



**Registration of a Charge**

Company Name: **SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED**

Company Number: **01647362**



Received for filing in Electronic Format on the: **19/01/2022**

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**Details of Charge**

Date of creation: **31/12/2021**

Charge code: **0164 7362 0008**

Persons entitled: **TRUSTEES OF THE SAINT-GOBAIN DISTRIBUTION UK PENSION SCHEME**

Brief description:

**Contains floating 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: **CLIFFORD CHANCE LLP**



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

Company number: 1647362

Charge code: 0164 7362 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st December 2021 and created by SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th January 2022 .

Given at Companies House, Cardiff on 20th January 2022

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**

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**SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED**

**AS CHARGOR**

**IN FAVOUR OF**

**STEPHEN EDWARD MILLWARD, JENNIFER DINNES, RICHARD JOHN WALL,  
CATHERINE ROE, DALRIADA TRUSTEES LIMITED AND THE LAW DEBENTURE  
PENSION TRUST CORPORATION P.L.C.**

**AS THE TRUSTEES OF**

**THE SAINT-GOBAIN DISTRIBUTION UK PENSION SCHEME**

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**FLOATING CHARGE – TRADE RECEIVABLES**

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**THIS FLOATING CHARGE** is made on 10 December 2021

**BY:**

- (1) **SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED** (registered number 01647362) whose registered office is at Saint-Gobain House, East Leake, Loughborough, Leicestershire, LE12 6JU (the "**Chargor**")

in favour of:

- (2) **THE TRUSTEES of the occupational pension scheme now known as the Saint-Gobain Distribution UK Pension Scheme** (the "**Scheme**"), being established by a trust deed dated 18 October 2004 and in respect of which the present trustees are **STEPHEN EDWARD MILLWARD, JENNIFER DINNES, RICHARD JOHN WALL and CATHERINE ROE**, all care of Saint-Gobain House, East Leake, Loughborough, Leicestershire, LE12 6JU, **DALRIADA TRUSTEES LIMITED** (registered number NI038344) whose registered office is at Linen Loft, Adelaide Street, Belfast, Northern Ireland, BT2 8FE and **THE LAW DEBENTURE PENSION TRUST CORPORATION P.L.C.** (registered number 03267461) whose registered office is at 8th Floor, 100 Bishopsgate, London, EC2N 4AG.

**RECITALS:**

- (A) The Group proposes to restructure the Saint-Gobain UK Pension Scheme (the "**Transferring Scheme**") and to split it into two occupational pension schemes by: (i) creating a new section within the Transferring Scheme and transferring certain members' benefits to that new section; (ii) transferring other members' benefits between existing sections of the Transferring Scheme; (iii) transferring certain sections in their entirety to a new pension scheme while leaving a number of sections in the Transferring Scheme; and (iv) appointing a new principal employer of the Transferring Scheme and renaming the Transferring Scheme, with these steps all to take effect on and from the date specified in the Demerger Deed (the "**Demerger Date**").
- (B) The Transferring Scheme will be renamed the Saint-Gobain Distribution UK Pension Scheme, and pursuant to the restructuring contemplated above the Chargor and the Trustees wish to enter into this Floating Charge to take effect on the Demerger Date.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Floating Charge:

"**BD and G&D Sections**" means the following (as defined in the Definitive Deed) namely the Building Distribution Section and Gibbs and Dandy Section of the Scheme.

**"Charged Property"** means all the assets and undertaking of the Chargor which from time to time are the subject of the Relevant Security;

**"Claims Accounts"** means the accounts established in accordance with Clause 7.5 (*Claims Accounts*) and subject to Security in favour of the Trustees as the same may be redesignated, substituted or replaced from time to time and a **"Claims Account"** means any one of them;

**"Collateral Rights"** means all rights, powers and remedies of the Trustees provided by or pursuant to this Floating Charge or by law;

**"Company"** means Saint-Gobain Building Distribution Limited acting in its capacity as the company under and pursuant to the terms of Security Framework Agreement D3 and Security Framework Agreement D4;

**"Definitive Deed"** means the definitive trust deed relating to the Scheme dated 14 July 2011 as amended from time to time;

**"Demerger Deed"** means the demerger deed relating to the Transferring Scheme dated on or around the date of this Deed;

**"Employer"** shall have the meaning ascribed to that term in Security Framework Agreement D3;

**"Escrow Account"** shall have the meaning ascribed to that term in Security Framework Agreement D3;

**"Escrow Amount"** shall have the meaning ascribed to that term in sub-Clause 5.1.2;

**"Group"** means Compagnie de Saint-Gobain and its Subsidiaries from time to time;

**"Insolvency Event"** means any of the following events, namely a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor or an administrator is appointed in respect of the Chargor or a Receiver is appointed in respect of the whole or a substantial part of the assets of the Chargor;

**"Real Property Floating Charge"** means the real property floating charge dated on or about the date of this Floating Charge between the Chargor and the Trustees;

**"Receivables"** means all trade receivables owing to the Chargor by a person who is not a member of the Group and any proceeds of such trade receivables;

**"Receiver"** means a receiver or receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Charged Property and that term will include any appointee made under a joint and/or several appointment;

**"Recovery Contribution"** means at any relevant time a contribution or payment obligation under the Schedule of Contributions or imposed by the Pensions Regulator under section 231(2)(c) of the Pensions Act 2004 or arising under section 75 or section 75A of the Pensions Act 1995, which in any such case relates to a deficit in the BD and

G&D Sections as at the date of the last actuarial valuation under section 224 of the Pensions Act 2004;

**"Related Rights"** means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset.

**"Relevant Security"** means the Security created or expressed to be created in favour of the Trustees pursuant to this Floating Charge;

**"Schedule of Contributions"** means the Schedule of Contributions in effect on the date of this Floating Charge, substantially in the form set out in Annex 1 to Security Framework Agreement D3 or (as the context requires) any later Schedule of Contributions agreed between the Company and the Trustees as replacing or restating such initial Schedule of Contribution or later replacement or restatement;

**"Secured Obligations"** means all obligations covenanted to be discharged by the Chargor in Clause 2.1 (*Covenant to Pay*);

**"Security D3 Cap"** shall have the meaning ascribed to that term in Security Framework Agreement D3 (being, as at the date of this Floating Charge, £200,000,000 as adjusted in accordance with the provisions of Security Framework Agreement D3 and (if applicable) this Floating Charge);

**"Security D4 Cap"** shall have the meaning ascribed to that term in Security Framework Agreement D4 (being, as at the date of this Floating Charge, £200,000,000 as adjusted in accordance with the provisions of Security Framework Agreement D4 and (if applicable) the Real Property Floating Charge);

**"Security Framework Agreement D3"** means the security framework agreement titled 'Security Framework Agreement D3' dated on or about the date of this Floating Charge and between the Company and the Trustees;

**"Security Framework Agreement D4"** means the security framework agreement titled 'Security Framework Agreement D4' dated on or about the date of this Floating Charge between the Company and the Trustees;

**"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; and

**"Trustees"** means the trustees for the time being of the Scheme.

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C H A N C E****CLIFFORD CHANCE LLP****1.2 Terms defined in Security Framework Agreement D3**

Unless defined in this Floating Charge, or the context otherwise requires, a term defined in Security Framework Agreement D3 has the same meaning in this Floating Charge or any notice given under or in connection with this Floating Charge.

**1.3 Construction**

In this Floating Charge:

- 1.3.1 the rules of interpretation contained in sub-clauses 1.2.1 to 1.2.4 and clause 1.3 of Security Framework Agreement D3 shall apply to the construction of this Floating Charge; and
- 1.3.2 references in this Floating Charge to any Clause, sub-Clause or Schedule shall be to a clause, sub-clause or schedule contained in this Floating Charge.

**1.4 Third Party Rights**

A person who is not a party to this Floating Charge has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Floating Charge.

**2. PAYMENT OF SECURED OBLIGATIONS****2.1 Covenant to Pay**

The Chargor covenants with the Trustees to discharge all obligations which the Company may have to the Trustees under or pursuant to Security Framework Agreement D3 and Security Framework Agreement D4; and **provided that** neither such covenant nor the Relevant Security shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or the Relevant Security to be unlawful or prohibited by any applicable law.

**2.2 Interest on Demands**

If the Chargor fails to pay any sum on the due date for payment of that sum such Chargor shall pay interest on any such sum in accordance with the provisions of clause 2.4 of Security Framework Agreement D3.

**2.3 Limited recourse**

- 2.3.1 The Trustees shall have recourse in respect of any claim against the Chargor under this Floating Charge only to the Charged Property held by the Chargor and amounts received or receivable upon enforcement of the Relevant Security granted by the Chargor. If the Trustees have realised the same, and the net proceeds are insufficient to discharge all amounts which, but for the effect of this Clause 2.3, would then be due from that Chargor, the relevant Chargor will be under no further liability, and the Trustees shall have no further rights, under this Floating Charge. The Trustees, or anyone acting on their behalf, shall not



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be entitled to take any further steps or exercise any rights which would otherwise be available against the Chargor under this Floating Charge. For the avoidance of doubt, the Trustees shall have no claim against any director or officer of the Chargor as a result of the limitation of any claim they may have against the Chargor as a result of this Clause 2.3 (or otherwise under this Floating Charge) unless the actions are founded on fraudulent or wilful action of the relevant director or officer of that Chargor.

- 2.3.2 Notwithstanding any other provision of this Floating Charge, the total aggregate amount the Trustees shall be entitled to recover under or pursuant to the exercise of their rights under Security Framework Agreement D3, Security Framework Agreement D4, this Floating Charge and the Real Property Floating Charge shall be limited to the aggregate of the Security D3 Cap and the Security D4 Cap.

**3. FLOATING CHARGE**

- 3.1.1 The Chargor charges with full title guarantee in favour of the Trustees as security for the payment and discharge of the Secured Obligations, by way of first floating charge, all of its rights, title and interest from time to time in and to the Receivables and all Related Rights.
- 3.1.2 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to this Clause 3 (*Floating Charge*).

**4. CRYSTALLISATION OF FLOATING CHARGE**

**4.1 Crystallisation: By Notice**

- 4.1.1 The Trustees may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:
- (a) the Company fails to pay any amount due under Security Framework Agreement D3 or Security Framework Agreement D4 within 30 days of the Company receiving the Trustees' written demand for payment of such amount; or
  - (b) the Company fails to pay any amount required to be paid into escrow pursuant to Clause 5.1 (*Payments into the Escrow Account*).
- 4.1.2 The Chargor shall have the right to receive, withdraw or otherwise transfer from one or more Claims Accounts:
- (a) at any time prior to conversion of the floating charge pursuant to Clause 4.1 (*Crystallisation: By Notice*), any credit balance of the Claims Accounts;

- (b) following the conversion of the floating charge pursuant to sub-Clause 4.1.2 and prior to an Insolvency Event, if the aggregate balance, taking in account any amounts withdrawn by the Trustees, on all the Claims Accounts exceeds the Security D3 Cap at any time, a total amount equal to such excess at such time; and
- (c) any other amount with the prior written consent of the Trustees.

For the avoidance of doubt, the Chargor shall not be entitled to withdraw any amounts from the Claims Accounts following the occurrence of an Insolvency Event.

4.1.3 If the Trustees have:

- (a) commenced enforcement action pursuant to clause 9 (*Enforcement of Security*) of the Real Property Floating Charge and have sold, realised or otherwise disposed of all the assets subject to such security as far as practicable (having made all reasonable efforts to do so); and
- (b) notified the Company in writing that the aggregate proceeds received by them in respect of the sales, realisations and disposals referred to in paragraph (a) above plus the value of relevant assets which it has not been practicable to sell, realise or otherwise dispose of (with reference to the latest valuations provided pursuant to sub-clause 6.1.3 of Security Framework Agreement D4) is less than the Security D4 Cap,

the Security D3 Cap for the purpose of paragraph (b) of sub-Clause 4.1.2 above shall be increased by an amount equal to the difference between the Security D4 Cap and the aggregate amount of such proceeds received and the value of relevant assets which it has not been practicable to sell, realised or otherwise dispose of.

#### 4.2 **Crystallisation: Automatic**

Notwithstanding Clause 4.1 (*Crystallisation: By Notice*) and without prejudice to any law which may have a similar effect, the floating charge will automatically be converted (without notice) with immediate effect into a fixed charge (with the effect described in sub-Clause 4.1.1 above) as regards all the assets subject to the floating charge if an Insolvency Event occurs and is continuing.

#### 4.3 **No notice to debtors**

Prior to the occurrence of an Insolvency Event the Trustees shall be prohibited from giving notice of the occurrence of such crystallisation to any debtor of a Receivable subject to the floating charge.

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**5. ESCROW PAYMENTS**

**5.1 Payments into the Escrow Account**

If:

5.1.1 the Chargor does not comply with its obligations under Clause 7.1 (*Negative Pledge*), Clause 7.2 (*Disposals*), Clause 7.3 (*Value Maintenance Covenant*) or Clause 7.5 (*Claims Accounts*) of this Floating Charge or the Company does not comply with its obligations under sub-clause 6.1 of Security Framework Agreement D3; and

5.1.2 if capable of remedy, such failure to comply is not remedied within:

- (a) in relation to a failure to comply with Clause 7.1 (*Negative Pledge*), Clause 7.2 (*Disposals*), Clause 7.3 (*Value Maintenance Covenant*) or Clause 7.5 (*Claims Accounts*), 45 days; and
- (b) in relation to a failure to comply with sub-clause 6.1 of Security Framework Agreement D3, 60 days,

of the earlier of:

- (c) the Trustees giving notice to the Chargor; or
- (d) the Chargor becoming aware of such failure to comply,

the Company shall pay into the Escrow Account an amount equal to:

- (i) in relation to a failure to comply with Clause 7.1 (*Negative Pledge*), Clause 7.2 (*Disposals*), Clause 7.3 (*Value Maintenance Covenant*) or Clause 7.5 (*Claims Accounts*), 75%; and
- (ii) in relation to a failure to comply with sub-clause 6.1 of Security Framework Agreement D3, 25%,

of each Recovery Contribution made to the BD and G&D Sections of the Scheme for so long as the relevant default is continuing at the same time as each Recovery Contribution is paid (the "**Escrow Amount**"). For the avoidance of doubt, the obligation to make escrow payments referred to above shall only be triggered once in relation to any specific event or circumstances.

**5.2 Release of amounts held in the Escrow Account**

5.2.1 If any failure to comply referred to in sub-Clause 5.1.1 above is remedied within 6 months from the date of such failure to comply, the Company shall have the right to withdraw any Escrow Amounts paid into the Escrow Account in relation to such failure to comply.

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5.2.2 If any failure to comply referred to in sub-Clause 5.1.1 above has been continuing for a period of 6 months or more, the Trustees shall have the right to withdraw any Escrow Amounts paid into the Escrow Account in relation to such failure to comply and apply such amount as an additional contribution to the Scheme.

**5.3 Reduction of the Security D3 Cap**

The Security D3 Cap shall be reduced by an amount equal to the aggregate amounts paid into the Escrow Account in accordance with this Clause 5 (*Escrow Payments*) excluding any amounts returned to the Company in accordance with sub-Clause 5.2.1 above.

**5.4 Additional remedy**

The obligation to make payments into the Escrow Account in accordance with Clause 5.1 (*Payments into the Escrow Account*) is an additional remedy provided for the benefit of the Trustees and is without prejudice to the contractual obligation of the Chargor to remedy the relevant failure to comply.

**5.5 Escrow Account**

If the Company fails to comply with its obligations under clause 6.2 of Security Framework Agreement D3 or if an escrow payment is required to be made within the 60 day period referred to in clause 6.2 of Security Framework Agreement D3, until the Escrow Account is established in accordance with clause 6.2 of Security Framework Agreement D3, references in this Clause 5 to the Escrow Account shall be deemed to be replaced by references to an account of the Scheme with such bank as the Trustees notify to the Company and the Trustees and the Company shall be entitled to exercise such rights over such account as if the security assignment referred to in sub-clause 6.2.2 of Security Framework Agreement D3 had been validly entered into.

**6. FURTHER ASSURANCE**

**6.1 Further Assurance: General**

6.1.1 The covenant set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in sub-Clause 6.1.2 below.

6.1.2 The Chargor shall promptly at its own cost do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Trustees may reasonably specify (and in such form as the Trustees may reasonably require in favour of the Trustees or its nominee(s)):

- (a) to perfect the Relevant Security or for the exercise of the Collateral Rights; and
- (b) to facilitate the realisation of the Charged Property.

**6.2 Necessary Action**

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 the Relevant Security.

**6.3 Implied Covenants for Title**

The obligations of the Chargor under this Floating Charge shall be in addition to the covenants for title deemed to be included in this Floating Charge by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.

**7. GENERAL UNDERTAKINGS****7.1 Negative Pledge**

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

7.1.2 Sub-Clause 7.1.1 does not apply to any Security listed below:

- (a) the Relevant Security;
- (b) any fixed or expressed to be fixed charge or legal mortgage provided the aggregate value of the Charged Property not subject to a fixed or expressed to be fixed charge or legal mortgage over which the Trustees have a first ranking floating charge is not less than the Security D3 Cap (in each case as determined by the Chargor acting reasonably at the time such fixed or expressed to be fixed charge or legal mortgage is created and with reference to the latest valuations provided pursuant to clause 6.1.4 of Security Framework Agreement D3); and
- (c) any floating charge provided the aggregate amount of any secured obligations in respect of that floating charge is less than an amount equal to the aggregate value of the Charged Property less an amount equal to the Security D3 Cap plus the aggregate value of the Charged Property subject to a fixed or expressed to be fixed charge or legal mortgage (in each case as determined by the Chargor acting reasonably at the time such floating charge is created).

**7.2 Disposals**

7.2.1 The Chargor may, at any time prior to the conversion of the floating charge pursuant to Clause 4.1 (*Crystallisation: By Notice*), without the consent of the Trustees, dispose of or deal with any of its assets forming part of the Charged Property in the ordinary course of business in such a manner as the Chargor considers fit.

7.2.2 The Chargor may, following the conversion of the floating charge pursuant to Clause 4.1 (*Crystallisation: By Notice*) and so long as no Insolvency Event has occurred and is continuing, without the consent of the Trustees, dispose of any of the Charged Property other than the proceeds of trade receivables which have been paid into a Claims Account.

7.2.3 Notwithstanding sub-Clause 7.2.1 and 7.2.2 above, the Chargor shall not dispose of any part of the Charged Property if the aggregate value of the Charged Property immediately following that disposal (as determined by the Chargor acting reasonably) would be less than the Security D3 Cap.

### **7.3 Value Maintenance Covenant**

The Chargor shall ensure that at all times the aggregate value of the Charged Property (as determined by the Chargor acting reasonably and with reference to the latest valuations provided pursuant to clause 6.1.4 of Security Framework Agreement D3) over which the Trustees have a first ranking floating charge and which is not subject to a fixed charge or legal mortgage in favour of a third party is not less than the Security D3 Cap.

### **7.4 Valuations**

For the purposes of this Clause 7, the aggregate value of the Charged Property at the relevant time shall be determined by the Chargor in accordance with its usual valuation methods and adjusted to exclude receivables which are owed by other members of the Group or have been written down or otherwise provided for (in each case to the extent of the relevant write-off or provisions).

### **7.5 Claims Accounts**

The Chargor undertakes to:

7.5.1 open and maintain a bank account or accounts with any major UK domiciled bank to be used as Claims Accounts (and shall notify the Trustees of the details of such accounts);

7.5.2 grant a security assignment over each such account in the form set-out in Schedule 1 (*Form of Claims Account Security Assignment*); and

7.5.3 ensure that a notice is given to, and an acknowledgement is received from, the relevant account bank as contemplated in such security assignment,

within 60 days of the date of this Floating Charge.

### **7.6 Payments into Claims Accounts**

The Chargor shall use all reasonable efforts to ensure that the proceeds of all its Receivables subject to this Floating Charge (and not subject to a fixed charge granted in favour of any other person) are paid directly into a Claims Account.

## 8. REPRESENTATIONS

- 8.1.1 The Chargor is duly incorporated and validly existing under the laws of England and Wales. It has the power to own its material assets and to carry on its business as it is being conducted.
- 8.1.2 The Chargor has the power to enter into and perform the obligations assumed under this Floating Charge and has taken all necessary action to authorise the entry into and performance of this Floating Charge.
- 8.1.3 Subject to any general principles of law limiting its obligations, this Floating Charge constitutes the Chargor's legally binding, valid and enforceable obligations.
- 8.1.4 The entry into and performance by the Chargor of, and the transactions contemplated by, this Floating Charge do not conflict to a material extent with:
  - (a) any law or regulation applicable to it;
  - (b) its constitutional documents; nor
  - (c) any document which is binding upon it.

## 9. ENFORCEMENT OF SECURITY

### 9.1 Enforcement

- 9.1.1 Subject to sub-Clauses 9.1.2 and 9.1.3 below, at any time after the conversion of the floating charge pursuant to Clause 4.1 (*Crystallisation: By Notice*) or Clause 4.2 (*Crystallisation: Automatic*) or if the Chargor requests the Trustees to exercise any of their powers under this Floating Charge, the Relevant Security is immediately enforceable and the Trustees may, without notice to the Chargor or prior authorisation from any court, in their absolute discretion:
  - (a) enforce all or any part of the Relevant Security (at the times, in the manner and on the terms they think fit) and take possession of and hold or dispose of all or any part of the Charged Property; and
  - (b) whether or not they have appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Floating Charge) on mortgagees and by this Floating Charge on any Receiver or otherwise conferred by law on mortgagees or Receivers.
- 9.1.2 The Trustees shall not be permitted to dispose of all or any part of the Charged Property unless an amount or amounts are due and payable under Security Framework Agreement D3, Security Framework Agreement D4 or this Floating Charge (such amount or amounts not having been paid by the Company or the Chargor within 30 days of the Company or the Chargor receiving the Trustees'

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written demand for payment of such amount in accordance with the terms of Security Framework Agreement D3, Security Framework Agreement D4 or this Floating Charge (as applicable)).

9.1.3 The Trustees shall not be permitted to dispose of all or part of the Charged Property for the purposes of meeting Secured Obligations in respect of Security Framework Agreement D4 unless they have:

- (a) commenced enforcement action pursuant to clause 9 (*Enforcement of Security*) of the Real Property Floating Charge and have sold, realised or otherwise disposed of all the assets subject to such security as far as practicable (having made all reasonable efforts to do so); and
- (b) notified the Company in writing that the aggregate proceeds received by them in respect of the sales, realisations and disposals referred to in paragraph (a) above (together with the value (based on the latest valuations provided pursuant to clause 6.1.3 of Security Framework Agreement D4) of relevant assets which it has not been practicable to sell, realise or dispose of) was less than the Security D4 Cap.

## 9.2 No Liability as Mortgagee in Possession

Neither the Trustees nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable.

## 9.3 Effect of Moratorium

The Trustees shall not be entitled to exercise their rights under Clause 9.1 (*Enforcement*) or Clause 4 (*Crystallisation of Floating Charge*) where the right arises as a result of an Insolvency Event occurring solely due to any person obtaining or taking steps to obtain a moratorium pursuant to Schedule A1 of the Insolvency Act 1986.

# 10. EXTENSION AND VARIATION OF THE LAW OF PROPERTY ACT 1925

## 10.1 Extension of Powers

The power of sale or other disposal conferred on the Trustees and on any Receiver by this Floating Charge shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Floating Charge.

## 10.2 Restrictions

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Floating Charge or to the exercise by the Trustees of their right to consolidate all or any of the Relevant Security with any other security in existence at



any time or to its power of sale, which powers may be exercised by the Trustees without notice to the Chargor on or at any time after the Relevant Security has become enforceable in accordance with Clause 9.1 (*Enforcement*).

### 10.3 Power of Leasing

The statutory powers of leasing may be exercised by the Trustees at any time on or after the Relevant Security has become enforceable in accordance with Clause 9.1 (*Enforcement*) and the Trustees and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the Law of Property Act 1925.

## 11. APPOINTMENT OF RECEIVER OR ADMINISTRATOR

### 11.1 Appointment and Removal

After the Relevant Security has become enforceable in accordance with Clause 9.1 (*Enforcement*) or if a petition or application is presented for the making of an administration order in relation to the Chargor or if any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or if requested to do so by the Chargor, the Trustees may by deed or otherwise (acting through an authorised officer of the Trustees), without prior notice to the Chargor:

- 11.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Charged Property;
- 11.1.2 appoint two or more Receivers of separate parts of the Charged Property;
- 11.1.3 remove (so far as it is lawfully able) any Receiver so appointed;
- 11.1.4 appoint another person(s) as an additional or replacement Receiver(s); or
- 11.1.5 appoint one or more persons to be an administrator of the Chargor.

### 11.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 11.1 (*Appointment and Removal*) shall be:

- 11.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;
- 11.2.2 for all purposes deemed to be the agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Trustees; and

11.2.3 entitled to remuneration for his services at a rate to be fixed by the Trustees from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

### **11.3 Statutory Powers of Appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Trustees under the Law of Property Act 1925 (as extended by this Floating Charge) or otherwise and such powers shall remain exercisable from time to time by the Trustees in respect of any part of the Charged Property.

## **12. POWERS OF RECEIVER**

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Charged Property (and any assets of the Chargor which, when got in, would be Charged Property) in respect of which he was appointed, and as varied and extended by the provisions of this Floating Charge (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):

- 12.1.1 all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- 12.1.2 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);
- 12.1.3 all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- 12.1.4 the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to (a) any of the functions, powers, authorities or discretions conferred on or vested in him or (b) the exercise of the Collateral Rights (including realisation of all or any part of the Charged Property) or (c) bringing to his hands any assets of the Chargor forming part of, or which when got in would be, Charged Property.

## **13. APPLICATION OF MONIES**

All monies received or recovered by the Trustees or any Receiver pursuant to this Floating Charge or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Trustees (notwithstanding any purported appropriation by the Chargor) in satisfaction of the Secured Obligations.

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C H A N C E****CLIFFORD CHANCE LLP****14. PROTECTION OF PURCHASERS****14.1 Consideration**

The receipt of the Trustees or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property or making any acquisition, the Trustees or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

**14.2 Protection of Purchasers**

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

**15. POWER OF ATTORNEY****15.1 Appointment and Powers**

The Chargor by way of security irrevocably appoints the Trustees and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider (acting reasonably) to be required for enabling the Trustees and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Floating Charge or by law (including, after the Relevant Security has become enforceable in accordance with Clause 9.1 (*Enforcement*), the exercise of any right of a legal or beneficial owner of the Charged Property).

**15.2 Ratification**

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

**16. EFFECTIVENESS OF SECURITY****16.1 Continuing Security**

16.1.1 The Relevant Security shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged by the Trustees.

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

**16.2 Cumulative Rights**

The Relevant Security and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Trustees may at any time hold for the

Secured Obligations or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Trustees (whether in their capacity as trustees or otherwise) over the whole or any part of the Charged Property shall merge into the Relevant Security.

### **16.3 No Prejudice**

The Relevant Security and the Collateral Rights 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, or the Trustees (whether in their capacity as trustees or otherwise) or by any variation of the terms of the trust upon which the Trustees hold the Relevant Security or by any other thing which might otherwise prejudice the Relevant Security or any Collateral Right.

### **16.4 Remedies and Waivers**

No failure on the part of the Trustees to exercise, nor any delay on their part in exercising, any Collateral Right shall operate as a waiver of that Collateral Right or constitute an election to affirm this Floating Charge. No election to affirm this Floating Charge shall be effective unless it is in writing. No single or partial exercise of any Collateral Right shall preclude any further or other exercise of that or any other Collateral Right.

### **16.5 No Liability**

None of the Trustees, their nominees or any Receiver shall be liable by reason of (a) taking any action permitted by this Floating Charge or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property, except in the case of gross negligence or wilful default upon its part.

### **16.6 Partial Invalidity**

If, at any time, any provision of this Floating Charge is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Floating Charge nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the Relevant Security is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the Relevant Security.

### **16.7 Waiver of defences**

The obligations of the Chargor under this Floating Charge and the Collateral Rights will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Floating Charge (without limitation and whether or not known to it or the Trustees) including:

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- 16.7.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 16.7.2 the release of any other person under the terms of any composition or arrangement with any creditor;
- 16.7.3 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 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;
- 16.7.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other person;
- 16.7.5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of Security Framework Agreement D3 or Security Framework Agreement D4 or any other document or security or of the Secured Obligations;
- 16.7.6 any unenforceability, illegality or invalidity of any obligation of any person under Security Framework Agreement D3 or Security Framework Agreement D4 or any other document or security or of the Secured Obligations; or
- 16.7.7 any insolvency or similar proceedings.

**16.8 Immediate recourse**

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

**17. RELEASE OF SECURITY**

**17.1 Redemption of Security**

- 17.1.1 Upon the Secured Obligations being discharged in full or if Security Framework Agreement D3 or Security Framework Agreement D4 is terminated, the Trustees shall immediately release and cancel the Relevant Security, in each case subject to Clause 17.2 (*Avoidance of Payments*) and without recourse to, or any representation or warranty by, the Trustees or any of their nominees.
- 17.1.2 Notwithstanding sub-Clause 17.1.1 above, upon a disposal of any of the Charged Property by the Chargor:
  - (a) pursuant to the enforcement of the Relevant Security by a Receiver or the Trustees; or

(b) if that disposal is permitted under this Floating Charge,

the Trustees shall, at the request and cost of the Chargor, release that Charged Property from the Relevant Security given by the Chargor.

## **17.2 Avoidance of Payments**

If the Trustees consider that any amount paid or credited to them is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under this Floating Charge and the Relevant Security shall continue and such amount shall not be considered to have been irrevocably paid.

## **18. SET-OFF**

The Chargor authorises the Trustees (but the Trustees shall not be obliged to exercise such right), after the Relevant Security has become enforceable in accordance with Clause 9.1 (*Enforcement*), to set off against the Secured Obligations any amount or other obligation (contingent or otherwise) owing by the Trustees to the Chargor and apply any credit balance to which the Chargor is entitled on any account with the Trustee in accordance with Clause 13 (*Application of Monies*) (notwithstanding any specified maturity of any deposit standing to the credit of any such account).

## **19. SUBSEQUENT SECURITY INTERESTS**

If the Trustees (acting in their capacity as trustees or otherwise) at any time receive or are deemed to have received notice of any subsequent Security affecting all or any part of the Charged Property or any assignment or transfer of the Charged Property which is prohibited by the terms of this Floating Charge, all payments thereafter by or on behalf of the Chargor to the Trustees (whether in their capacity as trustees or otherwise) shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Trustees received such notice.

## **20. ASSIGNMENT AND TRANSFER**

### **20.1 Limitation**

Neither the Chargor nor the Trustees shall assign or transfer any of their rights and obligations under this Floating Charge other than with the prior written consent of the other parties (such consent not to be unreasonably withheld).

### **20.2 Pension Protection Fund**

The Chargor acknowledge that the rights and obligations of the Trustees under this Floating Charge may be transferred to the Pension Protection Fund as a result of the operation of section 161 of, and schedule 6 to, the Pensions Act 2004.

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**21. NOTICES**

**21.1 Trustees**

21.1.1 Any demand or other communication on the part of the Trustees under this Floating Charge at any time may be made by:

- (a) the Secretary to the Trustees and one Trustee at such time; or
- (b) any two of such Trustees at such time,

on behalf of all of them.

21.1.2 Without prejudice to their rights under this Floating Charge, the Trustees shall keep the Chargor informed of the identity of the Trustees and the Secretary of the Trustees from time to time.

**21.2 Communication in writing**

Each notice or other communication to be made under or in connection with this Floating Charge shall be made in writing and shall be delivered personally or sent by first class post, pre-paid recorded delivery (or air mail if overseas) or by electronic mail, to the party due to receive the notice or communication, at the address identified in Clause 21.3 below.

**21.3 Addresses**

21.3.1 The contact details of the Trustees are set below (or any substitute address or email address specified by that party by written notice to the other parties):

Address: c/o Saint-Gobain Limited  
 Saint-Gobain House  
 East Leake, Loughborough,  
 Leicestershire, LE12 6JU

Email: [sgukcomms@saint-gobain.com](mailto:sgukcomms@saint-gobain.com)

Attention: The Secretary to the Trustees

21.3.2 The contact details of the Chargor are as identified with its name below (or any substitute address or email address specified by that party by written notice to the other parties).

**21.4 Timing of delivery**

In the absence of evidence of earlier receipt, a notice or other communication is deemed given:

21.4.1 if delivered personally, when left at the address referred to in Clause 21.3 (*Addresses*);

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21.4.2 if sent by mail except air mail, two days after posting it;

21.4.3 if sent by air mail, six days after posting it; and

21.4.4 if sent by email, when actually received by the receiving party.

**22. EXPENSES, STAMP TAXES AND INDEMNITY**

**22.1 Expenses**

The Chargor shall, from time to time on demand of the Trustees, reimburse the Trustees for all the costs and expenses (including legal fees) on a full indemnity basis together with any VAT thereon incurred by it in connection with the exercise, preservation and/or enforcement of any of the Collateral Rights or the Relevant Security or any proceedings instituted by or against the Trustees as a consequence of taking or holding the security or of enforcing the Collateral Rights.

**22.2 Stamp Taxes**

The Chargor shall pay all stamp, registration and other taxes to which this Floating Charge, the Relevant Security or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Trustees on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

**22.3 Indemnity**

The Chargor shall, notwithstanding any release or discharge of all or any part of the Relevant Security, indemnify the Trustees, their agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Floating Charge, the exercise or purported exercise of any of the rights and powers conferred on them by this Floating Charge or otherwise relating to the Charged Property.

**23. PAYMENTS FREE OF DEDUCTION**

All payments to be made to the Trustees under this Floating Charge shall be made free and clear of and without deduction for or on account of tax unless the Chargor is required to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Chargor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to tax such deduction or withholding has been made receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.



**24. DISCRETION AND DELEGATION****24.1 Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Floating Charge by the Trustees or any Receiver may, subject to the terms and conditions of the Definitive Deed, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

**24.2 Delegation**

Each of the Trustees and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Floating Charge (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by any Trustee or the Receiver itself.

**25. BENEFIT OF THE FLOATING CHARGE**

This Floating Charge and the Relevant Security shall be for the benefit of the Trustees from time to time in their capacity as trustees of the Scheme.

**26. GOVERNING LAW**

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

**27. JURISDICTION****27.1 English Courts**

The courts of England have exclusive jurisdiction to settle any dispute (a "**Dispute**") arising out of, or in connection with this Floating Charge (including a dispute relating to the existence, validity or termination of this Floating Charge or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Floating Charge).

**27.2 Convenient Forum**

The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

**THIS FLOATING CHARGE** has been signed on behalf of the Trustees and executed as a deed by the Chargor and takes effect on and from the Demerger Date.

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**SCHEDULE 1**  
**FORM OF CLAIMS ACCOUNT SECURITY ASSIGNMENT**

**C L I F F O R D  
C H A N C E**

**CLIFFORD CHANCE LLP**

DATED 2021

SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED  
AS CHARGOR

IN FAVOUR OF

STEPHEN EDWARD MILLWARD, JENNIFER DINNES, RICHARD JOHN WALL,  
CATHERINE ROE, DALRIADA TRUSTEES LIMITED AND THE LAW DEBENTURE  
PENSION TRUST CORPORATION P.L.C.

THE TRUSTEES OF THE SAINT-GOBAIN DISTRIBUTION UK PENSION SCHEME  
AS THE TRUSTEES

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SECURITY OVER CASH AGREEMENT  
CLAIMS ACCOUNTS

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**THIS AGREEMENT** is made by way of deed on 2021

**BETWEEN**

- (1) **SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED**, a company incorporated in England with registered number 01647362 and whose registered office is at Saint-Gobain House, East Leake, Loughborough, Leicestershire, LE12 6JU (the "**Chargor**"); and
- (2) **THE TRUSTEES of the occupational pension scheme now known as the Saint-Gobain Distribution UK Pension Scheme (the "Scheme")**, being established by a trust deed dated 18 October 2004 and in respect of which the present trustees are **STEPHEN EDWARD MILLWARD, JENNIFER DINNES, RICHARD JOHN WALL and CATHERINE ROE**, all care of Saint-Gobain House, East Leake, Loughborough, Leicestershire, LE12 6JU, **DALRIADA TRUSTEES LIMITED** (registered number NI038344) whose registered office is at Linen Loft, Adelaide Street, Belfast, Northern Ireland, BT2 8FE and **THE LAW DEBENTURE PENSION TRUST CORPORATION P.L.C.** (registered number 03267461) whose registered office is at 8th Floor, 100 Bishopsgate, London, EC2N 4AG.

**RECITALS:**

- (A) The Trustees have agreed to a funding and investment strategy with the Company in respect of pension contributions owed by the Company.
- (B) It is intended by the parties to this Agreement that this document will take effect as a deed despite the fact that a party may only execute this Agreement under hand.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Agreement:

"**Account Bank**" means each bank listed in Schedule 1 (*Accounts*);

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

"**Claims Account**" means each bank account listed in Schedule 1 (*Accounts*);

"**Collateral Rights**" means all rights, powers and remedies of the Trustees provided by this Agreement or by law;

"**Company**" means Saint-Gobain Building Distribution Limited in its capacity as company under the Security Framework Agreements;

"**Crystallisation**" means the conversion of the floating charge created by clause 3 (*Floating Charge*) of the Receivables Floating Charge into a fixed charge pursuant to clause 4.1.1 of the Receivables Floating Charge;

**"Deposit"** means, in relation to each Claims Account, the credit balance from time to time on such Claims Account and all rights, benefits and proceeds in respect of the credit balance and such account;

**"Insolvency Event"** has the meaning given to such term in the Receivables Floating Charge;

**"Notice of Assignment"** means a notice of assignment in substantially the form set out in Schedule 2 (*Form of Notice of Assignment*);

**"Pension Security Documents"** means the Security Framework Agreements, the Real Property Floating Charge and the Receivables Floating Charge;

**"Real Property Floating Charge"** means the floating charge over real property entered into on or about the date of this Agreement by Saint-Gobain Building Distribution Limited as chargor in favour of the Trustees;

**"Receivables Floating Charge"** means the floating charge over receivables entered into on or about the date of this Agreement by Saint-Gobain Building Distribution Limited as chargor in favour of the Trustees;

**"Receiver"** means a receiver, receiver or manager or an administrative receiver as the Trustees may specify at any time in the relevant appointment made under this Agreement, which terms will include any appointee made under a joint and/or several appointment by the Trustees;

**"Secured Obligations"** means all obligations owing to the Trustees by the Company under or pursuant to the Security Framework Agreements whether present or future, actual or contingent (and whether as principal or surety or in some other capacity) except for any obligation or liability which, if it were included, would cause that obligation or liability or any of the Security in respect thereof, to be unlawful or prohibited by any applicable law;

**"Security"** means the security created under or pursuant to or evidenced by this Agreement;

**"Security D3 Cap"** shall have the meaning ascribed to that term in Security Framework Agreement D3;

**"Security D4 Cap"** shall have the meaning ascribed to that term in Security Framework Agreement D4;

**"Security Framework Agreements"** means the following documents:

- (a) the security framework agreement titled 'Security Framework Agreement D4' dated on or about the date of this Agreement and entered into by Saint-Gobain Building Distribution Limited in favour of the Trustees ("**Security Framework Agreement D4**");
- (b) the security framework agreement titled 'Security Framework Agreement D3' dated on or about the date of this Agreement and entered into by Saint-Gobain

Building Distribution Limited in favour of the Trustees ("**Security Framework Agreement D3**");

"**Security Framework Agreement**" means each one of the Security Framework Agreements;

"**SONIA**" means the sterling overnight index average reference rate displayed on the relevant screen of any authorised distributor of that reference rate; and

"**Trustees**" means the trustees for the time being of the Scheme.

## 1.2 Terms defined in the Pension Security Documents

Unless defined in this Agreement or the context otherwise requires, a term defined in the Pension Security Documents has the same meaning in this Agreement or any notice given under or in connection with this Agreement.

## 1.3 Construction

- (a) Clause 1.2 (*Interpretation*) of the Security Framework Agreements will apply as if incorporated in this Agreement or in any notice given under or in connection with this Agreement.
- (b) Unless a contrary indication appears any reference in this Agreement to:
  - (i) the "**Trustees**", the "**Chargor**" or the "**Company**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) "**assets**" includes present and future properties, revenues and rights of every description;
  - (iii) a "**Finance Document**" or any other agreement or instrument is a reference to that document or other agreement or instrument as amended, extended, novated, supplemented, replaced or restated;
  - (iv) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
  - (v) "**including**" shall be construed as a reference to "**including without limitation**", so that any list of items or matters appearing after the word "*including*" shall be deemed not to be an exhaustive list, but shall be deemed rather to be a representative list, of those items or matters forming a part of the category described prior to the word "*including*";
  - (vi) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

- (vii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (viii) a "**successor**" includes an assignee or successor in title of any party and any person who under the laws of its jurisdiction of incorporation or domicile has assumed the rights and obligations of any party under this Agreement or any other Finance Document or to which, under such laws, any rights and obligations have been transferred; and
- (ix) a provision of law is a reference to that provision as amended or re-enacted.

(c) Section, Clause and Schedule headings are for ease of reference only.

#### 1.4 **Third Party Rights**

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

### 2. **SECURITY OVER THE DEPOSIT**

#### 2.1 **Assignment**

The Chargor assigns absolutely to the Trustees with full title guarantee all of its right, title and interest in each Claims Account and the related Deposit.

#### 2.2 **Release**

Upon the Secured Obligations being discharged in full or if the Security Framework Agreements are terminated, the Trustees shall, subject to Clause 10.8 (*Avoidance of Payments*), immediately release all the Security without recourse to, and without any representations or warranties by, the Trustees or any of their nominees.

#### 2.3 **Limited Recourse**

- (a) The Trustees shall have recourse in respect of any claim against the Chargor under this Agreement only to the Claim Accounts and the Deposits and amounts received or receivable upon enforcement of the Security granted by the Chargor. If the Trustees have realised the same, and the net proceeds are insufficient to discharge all amounts which, but for the effect of this Clause 2.3, would then be due from the Chargor, the Chargor will be under no further liability, and the Trustees shall have no further rights, under this Agreement. The Trustees, or anyone acting on their behalf, shall not be entitled to take any further steps or exercise any rights which would otherwise be available against the Chargor under this Agreement. For the avoidance of doubt, the Trustees shall have no claim against any director or officer of the Chargor as a result of the limitation of any claim they may have against the Chargor as a result of this Clause 2.3 (or



otherwise under this Agreement) unless the actions are founded on fraudulent or wilful action of the relevant director or officer of the Chargor.

- (b) Notwithstanding any other provision of this Agreement, the total aggregate amount the Trustees shall be entitled to recover under or pursuant to the Pension Security Documents shall be limited to the aggregate of the Security D3 Cap and the Security D4 Cap.

### 3. NOTICE OF ASSIGNMENT

The Chargor shall ensure delivery to the Trustees of a Notice of Assignment duly executed by or on behalf of the Chargor and acknowledged by the Account Bank.

### 4. DEPOSIT

#### 4.1 No Variation

The Chargor shall not, without the Trustees' prior written consent, permit or agree to any variation of the rights attaching to any Deposit.

#### 4.2 Restrictions

- (a) Subject to paragraphs (b) and (c) below, the Chargor shall not be entitled to receive, withdraw or otherwise transfer all or any part of any Deposit;
  - (i) except with the prior written consent of the Trustees; or
  - (ii) unless there are no remaining Secured Obligations and the Security has been discharged in full by the Trustees.
- (b) At any time prior to Crystallisation, the Chargor shall be entitled to receive, withdraw or otherwise transfer all or any part of any Deposit.
- (c) Following Crystallisation and prior to an Insolvency Event the Chargor shall be permitted to receive, withdraw or otherwise transfer part of any Deposit in accordance with clause 4.1.2 of the Receivables Floating Charge.
- (d) If the Chargor notifies the Trustees of its intention to withdraw or otherwise transfer part of any Deposit in accordance with clause 4.1.2 of the Receivables Floating Charge and delivers to the Trustees:
  - (i) bank account statements evidencing that that the aggregate balance of all the Claims Accounts, taking into account amounts withdrawn by the Trustees, is in excess of the Security D3 Cap as at the date of such notice (such amount being the "**Excess Amount**"); and
  - (ii) a copy of an executed withdrawal notice or notices substantially in the form set out in Appendix 2 (*Form Of Company Withdrawal Notice*) of Schedule 1 (*Notice of Assignment*) (in each case, a "**Withdrawal Notice**") for an aggregate amount equal to or less than the Excess Amount;

the Trustees shall countersign each Withdrawal Notice and deliver it to the Chargor within 3 Business Days of receipt of such notice.

- (e) The Trustees acknowledge and agree that in circumstances where the Trustees fail to countersign and deliver a Withdrawal Notice in accordance with paragraph (d) above or in circumstances where the Trustees have withdrawn an amount equal to the Security D3 Cap, the secretary or any director of the Chargor shall be permitted and authorised to countersign the relevant Withdrawal Notice as an "Authorised Signatory" of the Trustees and any such notice so signed by the secretary or director of the Chargor will be deemed to have been definitively signed for and on behalf of the Trustees.

#### 4.3 **Trustees' Rights**

- (a) At any time prior to Crystallisation, the Trustees shall not be entitled to receive, withdraw or otherwise transfer all or part of any Deposit.
- (b) Upon and following the occurrence of Crystallisation, subject to the terms of the Pension Security Documents, the Trustees shall be entitled, without notice or further demand, immediately to exercise the Collateral Rights and, in relation to each Deposit, to:
  - (i) demand and receive all and any monies due under or arising out of such Deposit;
  - (ii) exercise in relation to such Deposit all such rights as the Chargor was then entitled to exercise in relation to that Deposit or might, but for the terms of this Agreement, exercise; and
  - (iii) apply, set-off or transfer any or all of such Deposit in or towards the payment or other satisfaction of the Secured Obligations or any part of them.

#### 5. **REPRESENTATIONS**

The Chargor makes the following representations and warranties to the Trustees and acknowledges that the Trustees have become a party to this Agreement in reliance on these representations and warranties:

- (a) the Chargor is duly incorporated and validly existing under the laws of England and Wales. It has the power to own its assets and to carry on its business as it is being conducted.
- (b) the Chargor has the power to enter into and perform the obligations assumed under this Agreement and has taken all necessary action to authorise the entry into and performance of this Agreement.
- (c) subject to any general principles of law limiting their obligations, this Agreement constitutes the Chargor's legally binding, valid and enforceable obligations.

- (d) the entry into and performance by the Chargor of, and the transactions contemplated by, this Agreement do not conflict to a material extent with:
  - (i) any law or regulation applicable to it;
  - (ii) its constitutional documents; nor
  - (iii) any document which is binding upon it.

## **6. FURTHER ASSURANCE**

### **6.1 Covenant for Further Assurance**

The Chargor will promptly at its own cost do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Trustees may specify (and in such form as the Trustees may require in favour of the Trustees or their nominee(s)) for the purpose of exercising the Collateral Rights or perfecting the Security created or intended to be created in respect of any Deposit (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, such Deposit) or for the exercise of the rights, powers and remedies of the Trustees provided by or pursuant to this Agreement or by law in each case in accordance with the rights vested in it under this Agreement.

### **6.2 Prescribed Wording**

The following covenants shall be implied in respect of any action taken by the Chargor to comply with its obligations under Clause 6.1:

- (a) the Chargor has the right to take such action in respect of the Deposit; and
- (b) the Chargor will at its own cost do all that it reasonably can to give the Trustees or their nominee the title and/or rights that it purports to give.

## **7. POWER OF ATTORNEY**

### **7.1 Appointment and Powers**

The Chargor by way of security irrevocably appoints the Trustees and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider (acting reasonably) to be required for enabling the Trustees and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Agreement or by law (including, after the occurrence of an Insolvency Event, the exercise of any right of a legal or beneficial owner of any Deposit).

### **7.2 Ratification**

The Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of his powers.

## **8. SECURITY ENFORCEMENT**

### **8.1 Time for Enforcement**

Without prejudice to Clause 4.3 (*Trustees' Rights*), if an Insolvency Event has occurred, or if the Chargor requests the Trustees to exercise any of its powers under this Agreement or if a petition or application is presented for the making of an administration order in relation to the Chargor or if any person gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court the Security is immediately enforceable and the Trustees may without notice to the Chargor or prior authorisation from any court, in their absolute discretion:

- (a) secure and perfect their title to all or any part of the Deposits (including transferring the same into the name of the Trustees or their nominee(s)) or otherwise exercise in relation to the Deposits all the rights of an absolute owner;
- (b) enforce all or any part of the Security (at the times, in the manner and on the terms they think fit) and appropriate, hold, sell, or otherwise dispose of all or any part of the Deposits (at the time, in the manner and on the terms they think fit); and
- (c) whether or not it has appointed a Receiver, exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Agreement) on chargees and by this Agreement on any Receiver or otherwise conferred by law on chargees or Receivers.

### **8.2 Power of sale**

- (a) The power of sale or other disposal conferred on the Trustees and on the Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Agreement.
- (b) The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Trustees of their rights to consolidate all or any of the Security with any other security in existence at any time or to their power of sale.

### **8.3 Certificate**

A certificate in writing by either any two Trustees, or the Secretary to the Trustees and any one Trustee that the power of sale or disposal has arisen and is exercisable shall be conclusive evidence of that fact, in favour of a purchaser of all or any part of the Deposits.

### **8.4 Chargee's liability**

Neither the Trustees nor any Receiver will be liable to account as mortgagee or mortgagee in possession in respect of the Deposits or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Deposits for which a mortgagee or mortgagee in possession might as such be liable.

## 8.5 **Right of Appropriation**

To the extent that any Deposit constitutes "financial collateral" and this Agreement and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226), as amended, (the "**Regulations**") the Trustees shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the amount of the relevant Deposit, together with any accrued but unposted interest that is paid in relation to such Deposit, at the time the right of appropriation is exercised. The parties further agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## 8.6 **Statutory powers**

The powers conferred by this Agreement on the Trustees are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law and in the case of any conflict between the powers contained in any such Act and those conferred by this Agreement the terms of this Agreement will prevail.

## 9. **RECEIVERS**

### 9.1 **Appointment and Removal**

At any time after having been requested to do so by the Chargor or after this Agreement becomes enforceable in accordance with Clause 8 (*Security Enforcement*), the Trustees may by deed or otherwise (acting through any two of the Trustees, or the Secretary to the Trustees and any one Trustee), without prior notice to the Chargor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Deposit;
- (b) remove (so far as it is lawfully able) any Receiver so appointed; and
- (c) appoint another person(s) as an additional or replacement Receiver(s).

### 9.2 **Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 9.1 (*Appointment and Removal*) will be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) for all purposes deemed to be the agent of the Chargor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Trustees; and

- (c) entitled to remuneration for his services at a rate to be fixed by the Trustees from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

### 9.3 **Statutory powers of appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Trustees under the Law of Property Act 1925 (as extended by this Agreement) or otherwise and such powers shall remain exercisable from time to time by the Trustees in respect of any part of the Deposit.

### 9.4 **Powers of Receivers**

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Chargor) have and be entitled to exercise, in relation to the Deposits in respect of which he was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) 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);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do;
- (d) the power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement or the Security Framework Agreements (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Receiver itself; and
- (e) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to:
  - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
  - (ii) the exercise of any rights, powers and remedies of the Trustees provided by or pursuant to this Agreement or by law (including realisation of all or any part of the Deposits); or
  - (iii) bringing to his hands any assets of the Chargor forming part of, or which when got in would be, the Deposits.

## 9.5 **Consideration**

The receipt of the Trustees or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Deposits or making any acquisition, the Trustees or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

## 9.6 **Protection of purchasers**

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

## 9.7 **Discretions**

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Trustees or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

# 10. **EFFECTIVENESS OF COLLATERAL**

## 10.1 **Collateral Cumulative**

The collateral constituted by this Agreement and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Trustees may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law. No prior security held by the Trustees over the whole or any part of the Deposits shall merge into the collateral constituted by this Agreement.

## 10.2 **No Waiver**

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

## 10.3 **Illegality, Invalidity, Unenforceability**

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

## 10.4 **No liability**

None of the Trustees, their nominee(s), or any Receiver appointed pursuant to this Agreement shall be liable by reason of (a) taking any action permitted by this

Agreement or (b) any neglect or default in connection with the Deposit or (c) the taking possession or realisation of all or any part of the Deposits, except in the case of gross negligence or wilful default upon its part.

#### 10.5 **Implied Covenants for Title**

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2 (*Security over the Deposit*).
- (b) It shall be implied in respect of Clause 2 (*Security over the Deposit*) that the Chargor is assigning the Deposits free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

#### 10.6 **Continuing Security**

- (a) The Security from time to time constituted by this Agreement is a continuing Security and will remain in full force and effect as a continuing Security until released or discharged by the Trustees.
- (b) No part of the Security from time to time constituted by this Agreement will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

#### 10.7 **Immediate recourse**

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

#### 10.8 **Avoidance of Payments**

Notwithstanding Clause 2.2 (*Release*) if the Trustees consider that any amount paid or credited to them is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Chargor under this Agreement and the Security shall continue and that amount shall not be considered to have been irrevocably paid.

#### 10.9 **No prejudice**

The Security created by or pursuant to this Agreement and the rights, powers and remedies of the Trustees provided by or pursuant to this Agreement or by law 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 Trustees or by any other thing which might otherwise prejudice the Security or any rights, powers and remedies of the Trustees provided by or pursuant to this Agreement or by law.



## **10.10 Retention of Agreement**

The Trustees may retain this Agreement, the Security and all documents relating to or evidencing ownership of all or any part of the Deposits for a period of seven months after any discharge in full of the Secured Obligations. Provided that if at any time during that seven month period a petition or application is presented for an order for the winding-up of, or the making of an administration order in respect of, the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or the Chargor commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Trustees may continue to retain such Security and such documents for such further period as the Trustees may determine and the Security and such documents shall be deemed to have continued to be held as Security for the Secured Obligations.

## **11. EXPENSES, STAMP TAXES, INDEMNITY**

### **11.1 Expenses**

The Chargor shall promptly on demand pay the Trustees the amount of all costs and expenses (including legal fees) reasonably incurred by the Trustees in connection with the negotiation, preparation and execution of this Agreement and the completion of the transactions and perfection of the Security contemplated in this Agreement.

### **11.2 Enforcement expenses**

The Chargor shall, within three business days of demand pay to the Trustees all the costs and expenses (including legal fees) on a full indemnity basis incurred by it in connection with the exercise, preservation and/or enforcement of any of the rights, powers or remedies of the Trustees or the Security or any proceedings instituted by or against the Trustees as a consequence of taking or holding the Security or of enforcing any rights, powers or remedies of the Trustees.

### **11.3 Stamp Taxes**

The Chargor shall pay all stamp, registration and other taxes to which this Agreement, the Security or any judgment given in connection with it is or at any time may be subject and shall, from time to time, indemnify the Trustees on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such tax.

### **11.4 Indemnity**

The Chargor shall, notwithstanding any release or discharge of all or any part of the Security, indemnify the Trustees, their attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Agreement, the exercise or purported exercise of any of the rights and powers conferred on them by this Agreement or otherwise relating to the Deposits.

### **11.5 Interest on Demands**

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate of 2 per cent. per annum over SONIA.

### **11.6 Payments Free Of Deduction**

All payments to be made to the Trustees under this Agreement shall be made free and clear of and without deduction for or on account of tax unless the Chargor is required to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Chargor in respect of which such deduction or withholding is required to be made shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to tax such deduction or withholding has been made receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

## **12. APPLICATION OF PROCEEDS**

All moneys received or recovered by the Trustees or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Trustees (notwithstanding any purported appropriation by the Chargor) as the Trustees shall think fit in discharge of the Secured Obligations.

## **13. OTHER SECURITY INTERESTS**

### **13.1 Redemption or transfer**

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking security in case of exercise by the Trustees or any Receiver of any power of sale under this Agreement the Trustees redeem such prior security or procure the transfer thereof to itself.

### **13.2 Accounts**

The Trustees may settle and pass the accounts of the prior security and any accounts so settled and passed will be conclusive and binding on the Chargor.

### **13.3 Costs of redemption or transfer**

All principal monies, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Chargor to the Trustees on demand together with accrued interest thereon (after as well as before judgment) at the rate from time to

time applicable to unpaid sums specified in the Security Framework Agreements from the time or respective times of the same having been paid or incurred until payment thereof (after as well as before judgment).

#### 13.4 **Subsequent Interests**

If the Trustees at any time receive notice of any subsequent mortgage, assignment, charge or other interest affecting all or any part of the Deposit, all payments made by the Chargor to the Trustees after that time shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Trustees received notice.

#### 14. **SUSPENSE ACCOUNTS**

All monies received, recovered or realised by the Trustees under this Agreement (including the proceeds of any conversion of currency) may in the discretion of the Trustees be credited to any interest bearing suspense or impersonal account maintained with the Trustees or any bank, building society or financial institution as it considers appropriate and may be held in such account for so long as the Trustees may think fit pending their application from time to time (as the Trustees is entitled to do in its discretion) in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

#### 15. **CURRENCY CONVERSION**

For the purpose of or pending the discharge of any of the Secured Obligations the Trustees may convert any money received, recovered or realised or subject to application by it under this Agreement from one currency to another, as the Trustees think fit, and any such conversion shall be effected at the then prevailing commercial rate of exchange for obtaining such other currency with the first currency.

#### 16. **CALCULATIONS AND CERTIFICATES**

##### 16.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by the Trustees are *prima facie* evidence of the matters to which they relate.

##### 16.2 **Certificates and Determinations**

Any certification or determination by the Trustees of a rate or amount under this Agreement is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

#### 17. **CURRENCY INDEMNITY**

If any sum (a "**Sum**") owing by the Chargor under this Agreement or any order or judgment given or made in relation to this Agreement has to be converted from the

Currency (the "**First Currency**") in which such Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (a) making or filing a claim or proof against the Chargor;
- (b) obtaining an order or judgment in any court of other tribunal;
- (c) enforcing any judgment given or made in relation to this Agreement; or
- (d) applying the Sum in satisfaction of any Secured Obligations,

the Chargor shall indemnify the Trustees from and against any loss suffered or incurred as a result of any discrepancy between (a) the rate of exchange used for such purpose to convert such Sum from the First Currency into the Second Currency and (b) the rate or rates of exchange available to the Trustees at the time of such receipt of such Sum.

## **18. ASSIGNMENT AND TRANSFER**

### **18.1 Limitation**

Neither the Chargor nor the Trustees shall assign or transfer any of their rights and obligations under this Agreement other than with the prior written consent of the other parties (such consent not to be unreasonably withheld).

### **18.2 Pension Protection Fund**

The Chargor acknowledges that the rights and obligations of the Trustees under this Agreement may be transferred to the Pension Protection Fund as a result of the operation of section 161 of, and schedule 6 to, the Pensions Act 2004.

## **19. NOTICES**

### **19.1 Trustees**

Any demand or other communication on the part of the Trustees under this Agreement at any time may be made by:

- (a) the Secretary to the Trustees and one Trustee at such time; or
- (b) any two of such Trustees at such time,

on behalf of all of them.

### **19.2 Communications in Writing**

Each notice or other communication to be made under or in connection with this Agreement shall be made in writing and shall be delivered personally or sent by first class post or pre-paid recorded delivery (or air mail if overseas), to the party due to receive the notice or communication, at the address identified in Clause 19.2 below.

### 19.3 **Addresses**

The address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Agreement is:

- (a) in the case of the Chargor, as identified with its name below; and
- (b) in the case of the Trustees:

Address: c/o Saint-Gobain Limited  
Saint-Gobain House  
East Leake, Loughborough  
Leicestershire, LE12 6JU

Attention: The Secretary to the Trustees

or any substitute address or department or officer as that party may notify in writing to the other parties.

### 19.4 **Delivery**

In the absence of evidence of earlier receipt, a notice or other communication is deemed given:

- (a) if delivered personally, when left at the address referred to in Clause 19.3 (*Addresses*);
- (b) if sent by mail except air mail, two days after posting it; and
- (c) if sent by air mail, six days after posting it.

## 20. **WAIVERS AND COUNTERPARTS**

### 20.1 **Waivers**

No waiver by the Trustees of any of their rights under this Agreement shall be effective unless given in writing.

### 20.2 **Counterparts**

This Agreement 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 Agreement.

## 21. **GOVERNING LAW**

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

## 22. **BENEFIT OF THE SECURITY**

This Agreement and the Security shall be for the benefit of the Trustees from time to time in their capacity as trustees of the Scheme.

## 23. **ENFORCEMENT**

### 23.1 **English Courts**

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

### 23.2 **Convenient Forum**

The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

**THIS AGREEMENT** has been signed on behalf of the Trustees and executed as a deed by the Chargor and is intended to be and is hereby delivered by it as a deed on the date specified above.

**SCHEDULE 1**  
**ACCOUNTS<sup>1</sup>**

<b>Chargor</b>	<b>Account Number</b>	<b>Sort Code</b>	<b>Account Name</b>	<b>Account Bank</b>
Saint-Gobain Building Distribution Limited	██████	50-00-00	Bassetts	National Westminster Bank plc
Saint-Gobain Building Distribution Limited	██████	50-00-00	Calders and Grandidge	National Westminster Bank plc
Saint-Gobain Building Distribution Limited	██████	50-00-00	Ceramic Tile Distributors	National Westminster Bank plc
Saint-Gobain Building Distribution Limited	██████	50-00-00	International Decorative Surfaces	National Westminster Bank plc
Saint-Gobain Building Distribution Limited	██████	50-00-00	International Timber	National Westminster Bank plc
Saint-Gobain Building Distribution Limited	██████	50-00-00	J P Corry	National Westminster Bank plc
Saint-Gobain Building Distribution Limited	██████	50-00-00	Pasquill	National Westminster Bank plc
Saint-Gobain Building Distribution Limited	██████	20-62-53	Gibbs and Dandy	Barclays Bank plc
Saint-Gobain Building	██████	20-62-53	Ideal Bathrooms	Barclays Bank plc

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<sup>1</sup> Accounts TBC by Saint-Gobain Limited.

Distribution Limited				
Saint-Gobain Building Distribution Limited		20-62-53	SGBD Ltd - Receipts	Barclays Bank plc



**SCHEDULE 2**  
**FORM OF NOTICE OF ASSIGNMENT**

To: *[Account bank]*

Date: \_\_\_\_\_ 2021

Dear Sirs,

We, Saint-Gobain Building Distribution Limited (the "**Chargor**") give you notice that we have assigned to the Trustees of the Saint-Gobain Distribution UK Pension Scheme (the "**Trustees**") all of our right, title and interest in and to account number [•] (account name [•]) (including any renewal or redesignation thereof or substitution therefor) and all monies standing to the credit of that account from time to time (the "**Account**").

With effect from the date of your receipt of this notice:

- (a) subject to paragraphs (b) and (c) below, the Account shall continue to be operated at the sole discretion of the Chargor;
- (b) if you are notified by the Trustees of the occurrence of Crystallisation (in the form set out in Appendix 1 (*Form of Crystallisation Notice*), any payment instructions must comply with either Appendix 2 (*Form of Company Withdrawal Notice*) or Appendix 3 (*Form of Trustees' Withdrawal Notice*) of this notice; and
- (c) if you are notified by the Trustees of the occurrence of an Insolvency Event (which has not been withdrawn by the Trustees) in the form set out in Appendix 4 (*Form of Insolvency Event Notice*) you shall, with immediate effect, comply only with the directions of the Trustees in relation to the Account (for so long as such Insolvency Event is continuing); and
- (d) prior to either Crystallisation or an Insolvency Event, all rights, interests and benefits whatsoever accruing to, or for the benefit of, or arising from the Account continue to belong to the Chargor.

Please accept this notice by signing the enclosed acknowledgement and returning it to the Trustees at [•] marked for the attention 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

**Saint-Gobain Building Distribution Limited**

[on copy only]

To: The Trustees of the Saint-Gobain Distribution UK Pension Scheme

Date: \_\_\_\_\_ 2021

At the request of the Trustees and Saint-Gobain Building Distribution Limited we acknowledge receipt of the notice of assignment, on the terms attached, in respect of the Account (as described in those terms). We confirm that:

- (a) there are no restrictions on (a) the payment of the credit balance on the Account or (b) the assignment of the Account to the Trustees or any third party;
- (b) we have not received notice of any previous assignments of, charges over or trusts in respect of, the Account and we will not, without the Trustees' prior written consent (i) exercise any right of combination, consolidation or set-off which we may have in respect of the Account or (ii) amend or vary any rights attaching to the Account;
- (c) we will act only in accordance with the instructions given in the format set out in Appendix 2 (*Form of Company Withdrawal Notice*) or Appendix 3 (*Form of Trustees' Withdrawal Notice*) if we have been notified of the occurrence of Crystallisation and we shall send all statements and other notices given by us relating to the Account to both the Chargor and the Trustees; and
- (d) if we have been notified of the occurrence of an Insolvency Event, we will act only in accordance with instructions given by persons authorised by the Trustees and we shall send all statements and other notices given by us relating to the Account to both the Chargor and the Trustees.

For and on behalf of [ ]

By:

**APPENDIX 1**  
**FORM OF CRYSTALLISATION NOTICE**

To:     [*Account bank*] as Account Bank

Dear Sirs,

**Security over Cash Agreement – Claims Account dated [•]  
between the Chargor and the Trustees of the Saint-Gobain Distribution UK  
Pension Scheme (the "Security over Cash Agreement")**

Terms defined in the Security over Cash Agreement shall have the same meaning in this letter unless otherwise expressly defined.

This letter constitutes notice to you that Crystallisation (as defined in the Security over Cash Agreement) has occurred.

This letter is a Crystallisation event notice for the purposes of clause (b) of the Notice of Assignment.

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

Yours faithfully,

.....

(Authorised Signatory)

.....

(Authorised Signatory)

For and on behalf of the Trustees of the Saint-Gobain Distribution UK Pension Scheme

**APPENDIX 2**  
**FORM OF COMPANY WITHDRAWAL NOTICE**

To: [Account bank] as Account Bank

Dear Sirs,

**Security over Cash Agreement – Claims Account dated [•]  
between the Chargor and the Trustees of the Saint-Gobain Distribution UK  
Pension Scheme (the "Security over Cash Agreement")**

Terms defined in the Security over Cash Agreement shall have the same meaning in this letter unless otherwise expressly defined.

Please make the following transfers:

From: [•]  
Account Name: [•]  
Sort Code: [•]  
Account Number: [•]  
Amount: [•]

Pay to: [•]  
Ref No: [•]  
Name of Bank: [•]  
Sort Code: [•]  
Account Number: [•]

We hereby confirm the above withdrawal is permitted pursuant to paragraph (c) of Clause 4.2 (*Restrictions*) of the Security over Cash Agreement.

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  
**Saint-Gobain Building Distribution Limited**

.....

(Authorised Signatory)

.....

(Authorised Signatory)

For and on behalf of the Trustees of the Saint-Gobain Distribution UK Pension Scheme  
as Trustees

**APPENDIX 3**  
**FORM OF TRUSTEES WITHDRAWAL NOTICE**

To:     [Account bank] as Account Bank

Dear Sirs,

**Security over Cash Agreement – Claims Account dated [•]  
between the Chargor and the Trustees of the Saint-Gobain Distribution UK  
Pension Scheme (the "Security over Cash Agreement")**

Terms defined in the Security over Cash Agreement shall have the same meaning in this letter unless otherwise expressly defined.

Please make the following transfers:

From:                     [•]  
Account Name:         [•]  
Sort Code:             [•]  
Account Number:       [•]  
Amount:                [•]

Pay to:                 [•]  
Ref No:                 [•]  
Name of Bank:          [•]  
Sort Code:             [•]  
Account Number:       [•]

We hereby confirm the above withdrawal is permitted pursuant to paragraph (b) of Clause 4.3 (*Trustees' Rights*) of the Security over Cash Agreement.

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

Yours faithfully,

.....

(Authorised Signatory)

.....

(Authorised Signatory)

For and on behalf of the Trustees of the Saint-Gobain Distribution UK Pension Scheme  
as Trustees

**APPENDIX 4**  
**FORM OF INSOLVENCY EVENT NOTICE**

To:     [*Account bank*] as Account Bank

Dear Sirs,

**Security over Cash Agreement – Claims Account dated [•]  
between the Chargor and the Trustees of the Saint-Gobain Distribution UK  
Pension Scheme (the "Security over Cash Agreement")**

Terms defined in the Security over Cash Agreement shall have the same meaning in this letter unless otherwise expressly defined.

This letter constitutes notice to you that an Insolvency Event (as defined in the Security over Cash Agreement) has occurred.

This letter is an Insolvency Event Notice for the purposes of clause (c) of the Notice of Assignment. All withdrawals from the Account from the date of this letter may only be made in accordance with our written instructions.

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

Yours faithfully,

.....  
  
(Authorised Signatory)

.....  
  
(Authorised Signatory)

For and on behalf of the Trustees of the Saint-Gobain Distribution UK Pension Scheme  
as Trustees

**EXECUTION PAGES**

**The Chargor**

**EXECUTED** as a **DEED** )  
by **SAINT-GOBAIN BUILDING DISTRIBUTION LIMITED** )

\_\_\_\_\_ Signature of director

\_\_\_\_\_ Name of director

\_\_\_\_\_ Signature of director/secretary

\_\_\_\_\_ Name of director/secretary

Address: Saint-Gobain House  
East Leake, Loughborough  
Leicestershire, LE12 6JU

Attention: Company Secretary



**The Trustees**

Signed by **STEPHEN EDWARD MILLWARD** acting in his capacity as a trustee of the Saint-Gobain Distribution UK Pension Scheme

By:

in the presence of

.....	Signature of witness
.....	Name of witness
.....	Address of witness
.....	
.....	
.....	Occupation of witness

Signed by **JENNIFER DINNES** acting in her capacity as a trustee of the Saint-Gobain Distribution UK Pension Scheme

By:

in the presence of

.....	Signature of witness
.....	Name of witness
.....	Address of witness
.....	
.....	
.....	Occupation of witness

Signed by **RICHARD JOHN WALL** acting in his capacity as a trustee of the Saint-Gobain Distribution UK Pension Scheme

By:

in the presence of

.....	Signature of witness
.....	Name of witness
.....	Address of witness
.....	
.....	
.....	Occupation of witness

Signed by **CATHERINE ROE** acting in her capacity as a trustee of the Saint-Gobain Distribution UK Pension Scheme

By:

in the presence of

.....	Signature of witness
.....	Name of witness
.....	Address of witness
.....	
.....	
.....	Occupation of witness

Executed as a deed by )  
**DALRIADA TRUSTEES LIMITED** )

..... Signature of director

..... Name of director

..... Signature of director/company secretary

..... Name of director/company secretary

..... Capacity in which signed  
(i.e. either "director" or "company  
secretary")

Executed as a deed by )  
**THE LAW DEBENTURE PENSION** )  
**TRUST CORPORATION P.L.C.** )

..... Signature of director

..... Name of director

..... Signature of director/company secretary

..... Name of director/company secretary

..... Capacity in which signed  
(i.e. either "director" or "company  
secretary")

## SIGNATURES

### THE CHARGOR

Executed as a deed by )  
**SAINT-GOBAIN BUILDING** )  
**DISTRIBUTION** )  
**LIMITED** )



Signature of director /company secretary

Richard Keen

Name of director /company secretary



Signature of director/company secretary

Nicholas Cammack

Name of director/company secretary

Finance Director

Capacity in which signed  
(i.e. either "director" or "company  
secretary")

### THE TRUSTEES

Signed as a deed by )  
**STEPHEN EDWARD MILLWARD** )  
For and on behalf of the Paying Trustees )



Signature of witness: Jane Millward

Name of witness: Jane Elizabeth Millward

Occupation of witness: Magistrate

Address of witness:



Signed as a deed by  
**JENNIFER DINNES**  
For and on behalf of the Paying Trustees

)  
)



)

Signature of witness: Grant Anthony

Name of witness: Grant David Anthony

Occupation of witness: Speech & Lang Therapist

Address of witness:



Signed as a deed by  
**RICHARD JOHN WALL**  
For and on behalf of the Paying Trustees

)  
)  
)



Signature of witness: Jason Sargeant

Name of witness: Jason Sargeant

Occupation of witness: Financial Controller

Address of witness:



Signed as a deed by  
**CATHERINE ROE**  
For and on behalf of the Paying Trustees

)  
)  
)



Signature of witness: Adrian Hough

Name of witness: Adrian John Hough

Occupation of witness: General Manager

Address of witness:



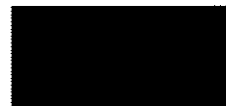
Executed as a deed by )  
**DALRIADA TRUSTEES LIMITED** )

.....

Signature of director

...Tomislav Lukic.....

Name of director

.....

Signature of director/company secretary

...Vassos Vassou.....

Name of director/company secretary

...Director.....

Capacity in which signed  
(i.e. either "director" or "company  
secretary")

Executed as a deed by )  
**THE LAW DEBENTURE PENSION** )  
**TRUST CORPORATION P.L.C.** )

.....

Signature of director

...Venetia Trayhurn.....

Name of director

.....

Signature of director/company secretary

...Natalie Winterfrost.....

Name of director/company secretary

...Director.....

Capacity in which signed  
(i.e. either "director" or "company  
secretary")