



Registration of a Charge

Company name: **SF FOUNDATION**

Company number: **05213113**



X8KPKL61

Received for Electronic Filing: **20/12/2019**

Details of Charge

Date of creation: **17/12/2019**

Charge code: **0521 3113 0006**

Persons entitled: **BRITISH ARAB COMMERCIAL BANK PLC**

Brief description: **N/A**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **WE 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: **STEPHENSON HARWOOD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5213113

Charge code: 0521 3113 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th December 2019 and created by SF FOUNDATION was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th December 2019 .

Given at Companies House, Cardiff on 23rd December 2019

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

Assignment of Subordinated Debt

Dated 17 DECEMBER 2019

- (1) **SF Foundation**
the Assignor
- (2) **British Arab Commercial Bank plc**
the Lender

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**STEPHENSON
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ASSIGNMENT

Dated 17 DECEMBER 2019

BETWEEN

- (1) **SF Foundation** incorporated in England and Wales with registered number 05213113 and whose registered office is at 143 Upper Clapton Road, London, E5 9DB (the "**Assignor**"), and
- (2) **British Arab Commercial Bank plc** incorporated in England and Wales with registered number 01047302 whose registered office is at 8-10 Mansion House Place, London, EC4N 8BJ (the "**Lender**").

BACKGROUND:

- (A) The Assignor enters into this Deed to secure the payment and discharge of the Secured Liabilities.
- (B) The Assignor acknowledges that there is no agreement, arrangement or understanding between the Lender and the Assignor to the effect that the Secured Liabilities are limited to liabilities incurred in connection with only one or more (but not all) of the transactions between them, and that the Lender has made no representation to that effect.
- (C) It is intended that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

THIS DEED WITNESSES

1 Definitions and interpretation

1.1 Definitions

This Assignment is intended to be a deed between the parties to it and is referred to here as "**this Deed**".

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

"**Borrower**" means Dalmeny Properties Limited registered in England and Wales (registered number 11352203) with its registered office at 147 Stamford Hill, London, United Kingdom, N16 5LG.

"**Default Rate**" means the rate provided for in any agreement between the Borrower and the Lender.

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

"**Party**" means a party to this Deed.

"**Receiver**" means a receiver or receiver and manager or administrative receiver, in each case appointed under this Deed.

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Borrower to the Lender.

"Security" means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that:

- (a) all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full; and
- (b) it is under no commitment, obligation or liability (actual or contingent) to make any advance or to make available any other financial accommodation to the Borrower.

"Subordinated Debt" means all liabilities payable or owing by the Borrower to the Assignor including all such liabilities (whenever created) which are transferred or assigned to, or otherwise acquired by, the Assignor after the date of this Deed.

"Subordinated Debt Rights" means all of the Assignor's rights under, and interest in, the Subordinated Debt and each Subordinated Loan Agreement, including:

- (a) all moneys which may become payable, and the benefit of all property and claims, under them; and
- (b) any claim or action against the Borrower pursuant to them.

"Subordinated Loan Agreement" means any loan agreement between the Borrower and the Assignor or other agreement evidencing or recording the terms of any Subordinated Debt from time to time in each case as amended, varied, novated, supplemented and replaced from time to time.

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

1.2 Construction

1.2.1 Unless a contrary indication appears, a reference in this Deed to:

- (a) The **"Borrower"**, the **"Assignor"**, the **"Lender"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to or of, its rights and/or obligations under this Deed or any other document between the Parties;
- (b) **"assets"** includes present and future properties, revenues and rights of every description;

- (c) "**disposal**" includes a sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary, and "**dispose**" will be construed accordingly;
- (d) "**guarantee**" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (e) "**indebtedness**" or "**debt**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (f) a document, agreement or instrument is a reference to that document, agreement or instrument as amended, novated, supplemented, extended or restated;
- (g) the words **include(s)**, **including** and **in particular** shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as limiting the generality of any preceding words;
- (h) **liabilities** means any obligation, whether incurred as principal or as surety, whether or not in respect of indebtedness, whether present or future, actual or contingent and whether owed jointly or severally or in any other capacity;
- (i) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality);
- (j) 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 of any regulatory, self-regulatory or other authority or organisation;
- (k) a provision of law is a reference to that provision as amended or re-enacted;
- (l) a time of day is a reference to London time;
- (m) references to clauses are to the clauses of this Deed;
- (n) any words following the terms "**including**", "**include**", "**in particular**", "**for example**" or any similar expression shall be construed as by way of illustration or emphasis only and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;

- (o) the words "**other**" and "**otherwise**" shall not be construed eiusdem generis with any preceding words where a wider construction is possible;
 - (p) any **rights** in respect of an asset includes:
 - (i) all amounts and proceeds paid or payable;
 - (ii) all rights to make any demand or claim; and
 - (iii) all powers, remedies, causes of action, security, guarantees and indemnities,
 in each case in respect of or derived from that asset;
 - (q) the term **this Security** means any Security created by this Deed;
 - (r) this **Deed** is a reference to this Deed as amended, varied, novated, supplemented and replaced from time to time; and
 - (s) the **Lender** or a **Receiver** (except for the references in Clause 11.1 (*Power of Attorney*)), includes its duly appointed nominees, attorneys, correspondents, trustees, advisers, agents, delegates and sub-delegates.
- 1.2.2 Any covenant of the Assignor under this Deed (other than a payment obligation which has been discharged) remains in force during the Security Period.
- 1.2.3 If the Lender considers that an amount paid to it is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.2.4 Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of any disposal of that Security Asset.

1.3 Third party rights

- 1.3.1 Unless expressly provided to the contrary in any document relating to the Secured Liabilities, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- 1.3.2 The consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- 1.3.3 Any Receiver may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph 1.3.2 above and the provisions of the Contracts (Rights of Third Parties) Act 1999.

2 Covenant to pay

- 2.1 The Assignor shall on demand pay or discharge the Secured Liabilities when the same fall due for payment.
- 2.2 The Assignor shall pay interest at the Default Rate on the sums payable under this Deed from the date on which the liability was incurred to the date of actual payment, both before and after judgment.

3 Nature of Security created

3.1 General

All the Security created under this Deed:

- 3.1.1 is created in favour of the Lender;
- 3.1.2 is created over present and future assets of the Assignor;
- 3.1.3 is Security for the payment and discharge of all the Secured Liabilities; and
- 3.1.4 is created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4 Assignment

4.1 Assignment

Subject to the proviso for re-assignment on redemption set out under Clause 5 (*Reassignment*), the Assignor assigns absolutely to the Lender the Subordinated Debt Rights.

4.2 Trust

- 4.2.1 To the extent that the assignment of any Subordinated Debt Right is ineffective because of a prohibition on that assignment the Assignor holds it on trust for the Lender.
- 4.2.2 Clause 4.2.1 operates without prejudice to the representation and warranty given by the Assignor in Clause 6.2.2 (*Binding obligations*).

5 Reassignment

- 5.1 Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, unless any third party has any subrogation or other rights in respect of the Security created by this Deed at that time, the Lender shall, or shall procure that its appointees will, at the request and cost of the Assignor, re-assign to the Assignor all interests it then has in the Subordinated Debt Rights.
- 5.2 The Lender shall make no representation or warranty or give any undertaking in respect of any Subordinated Debt Rights reassigned under Clause 5.1, except that it has not itself created any Security over them.

- 5.3 Section 93 (Restriction on consolidation of mortgages) of the LPA shall not apply to this Deed.

6 Representations

The Assignor makes the representations and warranties set out in this Clause 6 to the Lender on the date of this Deed. In entering into this Deed the Lender has relied on the representations and warranties of the Assignor set out in this Clause.

6.1 Status

- 6.1.1 It is a limited liability corporation, duly incorporated and validly existing under the laws of England.
- 6.1.2 It has the power to sue and be sued in its own name and to own its assets and carry on its business as that business is being and will be conducted.

6.2 Binding obligations

- 6.2.1 The obligations expressed to be assumed by it under this Deed are legal, valid, binding and enforceable obligations.
- 6.2.2 The Subordinated Debt Rights are fully and freely assignable.
- 6.2.3 Without limiting the generality of Clause 6.2.2 above, the Security which this Deed purports to create is valid and effective.

6.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Deed and the granting of the Security created or expressed to be created in favour of the Lender under this Deed do not and will not conflict with:

- 6.3.1 any law or regulation applicable to it or binding on its assets;
- 6.3.2 its constitutional documents; or
- 6.3.3 any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

6.4 Power and authority

- 6.4.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by it.
- 6.4.2 No limit on its powers will be exceeded as a result of the grant of Security contemplated by this Deed.

6.5 Validity and admissibility in evidence

All Authorisations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and

(b) to make this Deed admissible in evidence,

have been obtained or effected and are in full force and effect.

6.1 No filing or stamp taxes

It is not necessary that this Deed be registered, filed, recorded, notarised or enrolled with any court or other authority in its jurisdiction of incorporation or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to it or the transactions contemplated by it except registration of particulars of this Deed at Companies House under the Companies Act 2006 and payment of associated fees.

6.2 Legal and beneficial ownership

Immediately before the assignment in Clause 4.1 (*Assignment*) it was the sole legal and beneficial owner of the Subordinated Debt Rights.

6.3 Centre of main interests and establishments

For the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation**"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in England and Wales and it has no "establishment" (as that term is used in Article 2(10) of the Regulation) in any other jurisdiction.

6.4 Ranking of Security

The Security conferred by this Deed has or will have first ranking priority and is not subject to any prior ranking or pari passu ranking Security.

6.5 Solvency

It is not deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (but ignoring any requirement that any matter referred to in that section be proved to the satisfaction of the court), or any analogous provision in any Relevant Jurisdiction, and will not become unable to do so as a consequence of entering into this Deed or granting the Security it purports to create under this Deed.

7 Undertakings

The undertakings in this Clause 7 remain in force from the date of this Deed until the expiry of the Security Period.

7.1 Notice of assignment

Immediately after executing this Deed the Assignor shall:

7.1.1 serve a notice on the Borrower (substantially in the form set out in Schedule 1 (*Form of notice of assignment*));

7.1.2 deliver to the Lender a certified copy of each notice; and

- 7.1.3 procure that the Borrower promptly acknowledges that notice in the form set out in Schedule 2 (*Form of acknowledgement*).

7.2 Disposals

Except with the prior written consent of the Lender, the Assignor shall not enter into a single transaction or a series of transactions (whether related or not, whether voluntary or involuntary and whether at the same time or over a period of time), to dispose of any Subordinated Debt Right or enter into an agreement to make any such disposal.

7.3 Negative pledge

Except with the prior written consent of the Lender, the Assignor shall not create, purport to create or permit to subsist any Subordinated Debt Right, except for the Security created pursuant to this Deed.

7.4 Preservation of Assets

The Assignor:

- 7.4.1 shall notify the Lender promptly of any claim or notice relating to the Subordinated Debt Rights which it receives from any third party;
- 7.4.2 shall provide the Lender with all information relating to the Subordinated Debt Rights which the Lender requests from time to time; and
- 7.4.3 shall not take any Security in connection with its liability under this Deed from any guarantor of, or provider of Security for, any of the Secured Liabilities.

7.5 No deductions

The Assignor shall calculate and make all payments to be made by it under this Deed without any deduction for set-off, counterclaim or any other circumstance.

8 Enforcement

8.1 When Security becomes enforceable

The Security created by this Deed will become immediately enforceable:

- 8.1.1 at any time after the Lender has served notice on the Borrower demanding payment or discharge by the Borrower of all or any of the Secured Liabilities; or
- 8.1.2 if the Assignor so requests.

8.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Lender may (without prejudice to any other of its rights and remedies and without notice to the Assignor) do all or any of the following:

- 8.2.1 subject to Clause 9.1 (*Method of appointment and removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Subordinated Debt Rights;
- 8.2.2 exercise all the powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 (*Regulation of exercise of power of sale*) or 109(1) (*Appointment, powers, remuneration and duties of receiver*) of the LPA; and
- 8.2.3 without prejudice to the Assignor's obligation under Clause 7.1 (*Notice of assignment*), if it has not been done serve notices substantially in the forms set out in Schedule 1 (*Form of notice of assignment*) and obtain acknowledgments under Clause 7.1 (*Notice of assignment*).

8.3 Disposal of the Subordinated Debt Rights

In exercising the powers referred to in Clause 8.2 (*Powers on enforcement*), the Lender or any Receiver may sell or dispose of all or any of the Subordinated Debt Rights at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

8.4 Application of moneys

8.4.1 The Lender or any Receiver shall apply moneys received by them under this Deed in the following order:

- (a) **first**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid costs and expenses of the Lender and any Receiver under this Deed or which are incidental to any Receiver's appointment, together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full;
- (b) **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Lender and any Receiver;
- (c) **thirdly**, in or towards the discharge of all liabilities having priority to the Secured Liabilities;
- (d) **fourthly**, in or towards the discharge of the Secured Liabilities; and
- (e) **fifthly**, in the payment of any surplus to the Assignor or other person entitled to it,

and section 109(8) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

8.4.2 Clause 8.4.1 will override any appropriation made by the Assignor.

9 Appointment and powers of Receivers

9.1 Method of appointment and removal

- 9.1.1 The Lender may not appoint a Receiver by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A (*Moratorium*) of the Insolvency Act 1986.
- 9.1.2 Every appointment or removal of a Receiver, of any delegate or of any other person by the Lender pursuant to this Deed may be made in writing under the hand of any officer or manager of the Lender.

9.2 Powers of Receiver

Every Receiver shall have all the powers:

- 9.2.1 of the Lender under this Deed;
- 9.2.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 9.2.3 which are specified in Schedule 1 of the Insolvency Act 1986 in relation to, and to the extent applicable to, the Subordinated Debt Rights or any of them (whether or not the Receiver is an administrative receiver within the meaning of the Insolvency Act 1986);
- 9.2.4 of the absolute owner of any Subordinated Debt Rights;
- 9.2.5 to use the name of the Assignor in relation to any of its powers or actions under this Deed; and
- 9.2.6 to do whatever, in the opinion of the Receiver it
 - (a) considers necessary or desirable to realise, protect, exploit, maintain or increase the value of the Subordinated Debt Rights or any of them, including bringing or defending proceedings in the name or on behalf of the Assignor or Lender and entering into and executing documents and taking any action in the name of the Assignor or Lender,
 - (b) considers incidental or conducive to any right, power, function, discretion or authority of the Receiver under this Deed or by law; and
 - (c) considers necessary or desirable to undertake as agent of the Assignor.

9.3 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on a Receiver by this Deed.

9.4 Receiver as agent

Every Receiver shall be the agent of the Assignor without personal liability. The Assignor shall be solely responsible for the acts and defaults of the Receiver and for the payment of the Receiver's remuneration.

9.5 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Lender and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the LPA shall not apply.

10 Protection of purchasers

No purchaser or other person dealing with the Lender or any Receiver shall be bound or concerned:

- (c) to see or enquire whether the right of the Lender or any Receiver to exercise any of the powers conferred by this Deed has arisen or not;
- (d) with the propriety of the exercise or purported exercise of those powers; or
- (e) with the application of any moneys paid to the Lender, to any Receiver or to any other person.

11 Delegation

11.1 Power of Attorney

The Lender or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion exercisable by it under this Deed.

11.2 Terms

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

11.3 Liability

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

12 Protection of the Lender and Receiver

12.1 Exclusion of liability

Neither the Lender, nor any Receiver, or any of their respective officers, employees or agents shall have any responsibility or liability:

- 12.1.1 for any action taken, in relation to all or any of the Subordinated Debt Rights;

12.1.2 for failure to take action relating to the Subordinated Debt Rights, and in particular for any failure:

- (a) to send to the Assignor any notice, report or other letter received by it concerning any Subordinated Loan Agreement;
- (b) to accept or decline any offer relating to any Subordinated Loan Agreement;
- (c) to make any payment relating to any Subordinated Loan Agreement;
- (d) to enquire about the nature and amount of any payment which it receives; or
- (e) to take any step to enforce payment of any moneys which may become payable under any Subordinated Loan Agreement;

12.1.3 to account as mortgagee in possession or for any loss upon realisation of any Subordinated Debt Right;

12.1.4 for any other default or omission in relation to all or any of the Subordinated Debt Rights for which a mortgagee in possession might be liable;

12.1.5 for any loss resulting from any fluctuation in exchange rates in connection with any purchase of currencies under Clause 16 (*Currency conversion*); or

12.1.6 for any other default or omission in relation to all or any of the Subordinated Debt Rights for which a mortgagee in possession might be liable,

except in the case of gross negligence or wilful misconduct on the part of that person.

12.2 General indemnity

12.2.1 The Assignor shall indemnify the Lender and its respective officers, employees and agents against all actions, proceedings, demands, claims, costs, expenses, loss and other liabilities incurred by them in respect of all or any of the following:

- (a) any act or omission by any of them in relation to all or any of the Subordinated Debt Rights;
- (b) any payment relating to any Subordinated Loan Agreement which becomes payable at any time by any of them;
- (c) any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed or any Security created under it;

- (d) the cost of holding and safekeeping any documents of whatever nature which the Assignor delivers to the Lender under Clause 14 (*Further assurance*) or any other provision of this Deed;
- (e) carrying out or purporting to carry out any of the rights, powers, authority and discretions conferred on them by, or permitted under, this Deed; and
- (f) any breach by the Assignor of any of its undertakings or other obligations to the Lender,

except in the case of gross negligence or wilful misconduct on the part of that person.

12.2.2 The Assignor shall pay interest at the Default Rate on sums payable under this Clause from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

12.3 Indemnity out of the Subordinated Debt Rights

The Lender and its respective officers, employees and agents shall be entitled to be indemnified out of the Subordinated Debt Rights or any part of them in respect of the indemnities referred to in Clause 12.2 (*General indemnity*) and may retain and use monies received by it under this Deed towards payment of any sums under those indemnities.

13 Preservation of Security

13.1 Reinstatement

If any payment by the Assignor or discharge given by the Lender (whether in respect of the obligations of the Assignor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:

- 13.1.1 the liabilities of the Assignor and the Security created by this Deed shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- 13.1.2 the Lender shall be entitled to recover the value or amount of that Security or payment from the Assignor, as if the payment, discharge, avoidance or reduction had not occurred.

13.2 Waiver of defences

Neither the Security created by this Deed nor the obligations of the Assignor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Lender) including:

- 13.2.1 any time, waiver or consent granted to, or composition with, the Borrower, the Assignor, or other person;

- 13.2.2 the release of the Borrower, the Assignor, or any other person under the terms of any composition or arrangement with any person;
- 13.2.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Borrower, the Assignor, or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 13.2.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower, the Assignor, or any other person;
- 13.2.5 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any agreement relating to the Secured Liabilities or any other document; or
- 13.2.6 any insolvency, liquidation, administration or similar proceedings.

13.3 Immediate recourse

The Assignor waives any right it may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security, claim or payment from any person before claiming from the Assignor under this Deed. This waiver applies irrespective of any law or any provision of any agreement relating to the Secured Liabilities to the contrary.

13.4 Appropriations

During the Security Period, the Lender may:

- 13.4.1 refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 8.4 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Assignor shall not be entitled to the benefit of the same; and
- 13.4.2 hold in an interest-bearing suspense account any moneys received from a Assignor or on account of the Secured Liabilities.

13.5 Continuing Security

This Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.

13.6 Tacking

The Lender must perform its obligations under any agreement relating to the Secured Liabilities (including any obligation to make available further advances).

13.7 Additional Security

This Deed is in addition to, is not in any way prejudiced by and shall not merge with any contractual right or remedy or other Security now or in the future held by or available to the Lender.

13.8 New Accounts

- 13.8.1 If any subsequent charge or other interest affects any of the Subordinated Debt Rights, the Lender may open a new account with the Borrower;
- 13.8.2 If the Lender does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- 13.8.3 As from that time all payments made to the Lender will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

14 Further assurance

14.1 Registration at Companies House

The Assignor consents to the registration of this Assignment at Companies House pursuant to part 25 of the Companies Act 2006.

14.2 Further action

The Assignor shall, at its own expense, promptly take whatever action and sign or execute any further documents which the Lender may require to:

- 14.2.1 give effect to the requirements of this Deed;
- 14.2.2 create, protect, preserve and perfect the Security intended to be created by or under this Deed;
- 14.2.3 protect and preserve the ranking of the Security intended to be created by or under this Deed; and
- 14.2.4 facilitate the realisation of all or any of the Subordinated Debt Rights, or the exercise of any rights, powers and discretions conferred on the Lender, any Receiver or any administrator or any delegate, agent or employee in connection with all or any of the Subordinated Debt Rights, including but not limited to executing and delivering all documentation necessary to create a legal assignment of any of the Subordinated Debt Rights under Section 136 (*Legal assignments of things in action*) of the LPA to the Lender, its nominee or any third party,

and any such document may disapply section 93 (*Restriction on consolidation of mortgages*) of the LPA.

15 Power of attorney

The Assignor by way of security, irrevocably and severally appoints the Lender, each Receiver and any of their respective Delegates or sub-delegates to be its attorney with the full power and authority of the Assignor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any obligation of the Assignor under or pursuant to this Deed or generally for enabling the Lender or any Receiver to exercise the respective powers conferred on them under this Deed or by law. The Assignor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause.

16 Currency conversion

16.1 Currency Conversion

16.1.1 For the purpose of, or pending the discharge of, any of the Secured Liabilities, the Lender may convert any moneys received, recovered or realised by the Lender from one currency to another, at a market rate of exchange.

16.1.2 The obligations of the Assignor to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion.

16.2 Currency of account

16.2.1 Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

16.2.2 Any amount payable under this Deed shall be paid in the currency in which it is owed.

17 Costs and expenses

17.1 Transaction expenses

The Assignor shall promptly on demand pay the Lender the amount of all costs and expenses (including legal fees) reasonably incurred by it and by any Receiver or Delegate in connection with the negotiation, preparation, printing, execution, syndication and perfection of this Deed.

17.2 Amendment costs and expenses

If the Assignor requests an amendment, waiver or consent or release of, or in relation to, this Deed, it shall, within three Business Days of demand, reimburse the Lender for the amount of all costs and expenses (including legal fees) reasonably incurred by it and by any Receiver or Delegate in responding to, evaluating, negotiating or complying with that request or requirement.

17.3 Enforcement costs

The Assignor shall, within three Business Days of demand, pay to the Lender or any Receiver or Delegate the amount of all costs and expenses (including legal fees) incurred by the Lender or any Receiver or Delegate in connection with:

- 17.3.1 the investigation of any possible default under any agreement relating to the Secured Liabilities;
- 17.3.2 the enforcement of, or the preservation of any rights under this Deed and the Security created under it; or
- 17.3.3 any proceedings instituted by or against the Lender or any Receiver or Delegate as a consequence of it entering into this Deed, taking or holding the Security created under it, or enforcing those rights.

18 Notices

18.1 Communications in writing

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

18.2 Addresses

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

- 18.2.1 in the case of the Assignor, that identified with its name below; and
- 18.2.2 in the case of the Lender, that identified with its name below,

or any substitute address or fax number or department or officer as the Party may notify to the other Parties, if a change is made by not less than five Business Days' notice.

18.3 Delivery

- 18.3.1 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 18.2 (*Addresses*), if addressed to that department or officer.

- 18.3.2 Any communication or document to be made or delivered to the Lender will be effective only when actually received by the Lender and then only if it is expressly marked for the attention of the department or officer

identified with the Lender's signature below (or any substitute department or officer as the Lender shall specify for this purpose).

18.3.3 Any communication or document which becomes effective, in accordance with Clauses 18.3.1 and 18.3.2, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

18.4 English language

18.4.1 Any notice given under or in connection with this Deed must be in English.

18.4.2 All other documents provided under or in connection with this Deed must be:

- (a) in English; or
- (b) if not in English, and if so required by the Lender, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

19 Calculations and certificates

19.1 Accounts

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

19.2 Certificates and Determinations

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

19.3 Day count convention

Any interest, commission or fee accruing under this Deed will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days or, in accordance with market practice.

20 Partial invalidity

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

21 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under this Deed, shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed

on the part of the Lender shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

22 Amendments and waivers

Any term of this Deed may be amended or waived only with the written consent of the Assignor and the Lender.

23 Assignments and Transfers

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

23.2 The Lender may assign any of its rights or transfer any of its rights or obligations under this Deed.

24 Counterparts

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

25 Governing law

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

26 Enforcement

26.1 Jurisdiction

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

26.1.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

26.1.3 Notwithstanding Clause 26.1.1 above, the Lender shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in a number of jurisdictions.

Executed as a deed and delivered on the date appearing at the beginning of this Deed.

Schedule 1

Form of notice of assignment

To: [insert name and address of borrower of the subordinated debt]

Attention: []

[Date]

Dear Sirs

Notice of assignment

- 1 We refer to the debt between us as lender and you as borrower (the "**Subordinated Debt**") and the subordination deed (the "**Subordination Agreement**") dated on or about the date of this notice between you, us and [] (the **Lender**).
- 2 We hereby notify you that pursuant to an Assignment dated [] between, among others, us and [Insert name of the Lender] (the "**Lender**") (the "**Assignment**") we have assigned absolutely to the Lender all our rights under the Subordinated Debt and our rights to any other liabilities you may owe to us in the future, including all moneys which may become payable by you and including any claim or action against you (together, the "**Subordinated Debt Rights**").
- 3 Regardless of any previous authorisations or requests which we may have given to you and without making any enquiry as to the justification for the matter:
 - 3.1 without prejudice to the Subordination Agreement, we irrevocably authorise and instruct you to pay to the Lender all moneys which may become payable pursuant to the Subordinated Debt Rights;
 - 3.2 we ask you:
 - 3.2.1 to disclose to the Lender any information relating to the Subordinated Debt Rights which the Lender may from time to time request you to disclose to it; and
 - 3.2.2 without reference to us, to comply with all instructions and requests you may receive from the Lender in relation to the Subordinated Debt Rights.
- 4 The instructions and requests set out in this notice may not be revoked or varied without the written agreement of the Lender.
- 5 This notice and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 6 Please acknowledge and confirm to the Lender your agreement to the above in the form attached, with a copy to us.

Yours faithfully

for and on behalf of [***insert name of the Assignor***]

Copy to: Lender

Schedule 2

Form of acknowledgement

To: **[insert name and address of Lender]**

Copy to: **[insert name and address of Assignor]**

Date:

Dear Sirs

Notice of assignment of subordinated debt

We acknowledge receipt of the notice (the "**Notice**") from [] (the "**Assignor**") to us [] dated [] of the assignment by the Assignor to you of the Subordinated Debt Rights (as defined in the Notice).

We confirm that:

- (a) we agree to the terms of the Notice and to act in accordance with the instructions and requests contained within it;
- (b) the Subordinated Debt Rights are, and were at the date of their assignment, fully and freely assignable;
- (c) we have not received any notice of any assignment, encumbrance, interest, claim or right, in favour of any third party, of, over or in respect of the Subordinated Debt Rights; and
- (d) we do not hold or have, nor will we claim, assert, create or make, any encumbrance, interest, counterclaim, right of set-off or other right over or in respect of the Subordinated Debt Rights.

We are aware that you are relying on this letter in connection with your rights under the Assignment (as defined in the Notice).

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

.....
for and on behalf of **[insert name of borrower of the subordinated debt]**

Date: []

EXECUTION PAGE TO ASSIGNMENT

The Assignors

**Executed as a deed by SF
Foundation** acting by a director in the
presence of:



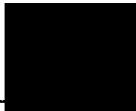
Director

signature

REKA NIEDERMAN

print name

signature
of witness



name

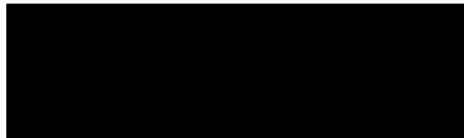
SYLWIA SIELICKA

print name of witness

address



Address:



The Lender

Signed for and on behalf of)
British Arab Commercial Bank plc)

Address: