



**Registration of a Charge**

Company name: **THE REDWOODS CARING FOUNDATION**

Company number: **SC125367**



X421RP16

Received for Electronic Filing: **26/02/2015**

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**Details of Charge**

Date of creation: **10/02/2015**

Charge code: **SC12 5367 0007**

Persons entitled: **CAF BANK LIMITED (01837656)**

Brief description: **SUBJECTS KNOWN AS AND FORMING MILLHILL HOUSE & 1.5 ACRES  
OF GROUND ADJOINING MILLHILL HOUSE, NEWBATTLE ROAD,  
NEWTONGRANGE, DALKEITH.**

**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: **AINSLEY REID**



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

Company number: 125367

Charge code: SC12 5367 0007

The Registrar of Companies for Scotland hereby certifies that a charge dated 10th February 2015 and created by THE REDWOODS CARING FOUNDATION was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th February 2015 .

Given at Companies House, Edinburgh on 27th February 2015

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

# CAF BANK

**STANDARD SECURITY**

by

**THE REDWOODS CARING FOUNDATION**

in favour of

**CAF BANK LIMITED**

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re: **Subjects at Redwoods House, Newbattle Road,  
Newtongrange, Dalkeith, EH22 4TJ**

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WE, **The Redwoods Caring Foundation** registered under the Companies Acts with registered number SC125367 being a recognised Scottish Charity (Charity Number SC013566) and having its registered office at Kirk Farm House, 6 Lasswade Road, Edinburgh, EH16 6RZ (hereinafter referred to as the "**Chargor**"), DO HEREBY in security of all sums (whether of principal or interest), costs, charges, claims, expenses and other liabilities which now are or which at any time or times hereafter may become due by us to the Lender (as defined in the Loan Agreement aftermentioned) under and in terms of a loan agreement between (1) the Chargor as Borrower and (2) CAF Bank Limited, registered under the Companies Acts with registered number 01837656 whose registered office is at 25 Kings Hill Avenue, Kings Hill, West Malling, Kent ME19 4JQ (the "**Lender**") dated 7 November 2014 (the "**Loan Agreement**" which expression shall include any agreement, deed or other supplemental thereto or in corroboration or in substitution thereof) (which sums are referred to as the "**secured obligations**") GRANT a Standard Security in favour of the Lender, for itself over ALL and WHOLE the subjects described in Schedule 1 annexed and signed as relative hereto; Together with the fittings and fixtures therein and thereto, and the whole rights, common, mutual, exclusive and otherwise offering thereto (the "**Security Subjects**" ) DECLARING THAT

1. The terms and conditions contained in Schedule 2 (*Terms and conditions*) to this Standard Security are held to be incorporated in and shall be deemed to form part of this Standard Security and shall be in addition to the obligations and others of the Association referred to in Paragraph 2 below.
2. The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended by the Redemption of Standard Securities (Scotland) Act 1971 and any lawful variation thereof operative for the time being (the "**Standard Conditions**") shall apply, save to the extent that they are inconsistent with any terms and conditions of and contained in Schedule 2 of this Standard Security (for the avoidance of doubt in the event of any inconsistency as aforementioned the terms and conditions of and contained in Schedule 2 of this Standard Security shall apply to the extent of that inconsistency and under declaration that the terms "debtor" and "creditor" in the

Standard Conditions shall refer to the Chargor and the Lender respectively).

And the Chargor grants warrandice but excepting therefrom any dwellinghouse or pro-indiviso share in a dwellinghouse formerly comprised in the Security Subjects and sold by the Chargor prior to the date of execution hereof (a) in terms of the Right to Buy provisions set out in Part III of the Housing (Scotland) Act 1987 as amended and re-enacted and (b) in terms of the right to purchase provisions contained in a shared ownership agreement, as defined by section 83 of the Housing (Scotland) Act 2001 in respect of the subjects described in the Schedule annexed: IN WITNESS WHEREOF these presents typewritten on this and the preceding page, together with the Schedules annexed, are executed as follows

They are subscribed for and on behalf of The Redwoods Caring Foundation

at Edinburgh

on 24<sup>th</sup> Jan 2015  
2014

by

by authority

of the Chargor's Board of Management in the presence of the following witness:

[Signature] (Signature of Witness)

Robert McMichael (Full Name of Witness)

22 Belmont St (Address of Witness)

Edinburgh

## **SCHEDULE 1**

### **Security Subjects**

ALL and WHOLE - the subjects known as and forming Millhill House & 1.5 acres of ground adjoining Millhill House, Newbattle Road, Newtongrange, Dalkeith being the subjects described in the Disposition by Mrs Ishbel North as Executor of Mrs Margaret Cairns in favour of The Redwoods Caring Foundation dated 7 May 1991 and recorded in the General Register of Sasines for the county of Midlothian on 16 May 1991



Authorised Signatory

## SCHEDULE 2

### Terms and conditions

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

Terms defined in the Loan Agreement shall, unless otherwise defined in these Conditions, have the same meaning when used in this Standard Security and in addition:

**"Additional Permitted Security"** means any standard security, mortgage, charge, pledge, lien, encumbrance or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect specified as "Additional Permitted Security" in the Key Commercial Terms Letter (as defined in the Loan Agreement).

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

**"Chargor"** means the party defined as the "Chargor" in the Standard Security.

**"Conditions"** means the Terms and Conditions in this Schedule 2 (*Terms and conditions*).

**"Costs and Expenses"** means costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any Taxes thereon.

**"Default"** means any event or circumstance specified in Condition 14 of the Loan Agreement which would (with the expiry of a grace period, the giving of

notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

**"Delegate"** means a delegate or sub-delegate appointed pursuant to Condition 12.2 (*Delegation*).

**"Dissolution"** includes, in relation to any person, any corporate action, legal proceedings or other procedure or step taken in relation to:

(A) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);

(B) any composition, compromise, assignment or arrangement with any of its creditors;

(C) the appointment of any liquidator, receiver, administrative receiver, compulsory manager or other similar officer in respect of it or any of its assets; or

(D) the enforcement of any security interest over any of its assets,

or any analogous procedure or step taken in any jurisdiction.

**"Event of Default"** means any event or circumstance specified as such in the Loan Agreement.

**"Finance Documents"** means:

- (A) the Loan Agreement;
- (B) the Security Documents; and
- (C) such other which may be designated as "Finance Documents" by the parties to the Loan Agreement from time to time.

**"Group"** means the Chargor and its Subsidiaries for the time being.

**"Lender"** means CAF Bank Limited, registered in England and Wales with company number 01837656.

**"Permitted Disposals"** has the meaning given to that term in the Loan Agreement.

**"Permitted Security"** means:

- (A) the Transaction Security;
- (B) any netting or set-off arrangement entered into by the Lender in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (C) any lien arising by operation of law and in the ordinary course of trading;
- (D) any security arising under any retention of title, hire purchase or condition of sale arrangement or arrangements having a similar effect in respect of goods supplied to the Chargor in the ordinary course of business;
- (E) security arising over bank accounts held with or documents of title deposited with the Lender under its general conditions of business;

(F) any security to which the Lender has given its prior written consent; and

(G) Additional Permitted Security.

**"Secured Property"** means all and whole the property or properties described in Schedule 1 or such of them as shall for the time being remain subject to this Standard Security including all buildings, erections and fixtures and fittings and fixed plant for the time being thereon and all improvements and additions thereto and all servitudes and other heritable rights appurtenant thereto subject to and with the benefit of all leases, underleases, tenancies, agreements for lease, rights, burdens and conditions affecting the same but otherwise free from security.

**"Secured Obligations"** means:

- (A) all present and future obligations and liabilities of the Chargor (whether actual or contingent and whether owed jointly or severally or in any other capacity whatever) which are, or are expressed to be, or may become, due, owing or payable to the Lender under or in connection with any of the Finance Documents or this Standard Security (as such documents may be varied, amended, waived, released, novated, supplemented, extended, restated or replaced from time to time, in each case, however fundamentally);
- (B) all costs, charges and expenses incurred by the Lender which are, or are expressed to be, or may become due, owing or payable by the Chargor under or in connection with any Finance Document, including this Standard Security; and



- (C) all legal and other costs, charges and expenses which the Lender may incur in enforcing or obtaining or attempting to enforce or obtain, payment of any obligation, liability or money referred to in (A) and (B).

**"Security"** means the security interests constituted or expressed to be constituted in favour of the Lender by or pursuant to this Standard Security.

**"Security Documents"** means:

- (A) this Standard Security, any other documents creating or evidencing the Transaction Security; and
- (B) such other documents as may be designated as "Security Documents" by the parties to the Loan Agreement from time to time.

**"Security Rights"** means all rights of the Lender or Delegate provided by or pursuant to this Standard Security or by law in respect of the subject matter of this Standard Security.

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

**"Transaction Security"** means the security created under the Security Documents.

## 1.2 Construction of Particular Term

Unless a contrary indication appears, any references in the Standard Security to:

- (A) **"assets"** includes properties, revenues and rights of every kind, present, future and contingent and whether tangible or intangible;

- (B) **"authorisation"** or **"consent"** shall be construed as including any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

- (C) a **"company"** includes any company, corporation or other body corporate, wherever and however incorporated or established;

- (D) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

- (E) **"law"** includes any present or future common or customary law, principles of equity and any constitution, decree, judgment, decision, legislation, statute, order, ordinance, regulation, bye-law or other legislative measure in any jurisdiction or any present or future official directive, regulation, guideline, request, rule, code of practice, treaty or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of a person to whom the directive, regulation, guideline, request, rule, code of practice, treaty or requirement is intended to apply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-

regulatory or other authority or organisation;

- (F) a **"person"** includes any person, firm, company, government, state or agency of a state, any local or municipal authority, trust or any Chargor or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (G) **"rights"** includes all rights, title, benefits, powers, privileges, interests, claims, authorities, discretions, remedies, liberties, servitudes and appurtenances (in each case, of every kind, present, future and contingent);
- (H) **"security"** includes any standard security, mortgage, charge, pledge, lien, security assignment, hypothecation or trust arrangement for the purpose of providing security and any other encumbrance or security interest of any kind having the effect of securing any obligation of any person (including the deposit of moneys or property with a person with the intention of affording such person a right of lien, set-off, combination or counter-claim) and any other agreement or any other type of arrangement having a similar effect (including any "flawed-asset" or "hold back" arrangement) and **"security interest"** shall be construed accordingly; and
- (I) **"this Standard Security"** is a reference to this Standard Security or other agreement or instrument as it may have been amended, supplemented, replaced or novated from time to time and includes a reference to any document which

amends, supplements, replaces, novates or is entered into, made or given pursuant to or in accordance with any of the terms of this Standard Security or, as the case may be, the relevant deed, agreement or instrument.

### 1.3 Interpretation of this Standard Security

- (A) Unless a contrary indication appears, a reference to any party or person shall be construed as including its and any subsequent successors in title, permitted transferees and permitted assignees, in each case in accordance with their respective interests.
- (B) Unless a contrary indication appears, a reference to a time of day shall be construed as referring to London time.
- (C) The terms "include", "includes" and "including" shall be construed without limitation.
- (D) References in this Standard Security to any Clause, Condition or Schedule shall be to a clause, condition or schedule contained in this Standard Security unless otherwise stated.
- (E) Clause, Condition and Schedule headings are for ease of reference only and shall be ignored in construing this Standard Security.
- (F) Unless a contrary indication appears, references to any provision of any law are to be construed as referring to that provision as it may have been, or may from time to time be, amended or re enacted, and as referring to all

by laws, instruments, orders, decrees, ordinances and regulations for the time being made under or deriving validity from that provision.

- (G) A Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been waived.

## 2. PAYMENT OF SECURED OBLIGATIONS

### 2.1 Undertaking to Pay

The Chargor shall pay and discharge the Secured Obligations in accordance with the Finance Documents or, if not arising under the Finance Documents, when due, or in the absence of any such express terms, on demand.

### 2.2 Interest on Demands

If the Chargor fails to pay any sum payable by it pursuant to this Standard Security on its due date, interest shall accrue on the overdue amount from the due date until the date of actual payment (both before and after judgment) calculated on a daily basis at the rate determined in accordance with Condition 17 of the Loan Agreement.

## 3. PERFECTION OF SECURITY

### 3.1 Perfection

- (A) Immediately upon execution of this Standard Security, the Chargor shall deposit with the Lender, as security for the Secured Obligations, all deeds and documents evidencing its title and interest in the Secured Property.

- (B) The Chargor, if so required by the Lender, shall notify the landlord of any leasehold property forming part of the Secured Property, and obtain as soon as possible, written confirmation (in a form satisfactory to the Lender), from each landlord that it consents to the security created or evidenced by this Standard Security.

## 4. REPRESENTATIONS AND WARRANTIES

The Chargor represents and warrants to the Lender as follows:

### 4.1 Ownership of Secured Property

The Chargor is the heritable proprietor of the Secured Property and has good and marketable title to the Secured Property.

### 4.2 No security

The Secured Property is free from security other than Permitted Security and the security created by this Standard Security.

### 4.3 Adverse title conditions

The Chargor has not received or acknowledged notice of any materially adverse claim by any person in respect of the Secured Property or any interest in it.

### 4.4 Adverse title conditions

There are no title conditions, agreements, reservations, conditions, interests or rights which materially adversely affect the Secured Property.

### 4.5 No breach of laws

There is no breach of Law which materially adversely affects the Secured Property.

#### 4.6 No overriding interests

Nothing has arisen, has been created or is subsisting which would be an overriding interest in the Secured Property.

#### 4.7 Avoidance of security

No security expressed to be created under this Standard Security is liable to avoided, or otherwise set aside, on the bankruptcy, insolvency, winding-up or similar process of the Chargor or otherwise.

#### 4.8 No prohibitions or breaches

There is no prohibition on the Chargor charging its rights in any Secured Property and the entry into this Standard Security by the Chargor does not and will not constitute a breach of any policy, agreement, document or on the Chargor or its assets.

### 5. GENERAL UNDERTAKINGS

#### 5.1 Negative Pledge

The Chargor shall not create or permit to subsist any security interest over all or any part of the Secured Property other than Permitted Security.

#### 5.2 No Disposal

The Chargor shall not enter into a single transaction or series of transactions (whether related or not) and whether voluntary or involuntary to sell, transfer, assign, lease, licence or otherwise dispose of any interest in the Secured Property other than Permitted Disposals.

#### 5.3 Preservation of Secured Property

- (A) The Chargor shall not take or permit any action which is reasonably likely to adversely affect the value or otherwise depreciate, impair or prejudice the Secured Property or the Security Rights or result in a Default.
- (B) The Chargor shall keep or cause to be kept all of the Secured Property in good and substantial repair and condition.
- (C) The Chargor shall punctually pay, as they become due, all debts and liabilities which by law would have priority over all or any part of the Secured Obligations.

#### 5.4 Compliance with laws

The Chargor shall comply in all respects with all laws to which it is subject where failure to do so would have a material adverse effect on its ability to meet its obligations under the Finance Documents or this Standard Security.

#### 5.5 Notice of breaches

The Chargor must notify the Lender of any breach of any of the provisions of this Standard Security promptly upon becoming aware of its occurrence.

#### 5.6 Insurance

- (A) The Chargor shall insure and keep insured the Secured Property in accordance with Condition 12.9 of the Loan Agreement.
- (B) The Chargor shall, if requested by the Lender, produce to the Lender the policy certificate or cover note relating

to any such insurance required by paragraph (A) above.

### **5.7 Insurance premiums**

The Chargor shall promptly pay all premiums in respect of each insurance policy and do all other things necessary to keep such policies in full force and effect.

## **6. PROPERTY UNDERTAKINGS**

### **6.1 Repair and maintenance**

The Chargor shall repair and keep in good and substantial repair and condition the Secured Property.

### **6.2 No alterations**

(A) The Chargor shall not, without the prior written consent of the Lender:

- (i) pull down or remove the whole or any part of any building forming part of the Secured Property nor permit the same to occur (except for non-structural alterations or other minor alterations); or
- (ii) make or permit to be made any material alterations to the Secured Property or sever or remove or permit to be severed or removed any of its fixtures or fittings,

provided that the Chargor shall not be required to obtain the prior written consent of the Lender for the carrying out of any works required to maintain and keep the Secured Property in good repair, working order and condition in all material respects - (including all necessary and proper repairs, renewals, replacements and improvements).

(B) The Chargor shall promptly give notice to the Lender if the premises or any material fixtures or fittings forming part of the Secured Property are destroyed or damaged.

(C) The Chargor will not require the Lender's prior written consent to undertake works on the Secured Property where such works are required in order to comply with the Chargor's responsibilities and obligations as a registered social landlord, in terms of applicable legislation, guidance issued by the Scottish Housing Regulator (including the requirement to meet the Scottish Housing Quality Standard by the stipulated deadline) or any tenancy agreement) provided the form of tenancy agreement has been previously approved by the Lender.

### **6.3 Leases and licences affecting the property**

The Chargor shall not, without the prior written consent of the Lender grant, or agree to grant (whether in exercise or independently of any statutory power) any lease or confer upon any person any contractual licence or right to occupy the Secured Property other than:

- (i) warden occupancy rights in respects of sheltered housing;
- (ii) Scottish secure tenancies (as defined in section 11 of the Housing (Scotland) Act 2001) or short Scottish secure tenancies (in terms of section 34 of the foregoing Act);

- (iii) in accordance with the Chargor's then current leasing, allocations and other applicable housing management policies and that new leases are granted using a form of tenancy agreement previously agreed by the Lender; and

- (iv) as otherwise permitted in the Loan Agreement.

#### **6.4 No restrictive obligations**

The Chargor shall not, without the prior written consent of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of the Secured Property or create or permit to arise any overriding interest, servitude or right whatsoever in or over the whole or any part of the Secured Property.

#### **6.5 Environmental and planning laws**

The Chargor shall comply with and observe and perform the following in relation to or affecting the Secured Property:

- (A) the requirements of all applicable planning and environmental laws;
- (B) any conditions attaching to any planning permissions; and
- (C) any notices or other orders made by any planning, environmental or other public body.

#### **6.6 Compliance with and enforcement of title conditions**

The Chargor shall:

- (A) observe and perform in all material respects all title conditions, stipulations

and conditions to which the Secured Property, or the use of it, is or may be subject; and

- (B) diligently enforce in all material respects all title conditions, stipulations and conditions benefiting the Secured Property and shall not (and shall not agree to) waive, release or vary any of the same.

#### **6.7 Notices or claims relating to the Secured Property**

The Chargor shall:

- (A) give particulars to the Lender of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a "Notice") that specifically applies to the Secured Property, or to the locality in which it is situated, within fifteen days upon any of its directors or senior managers becoming aware of the relevant Notice; and
- (B) (if the Lender so requires) take all reasonable and necessary steps to comply with any Notice, and make, or join with the Lender in making, such objections or representations in respect of any such Notice as the Lender may desire.

#### **6.8 Inspection**

The Chargor shall permit the Lender and any Delegate to enter on and inspect the Secured Property on reasonable prior notice.

## 6.9 Secured Property undertakings: default

If the Chargor fails to comply with any of the undertakings contained in this Condition 6 (*Secured Property Undertakings*), the Lender shall be entitled (with such agents, contractors and others as it sees fit), to do such things as may, in the reasonable opinion of the Lender, be required to remedy such failure and all moneys spent by the Lender in doing so shall be reimbursed by the Chargor on demand with interest from the date of payment by the Lender until reimbursement at a rate specified and calculated in accordance with Condition 2.2 (*Interest on Demands*).

## 7. FURTHER ASSURANCE

### 7.1 General

The Chargor shall (at its own cost), promptly take all action necessary or desirable to:

- (A) ensure that the Security is and remains valid, legally binding and enforceable;
- (B) perfect, preserve or protect the Security and its priority;
- (C) confer on the Lender security interests over any of its property and assets located in any jurisdiction outside Scotland equivalent or similar to the Security; and/or
- (D) facilitate the exercise of any and all of the Security Rights and the realisation of the Secured Property,

including the execution of all such mortgages, charges, assignments and other

documents, the giving of all such notices, orders, instructions and directions and the making of all such registrations and filings as the Lender or any Delegate may consider necessary from time to time.

## 8. POWER OF ATTORNEY

### 8.1 Appointment

The Chargor appoints as its attorney, irrevocably and by way of security for the performance of its obligations under this Standard Security, the Lender and any person nominated in writing by the Lender, severally (with full powers of substitution and delegation), on its behalf and in its name or otherwise and as its act and deed, at such time and in such manner as the attorney may think fit:

- (A) to take any action which it is obliged to take under this Standard Security but has not taken; and
- (B) to take any action required to enable the Lender to exercise all or any of the Security Rights,

and the taking of action by the attorney or attorneys shall (as between the attorney and any third party) be conclusive evidence to any third party of its right to take such action.

### 8.2 Ratification

The Chargor undertakes to ratify and confirm everything that any attorney does or purports to do in the exercise or purported exercise of the power of attorney in Condition 8.1 (*Appointment*).

## 9. EFFECTIVENESS OF SECURITY

### 9.1 Continuing Security

(A) The Security shall remain in full force and effect as continuing security for the Secured Obligations unless and until discharged by the Lender in accordance with Condition 10 (*Release of Security*).

(B) No part of the Security will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

### 9.2 Additional Security

The Security and the Security Rights shall be cumulative, in addition to and independent of every other security which the Lender may at any time hold for the Secured Obligations or any other rights provided by law. No prior security held by the Lender (whether in its capacity as Lender or otherwise) over the whole or any part of the Secured Property shall merge into the Security.

### 9.3 No Prejudice

Without prejudice to any other provision of this Standard Security, none of the Security, the Security Rights nor the liability of the Chargor or any other person for the Secured Obligations shall be prejudiced, reduced, released or otherwise adversely affected by any act, omission, fact or any other thing which but for this Condition 9.3 would or may do so, including:

(A) any time, waiver or consent granted, or any other indulgence or concession

granted to the Chargor or any other person;

(B) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor;

(C) the taking, holding, variation, compromise, exchange, renewal, realisation or release by any person of any rights under or in connection with any security, guarantee, indemnity or any other document including any arrangement or compromise entered into by the Lender with the Chargor or any other person;

(D) the refusal or failure to take up, hold, perfect or enforce by any person any rights under or in connection with any security, guarantee, indemnity or other document (including, any failure to comply with any formality or other requirement or any failure to realise the full value of any security);

(E) the existence of any claim, set-off or other right which the Chargor may have at any time against the Lender or any other person;

(F) the making or absence of any demand for payment or discharge of any Secured Obligations;

(G) any amalgamation, merger or reconstruction that may be effected by the Lender with any other person, including any reconstruction by the Lender involving the formation of a new company and the transfer of all or any of its assets to that company, or any sale or transfer of the whole or any



part of the undertaking and assets of the Lender to any other person;

- (H) any incapacity, lack of power, authority or legal personality of or Dissolution or change in the members or status of the Chargor or any other person;
- (I) any variation, amendment, waiver, release, novation, supplement, extension or restatement or replacement of any Finance Document, or any other security, guarantee, indemnity or other document, in each case however fundamental and of whatsoever nature;
- (J) any change in the identity of the Lender; or
- (K) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other security, guarantee, indemnity or other document.

#### 9.4 Details of Secured Property

The fact that no or incomplete details of any Secured Property are inserted in the Schedules to this Standard Security shall not affect the validity or enforceability of the Security.

#### 9.5 Immediate recourse

The Chargor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Standard Security. The waiver applies irrespective of any law or any provision of this Standard Security to the contrary.

#### 9.6 Deferral of Rights

- (A) Until such time as the Security has been released in accordance with Condition 10 (Release of Security), the Chargor will not exercise any rights which it may have:
  - (i) to claim, rank, prove or vote as a creditor of any other party to any of the Finance Documents or any member of the Group;
  - (ii) to receive, claim or have the benefit of any payment, guarantee, indemnity, contribution or security from or on account of any such party (in whole or in part or whether by way of subrogation or otherwise); or
  - (iii) of set-off, combination or counter-claim or in relation to any "flawed-asset" or "hold back" arrangement as against any such party.
- (B) The Chargor shall hold on trust for, and immediately pay or transfer to, the Lender an amount equal to any payment or benefit received by it contrary to (A) above.
- (C) If the Chargor exercises any right of set-off, combination or counter-claim or any rights in relation to any "flawed asset" or "hold back arrangement" contrary to (A)(iii) above, it will immediately pay or transfer to the Lender an amount equal to the amount set-off, combined or counterclaimed.
- (D) The Lender shall apply all amounts received pursuant to (b) and (c) above

in accordance with Condition 13  
(*Application of Moneys*).

### 9.7 New Account

At any time after:

- (A) the Lender (acting in its capacity as lender or otherwise) receives or is deemed to have received notice of any subsequent security interest affecting all or any part of the Secured Property or any assignment or transfer of the Secured Property which is prohibited by the terms of this Standard Security or the Loan Agreement; or
- (B) the commencement of the Dissolution of the Chargor,

all payments by or on behalf of the Chargor to the Lender (whether in its capacity as lender or otherwise) shall be treated as having been credited to a new account of the Chargor and not, upon the occurrence of any of the circumstances specified in (A) or (B) above, as having been applied in reduction of the Secured Obligations.

### 9.8 Further Advances

The Security is intended to secure further advances.

## 10. RELEASE OF SECURITY

### 10.1 Release of Secured Property

If the Lender is satisfied that:

- (A) all Secured Obligations have been unconditionally and irrevocably paid or discharged in full and that the Lender does not have any further liability or obligation under any Finance Document;

- (B) security or a guarantee for the Secured Obligations, in either case, acceptable to the Lender, has been provided in substitution for this Standard Security; or

- (C) the Chargor is unconditionally entitled pursuant to any provision of the Finance Document to have any Secured Property released from the Security,

then, subject to Condition 10.2 (*Reinstatement*) and Condition 10.3 (*Retention of Secured Property*), the Lender shall, at the request and cost of the Chargor, take all necessary action to release the Secured Property (or, in the case of (C) above, the relevant Secured Property), from the Security.

### 10.2 Reinstatement

If the Lender reasonably considers that any payment to, or security or guarantee provided to it is capable of being avoided, reduced or invalidated by virtue of applicable law, notwithstanding any re-assignment or discharge of the Secured Property, the liability of the Chargor under this Standard Security and the Security shall continue as if such amounts had not been paid or as if any such security or guarantee had not been provided.

### 10.3 Retention of Secured Property

- (A) If the Lender reasonably considers that any payment, security or guarantee provided or to be provided to it (a "**Relevant Transaction**") by any person is capable of being avoided, reduced or invalidated by virtue of applicable law, the Lender shall be entitled to retain and shall not be

obliged to release any of the relevant Secured Property until the expiry of the Retention Period in relation to that Relevant Transaction.

(B) In the event of the Dissolution of such person at any time before the expiry of that Retention Period, the Lender:

(i) may continue to retain the relevant Secured Property and the Security for a further period expiring on the later of the expiry of the Retention Period and the date on which all proceedings relating to such Dissolution are determined; and

(ii) shall not be obliged during such period to release any of the relevant Secured Property from the Security.

(C) For the purpose of this Condition 10.3, "Retention Period" means, in relation to any Relevant Transaction, the period which commences on the date when that Relevant Transaction was made or given, and which ends on the date falling one month after the expiration of the maximum period within which that Relevant Transaction can be avoided, reduced or invalidated by virtue of any applicable law.

## **11. ENFORCEMENT**

### **11.1 Timing of Enforcement**

The Security shall be enforceable immediately upon and at any time after the occurrence of an Event of Default:

### **11.2 Enforcement Rights**

Upon or after the Security becoming enforceable the Lender may, without notice to the Chargor or prior authorisation from any court enforce all or any part of that Security and exercise all or any of the powers, authorities and discretions conferred by the Finance Documents including this Standard Security or otherwise by law on mortgages, chargees and receivers (whether or not it has appointed a receiver), in each case at the times, in the manner and on the terms it thinks fit.

### **11.3 Set-off**

Upon or after the Security becoming enforceable, the Lender may (but shall not be obliged to) set off against any obligation of the Chargor due and payable by it to or for the account of the Lender under this Standard Security, any moneys held by the Lender for the account of the Chargor at any office of the Lender anywhere and in any currency, whether or not matured. If any such obligation is unliquidated or unascertained, the Lender may set off in an amount estimated by it in good faith to be amount of that obligation. The Lender may effect such currency exchanges as are appropriate to implement the set-off and any usual charges and all applicable Taxes in relation to such currency exchanges shall be subject to the indemnity in Condition 0.2 (*Enforcement Costs*).

## **12. DISCRETION AND DELEGATION**

### **12.1 Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Standard Security by

the Lender may, subject to the terms and conditions of the Loan Agreement, be exercised or made from time to time in its absolute and unfettered discretion without any obligation to give reasons.

### 12.2 Delegation

- (A) The Lender may at any time delegate all or any of the rights conferred on it by this Standard Security.
- (B) The delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions as the Lender may think fit.
- (C) Such delegation shall not preclude either the subsequent exercise of such power, authority or discretion by the Lender itself or any subsequent delegation or revocation permitted disposals
- (D) Under no circumstances shall the Lender nor any Delegate nor any officer, agent or employee of any of them be liable to the Chargor or any other person as a result of or in connection with any act, default, omission or misconduct on the part of any Delegate.

### 13. APPLICATION OF MONEYS

All moneys arising from the exercise of the powers of enforcement under this Standard Security shall (except as may be otherwise required by applicable law) be held by the Lender and (subject to Condition 14 (*Suspense Account*)) applied in the following order of priority (but without prejudice to the right of the Lender to recover any shortfall from the Chargor):

- (A) in or towards payment of all Costs and Expenses of and incidental to the appointment of any receiver and the exercise of any of his rights including his remuneration and all outgoings paid by him;
- (B) in or towards the payment or discharge of such of the Secured Obligations in such order as the Lender in its absolute discretion may from time to time determine; and
- (C) after all of the Secured Property have been released from the Security in accordance with paragraph (A) of Condition 10 (*Release of Security*), in payment of any surplus to the Chargor or other person entitled to it.

### 14. SUSPENSE ACCOUNT

The Lender may place and retain on a suspense account, for as long as it considers fit, any moneys received, recovered or realised under or in connection with this Standard Security to the extent of the Secured Obligations, without any obligation on the part of the Lender to apply such moneys in or towards the discharge of such Secured Obligations.

### 15. PROTECTION OF THIRD PARTIES

#### 15.1 Consideration

The receipt of the Lender or any Delegate shall be conclusive discharge to a purchaser and any sale or disposal of any of the Secured Property or any acquisition by the Lender or any Delegate shall be for such consideration, and made in such manner and on such terms as it thinks fit.

### 15.2 Protection of Purchasers

No purchaser or other person dealing with the Lender, or any Delegate shall be bound to inquire whether the right of the Lender or such Delegate to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Lender or such Delegate in such dealings.

### 16. NO LIABILITY

Neither the Lender nor any Delegate nor any officer, agent or employee of any of them will in any circumstances (whether by reason of taking possession of the Secured Property or for any other reason whatsoever):

- (A) be liable to account to the Chargor or any other person for anything; or
- (B) be liable to the Chargor or any other person as a result of or in connection with:
  - (i) taking any action permitted by this Standard Security;
  - (ii) any neglect, default or omission in relation to the Secured Property; or
  - (iii) taking possession of or realising all or any part of the Secured Property,
 except in each case, to the extent directly caused by fraud or wilful default or gross negligence on its part.

### 17. COSTS AND EXPENSES

#### 17.1 Transaction and administration expenses

The Chargor shall indemnify the Lender on demand against all Costs and Expenses expended, paid, incurred or debited on account by the Lender in connection with:

- (A) the negotiation, preparation, execution, stamping, filing, registration and perfection of this Standard Security and any other document referred to in this Standard Security;
- (B) any waiver, consent or authorisation sought by the Chargor in relation to this Standard Security and any other document referred to in this Standard Security;
- (C) any variation, amendment, extension or modification of, or supplement to, this Standard Security and any other document referred to in this Standard Security; and
- (D) the taking, holding, administration or release of any Security or the exercise of any Security Rights.

#### 17.2 Enforcement costs

- (A) The Chargor shall indemnify the Lender and every Delegate or other person appointed by the Lender under this Standard Security (each an **"Indemnified Party"**) on demand against all Costs and Expenses expended, paid, incurred or debited on account by any Indemnified Party in connection with:

- (i) enforcing, protecting, preserving or realising, or attempting to enforce, protect, preserve or realise, the rights vested in any Indemnified Party by this Standard Security and any other document referred to in this Standard Security or by law; and
- (ii) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it under the Finance Documents and this Standard Security.

- (B) The Lender may indemnify itself out of the Secured Property in respect of, and pay and retain all sums necessary to give effect to the indemnity in this Condition 17.2.

## **18. STAMP TAXES**

The Chargor shall pay promptly, and in any event before any penalty becomes payable, all stamp, registration, documentary and similar Taxes, if any, payable in connection with the entry into, performance, enforcement or admissibility in evidence of this Standard Security and any other document referred to in this Standard Security, and shall indemnify the Lender on demand against any Costs and Expenses with respect to, or resulting from any delay in paying or omission to pay, any such Tax.

## **19. PAYMENTS FREE OF DEDUCTION**

All payments to be made to the Lender under this Standard Security shall be made free and clear of and without deduction for or on account of Tax unless the Chargor is required to make such payment subject to the deduction or withholding of tax, in

which case the sum payable by the Chargor shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to Tax such deduction or withholding has been made, receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

## **20. CERTIFICATES AND DETERMINATIONS**

For all purposes, including any legal proceedings, a determination by the Lender or a copy of a certificate signed by an officer of the Lender, of the amount of any indebtedness comprised in the Secured Obligations or the amount standing to the credit of any Account for the time being or at any time shall, in the absence of manifest error, be conclusive evidence against the Chargor as to such amount.

## **21. ASSIGNATION**

### **21.1 Assignment by the Lender**

The Lender may at any time, without the consent of the Chargor, assign or transfer any of its rights and obligations under this Standard Security to any person to whom its rights and obligations under the Loan Agreement may be assigned or transferred.

### **21.2 Assignment by the Chargor**

The Chargor shall not assign or transfer, or attempt to assign or transfer, any of its rights or obligations under this Standard Security.

## 22. AMENDMENTS

This Standard Security may not be amended, modified or waived in any respect, without the prior written consent of the Lender given with express reference to this Condition 22.

## 23. NOTICES

### 23.1 Communications in writing

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

### 23.2 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 to this Standard Security for any communication or document to be made or delivered under or in connection with this Standard Security is that identified with its signature below or any substitute address, fax number or department or officer as the party may notify to the other parties by not less than five Business Days' notice.

### 23.3 Delivery

(A) Any communication or document made or delivered by one person to another under or in connection with this Standard Security 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 five 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 Condition 23.2 (Addresses), if addressed to that department or officer.

(B) Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

## 24. REMEDIES AND WAIVERS

No delay or omission on the part of the Lender in exercising any right provided by law or under this Standard Security shall impair, affect or operate as a waiver of that or any other right. The single or partial exercise by the Lender of any right shall not unless otherwise expressly stated preclude or prejudice any other or further exercise of that, or the exercise of any other, right. The rights of the Lender under this Standard Security are in addition to and do not affect any other rights available to it by law.

## 25. PARTIAL INVALIDITY

25.1 If at any time any provision of this Standard Security is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither:

- (A) the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction or any other jurisdiction; nor
- (B) the legality, validity or enforceability of such provision under the law of any other jurisdiction,

will in any way be affected or impaired.

25.2 The parties shall enter into good faith negotiations, but without any liability whatsoever in the event of no agreement being reached, to replace any illegal, invalid or unenforceable provision with a view to obtaining the same commercial effect as this Standard Security would have had if such provision had been legal, valid and enforceable.

## 26. TRUSTS

If any trust intended to arise pursuant to any provision of this Standard Security fails or for any reason (including the laws of any jurisdiction in which any assets, moneys, payments or distributions may be situated) cannot be given effect to, the Chargor will pay to the Lender for application in accordance with Condition 13 (*Application of Moneys*) an amount equal to the amount (or the value of the relevant assets) intended to be so held on trust for the Lender.

## 27. GOVERNING LAW

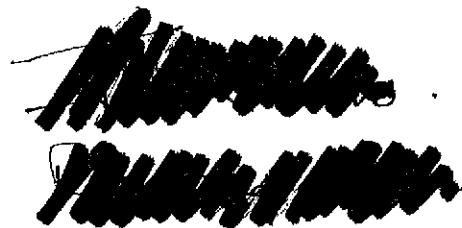
This Standard Security is governed by and is to be construed in accordance with Scots law. Any matter, claim or dispute arising out of or in connection with this Standard Security, whether contractual or non-contractual, is to be governed by and determined in accordance with Scots law.



## 28. JURISDICTION

28.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Standard Security (including a dispute regarding the existence, validity or termination of this Standard Security) (a "Dispute").

28.2 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.



Authorised Signatory