or alleging any breach of its obligations relating to any Secured Asset.

## **11 Security power of attorney**

Each of the Chargors, by way of security, irrevocably and severally appoints the Seller, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which such Chargor is obliged to take under this Deed. Each of the Chargors ratifies and confirms whatever any attorney properly does or purports to do pursuant to its appointment under this clause 11.

## **12 Enforcement of security**

### **12.1 When security is enforceable**

On the occurrence of any Event of Default which is continuing, the Security created by and under this Deed is immediately enforceable.

### **12.2 Acts of enforcement**

The Seller may, in its absolute discretion, at any time when the Security created by or under this Deed is enforceable:

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession of, or appointed a Receiver to any of, the Secured Assets;
- (c) appoint one or more persons to be a Receiver to all or any part of the Secured Assets;
- (d) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed);
- (e) sell all or any of the Secured Assets in any manner permitted by law and on such terms as the Seller shall in its absolute discretion determine; and/or
- (f) apply all and any monies received in respect of the Secured Assets as though they were proceeds of sale.

### **12.3 Statutory Powers - General**

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.
- (c) Each Receiver and the Seller is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and receivers.

### **12.4 Contingencies**

If the Seller enforces the Security constituted by or under this Deed at a time when no amounts are due to the Seller under the Facility Documents but at a time when amounts may or will become so due, the Seller or the Receiver may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

### **12.5 Mortgagee in possession – no liability**

Neither the Seller nor any Receiver shall be liable 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 otherwise be liable.

### **12.6 Redemption of prior mortgages**

At any time after the Security created by or under this Deed has become enforceable, the Seller may, at the sole cost of the Chargors (payable to the Seller on demand):

- (a) redeem any prior form of Security over any Secured Asset; and/or
- (b) procure the transfer of that Security to itself; and/or

- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargors (or any of them).

### **13 Receiver**

#### **13.1 Appointment of Receiver**

- (a)
  - (i) At any time after any Security created by or under this Deed is enforceable, the Seller may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 12.2(c) (Acts of enforcement).
  - (ii) At any time if so requested in writing by the Chargors (or any of them), without further notice, the Seller may appoint one or more persons to be a Receiver of all or any part of the Secured Assets as if the Seller had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred by the Law of Property Act 1925.
- (b) Any Receiver appointed under this Deed shall be the agent of the Chargors and the Chargors shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Seller be in any way responsible for any misconduct, negligence or default of the Receiver.
- (c) Where a Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 of the Insolvency Act 1986 (a) obtaining a moratorium, or (b) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 of the Insolvency Act 1986 shall not be grounds for appointment of a Receiver.

#### **13.2 Removal**

The Seller may by written notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

#### **13.3 Powers of Receiver**

- (a) General
  - (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 13.3.
  - (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
  - (iii) A Receiver may, (in the name of the relevant Chargor(s)):



- (A) do all other acts and things which he may consider expedient for realising any Secured Asset; and
- (B) exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

(b) Raise finance

A Receiver may raise money (either unsecured or on the security of any Secured Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person financing the monies need enquire as to the propriety or purpose of the exercise of that power or to check the application of any monies so raised financed.

(c) Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargors (or any of them) relating in any way to any Secured Asset.

(d) Delegation

A Receiver may delegate his powers in accordance with clause 14 (Delegation).

(e) Employees

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Chargors (or any of them) or for itself as Receiver, may:

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and
- (ii) discharge any such persons appointed by such Chargor(s).

(f) Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the relevant Chargor(s) in relation to any Secured Asset as he considers expedient.

(g) Possession

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

(h) Receipts

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset.

(i) Sale of assets

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit.

(j) Deal with Secured Assets

A Receiver may, without restriction vary the terms of or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration, and the Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

(k) Security

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor(s) and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

(l) Incidental Matters

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the relevant Chargor(s) for all the purposes set out in this clause 13.

#### 13.4 Remuneration

The Seller may from time to time fix the remuneration of any Receiver appointed by it.

#### 14 Delegation

14.1 The Seller and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Seller and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Seller and Receiver (as appropriate) may think fit.

14.2 The Seller and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

## **15 Application of monies**

- 15.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.
- 15.2 All monies received by the Seller or any Receiver under this Deed and applied in discharge of the Secured Obligations shall be applied to the Secured Obligations in such order as the Seller may determine.
- 15.3 The Seller and any Receiver may place any money received, recovered or realised pursuant to this Deed in or at a suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

## **16 Protection of third parties**

- 16.1 No person (including a purchaser) dealing with the Seller or a Receiver or its or his agents has an obligation to enquire of the Seller, any Receiver or others:
- (a) whether the Secured Obligations have become payable;
  - (b) whether any power purported to be exercised has become exercisable;
  - (c) whether any Secured Obligations or other monies remain outstanding;
  - (d) how any monies paid to the Seller or to the Receiver shall be applied; or
  - (e) the status, propriety or validity of the acts of the Receiver or the Seller.
- 16.2 The receipt by the Seller or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Seller or any Receiver.
- 16.3 In clauses 16.1 and 16.2 **purchaser** includes any person acquiring, for monies or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

## **17 Subsequent security**

If the Seller receives notice of any other subsequent Security or other interest affecting all or any of the Secured Assets it may open a new account or accounts for the relevant Chargor(s) or the Purchaser in its books. If it does not do so then, unless it gives express written notice to the contrary to the relevant Chargor(s), as from the time of receipt of such notice by the Seller, all payments made by that/those Chargor(s) to the Seller shall not be treated as having been applied in reduction of the Secured Obligations.

## **18 Payments**

### **18.1 Currency of account**

Subject to clause 18.2, sterling is the currency of account and payment for any sum due from the Chargors (or any of them) under this Deed.

**18.2 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
  - (i) any reference in this Deed to, and any obligations arising under this Deed in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Seller; and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Seller (acting reasonably).
- (b) If a change in any currency of a country occurs, this Deed will, to the extent the Seller (acting reasonably) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

**18.3 No set-off by the Chargor**

- (a) The Seller may set off any matured obligation due from the Chargor under the Facility Documents (to the extent beneficially owned by the Seller) against any matured obligation owed by the Seller to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Seller may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (b) All payments to be made by the Chargors (or any of them) under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

**19 Miscellaneous****19.1 Certificates and determinations**

Any certification or determination by the Seller of a rate or amount under any Facility Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

**19.2 Partial invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**19.3 Remedies and waivers**

- (a) No failure to exercise, nor any delay in exercising, on the part of the Seller, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Seller shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other

right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

- (b) A waiver given or consent granted by the Seller under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

#### 19.4 Releases

Upon the expiry of the Security Period, the Seller shall, at the request and cost of the Chargors, take whatever action is necessary to release and reassign to each Chargor its rights arising under this Deed and the Secured Assets from the Security created by and under this Deed and return all documents or deeds of title delivered to the Seller under this Deed.

#### 20 Notices

##### 20.1 Communications in writing

- (a) 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.
- (b) The Parties agree that, in addition to the methods of communication specified in clause 20.1(a) above, any communication to be made under or in connection with this Deed may be made by electronic mail and, unless and until notified to the contrary, this is to be an accepted form of communication between the Parties.

##### 20.2 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 Purchaser and each of the Chargors,

Address: 2nd Floor, Cuthbert House, Newcastle Upon Tyne, United Kingdom  
NE1 2ET

Attention: Steve Brown, Legal Director

Email: sbrown@thehighstreetgroup.com

- (b) in the case of the Seller,

Address: Bank of London and The Middle East plc  
Cannon Place  
78 Cannon Street  
London  
EC4N 6HL  
United Kingdom

Attention: Head of Operations

Facsimile: +44(0)207 618 0033

Email: operations@blme.com

or any substitute address or fax number or department or officer as the Party may notify to the Seller (or the Seller may notify to the other Parties if a change is made by the Seller) by not less than 5 Business Days' notice.

### **20.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or 5 Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address;

and, if a particular department or officer is specified as part of its address details provided under clause 20.2, if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Seller will be effective only when actually received by the Seller and then only if it is expressly marked for the attention of the department or officer identified with the Seller's signature below (or any substitute department or officer as the Seller shall specify for this purpose).
- (c) Any communication or document which becomes effective, in accordance with clauses 20.3(a) and/or 20.3(b), after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

### **20.4 Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to clause 20.2 or changing its own address or fax number, the Seller shall notify the other Parties.

### **20.5 Electronic communication**

- (a) Any communication to be made between any two Parties under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two Parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than 5 Business Days' notice.
- (b) Any electronic communication made between those two Parties will be effective only when actually received in readable form and in the case of any electronic communication made by a Party to the Seller only if it is addressed in such a manner as the Seller shall specify for this purpose.

- (c) Any electronic communication which becomes effective, in accordance with clause 20.5(b), after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

## **20.6 English language**

- (a) Any notice given under or in connection with this Deed must be in English.
- (b) All other documents provided under or in connection with this Deed must be:
  - (i) in English; or
  - (ii) if not in English, and if so required by the Seller, 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.

## **21 Assignment**

The Seller may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it in accordance with the terms of the Facility Documents.

## **22 Counterparts**

This Deed or any Facility Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Facility Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

## **23 Governing law**

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

## **24 Enforcement and jurisdiction**

### **24.1 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (**Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This clause 24 is for the benefit of the Seller. As a result, the Seller shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Seller may take concurrent proceedings in any number of jurisdictions.

**24.2 Service of process**

- (a) The Civil Procedure Rules regarding service and deemed service will not apply to any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed, which shall instead be served in accordance with this clause 24.2.
- (b) Any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed may not be made by way of fax and must be made pursuant to clauses 20 (Notices) of this Deed (excluding, for this purpose, clause 20.5 (Electronic communication)).

**This Deed** has been signed on behalf of the Seller and executed as a deed by the Chargor and the Purchaser and is delivered on the date given at the beginning of this Deed.



SIGNATURES TO THE DEED

Purchaser

Executed as a deed by

**Olympius Developments Limited** acting by a  
director in the presence of

)

)

) Director

Signature of witness

Name B. CHEN

Address Mincoffs  
Solicitors  
Mincoffs Solicitors LLP  
5 Osborne Terrace  
Newcastle Upon Tyne  
NE2 1SQ  
Tel: 0191 281 6151 DX 62550 Jesmond

Chargors

Executed as a deed by

**All Saints Asset Management Plc**  
acting by a director in the presence of

)

)

) Director

Signature of witness

Name B. CHEN

Address Mincoffs  
Solicitors  
Mincoffs Solicitors LLP  
5 Osborne Terrace  
Newcastle Upon Tyne  
NE2 1SQ  
Tel: 0191 281 6151 DX 62550 Jesmond

Executed as a deed by  
**High Street Commercial Finance Limited**  
acting by a director in the presence of

) [Redacted]  
) [Redacted]  
) Director

[Redacted]  
Signature of witness

Name B. CHENG  
Address Mincoffs  
Mincoffs Solicitors LLP  
5 Osborne Terrace  
Newcastle Upon Tyne  
NE2 1SQ  
Tel: 0191 281 6151 DX 62550 Jesmond

Executed as a deed by  
**High Street Rooftop Holdings Limited**  
acting by a director in the presence of

) [Redacted]  
) [Redacted]  
) Director

[Redacted]  
Signature of witness

Name B. CHENG  
Address Mincoffs  
Mincoffs Solicitors LLP  
5 Osborne Terrace  
Newcastle Upon Tyne  
NE2 1SQ  
Tel: 0191 281 6151 DX 62550 Jesmond

**The Seller**

Signed by  
duly authorised for and on behalf of  
**Bank of London and The Middle East plc**

)  
)  
)