



Registration of a Charge

Company name: **THE GIRLS' DAY SCHOOL TRUST**

Company number: **00006400**



X9KHMVYX

Received for Electronic Filing: **23/12/2020**

Details of Charge

Date of creation: **22/12/2020**

Charge code: **0000 6400 0016**

Persons entitled: **NATIONAL WESTMINSTER BANK PLC**

Brief description: **THE PROPERTY KNOWN AS 1-3 MARESFIELD GARDENS, LONDON, NW3 5SS, REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBER NGL903927.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

ADDLESHAW GODDARD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6400

Charge code: 0000 6400 0016

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd December 2020 and created by THE GIRLS' DAY SCHOOL TRUST was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd December 2020 .

Given at Companies House, Cardiff on 29th December 2020

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 December **2020**

THE GIRLS' DAY SCHOOL TRUST
as Chargor

NATIONAL WESTMINSTER BANK PLC
as Lender

**CHARGE BY WAY OF LEGAL
MORTGAGE**

Contents

	Clause	Page
1	Definitions and interpretation.....	1
2	Covenant to pay	4
3	Charging provisions.....	4
4	Effectiveness of security.....	5
5	Negative pledge.....	7
6	Restrictions on disposals.....	8
7	Further assurance	8
8	Land Registry	8
9	Notices of assignments and charges	9
10	Security power of attorney.....	10
11	Enforcement of security.....	10
12	Receiver.....	12
13	Delegation.....	16
14	Application of monies	16
15	Expenses and indemnity	16
16	Remedies and waivers	17
17	Protection of third parties.....	17
18	Settlements conditional	17
19	Subsequent Security	17
20	Set-off	18
21	Notices.....	18
22	Invalidity.....	18
23	Assignment.....	18
24	Releases.....	18
25	Currency clauses.....	18
26	Certificates and determinations.....	19
27	Counterparts.....	19
28	Governing law.....	19
29	Enforcement	19
Schedule 1		
	Property	20
Schedule 2		
	Relevant Agreements	21
	Part 1 - Form of notice of assignment	21
	Part 2 - Form of acknowledgement	23
Schedule 3		
	Relevant Policies	24
	Part 1 - Form of notice of assignment	24
	Part 2 - Form of acknowledgement	26

This Deed is made on

22 December

2020

Between

- (1) **The Girls' Day School Trust** a registered charity with Charity Commission registration number 306983 and company number 00006400 whose registered office is at 10 Bressenden Place, London SW1E 5DH (**Chargor**); and
- (2) **National Westminster Bank Plc** (registered in England and Wales with company number 00929027) (**Lender**).

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Deed:

Charged Property means the rights and assets of the Chargor which from time to time are, or are expressed to be, the subject of any Security created (or expressed to be created) by, under or supplemental to, this Deed in favour of the Lender

Event of Default means any event or circumstance specified as an event of default under any Finance Document, including any event or circumstance specified as an "Event of Default" under the Facility Agreement

Facility Agreement means the facility agreement between the Chargor and the Lender dated on or around the date of this Deed

Finance Document means the Facility Agreement, this Deed, any document governing or evidencing the terms of the Secured Liabilities and any other document designated as a Finance Document by the Lender and the Chargor

Fixtures means, in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Secured Property

Insurance Policies means all contracts or policies of insurance present and future taken out by the Chargor or on its behalf in which the Chargor has an interest

LPA means the Law of Property Act 1925

Party means a party to this Deed

Premises means any building on or forming part of a Secured property

Property means the property described in Schedule 1 (Property)

Receiver means any receiver, receiver and manager or administrative receiver of the Chargor or the whole or any part of any of the Charged Property and includes any appointee made under a joint or several appointment

Related Rights means, in respect of any asset:

- (a) all monies, amounts and proceeds paid or payable in respect of (or derived from) that asset (whether as income, capital or otherwise)
- (b) all rights in respect of, derived from or incidental to that asset (including all rights to make any demand or claim)
- (c) all powers, remedies, causes of action, guarantees, indemnities, security or other collateral in respect of, or derived from, that asset (or any of them)
- (d) the benefit of any judgment or order to pay a sum of money and all rights of enforcement in respect of that asset and
- (e) the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that asset or any moneys paid or payable in respect of those covenants

Relevant Agreement means:

- (a) any agreement, contract, deed, lease, licence, undertaking, guarantee, covenant, warranty, representation and other document entered into by, given to or otherwise benefiting the Chargor in respect of a Secured Property
- (b) any trade or building contracts or related documents to which a contractor is party, consultant appointments, specifications, required consents, each bond and guarantee entered into in favour of the Chargor to secure payments and or performance under the development documents and any other development document howsoever described
- (c) any collateral warranty given by any contractor or consultant (in each case howsoever described) and any equivalent rights and warranties conferred or to be conferred by any contractor or consultant pursuant to the Contracts (Rights of Third Parties) Act 1999, in each case in respect of each development document to which it is a party, in favour of the Chargor or the Lender and
- (d) each other contract or agreement designated as a Relevant Agreement by the Lender and the Chargor in writing

Relevant Policies means all Insurance Policies (other than policies in respect of third party liability) together with all monies payable in respect of those policies

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 the Obligors to the Lender whatsoever

Secured Property means, at any time, the Property and all other freehold, leasehold or commonhold property which is subject to (or expressed to be subject to) any Security created (or expressed to be created) by, under or supplemental to, this Deed

Security Period means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that the Secured Liabilities have been irrevocably and unconditionally satisfied and discharged in full and all facilities made available by the Lender to the Chargor or any other Obligor have been cancelled and the Lender is under no further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor or any other Obligor

1.2 Interpretation

- (a) Unless otherwise defined in this Deed, a term defined in the Facility 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 **disposal** includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly.
- (c) Clause 1.2 (Construction) and clause 1.3 (Currency symbols and definitions) of the Facility Agreement are incorporated in this Deed as if set out here in full but so that each reference in that clause to this **Agreement** or a Finance Document shall be read as a reference to this Deed.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Finance 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 Finance Document issued or entered into under or in connection with it.
- (b) 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 Deed at any time.
- (c) Any Receiver or Delegate may enforce and enjoy the benefit of any clause which expressly confers rights on it, subject to clause 1.3(b) and the provisions of the Contracts (Rights of Third Parties) Act 1999.

1.4 Administration

- (a) Any reference in this Deed, or any other Finance Document entered into, under or in connection with it, to the making of an administration order shall be treated as including a reference to the appointment of an administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of the Chargor's assets) or 22 (by the Chargor or the members of the Council of the Chargor) of Schedule B1 to the Insolvency Act 1986 or any steps taken toward such order or appointment.
- (b) Any reference in this Deed or any other Finance Document entered into, under or in connection with it, to making an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an administrator under paragraph 14 or 22 of that Schedule, or giving notice under paragraphs 15 or 26 of that Schedule of intention to appoint an administrator or any steps taken towards such application or notice.

1.5 Incorporated terms

The terms of the Finance Documents and of any other agreement or instrument relating to the Finance Documents and the Secured Liabilities are incorporated into this Deed and each other Finance Document to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any freehold or leasehold property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.6 **Property**

A reference in this Deed to a mortgage, assignment or charge of any Secured Property includes:

- (a) all Premises on or forming part of that Secured Property;
- (b) all Fixtures on or forming part of that Secured Property; and
- (c) all Related Rights relating to that Secured Property.

1.7 **Present and future assets**

- (a) A reference in this **Deed** to any **Secured Property, Charged Property** or other asset includes, unless the contrary intention appears, present and future **Secured Property, Charged Property** and other assets.
- (b) The absence of or incomplete details of any Charged Property in any Schedule shall not affect the validity or enforceability of any Security under this Deed.

1.8 **Fixed security**

Clauses 3.2 (First legal mortgages) to 3.4 (First fixed charges) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment by way of security over each relevant asset within any particular class of assets defined under this Deed and the failure to create an effective mortgage, fixed charge or assignment by way of security (whether arising out of this Deed or any act or omission by any party) on any one asset shall not affect the nature of any mortgage, fixed charge or assignment by way of security imposed on any other asset whether within that same class of assets or not.

1.9 **No obligations**

The Lender shall not be under any obligation in relation to the Charged Property as a consequence of this Deed and the Chargor shall at all times remain liable to perform all obligations expressed to be assumed by it in respect of the Charged Property.

2 **Covenant to pay**

The Chargor covenants with the Lender to pay and discharge the Secured Liabilities when they become due for payment and discharge.

3 **Charging provisions**

3.1 **General**

All Security created by the Chargor under this Deed is:

- (a) a continuing security for the payment and discharge of the Secured Liabilities;
- (b) granted with full title guarantee; and
- (c) granted in favour of the Lender.

3.2 **First legal mortgages**

The Chargor charges by way of first legal mortgage the Property.

3.3 Assignments

- (a) The Chargor assigns absolutely, subject to a proviso for re-assignment on redemption, all its rights, title and interest from time to time under or in respect of:
 - (i) the Relevant Agreements; and
 - (ii) the Relevant Policies,
 together with, in each case, all other Related Rights thereto.
- (b) The Chargor shall remain liable to perform all its obligations under each Relevant Agreement and each Relevant Policy.

3.4 First fixed charges

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

- (a) all interests and estates in any freehold, leasehold or commonhold property now or subsequently owned by it (other than any freehold, leasehold or commonhold property effectively charged by way of legal mortgage under clause 3.2);
- (b) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (c) (other than to the extent effectively assigned under clause 3.3) the Relevant Policies; and
- (d) to the extent that any legal mortgage in clause 3.2 or any assignment in clause 3.3 is ineffective as a legal mortgage or an assignment (as applicable), the assets referred to in that clause,

together with, in each case, all other Related Rights thereto.

4 Effectiveness of security

4.1 Continuing security

The Security constituted by this Deed shall be continuing security and shall remain in full force and effect unless and until discharged by the Lender in writing and regardless of any intermediate payment, discharge or satisfaction by the Chargor or any other person of the whole or any part of the Secured Liabilities.

4.2 No prejudice

The Security created by or pursuant to this Deed shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person, by the Lender or by any variation of the terms of the trust upon which the Lender holds the Security or by any other thing which might otherwise prejudice that Security.

4.3 Cumulative rights

- (a) The Security constituted by this Deed shall be cumulative, in addition to and independent of any other Security which any Secured Party may hold at any time for

the Secured Liabilities (or any of them) or any other obligations or any rights, powers and remedies provided by law and shall operate as an independent security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security.

- (b) No prior Security held by the Lender over the whole or any part of the Charged Property shall merge into the Security constituted by this Deed.

4.4 **Waiver of defences**

The obligations of, and the Security created by, the Chargor 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 obligations under this Deed (without limitation and whether or not known to it or the Lender) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (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 Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance 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, the Chargor expressly confirms that it intends that the Security created under the Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

4.6 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 that Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

4.7 Deferral of rights

Until the end of the Security Period, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- (a) to be indemnified by an Obligor;
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under this Deed;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under this Deed or of any other guarantee or Security taken pursuant to, or in connection with, this Deed by any Secured Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Guarantor has given a guarantee, undertaking or indemnity under any Finance Document;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Secured Party.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to any Secured Party by the Obligors under or in connection with this Deed to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with clause 14 (Application of monies).

4.8 Charities Act 2011

- (a) The Secured Property is held by the Chargor, a non-exempt charity, and this Deed is not one falling within section 124(9) of the Charities Act 2011, so that the restrictions imposed by section 124 of that Act apply.
- (b) The members of the Council of the Chargor, being the persons who have the general control and management of its administration, certify that:
 - (i) they have the power under the provisions establishing the charity and regulating its purposes and administration to effect this Deed; and
 - (ii) they have obtained and considered such advice as is mentioned in section 124(2) of the Charities Act 2011.

5 Negative pledge

- 5.1 The Chargor shall not create or permit to subsist any Security over any of the Charged Property.

- 5.2 Clause 5.1 does not apply to any Security which is expressly permitted pursuant to the terms of the Facility Agreement.

6 Restrictions on disposals

- 6.1 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of all or any part of the Charged Property.
- 6.2 Clause 6.1 does not apply to any disposal expressly permitted pursuant to the Facility Agreement.

7 Further assurance

- 7.1 The Chargor shall promptly, at its own expense, take all such action (including filings, registrations, notarisations and applying for relief against forfeiture) and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender or a Receiver may reasonably specify (and in such form as the Lender may require);
- (a) to create, perfect, protect and/or maintain the Security created or intended to be created under or evidenced by this Deed in favour of the Lender or its nominee(s) (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, Charged Property) or for the exercise of any rights, powers and remedies of the Lender or any Receiver provided by or pursuant to this Deed or by law;
 - (b) to confer on the Lender Security over any of the property or assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
 - (c) (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.
- 7.2 The Chargor 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 Lender by or pursuant to this Deed.

8 Land Registry

8.1 Application for restriction

- (a) The Chargor hereby consents to an application being made to the Land Registry to enter the following restriction in the Proprietorship Register of any registered land at any time forming part of the Secured Property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 22 December 2020 in favour of National Westminster Bank Plc referred to in the charges register."

- (b) The Chargor confirms that so far as any of its Secured Property is unregistered, such land is not affected by any disclosable overriding interests within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003.

8.2 Tacking and further advances

- (a) Subject to the terms of the Facility Agreement, the Lender is under an obligation to make further advances to the Chargor and that obligation will be deemed to be incorporated in this Deed as if set out in this Deed.
- (b) The Chargor consents to an application being made to the Land Registry to enter the obligation to make further advances on the Charges Register of any registered land forming part of the Secured Property (and any unregistered properties subject to compulsory first registration at the date of this Deed).

8.3 Documents of title

The Chargor shall:

- (a) immediately upon the date of this Deed (and on the acquisition by it of any interest in any Charged Property at any time) deposit (or procure the deposit of) with the Lender all deeds, certificates and other documents constituting or evidencing title to the Charged Property (or otherwise procure that any such deeds, certificates and other documents are held to the order of the Lender on terms acceptable to the Lender); and
- (b) deposit (or procure the deposit of) with the Lender at any time after the date of this Deed any further deeds, certificates, instruments of transfer and other documents constituting or evidencing title to the Charged Property, promptly upon coming into possession of them (or otherwise procure that any such deeds, certificates, instruments of transfer and other documents are held to the order of the Lender on terms acceptable to the Lender).

9 Notices of assignments and charges

9.1 Relevant Agreements

- (a) The Chargor shall give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 2 to the other parties to each Relevant Agreement that the Chargor has assigned to the Lender all its right, title and interest in that Relevant Agreement.
- (b) The Chargor shall give the notices referred to in clause 9.1(a):
 - (i) in the case of each Relevant Agreement in existence as at the date of this Deed, on the date of this Deed; and
 - (ii) in the case of each Relevant Agreement coming into existence or being designated as such after the date of this Deed, on the later of that agreement coming into existence or being designated a Relevant Agreement.
- (c) The Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 2.

9.2 Insurance policies

- (a) The Chargor shall give notice in the form specified in Part 1 (Form of notice of assignment) of Schedule 33 to each insurer under each Relevant Policy that the Chargor has assigned to the Lender all its right, title and interest in that Relevant Policy.
- (b) The Chargor shall give the notices referred to in clause 9.2(a):
 - (i) in the case of each Relevant Policy subsisting at the date of this Deed, on the date of this Deed; and
 - (ii) in the case of each Relevant Policy coming into existence after the date of this Deed, on that Relevant Policy being put on risk.
- (c) The Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in Part 2 (Form of acknowledgement) of Schedule 33.

10 Security power of attorney

The Chargor, by way of security, irrevocably and severally appoints the Lender, each Receiver and any of their delegates or sub-delegates to be its attorney with the full power and authority of the Chargor (in its name and otherwise on its behalf) to:

- (a) execute, deliver and perfect all deeds, instruments and other documents; and
- (b) to do or cause to be done all acts and things,

in each case:

- (i) which may be required; or
- (ii) which any attorney may in its absolute discretion deem necessary or appropriate for carrying out any obligation of the Chargor under or pursuant to this Deed or generally for enabling the Lender or any Receiver to exercise the respective powers conferred on them under this Deed or by law. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this clause 10.

11 Enforcement of security

11.1 When security is enforceable

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

11.2 Acts of enforcement

The Lender may, at its absolute discretion, at any time after 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 and on the terms it sees fit;

- (b) exercise all and any of its rights and powers conferred upon mortgagees by the LPA or otherwise by any law on mortgagees, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed or otherwise by law on Receivers, whether or not it has taken possession or appointed a Receiver to any of the Charged Property;
- (c) appoint one or more persons to be a Receiver to all or any part of the Charged Property; or
- (d) exercise its power of sale under section 101 of the LPA (as amended by this Deed).

11.3 Statutory powers - general

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the LPA (restricting the power of sale) and section 93 of the LPA (restricting the right of consolidation) do not apply to the Security constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on the Lender are extended so that, without the need to comply with any provision of section 99 or section 100 of the LPA, the Lender and any Receiver is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA and the Insolvency Act 1986 on mortgagees and receivers duly appointed under the LPA, except that section 103 of the LPA does not apply.

11.4 Contingencies

If the Lender enforces the Security constituted by or under this Deed at a time when no amounts are due under the Finance Documents but at a time when amounts may or will become so due, the Lender (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

11.5 Mortgagee in possession - no liability

None of the Lender, its nominee(s) nor any Receiver shall be liable, by reason of entering into possession of any Charged Property, to account as a mortgagee or mortgagee in possession or for any loss arising by reason of taking any action permitted by this Deed or any neglect, default or omission in connection with the Charged Property or taking possession of or realising all or any part of the Charged Property.

11.6 Redemption of prior mortgages

- (a) At any time after the Security created by or under this Deed has become enforceable, the Lender may:
 - (i) redeem any prior form of Security over any Charged Property;
 - (ii) procure the transfer of that Security to itself; and/or

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

12 Receiver

12.1 Appointment of Receiver

- (a)
 - (i) At any time after any Security created by or under this Deed is enforceable, the Lender may appoint a Receiver to all or any part of the Charged Property in accordance with clause 11.2(c) (Acts of enforcement).
 - (ii) At any time, if so requested in writing by the Chargor, without further notice, the Lender may appoint a Receiver to all or any part of the Charged Property as if the Lender had become entitled under the LPA to exercise the power of sale conferred under the LPA.
- (b) Any appointment under clause 12.1(a) may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under section 109(1) of the LPA) does not apply to this Deed.
- (d) Any Receiver appointed under this Deed shall be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA. The Chargor is responsible for any contracts, engagements, acts, omissions, defaults and losses of a Receiver and for any liabilities incurred by a Receiver.
- (e) In no circumstances whatsoever shall the Lender or any Secured Party be liable (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason nor be in any way responsible for any misconduct, negligence or default of the Receiver.

12.2 Removal

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

12.3 Powers of Receiver

- (a) **General**
 - (i) A Receiver has all of the rights, powers and discretions set out below in this clause 12.3 in addition to those conferred on it by the LPA.

- (ii) A Receiver shall have all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the receiver is an administrative receiver).
- (iii) A Receiver may, in the name of the Chargor:
 - (A) do all other acts and things which he may consider expedient for realising any Charged Property; and
 - (B) exercise in relation to any Charged Property all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.
- (iv) 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.

(b) **Borrow money**

A Receiver may raise and borrow money (either unsecured or on the security of any Charged Property, 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 lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

(c) **Carry on business**

A Receiver may carry on any business of the Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

(d) **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 Chargor or relating in any way to any Charged Property.

(e) **Delegation**

A Receiver may delegate his powers in accordance with clause 13 (Delegation).

(f) **Lending**

A Receiver may lend money or advance credit to any person.

(g) **Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Chargor 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 the Chargor.

(h) **Leases**

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

(i) **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 Chargor in relation to any Charged Property as he considers expedient.

(j) **Possession**

A Receiver may take immediate possession of, get in and collect any Charged Property.

(k) **Protection of assets**

A Receiver may, in each case as he may think fit:

- (i) make and effect all repairs and insurances and do any and all other acts which the Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Charged Property;
- (ii) commence and/or complete any building operations; and
- (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence or any other Authorisation.

(l) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be proper and desirable for realising any Charged Property.

(m) **Sale of assets**

- (i) A Receiver may sell, exchange, convert into monies and realise any Charged Property by public auction or private contract in any manner and on any terms which he thinks proper.
- (ii) The consideration for any such transaction may consist of cash or non-cash consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit.
- (iii) Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the Chargor.

(n) **Subsidiaries**

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Charged Property.

(o) Deal with Charged Property

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Charged Property without being responsible for loss or damage, and so that any such sale, lease or 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. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Charged Property or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Charged Property on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

(p) 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 Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

(q) Acquire land

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

(r) Development

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

(s) Landlord's obligations

A Receiver may on behalf of the Chargor and without consent of or notice to the Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.

(t) Uncalled capital

A Receiver may make calls conditionally or unconditionally on the members of the Chargor in respect of uncalled capital.

(u) 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

Charged Property and to use the name of the Chargor for all the purposes set out in this clause 12.

12.4 Remuneration

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

13 Delegation

13.1 Each of the Lender, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of right, power, authority or discretion vested in it in its capacity as such.

13.2 That delegation may be made upon such terms and conditions (including the power to sub-delegate) and subject to any restrictions as the Lender, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Lender.

13.3 Neither the Lender nor any Receiver shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

14 Application of monies

14.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the LPA shall not apply to a Receiver appointed under this Deed.

14.2 All monies from time to time received or recovered by the Lender or any Receiver under this Deed or in connection with the realisation or enforcement of all or part of this Security will be held by the Lender and shall be applied in accordance with the terms of the Facility Agreement. This clause 14:

- (a) is subject to the payment of any claims having priority over this Security; and
- (b) does not prejudice the right of any Secured Party to recover any shortfall from the Chargor.

14.3 The Lender and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing 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 Liabilities.

15 Expenses and indemnity

The Chargor must:

- (a) immediately on demand pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with this Deed including any arising from any actual or alleged breach by any person of any law or regulation; and
- (b) keep each Secured Party indemnified against any failure or delay in paying those costs or expenses

16 Remedies and waivers

- 16.1 No failure to exercise, nor any delay in exercising, on the part of the Lender or any Receiver, 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 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.
- 16.2 A waiver or affirmation given or consent granted by the Lender or any Receiver 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.

17 Protection of third parties

- 17.1 No person (including a purchaser) dealing with the Lender or a Receiver or its or his agents has an obligation to enquire:
- (a) whether the Secured Liabilities have become payable;
 - (b) whether any power purported to be exercised has become exercisable or is being properly exercised;
 - (c) whether any Secured Liabilities or other monies remain outstanding;
 - (d) how any monies paid to the Lender or to the Receiver shall be applied; or
 - (e) the status, propriety or validity of the acts of the Receiver or Lender.
- 17.2 The receipt of the Lender or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve that purchaser of any obligation to see to the application of any monies paid to or by the direction of the Lender or any Receiver.
- 17.3 In clauses 17.1 and 17.2 **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Charged Property or any of them.

18 Settlements conditional

- 18.1 If the Lender (acting reasonably) believes that any amount paid by the Chargor or any other person in respect of the Secured Liabilities 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.
- 18.2 Any settlement, discharge or release between the Chargor and any Secured Party shall be conditional upon no Security or payment to or for that Secured Party by the Chargor 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.

19 Subsequent Security

- 19.1 If any subsequent charge or other interest affects any Charged Property, a Secured Party may open a new account with the Chargor.

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

19.3 As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liabilities.

20 Set-off

The Lender may set off any matured obligation due from the Chargor under the Finance Documents (to the extent beneficially owned by the Lender) against any matured obligation owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

21 Notices

Any communication under this Deed or any other Security or Finance Document created by or under this Deed, shall be made and given in accordance with the terms of clause 29 (Notices) of the Facility Agreement.

22 Invalidity

Clause 31 (Partial invalidity) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it.

23 Assignment

23.1 The Lender 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 Finance Documents.

23.2 No Chargor may assign or otherwise transfer any of its rights and obligations under this Deed.

24 Releases

Upon the expiry of the Security Period, the Lender shall, at the request and cost of the Chargor, take whatever action is necessary to release and reassign to the Chargor:

- (a) its rights arising under this Deed; and
- (b) the Charged Property from the Security created by and under this Deed.

25 Currency clauses

25.1 Clause 27.7 (Change of currency) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it and references to the Obligors shall be construed as references to the Chargor.

25.2 If a payment is made to the Lender under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Lender may convert that payment into the Contractual Currency at the market rate of exchange and to

the extent that the converted amount of the payment falls short of the amount due and payable the Chargor will remain liable for such shortfall.

26 Certificates and determinations

Clause 30.2 (Certificates and determinations) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it.

27 Counterparts

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed or any Finance Document.

28 Governing law

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

29 Enforcement

- 29.1 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**).
- 29.2 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.
- 29.3 This clause 29 is for the benefit of the Lender. As a result, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

This Deed has been executed on behalf of the Lender and executed as a deed by the Chargor and is delivered on the date given at the beginning of this Deed. It is intended by the parties to this Deed that this Deed will take effect as a deed notwithstanding that the Lender may only execute it under hand.

Schedule 1

Property

Registered Land

Address of Property

Title Number

1-3 Maresfield Gardens, London, NW3 5SS

NGL903927

Schedule 2**Relevant Agreements****Part 1 - Form of notice of assignment**

To: ♦

Dated: ♦

Dear Sirs

The agreement described in the attached schedule (Agreement)

We hereby notify you that we have assigned absolutely, subject to a proviso for re-assignment on redemption, to National Westminster Bank Plc (**Lender**) all our right, title and interest in and to the Agreement.

We hereby irrevocably and unconditionally authorise and instruct you upon receipt of a further written notice from the Lender:

- 1 without notice or reference to, or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Lender relating to the Agreement and any rights under or in connection with the Agreement; and
- 2 to pay all sums payable by you under the Agreement directly to such account as the Lender may specify from time to time.

We remain liable to perform all our obligations under the Relevant Agreement and the Lender is under no obligation of any kind whatsoever under the Agreement nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Agreement.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of**The Girls' Day School Trust**

The Schedule

Date	Parties	Description
◆	◆	◆

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: National Westminster Bank Plc (**Lender**)
 135 Bishopsgate
 London
 EC2M 3UR

To: The Girls' Day School Trust (**Chargor**)
 10 Bressenden Place
 London
 SW1E 5DH

Dated: ♦

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- (a) there has been no amendment, waiver or release of any rights, title or interests in the Agreement since the date of the Agreement;
- (b) we will not agree to any amendment, waiver or release of any provision of the Agreement or any right, title and interest in and to the Agreement without the prior written consent of the Lender;
- (c) we shall act in accordance with the Notice;
- (d) the Chargor will remain liable to perform all its obligations under the Agreement and the Lender is under no obligation of any kind whatsoever under the Agreement nor under any liability whatsoever in the event of any failure by the Chargor to perform its obligations under the Agreement;
- (e) as at the date of this acknowledgement we have not received any notice of security assignment or charge of (or of any interest of any third party in) the Chargor's interest in the Agreement in favour of any other person;
- (f) as at the date of this acknowledgement, we are not aware of any breach by the Chargor of the terms of the Agreement; and
- (g) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to the Agreement and we waive all future rights to claim or exercise any rights of set-off, counterclaim or other similar right now or in the future relating to the Agreement.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of ♦

Schedule 3**Relevant Policies****Part 1 - Form of notice of assignment**

To: [insurer]

Dated: ♦

Dear Sirs

The insurance policies described in the attached schedule (Relevant Policies)

We hereby notify you that we have assigned absolutely, subject to a proviso for re-assignment on redemption, to National Westminster Bank Plc (**Lender**) all our right, title and interest in and to the Relevant Policies.

We hereby irrevocably and unconditionally authorise and instruct you upon receipt of a notice from the Lender:

- 1 without notice or reference to or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Lender relating to the Relevant Policies (or any of them); and
- 2 to pay all sums payable by you under the Relevant Policies (or any of them) directly to the Lender at such account as the Lender may specify from time to time.

We remain liable to perform all our obligations under the Relevant Policies and the Lender is under no obligation of any kind whatsoever under the Relevant Policies nor under any liability whatsoever in the event of any failure by us to perform our obligations under the Relevant Policies.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Lender and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of it or in connection with it) are governed by English law.

Yours faithfully

.....
for and on behalf of
The Girls' Day School Trust

The Schedule

Date of policy	Insured	Policy type	Policy number
◆	◆	◆	◆

[Attach form of acknowledgment]

Part 2 - Form of acknowledgement

To: National Westminster Bank Plc (**Lender**)
 135 Bishopsgate
 London
 EC2M 3UR

To: The Girls' Day School Trust (**Chargor**)
 10 Bressenden Place
 London
 SW1E 5DH

Dated: ♦

We acknowledge receipt of the notice of assignment (**Notice**) of which the enclosed is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- 3 there has been no amendment, waiver or release of any rights or interests in any Relevant Policy since the date of such policy;
- 4 we have noted the Lender's interest as mortgagee and first loss payee on each Relevant Policy;
- 5 we will not agree to any amendment, waiver or release of any provision of any Relevant Policy without the prior written consent of the Lender;
- 6 we shall act in accordance with the Notice;
- 7 the Chargor will remain liable to perform all its obligations under the Relevant Policy and the Lender is under no obligation of any kind whatsoever under the Relevant Policy nor under any liability whatsoever in the event of any failure by the Chargor to perform its obligations under the Relevant Policy;
- 8 no termination of such rights title or interests will be effective unless we have given 30 days' written notice of such proposed termination to the Lender specifying the action necessary to avoid such termination;
- 9 as at the date of this acknowledgement we have not received any notice of security assignment or charge of (or of any interest of any third party in) the Chargor's interest in any Relevant Policy or the proceeds of any Relevant Policy in favour of any other person; and
- 10 we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to any Relevant Policy and we waive all future rights to claim or exercise any rights of set-off, counterclaim or other similar right now or in the future relating to the Relevant Policy.

The provisions of this acknowledgement (and any non-contractual obligations arising out of it or in connection with it) are governed by English law.

For and on behalf of
[insurance company]

SIGNATORIES TO THE DEED

Chargor

Executed as a deed on behalf of **The Girls' Day
School Trust** acting by:

)
)
)

Member of its Council

Name

CHERYL GIOVANNONI

Chief Executive Officer

Name

Council of the Chargor

Executed as a deed on behalf of the Council of
the Chargor by an authorised signatory, under
an authority conferred pursuant to Article 72 of
the Chargor's Articles, in the presence of:

)
)
)

Authorised signatory

JONATHAN M. DAVIS

Name

Signature of witness

Name DAVID BOYD

Address 10 BRESSEMDEN PLACE
LONDON SW1E 5DH

The Lender

National Westminster Bank Plc

By:

SIGNATORIES TO THE DEED

Chargor

Executed as a deed on behalf of **The Girls' Day**)
School Trust acting by:)
)

[Redacted Signature]

Member of its Council

JULIET HUMPHRIES
 Name

Chief Executive Officer

Name

Council of the Chargor

Executed as a deed on behalf of the Council of)
 the Chargor by an authorised signatory, under)
 an authority conferred pursuant to Article 72 of) **Authorised signatory**
 the Chargor's Articles, in the presence of:

Signature of witness

Name

Name

Address

The Lender

National Westminster Bank Plc

By:

SIGNATORIES TO THE DEED

Chargor

Executed as a deed on behalf of The Girls' Day
School Trust acting by:)
)
)

.....
Member of its Council

.....
Name

.....
Chief Executive Officer

.....
Name

Council of the Chargor

Executed as a deed on behalf of the Council of)
the Chargor by an authorised signatory, under)
an authority conferred pursuant to Article 72 of)
the Chargor's Articles, in the presence of:

.....
Authorised signatory

.....
Signature of witness

.....
Name

Name

Address

The Lender

National Westminster Bank Plc

By:



Chris Reed