Companies House

MR01(ef)

Registration of a Charge

Company Name: **HC-ONE NO.1 LIMITED**
Company Number: **10257888**

Received for filing in Electronic Format on the: **24/12/2021**

XAK0XRZS

Details of Charge

Date of creation: **08/12/2021**

Charge code: **1025 7888 0023**

Persons entitled: **MOUNT STREET MORTGAGE SERVICING LIMITED (AS SECURITY AGENT)**

Brief description: **ALL AND WHOLE THE TENANT'S INTEREST IN THE LEASE BETWEEN THE CITY OF GLASGOW DISTRICT COUNCIL AND TAKARE DEVELOPMENTS LIMITED AS REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER GLA118381, AS MORE PARTICULARLY DESCRIBED IN THE INSTRUMENT.**

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: **JONATHAN HEANEY**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10257888

Charge code: 1025 7888 0023

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th December 2021 and created by HC-ONE NO.1 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th December 2021 .

Given at Companies House, Cardiff on 31st December 2021

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

For and on behalf of Burness Paull LLP, I certify that, save for information redacted pursuant to section 859G of the Companies Act 2006, this is a certified true copy of an original document

Burness Paull

HC-ONE NO.1 LIMITED
as Chargor

in favour of

MOUNT STREET MORTGAGE SERVICING LIMITED
as Security Agent

STANDARD SECURITY

TABLE OF CONTENTS

Clause		Page No.
1	DEFINITIONS AND INTERPRETATION	1
2	TRUST	3
3	UNDERTAKING TO PAY	3
4	CHARGE	3
5	STANDARD CONDITIONS	3
6	REDEMPTION OF SECURITY	4
7	ENFORCEMENT	4
8	CONTINUING SECURITY	4
9	NEGATIVE PLEDGE; DISPOSALS	5
10	FURTHER ASSURANCES, POWER OF ATTORNEY, ETC.	5
11	THE SECURITY AGENT'S RIGHTS	6
12	SECURITY AGENT PROVISIONS	6
13	APPLICATION OF MONEYS	7
14	PROTECTION OF THIRD PARTIES	7
15	CONSENTS, VARIATIONS, WAIVERS AND RIGHTS	8
16	PARTIAL INVALIDITY	8
17	PRESERVATION OF SECURITY	8
18	ASSIGNATION	8
19	NOTICES	9
20	GOVERNING LAW AND JURISDICTION	9
21	WARRANDICE AND CONSENT TO REGISTRATION	9

INSTRUMENT

by

(1) **HC-ONE NO.1 LIMITED**, a company incorporated under the Companies Acts registered number 10257888 and having its registered office at Southgate House, Archer Street, Darlington, England, DL3 6AH (the "**Chargor**")

in favour of

(2) **MOUNT STREET MORTGAGE SERVICING LIMITED**, a company incorporated under the Companies Acts with registered number 03411668 and having its registered office at 10 Queen Street Place, London, United Kingdom, EC4R 1AG (the "**Security Agent**")

together the "**Parties**" and each a "**Party**".

CONSIDERING THAT:

(A) the Security Agent has made a loan facility available under the Facility Agreement (as defined below);

(B) as security for the obligations of the Chargor under the facility referred to in paragraph (A) above the Chargor grants to the Security Agent this standard security.

NOW IT IS HEREBY AGREED AND DECLARED as follows:

1 **DEFINITIONS AND INTERPRETATION**

1.1 In this Instrument:

"**1970 Act**" means the Conveyancing and Feudal Reform (Scotland) Act 1970.

"**Debenture**" means the English law debenture entered into on or prior to the Utilisation Date between the Obligors and the Security Agent.

"**Delegate**" means a delegate or subdelegate appointed pursuant to Clause 11.1 (*The Security Agent's Rights*);

"**Facility Agreement**" means the £570,000,000 facility agreement dated 20 April 2021 and made between (amongst others) the Chargor, FC Skyfall HoldCo 3 Limited, FC Skyfall (UK) Financeco Limited, and the Security Agent;

"**Secured Liabilities**" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document;

"Security Interest" means any mortgage or sub-mortgage, standard security, fixed or floating charge or sub-charge, pledge, lien, assignment or assignation by way of security or subject to a proviso for redemption, encumbrance, hypothecation, retention of title, or other security interest whatsoever howsoever created or arising and its equivalent or analogue whatever called in any other jurisdiction, and any agreement or arrangement having substantially the same economic or financial effect as any of the foregoing (including any "hold back" or "flawed asset" arrangement).

"Security Subjects" means ALL and WHOLE the tenant's interest in the sub-lease between HC One Properties 1 Limited and the Chargor and dated at or around the date hereof and which lease is to be registered in the Land Register of Scotland over the whole of Wyndford Locks Care Home, Shuna Street, Glasgow being a sub-lease of the lease registered in the Land register of Scotland under Title Number GLA118831 TOGETHER WITH with (One) the whole buildings and erections thereon (Two) the fittings and fixtures therein and thereon (Three) the parts, privileges and pertinents thereof (Four) the whole rights common, mutual and exclusive effeiring thereto and (Five) the Chargor's whole right, title and interest, present and future, therein and thereto; and

"Standard Conditions" means the standard conditions as specified in Schedule 3 to the 1970 Act.

1.2 **Construction**

1.2.1 In this Instrument, capitalised terms not otherwise defined herein shall have the meanings given to them in the Facility Agreement.

1.2.2 The provisions of Clauses 1.2 (*Construction*) to 1.3 (*Scottish terms*) (inclusive) and 1.7 (*Currency symbols and definitions*) of the Facility Agreement apply to this Instrument as though they were set out in full in this Instrument except that references to the Facility Agreement will be construed as references to this Instrument.

1.2.3 The undertakings and other obligations of each the Chargor, the Security Agent or any other person under this Instrument shall at all times be read and construed as subject to the provisions of the Facility Agreement and the Debenture. In the event of any conflict between the terms of this Instrument and the terms of the Facility Agreement or the Debenture, the Facility Agreement or Debenture shall (to the extent permitted by the 1970 Act) prevail.

1.3 **Third party rights**

1.3.1 Unless expressly provided to the contrary in a Finance Document, this Instrument does not confer on any person who is not a Party any right to enforce or otherwise invoke this Instrument or any part of it under the Contract (Third Party Rights) (Scotland) Act 2017.

1.3.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Instrument at any time.

2 TRUST

2.1 The Security Agent shall hold the benefit of the Security and the benefit of all representations, warranties, covenants and undertakings under this Instrument on trust for the Secured Parties on and subject to the terms of this Instrument and the Finance Documents and the Chargor hereby acknowledges such trusts.

3 UNDERTAKING TO PAY

3.1 The Chargor undertakes to the Security Agent that it will duly and punctually pay or discharge all Secured Liabilities which may from time to time be or become due, owing, incurred or payable by the Chargor (whether as principal or surety and whether or not jointly with another) at the times when, and in the currency and in the manner in which, they are expressed to be due, owing, incurred or payable.

3.2 If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor shall pay interest on any such sum from the due date until the date of payment and such amount of interest shall be determined in accordance with the provisions of Clause 8.4 (*Default interest*) of the Facility Agreement.

4 CHARGE

The Chargor hereby in security of the Secured Liabilities grants a standard security in favour of the Security Agent over the Security Subjects.

5 STANDARD CONDITIONS

The Standard Conditions and any lawful variation thereof operative for the time being, shall apply and the Chargor agrees that the Standard Conditions shall be varied to the effect that:

5.1 the Chargor shall not create or agree to create any subsequent security over the Security Subjects or any part thereof except with the prior written consent of the Security Agent;

5.2 the insurance to be effected in terms of Standard Condition 5(a) shall provide cover to the extent of the reinstatement value of the Security Subjects and not their open market value; and

5.3 wherever and to the extent that the Standard Conditions are inconsistent with the terms of the Facility Agreement or the Debenture, the terms of the Facility Agreement and/or the Debenture shall prevail and that to the extent permitted by the Act the Standard Conditions shall be varied by the terms of the Facility Agreement.

6 REDEMPTION OF SECURITY

6.1 On the irrevocable and unconditional payment or discharge in full of all of the Secured Liabilities, the Security Agent, at the request and cost of the Chargor without recourse to any representation or warranty by any Secured Party or any of its nominees, shall release this Instrument (and do all such things and execute all documents as may reasonably be necessary to give effect to such discharge, and, promptly following such action deliver to the Chargor all title documents, certificates and other documents deposited with the Security Agent in connection with the Security Subjects).

6.2 If the Security Agent considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Chargor under this Instrument shall continue and such amount shall not be considered to have been irrevocably paid.

7 ENFORCEMENT

7.1 This Instrument shall become enforceable immediately if an Event of Default is continuing.

7.2 At any time when an Event of Default is continuing, the Security Agent may (but shall not be obliged to) enforce all or any part of this Instrument at such time, on such terms and in such manner as it thinks fit, and take possession of, hold or dispose of all or any part of the Security Subjects.

7.3 The Security Agent will not be liable by reason of entering into possession of the Security Subjects:

7.3.1 to account as heritable creditor in possession for any loss on realisation in respect of such Security Subjects; or

7.3.2 for any default or omission for which a heritable creditor in possession might be liable.

8 CONTINUING SECURITY

8.1 The security, covenants, undertakings and provisions contained in or granted pursuant to this Instrument shall remain in full force and effect as a continuing security to the Security Agent for the Secured Liabilities and shall not be satisfied, discharged or affected by any intermediate payment or settlement of account of all or part of the Secured Liabilities (whether any Secured Liabilities remain outstanding thereafter) or any other act, event, matter, or thing whatsoever, except the release or discharge by the Security Agent of this Instrument in accordance with Clause 6 (*Redemption of Security*).

8.2 This Instrument is in addition to and independent of, and shall neither be merged with nor prejudiced by nor in any way exclude or prejudice, any other Security Interest, guarantee, indemnity, right of recourse or any other right whatsoever which the Security Agent may now

or hereafter hold or have (or would apart from this Instrument hold or have) from the Chargor or any other person in respect of any of the Secured Liabilities.

8.3 This Instrument shall remain valid and enforceable notwithstanding any change in the name, composition or constitution of the Security Agent or the Chargor or any amalgamation or consolidation by the Security Agent or the Chargor with any other corporation.

9 NEGATIVE PLEDGE; DISPOSALS

9.1 The Chargor shall comply with Clauses 21.3 (*Negative pledge*) and 21.4 (*Disposals*) of the Facility Agreement, save that any reference to an "Obligor" therein shall be deemed to be a reference to the Chargor.

10 FURTHER ASSURANCES, POWER OF ATTORNEY, ETC.

10.1 The Chargor shall promptly upon request by the Security Agent (acting reasonably), at the cost of the Chargor do and execute or procure to be done and executed all acts, deeds, documents and things, in each case in form satisfactory to the Security Agent, and as the Security Agent may specify:

10.1.1 with a view to perfecting, improving, repairing, preserving or protecting this Instrument or the Security Interest created by this Instrument or its priority or otherwise with a view to giving full effect to the provisions of this Instrument (including executing and delivering such further or other standard securities or other documents, whether to the Security Agent or its nominees or to any other person, in relation all or any part of the Security Subjects as the Security Agent (acting reasonably) may specify whether generally or specifically); or

10.1.2 with a view to facilitating the realisation of all or any part of the Security Subjects or the exercise, or the proposed exercise, of any of the other rights of the Security Agent.

10.2 The Chargor irrevocably appoints the Security Agent to be its attorney (with full power to appoint substitutes and to sub-delegate, including power to authorise the person so appointed to make further appointments) on behalf of the Chargor and in its name or otherwise, and at such time and in such manner as the attorney may think fit, to execute, deliver, perfect and do any deed, document, act or thing which the Security Agent may, in its absolute discretion, consider appropriate in connection with this Instrument, all or any part of the Security Subjects or the exercise of any of the rights of the Security Agent, or which the Chargor is obliged to execute or do whether under this Instrument or otherwise (including the execution and delivery of standard securities, assignations, notices or directions in relation to all or any part of the Security Subjects) where, in each case, the Chargor has not promptly done so. Without prejudice to the generality of its right to appoint substitutes and to sub-delegate, any person appointed the substitute or sub-delegate of the Security Agent shall, in connection with the exercise of such power of attorney, be the agent of the Chargor.

10.3 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do or purport to do in the exercise or purported exercise of all or any of the rights referred to in this Clause 10 *(Further assurances, Power of Attorney, Etc.)*.

10.4 References in Clause 10.1 and Clause 10.2 to the Security Agent shall include references to any Delegate.

11 THE SECURITY AGENT'S RIGHTS

11.1 The Security Agent may at any time delegate to any person either generally or specifically, on such terms and conditions (including power to sub-delegate) and in such manner as the Security Agent thinks fit, any rights (including the power of attorney) from time to time exercisable by the Security Agent under or in connection with this Instrument. No such delegation shall preclude the subsequent exercise by the Security Agent of such right or any subsequent delegation or revocation thereof.

11.2 If the Chargor for any reason fails to observe or punctually to perform or to procure the observance or performance of any of the obligations expressed to be assumed by it to the Security Agent, whether under this Instrument or otherwise, the Security Agent shall have the right (but shall not be obliged), on behalf of or in the name of the Chargor or otherwise, to perform the obligation and to take any steps which the Security Agent may in its absolute discretion consider appropriate with a view to remedying, or mitigating the consequences of, the failure, but the exercise of this right, or the failure to exercise it, shall in no circumstances prejudice the Security Agent's rights under this Instrument or otherwise or constitute the Security Agent as a heritable creditor in possession.

12 SECURITY AGENT PROVISIONS

12.1 The Security Agent will exercise its powers, rights, duties and authority under this Instrument in the manner provided for in the Facility Agreement and, in so acting, it shall have the protections, immunities, limitations of liability, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Facility Agreement and the other Finance Documents.

12.2 The Security Agent shall owe no fiduciary duties to any party to this Instrument or any of their directors, employees, agents or affiliates.

12.3 Notwithstanding any other provisions of this Instrument, in acting under and in accordance with this Instrument the Security Agent is entitled to seek instructions from the relevant Finance Parties in accordance with the provisions of the Facility Agreement and at any time, and where it so acts or refrains from acting on the instructions of a Finance Party or Finance Parties entitled to give it instructions, the Security Agent shall not incur any liability to any person for so acting or refraining from acting.

13 APPLICATION OF MONEYS

13.1 Order of Application

Subject to Section 27 of the 1970 Act, all monies received by the Security Agent under or by virtue of this Instrument following enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied, subject to the claims of any creditors ranking in priority to or *pari passu* with the claims of the Security Agent under this Instrument, in in accordance with the terms of the Facility Agreement.

13.2 New account

If the Security Agent receives notice of any subsequent charge or other interest affecting all or any part of the Security Subjects or if an Insolvency Event occurs in relation to the Chargor:

13.2.1 the Security Agent may open a new account or accounts with or on behalf of the Chargor (whether or not it allows any existing account to continue) and, if it does not, it shall nevertheless be deemed to have done so at the time it received or was deemed to have received such notice or at the time that the Insolvency Event occurred; and

13.2.2 all payments made by the Chargor to the Security Agent after the Security Agent received or is deemed to have received such notice or after such Insolvency Event occurred shall be credited or deemed to have been credited to the new account or accounts, and in no circumstances whatsoever shall operate to reduce the Secured Liabilities as at the time the Security Agent received or was deemed to have received such notice or as at the time that such Insolvency Event occurred until such time as such amounts are sufficient to discharge the Secured Liabilities in full, at which part they shall be so applied.

14 PROTECTION OF THIRD PARTIES

14.1 No purchaser from, or other person dealing with, the Security Agent shall be concerned to enquire whether any event has happened upon which any of the rights which they have exercised or purported to exercise under or in connection with this Instrument has arisen or become exercisable, whether the Secured Liabilities remain outstanding, whether any event has happened to authorise the Security Agent to act, whether any consents, regulations, restrictions or directions relating to such rights have been obtained or complied with, or otherwise as to the propriety, regularity or validity of the exercise or purported exercise of any such right or as to the application of any monies borrowed or raised or other realisation proceeds.

14.2 The receipt of the Security Agent shall be an absolute and conclusive discharge to a purchaser or such person and shall relieve it of any obligation to see to the application of any monies paid to or by the direction of the Security Agent.

15 CONSENTS, VARIATIONS, WAIVERS AND RIGHTS

15.1 No consent or waiver in respect of any provision of this Instrument shall be effective unless and until it is agreed in writing duly executed by or on behalf of the Security Agent or, in the case of any variations and amendments only, by or on behalf of the Security Agent and the Chargor. Any consent or waiver by the Security Agent under this Instrument may be given subject to any conditions the Security Agent (acting reasonably) thinks fit and shall be effective only in the instance and for the purpose for which it is given.

15.2 No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Instrument shall operate as a waiver of any such right or remedy or constitute an election to affirm this Instrument. No election to affirm this Instrument on the part of the Security Agent 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 Instrument are cumulative and not exclusive of any rights or remedies provided by law.

16 PARTIAL INVALIDITY

16.1 If, at any time, any provision of this Instrument 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.

17 PRESERVATION OF SECURITY

17.1 Immediate recourse

The Chargor waives any right it may have of first requiring any Secured Party (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 or enforcing against the Chargor under this Instrument. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

17.2 Security held by Chargor

The Chargor shall not, without the prior consent of the Security Agent, hold or otherwise take the benefit of any Security from any other Obligor in respect of the Chargor's liability under this Instrument. The Chargor will hold any Security and the proceeds thereof held by it in breach of this provision on trust for the Security Agent.

18 ASSIGNATION

18.1 The Chargor shall not (whether by way of security or otherwise howsoever) be entitled to assign, transfer, declare a trust over, or otherwise deal with, all or any of its rights, interests

or obligations under this Instrument save, in each case, in accordance with the terms of the Finance Documents.

18.2 The Security Agent may assign or transfer all or any of its rights and obligations under this Standard Security in accordance with the Finance Documents to which it is a party.

19 NOTICES

19.1 Communication in The provisions of Clause 35 (*Notices*) of the Facility Agreement apply to this Instrument.

20 GOVERNING LAW AND JURISDICTION

20.1 Governing law

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

20.2 Jurisdiction

20.2.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Instrument (including a dispute relating to the existence, validity or termination of this Instrument or any non-contractual obligation arising out of or in connection with this Instrument) (a "**Dispute**").

20.2.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

20.2.3 This Clause 20.2 (Jurisdiction) is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

21 WARRANDICE AND CONSENT TO REGISTRATION

21.1 The Chargor hereby grants warrandice.

21.2 Any certification or determination by the Security Agent of a rate or amount under this Instrument is, in the absence of manifest error, conclusive evidence of the matters to which it relates. The Chargor hereby consents to the registration of this Instrument and of any such certification for preservation and execution. IN WITNESS WHEREOF these presents consisting of this and the preceding 9 pages are executed as follows:

SUBSCRIBED for and on behalf of the said HC-ONE NO.1 LIMITED

at SOUTHGATE HOUSE, DARLINGTON

on 09 NOVEMBER 2021

by

[redacted]

DAVID SMITH
Print Full name

Director

before this witness:

[redacted]

JOANNE HENTHORN
Print Full Name

Witness

Address: SOUTHGATE HOUSE

ARCHER STREET

DARLINGTON