



## Registration of a Charge

Company Name: **NMCN PLC**

Company Number: **00425188**



Received for filing in Electronic Format on the: **26/04/2021**

XA38P8IQ

### Details of Charge

Date of creation: **16/04/2021**

Charge code: **0042 5188 0016**

Persons entitled: **LLOYDS BANK PLC**

Brief description:

**Contains fixed charge(s).**

### 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: **WOMBLE BOND DICKINSON (UK) LLP**



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

Company number: 425188

Charge code: 0042 5188 0016

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th April 2021 and created by NMCN PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th April 2021 .

Given at Companies House, Cardiff on 27th April 2021

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



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**



Execution Version

16 APRIL 2021

Security Assignment

Lloyds Bank plc <sup>(1)</sup> and  
NMCN Plc <sup>(2)</sup>

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THIS DEED is made on

2021

**BETWEEN**

- (1) **NMCN PLC** (company number 00425188) a company incorporated in England and Wales with its registered office at Nunn Close, The County Estate, Hothwaite, Sutton-In-Ashfield, Nottinghamshire, NG17 2HW (the "**Assignor**"); and
- (2) **LLOYDS BANK PLC** (company number 0002065) of 25 Gresham Street, London, EC2V 7HN ("**Lloyds**").

**AGREED TERMS**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

|                            |   |
|----------------------------|---|
| "BENMCN 1"                 | means BENMCN Alliance (Park Farm) Limited, a company incorporated in England and Wales with registered number 11850723.   |
| "BENMCN 1 Documents"       | means the BENMCN 1 JV Agreement and the JVCo2 Finance Documents.  |
| "BENMCN 1 JV Agreement"    | means the joint venture agreement dated 18 <sup>th</sup> April 2019 between the Assignor and Brooklyn.  |
| "BENMC 2"                  | means BENMC Alliance (Roundhills) Limited, a company incorporated in England and Wales with registered number 11319847.   |
| "BENMC 2 Documents"        | means the BENMC 2 JV Agreement and the JVCo3 Finance Documents;   |
| "BENMC 2 JV Agreement"     | means the joint venture agreement dated 15 <sup>th</sup> May 2018 between the Assignor and Brooklyn.  |
| "Brooklyn"                 | means Brooklyn Ellis Limited, a company incorporated in England and Wales with registered number 09474649.  |
| "Building Contract"        | the building contract made between Springfield and the Assignor or around 19 December 2018 in relation to the design and construction of 38 houses and associated external works at land off Haloenore Road, Southwell. |
| "Counterparties"           | means, together, BENMCN 1, BENMC 2 and Springfield and " <b>Counterparty</b> " means any of them as may be appropriate.   |
| "Delegate"                 | means any person appointed by Lloyds or any Receiver pursuant to clause 12, and any person appointed as attorney of the Assignee, Receiver or Delegate.   |
| "JV Agreements"            | means, together, the BENMCN 1 JV Agreement, the BENMC 2 JV Agreement and the Springfield JV Agreement   |
| "JVCo1 Facility Agreement" | means the facility agreement between the Assignor and Springfield dated 19 <sup>th</sup> December 2018  |
| "JVCo2 Facility"           | means the facility agreement between the Assignor and BENMCN  |

|                          |                 |  |
|--------------------------|-----------------|--|
| <b>Agreement"</b>        |                 | 1 dated 18 <sup>th</sup> April 2019  |
| <b>"JVCo3 Agreement"</b> | <b>Facility</b> | means the facility agreement between the Assignor and BENMC 2 dated 15 <sup>th</sup> May 2018  |
| <b>"JVCo1 Documents"</b> | <b>Finance</b>  | means, together, the JVCo1 Facility Agreement, the JVCo1 Security Documents and any other documents executed by Springfield in favour of the Assignor  |
| <b>"JVCo2 Documents"</b> | <b>Finance</b>  | means, together, the JVCo2 Facility Agreement, the JVCo2 Security Documents and any other documents executed by BENMCN 1 in favour of the Assignor   |
| <b>"JVCo3 Documents"</b> | <b>Finance</b>  | means, together, the JVCo3 Facility Agreement, the JVCo3 Security Documents and any other documents executed by BENMC 2 in favour of the Assignor  |
| <b>"JVCo1 Documents"</b> | <b>Security</b> | means: <ul style="list-style-type: none"> <li>a) the debenture over the entire assets and undertaking of Springfield dated 19th December 2018 granted by Springfield in favour of the Assignor;</li> <li>b) the legal charge dated 19th December 2018 granted by Springfield in favour of the Assignor; and</li> <li>c) any other document which confers Security on the Assignor or constitutes a guarantee, indemnity or other assurance in favour of the Assignor in respect of liabilities of Springfield</li> </ul>                   |
| <b>"JVCo2 Documents"</b> | <b>Security</b> | means: <ul style="list-style-type: none"> <li>(a) the debenture over the entire assets and undertaking of JVCo1 dated 18th April 2019 granted by BENMCN 1 in favour of the Assignor;</li> <li>(b) the legal charge over the JVCo2 Property dated 3rd May 2019 granted by BENMCN 1 in favour of the Assignor; and</li> <li>(c) any other document which confers Security on the Assignor or constitutes a guarantee, indemnity or other assurance in favour of the Assignor in respect of liabilities of BENMCN 1</li> </ul>                |
| <b>"JVCo3 Documents"</b> | <b>Security</b> | means: <ul style="list-style-type: none"> <li>(a) the debenture over the entire assets and undertaking of JVCo3 dated 15th May 2018 granted by BENMC 2 in favour of the Assignor;</li> <li>(b) the legal charge over part of the JVCo3 Property (title number NT539743) dated 29th June 2018 granted by BENMC 2 in favour of the Assignor;</li> <li>(c) the legal charge over the part of the JVCo3 Property (title number NT547377) dated on or around the date of this Deed granted by BENMC 2 in favour of the Assignor; and</li> </ul> |

- (c) any other document which confers Security on the Assignor or constitutes a guarantee, indemnity or other assurance in favour of the Assignor in respect of liabilities of BENMC 2 and any other document agreed between the Assignor.

**"Lloyds Blocked Account"** means the following bank account:

Account Name: Lloyds Bank RE North Midland Constructions Plc

Account Number: 61171968

Sort code: 30 96 18

**"LPA"** means the Law of Property Act 1925.

**"Notice of Assignment"** means a notice of assignment in the form set out in part 1 of Schedule 1 (*Form of Notice of Assignments*) of this Deed.

**"Receivables"** means all amounts due to the Assignor and paid to it by any Counterparty in connection with the JV Agreements.

**"Receiver"** means any receiver, receiver and manager or administrative receiver appointed by the Assignee under clause 10.

**"Relevant Agreements"** means, together, the BENMCN 1 Documents, the BENMC 2 Documents and the Springfield Documents and **"Relevant Agreement"** means any of them as may be appropriate.

**"Secured Liabilities"** means all liabilities and obligations owed by the Assignor to Lloyds whether due, owing or incurred now or in the future, and of any kind, however arising and in any currency, whether or not immediately payable, whether certain or contingent, and including interest, costs, charges and expenses.

**"Secured Assets"** means all the assets, property and undertaking of the Assignor which are, or are expressed to be, subject to the Security created by, or pursuant to, this Deed (and references to the Secured Assets shall include references to any part of them).

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Period"** means the period beginning on the date of this Deed and ending on the date on which the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full.

**"Springfield"** means Springfield Eco Limited (registered in England and Wales under company number 11499288).

**"Springfield Documents"** means the Springfield JV Agreement and the JVCo1 Finance Documents.

**"Springfield Agreement"** JV means the joint venture agreement dated 18<sup>th</sup> December 2020 between the Assignor and Stagfield Group Limited, a company incorporated in England and Wales with registered number 10889505.

1.2 Any reference in this Deed to:

- 1.2.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation;
- 1.2.2 "control" of any company shall be interpreted in accordance with Section 840 of the Taxes Act;
- 1.2.3 "including" shall not be construed as limiting the generality of the words preceding it;
- 1.2.4 any clause, paragraph or schedule shall be construed as a reference to the clauses in this Deed and the paragraphs in such schedules;
- 1.2.5 any term or phrase defined in the Companies Act 2006 (as amended from time to time) shall (whether or not it is capitalised) bear the same meaning in this Deed;
- 1.2.6 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 1.2.7 this Deed and to any provisions of it or to any other document referred to in this Deed shall be construed as references to it in force for the time being and as amended, varied, supplemented, restated, substituted or novated from time to time;
- 1.2.8 a person is to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or any agency of a state, whether or not a separate legal entity;
- 1.2.9 a party is to be construed to include its permitted assignees or permitted transferees or successors in title, whether direct or indirect;
- 1.2.10 any word or phrase includes all derivations thereof;
- 1.2.11 any "associated person" means, in relation to a person, a person who is either acting in concert (as defined in the City Code on Takeovers and Mergers) with that person or is a connected person (as defined in section 839 of the Taxes Act) of that person.
- 1.3 Clause headings are for ease of reference only and are not to affect the interpretation of this Deed.
- 1.4 **Effect as a deed**  
  
This Deed shall take effect as a deed even if it is signed under hand on behalf of the Assignee.
- 1.5 **Third party rights**  
  
A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- 2. **COVENANT TO PAY**
  - 2.1 The Assignor shall pay to Lloyds in accordance with any relevant agreement between the Lloyds and the Assignor relating to the amounts hereby secured or, in the absence of any such agreement, on demand:
    - 2.1.1 all money and liabilities whether actual or contingent (including further advances made hereafter by the Lloyds) which now are or at any time hereafter may be



due, owing or incurred by the Assignor to the Lloyds anywhere or for which the Assignor may be or become liable to the Lloyds in any manner whatsoever without limitation (and (in any case) whether alone or jointly with any other person and in whatever style, name or form and whether as principal or surety and notwithstanding that the same may at any earlier time have been due owing or incurred to some other person and have subsequently become due, owing or incurred to the Lloyds as a result of a transfer, assignment or other transaction or by operation of law);

2.1.2 interest on all such money and liabilities to the date of payment at such rate or rates as may from time to time be agreed between the Lloyds and the Assignor or, in the absence of such agreement, at the rate, in the case of an amount denominated in Sterling, of two percentage points per annum above the Lloyds's base rate for the time being in force (or its equivalent or substitute rate for the time being) or, in the case of an amount denominated in any currency or currency unit other than Sterling, at the rate of two percentage points per annum above the cost to the Lloyds (as conclusively determined by the Lloyds) of funding sums comparable to and in the currency or currency unit of such amount in the London Interbank Market (or such other market as the Lloyds may select) for such consecutive periods (including overnight deposits) as the Lloyds may in its absolute discretion from time to time select;

2.1.3 commission and other banking charges and legal, administrative and other costs, charges and expenses incurred by the Lloyds in relation to this Assignment or the Receivables (including any acts necessary to release the Receivables from this security), or in enforcing the security hereby created on a full and unqualified indemnity basis; and

2.1.4 any fees charged by the Lloyds for the time spent by the Lloyds's officials, employees or agents in dealing with any matter relating to this Assignment. Such fees shall be payable at such rate as may be specified by the Lloyds.

2.2 The Assignor shall pay interest at the rate aforesaid on the money so due (whether before or after any judgment which may be recovered therefore) upon such days in each year as the Lloyds and the Assignor shall from time to time agree or, in the absence of such agreement, as the Lloyds shall from time to time fix and (without prejudice to the right of the Lloyds to require payment of such interest) all such interest shall be compounded (both before and after any demand or judgment) upon such days in each year as the Lloyds shall from time to time fix.

### **3. SECURITY**

#### **3.1 Fixed Charge**

As a continuing security for the payment and discharge of the Secured Liabilities the Assignor with full title guarantee charges in favour of Lloyds by way of first fixed charge:

3.1.1 the Receivables; and

3.1.2 the Building Contract.

#### **3.2 Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, the Assignor with full title guarantee assigns to Lloyds absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

3.2.1 the benefit of the Relevant Agreements;

3.2.2 the benefit of all other contracts, guarantees, appointments, warranties and other documents to which the Assignor is a party or which are in its favour or of

which it has the benefit (including, in each case, but without limitation, the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them) under or relating to the Relevant Agreements, to the extent not effectively assigned under clause 3.2.1; and

- 3.2.3 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the use of any Secured Assets, and all rights in connection with them,

provided that nothing in this clause 3.2 shall constitute Lloyds as a mortgagee in possession.

### **3.3 Assignor Entitled To Exercise Rights**

Until Lloyds serves a notice on the Assignor to the contrary, but subject always to Clause 6 (*Covenants*), the Assignor shall be entitled to exercise all its rights in the Secured Assets and may continue to deal with the Counterparties, subject to the other provisions of this Deed.

### **3.4 Trust**

If or to the extent that for any reason the assignment or charging of any Secured Asset is prohibited, the Assignor shall hold it on trust for Lloyds.

### **3.5 Land Registry**

The Assignor hereby consents to an application being made to the Chief Land Registrar by or on behalf of Lloyds to enter the following restriction on the register of the title(s) to each of the JV Properties in the following terms:

"No disposition by the proprietor of the registered charge dated [ ] referred to above is to be registered without a written consent signed by the proprietor for the time being of the assignment dated [ ] in favour of Lloyds or their conveyancer."

## **4. LIABILITY OF THE ASSIGNOR**

### **4.1 Liability Not Discharged**

The Assignor's liability under this Deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, Lloyds that is or becomes wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 Lloyds renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Assignor.

### **4.2 Immediate Recourse**

The Assignor waives any right it may have to require Lloyds to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Deed against the Assignor.

## **5. REPRESENTATIONS AND WARRANTIES**

### **5.1 Representations and Warranties**

The Assignor makes the representations and warranties set out in this clause 5 to Lloyds.

### **5.2 Ownership of Secured Assets**

The Assignor is the sole legal and beneficial owner of, and has good, valid and marketable title to the Secured Assets.

### **5.3 Secured Assets**

5.3.1 The counterparts and instruments comprising the Relevant Agreements or other document, agreement or arrangement comprising the Secured Assets as provided to the Assignee before the date of this Deed, evidence all terms of the relevant Secured Assets, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of any Secured Assets.

5.3.2 No Relevant Agreement or other document, agreement or arrangement comprising the Secured Assets is void, voidable or otherwise unenforceable.

5.3.3 No variation of any Relevant Agreement or other document, agreement or arrangement comprising the Secured Assets is contemplated.

5.3.4 The Assignor is not in breach of its obligations under any Relevant Agreement or other document, agreement or arrangement comprising the Secured Assets.

### **5.4 No Security**

The Secured Assets are free from any Security other than the Security created by this Deed.

### **5.5 No Adverse Claims**

The Assignor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

### **5.6 No Adverse Covenants**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.

### **5.7 No Breach of Laws**

There is no breach of any law or regulation that materially and adversely affects the Secured Assets.

### **5.8 Avoidance of Security**

No Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Assignor or otherwise.

### **5.9 No Prohibitions**

There is no prohibition on assignment in any Relevant Agreement because of the existence of an event of default under the Relevant Agreement, and the entry into this Deed by the Assignor does not, and will not, constitute a breach of a Relevant Agreement or any other policy, agreement, document, instrument or obligation binding on the Assignor or its assets.

#### **5.10 Enforceable Security**

This Deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Assignor and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

### **6. COVENANTS**

#### **6.1 Negative Pledge and Disposal Restrictions**

The Assignor shall not at any time, except with the prior written consent of Lloyds:

- 6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this Deed;
- 6.1.2 sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Secured Assets; or
- 6.1.3 create or grant (or purport to create or grant) any interest in any Secured Asset in favour of a third party.

#### **6.2 Preservation of Secured Assets**

The Assignor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by Lloyds or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this Deed.

#### **6.3 Relevant Agreements**

- 6.3.1 The Assignor shall, unless Lloyds agrees otherwise in writing, comply with the terms of the Relevant Agreements and any other document, agreement or arrangement comprising the Secured Assets.
- 6.3.2 The Assignor shall not, unless Lloyds agrees otherwise in writing:
  - 6.3.2.1 amend or vary or agree to any change in, or waive any requirement of or its rights under;
  - 6.3.2.2 settle, compromise, terminate, rescind or discharge (except by performance); or
  - 6.3.2.3 abandon, waive, dismiss, release or discharge any action, claim or proceedings against any Counterparty or other person in connection with,the Relevant Agreements and any other document, agreement or arrangement comprising the Secured Assets.

#### **6.4 Rights**

The Assignor shall:

- 6.4.1 not waive any of Lloyds' rights or release any person from its obligations in connection with the Secured Assets; and
- 6.4.2 take all necessary or appropriate action against any person (including as reasonably required by the Assignee) to protect and enforce its rights, and recover money or receive other property in connection with, the Secured Assets.

## **6.5 Payment of Money**

The Assignor shall ensure that all money payable to, or other property receivable by, the Assignor under or in relation to any Secured Assets is paid or delivered to the Lloyds Blocked Account.

## **6.6 Compliance With Laws and Regulations**

6.6.1 The Assignor shall not, without Lloyds' prior written consent, use or permit the Secured Assets to be used in any way contrary to law.

6.6.2 The Assignor shall:

6.6.2.1 comply with the requirements of any law and regulation relating to or affecting the Secured Assets or the use of them or any part of them; and

6.6.2.2 obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Secured Assets or their use or that are necessary to preserve, maintain or renew any Secured Asset.

## **6.7 Enforcement of Rights**

The Assignor shall use its best endeavours to:

6.7.1 procure the prompt observance and performance by the Counterparties to any agreement or arrangement with the Assignor and forming part of the Secured Assets of the covenants and other obligations imposed on the Counterparties; and

6.7.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that Lloyds may require from time to time.

## **6.8 Notice of Misrepresentations and Breaches**

The Assignor shall, promptly on becoming aware of any of the same, notify Lloyds in writing of:

6.8.1 any representation or warranty set out in this Deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and

6.8.2 any breach of any covenant set out in this Deed.

## **6.9 Notices to be Given by Assignor**

The Assignor shall:

6.9.1 on the execution of this Deed and as so requested by Lloyds from time to time:

6.9.1.1 give notice to the Counterparties to each Relevant Agreement, in the form set out in Part 1 of Schedule 1 to this Deed; and

6.9.1.2 procure that each Counterparty provides to Lloyds promptly an acknowledgement of the notice, in the form set out in Part 2 of Schedule 1 to this Deed;

6.9.2 on the execution of this Deed and as so requested by Lloyds from time to time:

6.9.2.1 give notice to the other parties to each other contract, guarantee, appointment, warranty or authorisation relating to

the Secured Assets and any other document to which the Assignor is a party, substantially in the form set out in Part 1 of Schedule 1 to this Deed; and

6.9.2.2 procure that each addressee of such notice provides to Lloyds promptly an acknowledgement of the notice, substantially in the form set out in Part 2 of Schedule 1 to this Deed; and

6.9.3 in the case of each Relevant Agreement and other document, agreement or arrangement designated as Secured Assets after the date of this Deed, the Assignor shall give the relevant notices and procure each relevant acknowledgement referred to in clause 6.9.1 to clause 6.9.2 on the later of that Relevant Agreement, document, agreement or arrangement coming into existence.

#### **6.10 Documents**

The Assignor shall, if so required by Lloyds, deposit with Lloyds and Lloyds shall, for the duration of this Deed, be entitled to hold all the Assignor's original counterparts of, and instruments comprising, the Relevant Agreements and each other document, instrument or agreement comprising the Secured Assets.

#### **6.11 Information**

The Assignor shall:

6.11.1 give Lloyds such information concerning the Secured Assets as Lloyds may require; and

6.11.2 promptly notify Lloyds in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Assignor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to Lloyds' prior approval, implement those proposals at its own expense.

#### **6.12 Payment of Outgoings**

The Assignor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to Lloyds.

#### **6.13 Compliance with Covenants**

The Assignor shall observe and perform all covenants, stipulations and conditions to which any Secured Assets, or the use of them, is or may be subjected and (if Lloyds so requires) produce to Lloyds evidence sufficient to satisfy Lloyds that those covenants, stipulations and conditions have been observed and performed.

#### **6.14 Information**

The Assignor shall:-

6.14.1 notify Lloyds of any breach by any person of any term of the Relevant Agreements or any right of it or any other person to rescind, cancel or terminate the Relevant Agreements promptly upon becoming aware of it;

6.14.2 supply to Lloyds all information, accounts and records necessary to enable Lloyds to verify all sums payable under the Relevant Agreements;

6.14.3 provide Lloyds promptly upon request with any document in its possession, custody or control and provide or assist Lloyds in obtaining any document or information which it may require in relation to the Relevant Agreements; and

**6.15 Conduct of claims**

The Assignor:-

6.15.1 shall promptly notify Lloyds of any actual, threatened or anticipated claim relating to the Relevant Agreements, and shall not, without Lloyds' prior written consent, compromise or settle any claim relating to the Relevant Agreements;

6.15.2 shall not, without Lloyds' prior written consent, commence any proceedings or refer any dispute to arbitration in connection with the Relevant Agreements; and

6.15.3 authorises Lloyds at any time and in any manner (whether in Lloyds' name or the Assignor's name) to take, submit to arbitration, institute, stay, settle or discontinue any proceedings relating to any claim under the Relevant Agreements.

**6.16 Payments without deduction**

The Assignor shall calculate and make all payments under this Deed without (and free and clear of any deduction for) set-off or counterclaim.

**6.17 Assignor remains liable**

The Assignor shall remain liable to perform all its obligations under the Relevant Agreements and Lloyds shall be under no obligation or liability as a result of any failure by the Assignor to perform those obligations.

**6.18 General**

The Assignor shall not (and shall not agree to):-

6.18.1 make any claim that any Relevant Agreement is frustrated;

6.18.2 permit any Counterparty to assign any of their rights, or transfer any of their obligations, under the Relevant Agreements; and

6.18.3 take or omit to take any action, the taking or omission of which might result in any alteration or impairment of any of the rights created by the Relevant Agreements or this Deed, nor exercise any right or power conferred on it by the Relevant Agreements in any manner adverse to the interests of Lloyds.

**6.19 Preservation of Contracts**

The Assignor shall not take any Security in connection with its liability under this Deed from any guarantor of, or provider of Security for, any of the Secured Liabilities.

**6.20 Preservation of rights**

The Assignor shall not do, permit or suffer or to be done anything which may prevent Lloyds (or any person claiming title through Lloyds) from exercising the rights of the Assignor (including any right to receive payments) under all or any part of the Relevant Agreements.

## **6.21 Further assurance**

The Assignor shall promptly do whatever Lloyds requires:-

- 6.21.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority; or
- 6.21.2 to facilitate the realisation of the Secured Assets or the exercise of any rights vested in Lloyds or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Secured Assets (whether to Lloyds or its nominees or otherwise), making any registration and giving any notice, order or direction.

## **7. POWERS OF LLOYDS**

### **7.1 Power to Remedy**

- 7.1.1 Lloyds shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Assignor of any of its obligations contained in this Deed.
- 7.1.2 The Assignor irrevocably authorises Lloyds and its agents to do all things that are necessary or desirable for that purpose.
- 7.1.3 Any monies expended by Lloyds in remedying a breach by the Assignor of its obligations contained in this Deed, shall be reimbursed by the Assignor to Lloyds on a full indemnity basis and shall carry interest in accordance with clause 13.1.

### **7.2 Exercise of Rights**

- 7.2.1 The rights of Lloyds under clause 7.1 are without prejudice to any other rights of Lloyds under this Deed.
- 7.2.2 The exercise of any rights of Lloyds under this Deed shall not make Lloyds liable to account as a mortgagee in possession.

### **7.3 Lloyds has Receiver's Powers**

To the extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this Deed has become enforceable, be exercised by Lloyds in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

### **7.4 Conversion of Currency**

- 7.4.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, Lloyds may convert any monies received, recovered or realised by it under this Deed (including the proceeds of any previous conversion under this clause 7.4) from their existing currencies of denomination into any other currencies of denomination that Lloyds may think fit.
- 7.4.2 Any such conversion shall be effected at the then prevailing spot selling rate of exchange for such other currency against the existing currency offered by a reference bank of Lloyds' choosing.
- 7.4.3 Each reference in this clause 7.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.



## **7.5 New Accounts**

7.5.1 If Lloyds receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, Lloyds may open a new account for the Assignor in Lloyds' books. Without prejudice to Lloyds' right to combine accounts, no money paid to the credit of the Assignor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

7.5.2 If Lloyds does not open a new account immediately on receipt of the notice, or deemed notice, under clause 7.5.1, then, unless Lloyds gives express written notice to the contrary to the Assignor, all payments made by the Assignor to Lloyds shall be treated as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt, or deemed receipt, of the relevant notice by Lloyds.

## **7.6 Indulgence**

Lloyds may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this Deed (whether or not any such person is jointly liable with the Assignor) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this Deed or to the liability of the Assignor for the Secured Liabilities.

## **8. ENFORCEMENT**

### **8.1 Enforcement**

The Security created by this Deed shall become enforceable:

8.1.1 at any time after Lloyds shall have demanded payment of the Secured Liabilities; or

8.1.2 any request being made by the Assignor to Lloyds for the appointment of a Receiver or an administrator, or for Lloyds to exercise any other power or right available to it.

### **8.2 Discretion**

After the security constituted by this Deed has become enforceable, Lloyds may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

### **8.3 Enforcement Powers**

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

8.3.2 The power of sale and other powers conferred by section 101 of the LPA (as varied or extended by this Deed) shall be immediately exercisable at any time after the security constituted by this Deed has become enforceable under clause 8.1.

8.3.3 Section 103 of the LPA does not apply to the security constituted by this Deed.

#### **8.4 Prior Security**

8.4.1 At any time after the security constituted by this Deed has become enforceable, Lloyds may:

8.4.1.1 redeem any prior Security over any Secured Asset;

8.4.1.2 procure the transfer of that Security to itself; and

8.4.1.3 settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Assignor).

8.4.2 The Assignor shall pay to Lloyds immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer; and such amounts shall be secured by this Deed as part of the Secured Liabilities.

#### **8.5 Protection of Third Parties**

No purchaser, mortgagee or other person dealing with Lloyds, any Receiver or any Delegate shall be concerned to enquire:

8.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;

8.5.2 whether any power Lloyds, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or

8.5.3 how any money paid to Lloyds, any Receiver or any Delegate is to be applied.

#### **8.6 Privileges**

Each Receiver and Lloyds is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers.

#### **8.7 No Liability as Mortgagee in Possession**

Neither Lloyds, nor any Receiver or any Delegate shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

#### **8.8 Conclusive Discharge to Purchasers**

The receipt of Lloyds, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Secured Assets or in making any acquisition in the exercise of their respective powers, Lloyds, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that Lloyds, Receiver or Delegate thinks fit.

### **9. RECEIVER**

#### **9.1 Appointment**

At any time after the security constituted by this Deed has become enforceable, or at the request of the Assignor, Lloyds may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

## **9.2 Removal**

Lloyds may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

## **9.3 Remuneration**

Lloyds may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA, and the remuneration of the Receiver shall be a debt secured by this Deed, to the extent not otherwise discharged.

## **9.4 Power of Appointment additional to Statutory Powers**

The power to appoint a Receiver conferred by this Deed shall be in addition to all statutory and other powers of Lloyds under the Insolvency Act 1986, the LPA or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA or otherwise.

## **9.5 Power of Appointment exercisable despite prior appointments**

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

## **9.6 Agent of the Assignor**

Any Receiver appointed by Lloyds under this Deed shall be the agent of the Assignor and the Assignor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Assignor goes into liquidation and after that, the Receiver shall act as principal and shall not become the agent of Lloyds.

# **10. POWERS OF RECEIVER**

## **10.1 General**

10.1.1 Any Receiver appointed by Lloyds under this Deed shall, in addition to the powers conferred on it by statute, have the powers set out in clause 10.2 to clause 10.14.

10.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.

10.1.3 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

10.1.4 Any exercise by a Receiver of any of the powers given by clause 10 may be on behalf of the Assignor, the directors of the Assignor or itself.

## **10.2 Employ Personnel and Advisers**

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit.

**10.3 Remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that Lloyds may prescribe or agree with it.

**10.4 Realise Secured Assets**

A Receiver may collect and get in the Secured Assets or any part of them in respect of which it is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

**10.5 Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and assign all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

**10.6 Valid Receipts**

A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

**10.7 Make Settlements**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Assignor or relating in any way to any Secured Asset.

**10.8 Bring Proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

**10.9 Insurance**

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 13, effect with any insurer, any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Assignor.

**10.10 Borrow**

A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if Lloyds consents, terms under which that security ranks in priority to this Deed).

**10.11 Redeem Prior Security**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Assignor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

**10.12 Delegation**

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

### **10.13 Absolute Beneficial Owner**

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights the Receiver would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

### **10.14 Incidental Powers**

A Receiver may do any other acts and things that it:

- 10.14.1 may consider desirable or necessary for realising any of the Secured Assets;
- 10.14.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law; or
- 10.14.3 lawfully may or can do as agent for the Assignor.

## **11. DELEGATION**

### **11.1 Delegation**

Lloyds or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney granted under clause 15.1).

### **11.2 Terms**

Lloyds and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

### **11.3 Liability**

Neither Lloyds nor any Receiver shall be in any way liable or responsible to the Assignor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **12. APPLICATION OF PROCEEDS**

### **12.1 Order Of Application Of Proceeds**

All monies received or recovered by Lloyds, a Receiver or a Delegate under this Deed or in connection with the realisation or enforcement of all or part of the security constituted by this Deed, shall (subject to the claims of any person having prior rights and by way of variation of the LPA) be applied in the following order of priority (but without prejudice to Lloyds' rights to recover any shortfall from the Assignor):

- 12.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of Lloyds (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this Deed, and of all remuneration due to any Receiver under or in connection with this Deed;
- 12.1.2 in or towards payment of the Secured Liabilities in any order and manner that Lloyds determines; and
- 12.1.3 in payment of the surplus (if any) to the Assignor or other person entitled to it.

### **12.2 Appropriation**

Neither Lloyds, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA, which is varied accordingly, or otherwise) to pay or appropriate any

receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

### **12.3 Suspense Account**

All monies received by Lloyds, a Receiver or a Delegate under this Deed:

12.3.1 may, at the discretion of Lloyds, Receiver or Delegate, be credited to a suspense account;

12.3.2 shall bear interest, if any, at the rate agreed in writing between Lloyds and the Assignor; and

12.3.3 may be held in that account for so long as Lloyds, Receiver or Delegate thinks fit.

## **13. COSTS AND INDEMNITY**

### **13.1 Costs**

The Assignor shall, within five Business Days of demand, pay to, or reimburse, Lloyds and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by Lloyds, any Receiver or any Delegate in connection with:

13.1.1 this Deed or the Secured Assets;

13.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of Lloyds', a Receiver's or a Delegate's rights under this Deed; or

13.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding up or administration of the Assignor), computed and payable as provided in clauses 2.1 and 2.2.

### **13.2 Indemnity**

The Assignor shall indemnify Lloyds, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

13.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this Deed or by law in respect of the Secured Assets;

13.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this Deed; or

13.2.3 any default or delay by the Assignor in performing any of its obligations under this Deed.

Any past or present employee or agent may enforce the terms of this clause 13.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

**14. FURTHER ASSURANCE**

14.1 The Assignor shall promptly, at its own expense, take whatever action Lloyds or any Receiver may reasonably require for:

14.1.1 creating, perfecting or protecting the security intended to be created by this Deed;

14.1.2 facilitating the realisation of any Secured Asset; or

14.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by Lloyds or any Receiver in respect of any Secured Asset,

14.2 including, without limitation the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to Lloyds or to its nominee) and the giving of any notice, order or direction and the making of any registration.

**15. POWER OF ATTORNEY**

**15.1 Appointment of Attorneys**

By way of security, the Assignor irrevocably appoints Lloyds, every Receiver and every Delegate separately to be the attorney of the Assignor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

15.1.1 the Assignor is required to execute and do under this Deed; or

15.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this Deed or by law on Lloyds, any Receiver or any Delegate.

**15.2 Ratification of acts of Attorneys**

The Assignor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 15.1.

**16. RELEASE**

16.1 Subject to clause 22.3, at the end of the Security Period, Lloyds shall, at the request and cost of the Assignor, take whatever action is necessary to:

16.1.1 release the Secured Assets from the security constituted by this Deed; and

16.1.2 reassign the Secured Assets to the Assignor.

**17. ASSIGNMENT AND TRANSFER**

**17.1 Assignment By Lloyds**

17.1.1 At any time, without the consent of the Assignor, Lloyds may assign or transfer any or all of its rights and obligations under this Deed.

17.1.2 Lloyds may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Assignor, the Secured Assets and this Deed that Lloyds considers appropriate.

**17.2 Assignment By Assignor**

The Assignor may not assign any of its rights, or transfer any of its rights or obligations, under this Deed.

**18. SET-OFF**

**18.1 Lloyds' Right Of Set-Off**

Lloyds may at any time set off any liability of the Assignor to Lloyds against any liability of Lloyds to the Assignor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Deed. If the liabilities to be set off are expressed in different currencies, Lloyds may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Lloyds of its rights under this clause 18 shall not limit or affect any other rights or remedies available to it under this Deed or otherwise.

**18.2 No Obligation to Set Off**

Lloyds is not obliged to exercise its rights under clause 18.1. If, however, it does exercise those rights it must promptly notify the Assignor of the set-off that has been made.

**18.3 Exclusion of Assignor's Right of Set-Off**

All payments made by the Assignor to Lloyds under this Deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

**19. AMENDMENTS, WAIVERS AND CONSENTS**

**19.1 Amendments**

No amendment of this Deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

**19.2 Waivers and Consents**

19.2.1 A waiver of any right or remedy under this Deed or by law, or any consent given under this Deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

19.2.2 A failure or delay by a party to exercise any right or remedy provided under this Deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Deed. No single or partial exercise of any right or remedy provided under this Deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Deed by Lloyds shall be effective unless it is in writing.

**19.3 Rights and Remedies**

The rights and remedies provided under this Deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

**20. SEVERANCE**

If any provision (or part of a provision) of this Deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or



part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Deed.

## **21. COUNTERPARTS**

21.1.1 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

21.1.2 Transmission of an executed counterpart of this Deed (but for the avoidance of doubt not just a signature page) by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

21.1.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

## **22. FURTHER PROVISIONS**

### **22.1 Independent Security**

The security constituted by this Deed shall be in addition to, and independent of, any other security or guarantee that Lloyds may hold for any of the Secured Liabilities at any time. No prior security held by Lloyds over the whole or any part of the Secured Assets shall merge in the security created by this Deed.

### **22.2 Continuing Security**

The security constituted by this Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until Lloyds discharges this Deed in writing.

### **22.3 Discharge Conditional**

Any release, discharge or settlement between the Assignor and Lloyds shall be deemed conditional on no payment or security received by Lloyds in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

22.3.1 Lloyds or its nominee may retain this Deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that Lloyds deems necessary to provide Lloyds with security against any such avoidance, reduction or order for refund; and

22.3.2 Lloyds may recover the value or amount of such security or payment from the Assignor subsequently as if the release, discharge or settlement had not occurred.

### **22.4 Certificates**

A certificate or determination by Lloyds as to any amount for the time being due to it from the Assignor under this Deed or otherwise shall be, in the absence of any manifest error, conclusive evidence of the amount due.

## **22.5 Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA shall not apply to this Deed.

## **23. NOTICES**

### **23.1 Delivery**

Any notice or other communication given to a party under or in connection with this Deed shall be:

23.1.1 in writing;

23.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and

23.1.3 sent to:

23.1.3.1 the Assignor at the address referred to next to its name on page 1 of this deed or, if different, its registered address from time to time

Attention: The Directors

23.1.3.2 Lloyds at the following address:

Lloyds Bank PLC  
3rd Floor,  
125 London Wall,  
London EC2Y 5AJ

Attention: Jason Murray, Relationship Director, LC BSU

23.1.3.3 the relevant Counterparty or insurer at its principal place of business,

or to any other address or fax number as is notified in writing by one party to the other from time to time.

### **23.2 Receipt by Assignor**

Any notice or other communication that Lloyds gives to the Assignor shall be deemed to have been received:

23.2.1 if delivered by hand, at the time it is left at the relevant address;

23.2.2 if posted by pre-paid first class post or other next working day delivery service, on the second Business Day after posting; and

23.2.3 if sent by fax, when received in legible form.

A notice or other communication given as described in clause 23.2.1 or clause 23.2.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

### **23.3 Receipt by Lloyds**

Any notice or other communication given to Lloyds shall be deemed to have been received only on actual receipt.

**23.4 Service of Proceedings**

This clause 23 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

**24. GOVERNING LAW AND ENFORCEMENT**

24.1 This Deed and any non-contractual obligations arising out of or in connection with it will be governed by and construed according to English law.

24.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "Dispute").

24.3 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.

24.4 Notwithstanding Clause 24.2 above, Lloyds shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, a Lender may take concurrent proceedings in any number of jurisdictions.

This agreement has been entered into as a deed on the date stated at the beginning of it.

## SCHEDULE 1

### PART 1

#### FORM OF NOTICE OF ASSIGNMENT

[NAME OF COUNTERPARTY]  
[ADDRESS LINE 1]  
[ADDRESS LINE 2]  
[POSTCODE]  
[DATE]

Dear Sirs,

Security assignment dated [ ] 2021 between NMCN PLC as assignor (the "Assignor") and Lloyds Bank PLC (the "Assignee") (the "Assignment")

We refer to the [RELEVANT AGREEMENT] (the "Contract").

This letter constitutes notice to you that under the Assignment we have assigned to the Assignee absolutely, subject to a proviso for reassignment, all our rights, title and interest and benefit in and to the Contract.

The Assignee have directed us to irrevocably instruct and authorise you to:

- Comply with the terms of any written instructions received by you from the Assignee relating to the Contract, without notice or reference to, or further authority from, us and without enquiring as to the justification or the validity of those instructions.
- Unless or until you receive instructions from the Assignee to the contrary:
  - hold all sums from time to time due and payable by you to us under the Contract to the order of the Assignee; and
  - pay, or release, all monies to which we are entitled under the Contract to the Assignee, or to such persons as the Assignee may direct.
- Disclose information in relation to the Contract to the Assignee on request by the Assignee.

Neither the Assignment nor this notice releases, discharges or otherwise affects your liability and obligations in respect of the Contract.

Subject to the foregoing, you may continue to deal with us in relation to the Contract until you receive written notice to the contrary from the Assignee. Thereafter, we will cease to have any right to deal with you in relation to the Contract and you must deal only with the Assignee.

Please note that we have agreed that we will not amend or waive any provision of or terminate the Contract without the prior written consent of the Assignee.

The instructions in this notice may only be revoked or amended with the prior written consent of the Assignee.

Please confirm that you agree to the terms of this notice, and to act in accordance with its provisions, by sending the attached acknowledgement to the Assignee at [ ] with a copy to us.

This notice, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

Yours faithfully,

\*\*\*\*\*  
**NMCN PLC**

## PART 2

### FORM OF ACKNOWLEDGEMENT OF ASSIGNMENTS

To: **Lloyds Bank PLC**

[ ]

Dear Sirs,

**Security assignment dated [ ] 2021 between NMCN PLC as assignor (the "Assignor") and Lloyds Bank PLC (the "Assignee") (the "Assignment")**

We confirm receipt from the Assignor of a notice (Notice) dated [ ] 2021 of its absolute assignment, subject to a proviso for reassignment, of all the Assignor's rights under [RELEVANT AGREEMENT] (the "Contract") pursuant to the Assignment.

Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- We accept the instructions and authorisations contained in the Notice and agree to comply with the Notice.
- There has been no amendment, waiver or release of any rights or interests in the Contract since the date of the Contract.
- We will not repudiate, rescind or cancel the Contract, treat it as avoided in whole or in part nor treat it as expired without giving the Assignee at least 30 days' prior written notice.
- We have not, as at the date of this acknowledgement, received notice that the Assignor has assigned its rights under the Contract to a third party, or created any other interest (whether by way of security or otherwise) in the Contract in favour of a third party.
- The Assignee will not have, in any circumstances, any liability in relation to the Contract.
- The Contract shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Assignee.

This letter, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

Yours faithfully,

Cc: NMCN Plc

EXECUTION PAGE

The Assignor

EXECUTED as a Deed  
by NMCN PLC  
acting by a director  
in the presence of:

)  
)  
)  
)



Director

Signature of Witness

Name: Florence Kennedy  
Address:   
Occupation: 

The Assignee

SIGNED by Lloyds Bank PLC

)

\_\_\_\_\_  
Authorised Signatory