



**Registration of a Charge**

Company name: **FRIENDS LIFE LIMITED**

Company number: **04096141**



X69ITQX4

Received for Electronic Filing: **28/06/2017**

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**Details of Charge**

Date of creation: **26/06/2017**

Charge code: **0409 6141 0023**

Persons entitled: **HSBC BANK PLC**

Brief description: **A CHARGE OVER ALL OF THE CHARGED PORTFOLIO AND THE CHARGED DEBT**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by:

**HSBC BANK PLC**



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

Company number: 4096141

Charge code: 0409 6141 0023

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th June 2017 and created by FRIENDS LIFE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th June 2017 .

Given at Companies House, Cardiff on 29th June 2017

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

Execution version

DATED 26<sup>th</sup> June 2017

BETWEEN

HSBC BANK PLC

AND

FRIENDS LIFE LIMITED

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SECURITY AGREEMENT

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THIS AGREEMENT is made on

2017

**BETWEEN**

- (1) **HSBC BANK PLC** (registered in England with company number 14259) of 8 Canada Square, London E14 5HQ (in its capacity as "**Secured Party**"); and
- (2) **FRIENDS LIFE LIMITED** (the "**Chargor**") (incorporated in England, with company number 04096141) of Pixham End, Dorking, Surrey, RH4 1QA.

**IT IS AGREED** as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1** In this Agreement:

"**Business Day**" means a day other than a Saturday or Sunday on which banks and securities markets are open for business generally in London.

"**Cash Account**" means the GBP cash account with number: (REDACTED) and sort code (REDACTED) (REDACTED), related to the Securities Account and maintained with the Custodian by the Chargor pursuant to the Custody Agreement, as that account may from time to time be replaced, re-numbered or re-designated, and including any related sub-accounts that may exist from time to time.

"**Cash Cover**" means cash held an account in the Chargor's name held with the Secured Party or in the name of the Secured Party: (a) from which withdrawals may only be made: (i) to pay the Secured Obligations; or (ii) otherwise with the agreement of the Chargor and the Secured Party; (b) the credit balance of which will not be due or accruing due to the Chargor, until the end of the Security Period; and (c) if the account is in the Chargor's name, over the credit balance of which the Secured Party has a security interest that is satisfactory in form and substance to the Secured Party (acting reasonably) and no third party has any security interest, other than a Permitted Security Interest.

"**Charged Assets**" means all of the Charged Portfolio and the Charged Debt.

"**Charged Debt**" means the debt owed by the Secured Party to the Chargor represented by the Credit Balance.

"**Charged Portfolio**" means all of the Chargor's beneficial interest in Securities credited to the Securities Account from time to time (together with all cash proceeds relating to the same).

"**COBS**" means the FCA's Conduct of Business Sourcebook.

"**Collateral Rights**" means all rights, powers and remedies of the Secured Party provided by this Agreement or by law.

"**Credit Balance**" means the credit balances from time to time on the Cash Accounts, including all interest accrued on those balances.

"**Custody Agreement**" means the custody agreement dated 27 August 2014 between the Chargor and HSBC Bank plc as Custodian.

"**Custodian**" means HSBC Bank plc in its capacity as party to the Custody Agreement and account bank for the Securities Account and the Cash Account.

**"Default Rate"** means 2% above the HSBC Bank plc Sterling Base Rate from time to time prevailing.

**"Eligible Collateral"** means, on any date, fixed coupon, sterling denominated negotiable debt obligations issued by either the Bank of England (prior to 1 April 1998) or Her Majesty's Treasury (on or after 1 April 1998) backed by the credit of the United Kingdom with an initial maturity of more than 365 days when issued.

**"Enforcement Event"** means:

- (a) the Chargor does not comply with any provision of this Agreement; or
- (b) a representation or warranty made or repeated in this Agreement is incorrect in any respect when made or deemed to be repeated and is either incapable of remedy or is not remedied within 14 Business Days of notice having been given by the Secured Party to the Chargor; or
- (c) the Chargor fails to pay on the due date for payment an amount payable in respect of the Secured Obligations at the place at and in the currency in which it is expressed to be payable; or
- (d) an Insolvency Event occurs or appears to be inevitable in relation to the Chargor; or
- (e) an event of default or breach of an obligation (howsoever described) occurs with respect to the Chargor under or in respect of one or more Letters of Credit giving rise to the Secured Obligations (provided that, for the avoidance of doubt, an Enforcement Event shall not include the occurrence an event of default or breach (howsoever described) which occurs with respect to the Chargor under or in respect of any obligations that are not Secured Obligations); or
- (f) the level of own funds held by the Chargor falls below 105% of its SCR.

**"Exposure"** means, on any Business Day, the sum of (i) the aggregate amount of the face value of each Letter of Credit and (ii) the aggregate amount of the Margin, each as determined by the Secured Party in respect of each Letter of Credit.

**"FCA"** means the Financial Conduct Authority and any successor from time to time.

**"Income"** means, with respect to any Securities at any time, all interest or other distributions thereon including payments in specie, but excluding distributions which are a payment or repayment of principal in respect of the relevant Securities.

**"Insolvency Event"** means in relation to any company, that company:




- (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (b) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, scheme of arrangement or composition with or for the benefit of its creditors;
- (d) (i) institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other

similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official or (ii) has instituted against it a proceeding seeking a judgment for insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and such proceeding or petition is instituted or presented by a person or entity not described in (i) above and either (A) results in a judgement of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 15 days of the institution or presentation thereof;

- (e) has a resolution passed for (or otherwise commences) its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets;
- (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 15 days thereafter;
- (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in paragraphs (a) to (g) above (inclusive); or

takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

**"Letters of Credit"** means the following standby letters of credit issued or to be issued by the Secured Party at the request of the Chargor:

- (i) a  of
- (j) a  for
- (k) a  ance
- (l) any other standby letter of credit, guarantee or similar independent payment undertaking that the Chargor designates in writing as a 'Letter of Credit' for the purposes of this Agreement (on the relevant issuance request form or otherwise), or that the Secured Party and Chargor otherwise agree to so designate,

in each case as the same may be amended, extended or replaced from time to time.

**"Margin"** means, in respect of a Letter of Credit, 30% (thirty per cent.) of the face value of such Letter of Credit.

**"Market Value"** means, at any time:

- (a) with respect to any securities, the price of such securities, as determined by the Valuation Agent on the most recent Valuation Date or as otherwise determined in accordance with Clause 3.2, provided that the Market Value of any securities that are not Eligible Collateral shall be zero; and
- (b) with respect to cash, its face amount.

**"Permitted Security Interest"** means

- (a) any security interest, lien, encumbrance or other restriction created by the Custody Agreement; or
- (b) the security listed in the table below but only to the extent that it creates a floating charge over the Charged Assets (or any part of them) that, as at the relevant date, has not crystallised:

| In favour of                                      | Created          | Assets charged  |
|---|------------------|---|
| Utmost Limited (formerly Axa Isle of Man Limited) | 20 March 2017    | The assets comprising the FLAS and FLC with profit sub-funds, plus gilts equal to the value of those funds' support accounts from time to time. |
| Friends Life and Pensions Limited                 | 28 December 2013 | The long-term insurance assets of the Chargor, and any part of them.  |
| Friends Life and Pensions Limit                   | 28 December 2013 | The long-term insurance assets of the Chargor, and any part of them.  |
| Friends Life and Pensions Limited                 | 28 December 2012 | The long-term insurance assets of the Chargor, and any part of them.  |
| Friends Life Company Limited                      | 28 December 2012 | The long-term insurance assets of the Chargor, and any part of them.  |

and any floating charge over the Charged Assets (or any part of them) granted or created after the date of this Agreement that the Chargor notifies to the Secured Party and that, as at the relevant date, has not crystallised.

**SCR** means the Solvency Capital Requirement as required by Article 100 of the Solvency II Directive.

**"Secured Obligations"** means all obligations and liabilities whatsoever, which may now or at any time in the future be due owing or incurred by the Chargor to the Secured Party in connection with the Letters of Credit, whether present or future, actual or contingent and whether alone, severally or jointly as principal, guarantor, surety or otherwise and in whatever name or style and whether on any current or other account or in any other manner whatsoever.

**"Securities"** means at any time all securities (and all rights, benefits and proceeds attaching thereto or arising therefrom or in respect thereof):



- (a) held by, to the order, for the account or under the control or direction of, the Secured Party; and/or
- (b) held by any clearance system on behalf of, for the account of or to the order of the Secured Party,

and in each case for the time being recorded in the Securities Account.

**"Securities Account"** means the custody account with number: [REDACTED] and name: Friends Life Limited Standby Letters of Credit Collateral Account maintained with the Custodian by the Chargor pursuant to the Custody Agreement, as that account may from time to time be replaced, re-numbered or re-designated, and including any related sub-accounts that may exist from time to time.

**"Security Interests"** means the security created by this Agreement.

**"Security Period"** means the period starting on the date of this Agreement and ending on the date that the Secured Party (acting reasonably) determines that all the Secured Obligations have been irrevocably discharged in full, the Secured Party has no further obligations under any Letter of Credit and the Secured Party has no obligation to issue any further Letters of Credit.

**"Solvency II Directive"** means Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and reinsurance (Solvency II).

**"Valuation Agent"** means State Street Corporation or such other valuation agent approved in writing by the Secured Party in its sole discretion.

**"Valuation Date"** means any and each of the following:

- (a) the first Business Day of each month;
- (b) if the Valuation Agent fails to provide correct Valuation Information by close of business on the first Business Day following a scheduled Valuation Date, the date subsequent to that by reference to which Valuation Information is provided in order to remedy that failure;
- (c) any other date by reference to which the Chargor and the Secured Party agree that Valuation Information is required, whether in the context of a substitution of Securities pursuant to Clause 6 (Substitution) or otherwise; and
- (d) any other date on which the Secured Party determines (acting reasonably) that there may have been a drop of 5% or more in the market value of the Securities that are Eligible Collateral since the last date by reference to which the Secured Party assessed their Market Value that is likely to last for at least five Business Days, and consequently decides it needs to receive up-to-date Valuation Information.

**"Valuation Information"** means the following data about the Securities:

- ISIN & Nominal
- Custodian
- Valuation Date
- Asset Class Code
- ISIN
- CUSIP

- Sedol
  - Security Description
  - Currency
  - Country Code
  - Nominal
  - Bid Price Market Value (Ccy) (being the Market Value for the purposes of this Agreement),
- to be provided in a CSV file (a comma-separated values file containing the applicable Valuation Information), an excel spreadsheet or in any other format the Secured Party has confirmed is acceptable for such purpose.

1.2 In these terms and conditions, any reference to:

a "**clearance system**" means CRESTCo Limited and such other clearance system as may from time to time be used in connection with transactions relating to any securities, and any depository or sub-custodian for any of the foregoing.

"**securities**" shall be construed as a reference to any bond, debenture, note, stock, share, warrant, unit or other security and all moneys, rights or property which may at any time accrue or be offered (whether by way of bonus, redemption, conversion, exchange, preference, option or otherwise) in respect of any of them (and, whether constituted, evidenced or represented by a certificate or other document or by an entry in the books or any other permanent records of the issuer, a trustee or other fiduciary, or a clearance system).

1.3 In this Agreement, any reference to (a) a "**Clause**" is, unless otherwise stated, a reference to a Clause hereof and (b) "**this Agreement**" is a reference to this Agreement as amended, varied or supplemented from time to time. Clause headings are for ease of reference only.

1.4 In this Agreement, if it is necessary to determine whether an amount in one currency (whether alone or with other amounts) has reached or breached a limit in a second currency, the equivalent in the second currency of that amount in the first currency will be calculated using the Secured Party's relevant spot rate of exchange for obtaining the second currency with the first currency at the relevant time.

1.5 References to statutory provisions, enactments or EU Directives shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of any such provision, enactment or EC Directive (whether before or after the date of this Agreement), to any previous enactment which has been replaced or amended and to any regulation, instrument or order or other subordinate legislation made under such provision, enactment or EC Directive unless any such change imposes upon any Party any liabilities or obligations which are more onerous than as at the date of this Agreement.

1.6 Where, in connection with the United Kingdom ceasing to have full membership of the European Union ("**Brexit**"), amendments are required to enable a Party to exercise its rights or comply with its obligations under this Agreement in the same or substantially equivalent manner as was possible prior to Brexit then the Parties shall use all commercially reasonable endeavours to agree to amend this Agreement so that this Agreement has substantially the same legal effect, but provided that no other Party shall be required to assent to any amendment that would materially reduce its rights and benefits or increase its obligations or burdens hereunder, and in doing so each Party shall use all commercially reasonable endeavours, insofar as is practicable to discuss any issues

before any relevant change in applicable law is implemented and in any event within 40 Business Days of such implementation.

## 2. COVENANT AND CHARGE

### 2.1 Chargor's covenants

- 2.1.1 The Chargor shall, on demand of the Secured Party, discharge each of the Secured Obligations and pay to the Secured Party when due and payable under the agreements or arrangements giving rise to the relevant Secured Obligations each sum now or hereafter owing, due or incurred by the Chargor to the Secured Party in respect of the Secured Obligations.
- 2.1.2 The Chargor shall pay interest to the date of payment or discharge of the Secured Obligations (both before and after judgement and notwithstanding any liquidation or administration of or any arrangement or composition with creditors by the Chargor) at the rate or rates applicable under the agreements or arrangements giving rise to the relevant Secured Obligations or if no such rate or rates are specified, at the Default Rate and in accordance with the usual practice of the Secured Party.
- 2.1.3 All sums payable by the Chargor under this Agreement shall be paid without any set-off, counterclaim, withholding or deduction whatsoever unless required by law in which event the Chargor shall pay to the Secured Party such amount as will result in the receipt by the Secured Party of the full amount that would otherwise have been receivable by the Secured Party.

### 2.2 Fixed Charge

The Chargor charges the Charged Assets with full title guarantee (and charges and assigns by way of security its rights under the Custody Agreement to the extent related to the Charged Assets) by way of first fixed charge, in favour of the Secured Party for the payment and discharge of all of the Secured Obligations.

## 3. VALUATIONS

- 3.1 The Chargor shall procure that on (or no later than the next Business Day after) each Valuation Date, the Valuation Agent:

- 3.1.1 determines the Market Value of the Securities as at such Valuation Date; and
- 3.1.2 emails the relevant Valuation Information to the Secured Party by no later than the next Business Day after the applicable Valuation Date to the following email addresses:

[priorityqueries.gtees@hsbc.com](mailto:priorityqueries.gtees@hsbc.com)

With a copy to:

{REDACTED} @hsbc.com and {REDACTED} @hsbc.com,

and/or to such other additional email addresses as may be notified by the Secured Party to the Chargor from time to time.

- 3.2 If the Valuation Agent fails either to determine the Market Value of the Securities on any Valuation Date or to notify the Secured Party of the relevant Valuation Information in accordance with Clause 3.1 above, the Secured Party shall be entitled to notify the Chargor and request that the Chargor remedies the failure within five Business Days of

such notice. If the failure is not remedied within that timescale, the Secured Party shall be entitled to:

- 3.2.1 determine, in its sole discretion, the Market Value of the Securities as of such Valuation Date; or
  - 3.2.2 designate a leading independent dealer to determine the Market Value of the Securities as of such Valuation Date.
- 3.3 The Chargor undertakes to indemnify the Secured Party on demand for all costs and expenses incurred by the Secured Party in connection with the Secured Party, or a third party designated by the Secured Party, making any determination of Market Value under this Agreement.

#### 4. MARGIN

- 4.1 The Chargor shall ensure that, on each Valuation Date, the sum of the total Market Value of the Charged Assets and any other Cash Cover is greater than or equal to the Exposure.
- 4.2 If, on any Valuation Date, the Exposure is greater than the a sum of the total Market Value of the Charged Assets and any other Cash Cover (the amount by which the Exposure exceeds the sum of the total Market Value of the Charged Assets and any other Cash Cover being a "**Deficiency**"), the Chargor shall provide Cash Cover and/or deliver to the Secured Party Eligible Collateral to be credited to the Securities Account that has a Market Value greater than or equal to the Deficiency. Securities delivered to the Secured Party and credited to the Securities Account in accordance with Clause 4.2 shall be subject to the Security Interests immediately upon being credited to the Securities Account without the need for any further notice or action.
- 4.3 The Chargor shall remedy any Deficiency as soon as reasonably practicable following demand of the Secured Party (and in any event no later than seven Business Days following such demand).
- 4.4 The Secured Party shall determine the Market Value of any Eligible Collateral to be credited to the Securities Account to remedy a Deficiency by reference to:
- 4.4.1 relevant Valuation Information previously provided to the Secured Party that gives Market Value as at a date that is no more than five Business Days earlier than the date of determination; or
  - 4.4.2 if no Valuation Information of the type described in 4.4.1 above is available at the time of determination, whatever source(s) of Valuation Information the Secured Party selects in its sole discretion.
- 4.5 The Chargor may, on any Business Day when the Exposure is less than the sum of total Market Value of the Charged Assets and any other Cash Cover (the amount by which the sum of the total Market Value of the Charged Assets and any other Cash Cover exceeds the Exposure being a "**Surplus**"), request to withdraw Eligible Collateral from the Securities Account and/or release or return Cash Cover that have a total Market Value that is no greater than the Surplus. If the Chargor makes such a request to the Secured Party, then:
- 4.5.1 unless an Enforcement Event has occurred and is continuing at such time; and
  - 4.5.2 if and to the extent that the amount to be withdrawn is still no greater than the Surplus as at the proposed withdrawal date,

the Secured Party shall, no later than seven Business Days after receiving that request, provide its consent to that request. Any Eligible Collateral or Credit Balance so withdrawn shall be released from the Security Interests.

## 5. VOTING RIGHTS AND DIVIDENDS

5.1 Prior to any of the Secured Obligations becoming due and payable, or if any of the Secured Obligations have become due and payable and they have been paid on demand, the Chargor shall be entitled to:

5.1.1 receive all Income arising from the Charged Portfolio; and

5.1.2 exercise all voting rights in relation to the Charged Portfolio provided that the Chargor shall not exercise such voting rights in any manner, or otherwise permit or agree to any variation of the rights attaching to or conferred by all or any part of the Charged Portfolio which in the opinion of the Secured Party would prejudice the value of, or the ability of the Secured Party to realise, the security created by this Agreement.

5.2 The Secured Party may, if any of the Secured Obligations become due and payable and have not been paid on demand, at its discretion (in the name of the Chargor or otherwise and without any further consent or authorisation from the Chargor) in relation to the Securities:

5.2.1 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Charged Portfolio in such manner and on such terms as the Secured Party may think fit;

5.2.2 apply all Income arising from the Charged Portfolio as though they were the proceeds of sale under this Agreement; and/or

5.2.3 transfer the Charged Portfolio into the name of such nominee(s) of the Secured Party as it shall require.

## 6. SUBSTITUTION

6.1 If any Securities fall due or are about to fall due for redemption, exchange or conversion ("**Original Collateral**"), the Chargor may on any Business Day by notice inform the Secured Party that it wishes to transfer to the Secured Party Eligible Collateral ("**New Collateral**") in exchange for the Original Collateral.

6.2 Subject to the Chargor first having obtained the written consent of the Secured Party to a substitution of Original Collateral for New Collateral:

6.2.1 the Chargor will transfer New Collateral to the Secured Party to be credited to the Securities Account that has an aggregate Market Value (as determined by the Secured Party in accordance with clause 4.4) that is at least equal to the aggregate Market Value of the Original Collateral;

6.2.2 upon the Chargor transferring to the Secured Party such New Collateral, then:

(a) unless an Enforcement Event has occurred and is continuing at such time; and

(b) if and to the extent that the withdrawal will not create a Deficiency,

the Chargor shall be entitled to withdraw the Original Collateral from the Securities Account;

- 6.2.3 the New Collateral shall be subject to the Security Interests immediately upon being credited to the Securities Account without the need for any further notice or action; and
- 6.2.4 the Original Collateral shall be released from the Security Interests upon being withdrawn in accordance with clause 6.2.2.
- 6.3 The Secured Party shall, no later than seven Business Days after receipt of a notice from the Chargor in accordance with Clause 6.1, consent to any substitution request pursuant to this Clause 6 unless:
  - 6.3.1 an Enforcement Event has occurred and is continuing at that time; or
  - 6.3.2 any of the representations given in respect of the New Collateral pursuant to Clause 8.2 are untrue.

## **7. RESTRICTIONS ON DEALINGS**

- 7.1 Except with the Secured Party's prior written consent and subject to the terms of this Agreement, the Chargor shall not:
  - 7.1.1 assign, sell, on-lend, re-hypothecate, dispose of or otherwise transfer all or any part of the Charged Assets;
  - 7.1.2 withdraw or transfer any Securities from the Securities Account;
  - 7.1.3 withdraw or transfer the Credit Balance or any part of it; or
  - 7.1.4 create, grant or permit to exist (a) any security interest over or (b) any restriction on the ability to transfer or realise, all or any part of the Charged Assets other than the Security Interests or a Permitted Security Interest.
- 7.2 The Charged Debt does not become repayable until end of the Security Period and until that time the Chargor shall have no right to demand repayment of the Charged Debt.

## **8. CHARGOR'S REPRESENTATIONS AND UNDERTAKINGS**

- 8.1 The Chargor hereby represents and warrants to the Secured Party and undertakes during the subsistence of this Agreement that:
  - 8.1.1 it is, and will be, the sole beneficial owner of the Charged Assets free and clear of any security interest, lien, encumbrance or other restriction other than a lien routinely imposed on all securities in a clearing system, the Security Interests or any Permitted Security Interest;
  - 8.1.2 the floating charge over the long-term insurance assets of the Chargor (and any part of them) created on 12 December 2014 and granted in favour of Axa Isle of Man Limited (now Utmost Limited) has been released and discharged in full;
  - 8.1.3 the Securities are and will at all times be fully paid and there will be no monies or liabilities outstanding in respect of any of them;
  - 8.1.4 it has not sold or disposed of, and will not sell or dispose of, the benefit of all or any of its rights, title and interest in the Charged Assets;
  - 8.1.5 it has and will have the necessary power to enable it to enter into and perform its obligations under this Agreement;

- 8.1.6 this Agreement constitutes its legal, valid and binding obligation and creates an effective security interest over the Charged Assets
- 8.1.7 in relation to the Charged Assets: (a) the Chargor's intention in granting the Security Interests in favour of the Secured Party is to give the Secured Party a first-ranking security interest over the Charged Assets; (b) the Chargor is not aware of any security or other proprietary interest that would rank in priority to the Security Interests; and (c) no floating charge that is a Permitted Security Interest has crystallised;
- 8.1.8 this Agreement is not capable of being amended or otherwise set aside on the liquidation or administration of the Chargor or otherwise;
- 8.1.9 all necessary authorisations to enable it to enter into this Agreement have been obtained and are, and will remain, in full force and effect;
- 8.1.10 the execution of this Agreement does not and will not conflict with or result in any breach or constitute a default under any agreement, instrument or obligation (including, without limitation, regulatory obligation) to which the Chargor is a party or by which it is bound;
- 8.1.11 the Secured Obligations represent and will at all times during the subsistence of this Agreement represent, liabilities for the purpose of the business in the Chargor's FL FLAS With Profits Fund with-profits fund only;
- 8.1.12 if and to the extent that at any time during the subsistence of this Agreement, any of the Charged Assets comprise assets held in the Chargor's FL FLAS With Profits Fund with-profits funds, the Chargor has complied and will continue to comply with the provisions of COBS and in particular COBS 20.1A.10R and COBS 20.1A.11R; and
- 8.1.13 where its level of own funds falls below 110% of its SCR, it shall notify the Secured Party as soon as practicable and in any event no later than five Business Days after the Chargor is aware or should reasonably be aware that this has occurred.

8.2 Each time:

- 8.2.1 the Chargor makes a substitution request pursuant to Clause 6 (*Substitution*); or
- 8.2.2 Eligible Collateral is deposited to a Securities Account or cash is deposited to a Cash Account; or
- 8.2.3 an instrument is designated or otherwise becomes a Letter of Credit,

the Chargor represents and warrants to the Secured Party in respect of the relevant New Collateral or those Charged Assets that:

- (a) the Chargor is, and will be, the sole beneficial owner of that New Collateral or those Charged Assets, free and clear of any security interest, lien, encumbrance or other restriction other than a lien routinely imposed on all securities in a clearing system, the Security Interests or any Permitted Security Interest;
- (b) their deposit to the relevant Securities Account or Cash Account does not and will not conflict with or result in any breach or constitute a default under any agreement, instrument or obligation (including, without

limitation, regulatory obligation) to which the Chargor is a party or by which it is bound; and

- (c) if and to the extent that at any time during the subsistence of this Agreement any of such New Collateral or Charged Assets comprise assets held in the Chargor's FL FLAS With Profits Fund with-profits funds, the Chargor has complied and will continue to comply with the provisions of COBS and in particular COBS 20.1A.10R and COBS 20.1A.11R.

- 8.3 The Chargor undertakes that it will not designate any instrument as a "Letter of Credit" for the purposes of this Agreement, or agree to it being a "Letter of Credit", if by doing so and/or pledging the Charged Assets to secure its obligations under such Letter of Credit would result in the Chargor breaching its obligations under COBS or any replacement or similar regulatory obligation in any relevant jurisdiction.

## **9. FURTHER ASSURANCE**

The Chargor shall promptly upon notice from the Secured Party execute all documents and do all things (including the delivery, transfer, assignment or payment of all or part of the Charged Assets to the Secured Party) that the Secured Party may specify for the purpose of (a) securing and perfecting its security over or title to all or any part of the Charged Assets (b) exercising the Collateral Rights; or (c) where an Enforcement Event has occurred, enabling the Secured Party to vest all or part of the Charged Portfolio in its name or in the name(s) of its nominee(s), agent or any purchaser.

## **10. POWER OF ATTORNEY**

The Chargor, by way of security, irrevocably appoints the Secured Party to be its attorney and in its name, and on its behalf to execute, deliver and perfect all documents and do all things that the Secured Party may consider to be requisite for (a) carrying out any obligation imposed on the Chargor under this Agreement; or (b) exercising any of the Collateral Rights. The Chargor shall ratify and confirm all things done and all documents executed by the Secured Party in the exercise of that power of attorney.

## **11. APPROPRIATION**

- 11.1 The Chargor authorises the Secured Party, at any time after an Enforcement Event has occurred and is continuing, to appropriate part or all of the Charged Assets and to apply them in or towards discharge of the Secured Obligations in such manner as the Secured Party may determine.
- 11.2 The value of the Charged Assets or part thereof appropriated under Clause 11.1 shall be the fair market price of such Charged Assets as determined by the Secured Party by reference to a public index or by such other process as the Secured Party may reasonably select, including independent valuation.
- 11.3 In exercising its powers under Clause 11.1 the Secured Party shall act in good faith and in a commercially reasonable manner (which shall include taking account of the extent to which the Chargor is likely to become unable to comply with the covenants given at Clause 2 as a result of the Enforcement Event occurring or continuing).

## **12. POWER OF SALE**

- 12.1 At any time after an Enforcement Event has occurred and is continuing, the Secured Party shall be entitled, without prior notice to the Chargor or prior authorisation from any court, to sell or otherwise dispose of all or any part of the Charged Assets. The



Secured Party shall be entitled to apply the proceeds of that sale or other disposal in paying the costs of that sale or disposal and in or towards the discharge of the Secured Obligations.

- 12.2 The power of sale or other disposal in Clause 12.1 shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to any exercise by the Secured Party of its right to consolidate mortgages or its power of sale.
- 12.3 No purchaser or other person dealing with the Secured Party or with its attorney or agent shall be concerned to enquire (a) whether any power exercised or purported to be exercised by the Secured Party has become exercisable, (b) whether any Secured Obligation remains due, (3) as to the propriety or regularity of any of the actions of the Secured Party or (4) as to the application of any money paid to the Secured Party.
- 12.4 If, at any time, the Market Value of the Charged Assets is less than the Exposure and whether or not any of the Secured Obligations have at such time become due and payable, unless the Chargor has delivered to the Secured Party sufficient Eligible Collateral having an aggregate Market Value that is greater than or equal to the Deficiency in accordance with Clause 4.2, the Secured Party shall be immediately entitled, and without any requirement to notify the Chargor, to sell all or any of the Securities and place and retain for its own account the proceeds of such sale on an interest bearing suspense account pending application of such sums in discharge of the Secured Obligations.
- 12.5 The Secured Party shall not be liable to account as mortgagee in possession in respect of all or any of the Charged Assets and shall not be liable for any loss on realisation or for any failure to present any Securities for repayment or for any failure to pay any instalment or to accept any offer or to notify the Chargor of any such matter or for any failure to ensure that the correct amounts (if any) are paid or received in respect of the Charged Assets or for any negligence or default by its nominees or agents or for any other loss of any nature whatsoever in connection with the Charged Assets.

### **13. SET-OFF**

- 13.1 The Secured Party may, without notice to the Chargor, set off all or any part of any of the matured Secured Obligations against any obligation owed by the Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- 13.2 The Secured Party may make any currency conversions necessary for the purposes of exercising the rights of set-off provided in Clause 13.1 at the Secured Party's spot rate of exchange for the relevant currencies.
- 13.3 If an Enforcement Event has occurred and is continuing, the Secured Party may (acting reasonably and if required to discharge the Secured Obligations) break any fixture period for interest payments which applies to the Credit Balance or any part of it and the Chargor will be responsible for all breakage and other costs resulting from breaking that fixture.
- 13.4 The rights of set-off provided in this Clause 13 shall be in addition to any right of set-off, combination of accounts, lien or other right to which any the Secured Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

#### **14. RECEIVER**

- 14.1 If (a) any of the Secured Obligations are due and payable but not paid or discharged on demand or (b) if a petition is presented for the making of an administration order in relation to the Chargor, the Secured Party may by writing (acting through an authorised officer of the Secured Party) without notice to the Chargor appoint one or more persons to be receiver of the whole or any part of the Charged Assets (each such person being (i) entitled to act individually as well as jointly; and (ii) for all purposes deemed to be the agent of the Chargor).
- 14.2 In addition to the powers of the Secured Party conferred elsewhere in this Agreement, each person appointed pursuant to Clause 14.1 shall have, in relation to the part of the Charged Assets in respect of which he was appointed, all the powers (a) conferred by the Law of Property Act 1925 on a receiver appointed under that Act, (b) of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not such person is an administrative receiver) and (c) (if such person is an administrative receiver) all the other powers exercisable by an administrative receiver in relation to the Chargor by virtue of the Insolvency Act 1986.

#### **15. PRESERVATION OF SECURITY**

- 15.1 The Security Interests constituted by this Agreement and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Secured Party may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law. No prior security held by the Secured Party over the whole or any part of the Charged Assets shall merge into the Security Interests hereby constituted.
- 15.2 The Security Interests created by this Agreement shall be a continuing security and shall not be satisfied by any intermediate payment or satisfaction of the whole or any part of the Secured Obligations but shall secure the ultimate balance of the Secured Obligations.

#### **16. SUBSEQUENT INTERESTS AND ACCOUNTS**

- 16.1 If the Secured Party at any time receives notice of any subsequent mortgage, assignment, charge or other interest affecting all or any part of the Charged Assets, all payments thereafter made by the Chargor to the Secured Party 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 Secured Party received notice.
- 16.2 All monies received, recovered or realised by the Secured Party under this Agreement (including the proceeds of any conversion of currency) may in its discretion be credited to and held in any suspense or impersonal account pending their application from time to time in or towards the discharge of any of the Secured Obligations.

#### **17. CURRENCY CONVERSION**

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

**18. RELEASE**

As soon as reasonably practicable after the end of the Security Period, the Secured Party will transfer to the Chargor all Charged Assets, which shall be released from the Security Interests.

**19. EXPENSES AND INDEMNITY**

- 19.1 The Chargor shall promptly pay when due all taxes, assessments or charges of any nature that are imposed with respect of the Charged Assets upon becoming aware of the same.
- 19.2 The Chargor shall immediately on demand pay all costs and expenses (including legal fees) incurred by the Secured Party or its nominees, agents, officers or any other persons appointed by the Secured Party under this Agreement in connection with the enforcement or protection of the Security Interests or the exercise of any Collateral Rights under this Agreement.
- 19.3 The Chargor shall indemnify and hold harmless the Secured Party against any costs, losses or liability incurred by it in connection with any litigation, arbitration or administrative proceedings in respect of the Security Interests.

**20. SUCCESSORS**

This Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Secured Party and references to the Secured Party shall be deemed to include any assignee or successor in title of the Secured Party and any person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Secured Party hereunder or to which under such laws the same have been transferred.

**21. NOTICES**

- 21.1 Any notice, demand or communication to be served by one party on the other pursuant to this Agreement may be served by leaving it at the address specified below (or such other address as such person may previously have specified) or by letter posted by prepaid first-class post to such address (which shall be deemed to have been served on the third day following the date of posting), or by fax to the fax number specified above (or such other number as such person may previously have specified) which shall be deemed to have been received when transmission has been completed) *provided that* any notice to be served on a party shall be effective only when actually received by the party, marked for the attention of the department or officer specified by the party for such purpose.

To the Secured Party:

Address: GTRF Services  
HSBC Bank plc  
5th floor, 62-76 Park Street  
London SE1 9RN

Facsimile No: 020 7260 4680

Email: [priorityqueries.gtees@hsbc.com](mailto:priorityqueries.gtees@hsbc.com), copied to  
{REDACTED}@hsbc.com and {REDACTED}@hsbc.com.

To the Chargor

Address:

{REDACTED}

The Aviva Centre  
Burley Furlong, Bristol BS34 8SW

Email:

{REDACTED}@aviva.com with a copy to

IndividualPricing@friendslife.co.uk with "Reinsurance Letters of  
Credit Security Agreement" in the subject header of the email.

- 21.2 The Secured Party may notify the Chargor that it wishes to receive notices, demands or other communications by email, provided that without prejudice to Clause 3.1.2, the Secured Party shall not be obliged to accept any notice, demand or communication by email.
- 21.3 The Chargor may only serve a notice, demand or other communication on the Secured Party by email where the Secured Party has notified the Chargor that it may do so pursuant to Clause 21.2.
- 21.4 Any notice, demand or communication served by one party on the other by email shall be deemed to have been received on the date that it is delivered.
- 21.5 Subject to Clause 21.3, where the Chargor elects to communicate with the Secured Party by email or any other unauthenticated or non-secure electronic means, the Chargor acknowledges that:
- 21.5.1 that such communication is done at the Chargor's risk;
- 21.5.2 following any such communication, the Secured Party is entitled to assume, that unless and until the Chargor notifies the Secured Party otherwise, the Chargor is amenable to the Secured Party communicating using the same method of communication;
- 21.5.3 email and other unauthenticated or non-secure electronic means are not secure forms of communication and authorises the Secured Party to treat any communication (including any attachments) the Secured Party receives that appears to come from a contact address of an authorised signatory or representative of the Chargor, as complete and duly authorised by the Chargor.
- 21.6 The Chargor agrees to indemnify the Secured Party against any loss, cost or liability that the Secured Party incurs or suffers as a result of the Secured Party acting or otherwise relying on any notice, demand or communication appearing received by the Secured Party by email or other non-secure means that appears to be from the Chargor.
- 21.7 If the Secured Party questions the authenticity of any notice, demand or communication, it may seek to verify its authenticity before acting on that notice, demand or communication and it will not be liable to the Chargor for any delay this causes.

## 22. WAIVERS

No failure on the part of the Secured Party to exercise, or delay on its part in exercising, any right under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right under this Agreement preclude any further or other exercise of that or any other right under this Agreement.

23. **SEVERABILITY**

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, the legality, validity or enforceability of (a) the remaining provisions of this Agreement and (b) such provision under the law of any other jurisdiction shall not in any way be affected or impaired thereby.

24. **COUNTERPARTS**

This Agreement may be executed and delivered in any number of counterparts, all of which, taken together, shall constitute one and the same Agreement.

25. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

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

26. **LAW AND JURISDICTION**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law and, for the Secured Party's benefit, the English courts shall have exclusive jurisdiction to settle any dispute which may arise from or in connection with it.

**IN WITNESS WHEREOF** this Agreement has been signed on behalf of the Secured Party 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.

**The Secured Party**

**HSBC BANK PLC** acting by:

{REDACTED}

Name: *BOUDIT DES COURTIS*

Position: *Relationship Manager, 26 June 2017*

**The Chargor**

**EXECUTED** as a deed by **FRIENDS LIFE LIMITED** acting by its attorney under a power of attorney dated 23 February 2017:

{REDACTED}

Name of attorney: *ROBERT PALMER*

Position of attorney: *AUTHORISED SIGNATORY*

{REDACTED}

Witness's name: *HANNAH PAWLOWSKI*

Witness's address: *WELINGTON ROW, YORK, YO90 1WR*