



Registration of a Charge

Company Name: **BY DEVELOPMENT LIMITED**

Company Number: **06569580**



XBHZK42G

Received for filing in Electronic Format on the: **02/12/2022**

Details of Charge

Date of creation: **28/11/2022**

Charge code: **0656 9580 0012**

Persons entitled: **PREMF DEBT MANAGEMENT S.À R.L**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **CATRIN EVANS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6569580

Charge code: 0656 9580 0012

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th November 2022 and created by BY DEVELOPMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd December 2022 .

Given at Companies House, Cardiff on 6th December 2022

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



Companies House



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

EXECUTION VERSION

DATED 28 November 2022

BY DEVELOPMENT LIMITED

HSRE BC HOLDCO, LTD

HSU JV LLP

as Chargors

and

PREMF DEBT MANAGEMENT S.À R.L
as Security Agent

SUBORDINATED DEBT SECURITY AGREEMENT

CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street, London
EC4N 6AF

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SUBORDINATED DEBT SECURITY AGREEMENT

DATE 28 November

2022

PARTIES

- (1) **BY DEVELOPMENT LIMITED** (incorporated and registered in England and Wales under company registration number 06569580) the registered office of which is at Becket House, 1 Lambeth Palace Road, London SE1 7EU ("**BYD**"), **HSRE BC HOLDCO, LTD**, a private limited liability company, incorporated and existing under the laws of Jersey, having its registered office at 3rd Floor, 37 Esplanade, St Helier, Jersey, JE1 1AD, registered with the Jersey Registry of Companies under number 125135 ("**HS**") **HSU JV LLP** (incorporated and registered in England and Wales under registration number OC420226) the registered office of which is at Becket House, 1 Lambeth Palace Road, London SE1 7EU ("**LLP**") (each a "**Chargor**" and together the "**Chargors**"); and
- (2) **PREMF DEBT MANAGEMENT S.À R.L** as security trustee for the Secured Parties (the "**Security Agent**").

IT IS AGREED AS FOLLOWS:**1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In this deed

"Agreement"

means the loan agreement dated 10 January 2018 made between (1) New Bath Court Limited as Borrower, (2) New Bath Court (Opco) Limited (3) PREMF Debt Management S.à r.l as Arranger, (4) PREMF Debt Management S.à r.l as Original Lender, (5) PREMF Debt Management S.à r.l as Agent and (6) PREMF Debt Management S.à r.l and the Security Agent as amended, restated, varied or supplemented from time to time;

"Charged Property"

means the assets mortgaged, charged or assigned by each Chargor under this deed;

"Default Rate"

means the interest rate provided for in clause 8.4 of the Agreement in relation to unpaid sums;

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"Financial Collateral Regulations"

means the Financial Collateral Arrangements (No 2) Regulations 2003 SI 2003/3226;

"Insolvency Act"

means the Insolvency Act 1986;

"LPA"

means the Law of Property Act 1925;

"Party"

means a party to this deed;

"Receiver"

means any one or more persons appointed as a receiver or receiver and manager 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 each Transaction Obligor owed or expressed to be owed to any Secured Party under or in connection with the Finance Documents;

"Subordinated Debt"

has the meaning given to it in the Subordination Agreement;

"Subordinated Debt Document"

has the meaning given to it in the Agreement;

"Unenforceable"

means void, voidable, invalid, unenforceable or otherwise irrecoverable (whether or not known to the Security Agent or any Chargor) and **"Unenforceability"** will be construed accordingly.

1.2 Interpretation

1.2.1 This deed is a Finance Document.

1.2.2 The provisions of clause 1.2 of the Agreement shall be deemed to be incorporated into this deed *mutatis mutandi*.

1.2.3 In this deed, unless a contrary indication appears:

- (a) capitalised terms defined in the Agreement have, unless expressly defined in this deed, the same meaning in this deed;
- (b) **"obligations"** means obligations and liabilities;
- (c) references to obligations include the whole or any part of them, present and future, actual and contingent;
- (d) words importing the singular number only include the plural and vice-versa;

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- (e) any reference to "**powers**" include rights, powers, discretions and authorities; and
- (f) any reference to any asset include any proceeds of sale of any such asset.

1.3 **Jersey terms**

1.3.1 In this agreement, where it relates to a person incorporated, formed, established or constituted in Jersey, a reference to:

- (a) a composition, compromise, assignment or arrangement with any creditor, winding up, administration, insolvency or dissolution includes, without limitation, bankruptcy (as that term is interpreted pursuant to Article 8 of the Interpretation (Jersey) Law 1954), a compromise or arrangement of the type referred to in Article 125 of the Companies (Jersey) Law 1991, any procedure or process referred to in Part 21 of the Companies (Jersey) Law 1991, and any other similar proceedings affecting the rights of creditors generally under Jersey law, and shall be construed so as to include any equivalent or analogous proceedings;
- (b) a receiver, administrative receiver, administrator, liquidator or the like includes, without limitation, the Viscount of the Royal Court of Jersey, autorisés or any other person performing the same function of each of the foregoing;
- (c) security or a security interest includes, without limitation, any hypothèque whether conventional, judicial granted or arising by operation of law and any security interest created pursuant to the Security Interest (Jersey) Law 1983 or Security Interests (Jersey) Law 2012 and any related legislation; and

1.4 any analogous step or procedure being taken in connection with insolvency includes any step taken in connection with the commencement of proceedings towards the making of a declaration of *en désastre* in respect of any assets of such entity (or the making of such declaration).

1.5 **Contractual recognition of bail-in**

1.5.1 Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the Parties, each Party acknowledges and accepts that any liability of any Party to any other Party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation):
 - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability."

1.5.2 For the purposes of this Clause,

Bail-In Action

means the exercise of any Write-down and Conversion Powers.

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Bail-In Legislation

means in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time.

EEA Member Country

means any member state of the European Union, Iceland, Liechtenstein and Norway.

EU Bail-In Legislation Schedule

means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

Resolution Authority

means any body which has authority to exercise any Write-down and Conversion Powers.

Write-down and Conversion Powers

means in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule.

1.6 Continuation of undertakings

Any undertaking made by or obligation imposed on a Chargor in this deed will continue in force until the Security Agent is satisfied that the Finance Parties have no further obligation to provide financial accommodation to the Obligors and all the Secured Liabilities have been irrevocably paid or discharged in full.

1.7 Application of provisions in the Agreement

Clauses 1.4 (*Third Party Rights*), 11 (*Tax gross up and indemnities*), 13 (*Other Indemnities*), 15 (*Costs and Expenses*), 26 (*Changes to the Transaction Obligors*), 31 (*Payment Mechanics*), 34 (*Calculations and Certificates*) and 36 (*Remedies and Waivers*) of the Agreement are deemed to form part of this deed as if expressly incorporated into it as all references in those Clauses to the Agreement were a reference to this deed.

2. SECURITY

As continuing security for the payment of the Secured Liabilities each Chargor with full title guarantee:

2.1 assigns absolutely, subject to a proviso for re-assignment on redemption, all of its rights:

2.1.1 in respect of the Subordinated Debt; and

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2.1.2 under each Subordinated Debt Document to which it is a party.

3. REPRESENTATIONS

3.1 Duration and scope

Each Chargor makes the representations and warranties set out in this clause to the Security Agent on the date of this deed, on the date of each Utilisation and on each Interest Payment Date.

3.2 Status

- 3.2.1 BYD is a limited liability company, duly incorporated and validly existing under the law its jurisdiction of incorporation.
- 3.2.2 HS is a limited liability company, duly established and validly existing under the law its jurisdiction of incorporation
- 3.2.3 LLP is a limited liability partnership, duly incorporated and validly existing under the law its jurisdiction of establishment.
- 3.2.4 It has the power to own its assets and carry on its business as it is being conducted.
- 3.2.5 Its centre of main interests for the purposes of Regulation (EU) 2015/848 of 20 May 2015 on insolvency proceedings (recast) (the "**Regulation**") is situated in the jurisdiction of its incorporation.

3.3 Binding obligations

The obligations expressed to be assumed by it in each Transaction Document to which it is a party are legal, valid, binding and enforceable obligations subject to the Legal Reservations.

3.4 Non conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, the Transaction Documents to which it is a party do not and will not conflict with:

- 3.4.1 any law or regulation applicable to it;
- 3.4.2 its constitutional documents; or
- 3.4.3 any agreement or instrument binding upon it or any of its assets.

3.5 Power and authority

- 3.5.1 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, the Transaction Documents to which it is a party and the transactions contemplated by those Transaction Documents.
- 3.5.2 No limit on its powers will be exceeded as a result of the grant of security or giving of indemnities contemplated by the Transaction Documents to which it is a party.

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3.6 Validity and admissibility in evidence

All Authorisations required or desirable:

- 3.6.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations in the Transaction Documents to which it is a party;
 - 3.6.2 to make the Transaction Documents to which it is a party admissible in evidence in its jurisdiction of incorporation; and
 - 3.6.3 for the conduct of the business, trade and ordinary activities of the Chargor,
- have been obtained or effected and are in full force and effect.

3.7 Governing law

The choice of English law as the governing law of this deed will be recognised and enforced in its jurisdiction of incorporation.

3.8 No filing or stamp taxes

It is not necessary under the law of England and Wales that the Finance Documents to which it is a party be filed, recorded or enrolled with any court or other authority or that any stamp, registration or similar tax be paid on or in relation to such Finance Documents or the transactions contemplated by such Finance Documents other than registration of particulars of this deed at the Registrar of Companies in England and Wales under the Companies Act 2006 and payment of associated fees.

3.9 No default

No event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or to which its assets are subject which would be reasonably likely to have a Material Adverse Effect.

3.10 No misleading information

- 3.10.1 Any factual information provided by the Chargor to the Security Agent was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated to be given.
- 3.10.2
 - (a) Nothing has been omitted from the information delivered to the Security Agent in connection with the Transaction Documents to which the Chargor is a party; and
 - (b) no information has been given or withheld in connection with the Transaction Documents to which the Chargor is a party,

that results in the information delivered to the Security Agent being untrue or misleading as at the date delivered.
- 3.10.3 The Chargor has not omitted to supply any information which, if disclosed, might adversely affect the decision of any Finance Party to enter into the Finance Documents.
- 3.10.4 Nothing has occurred since the date on which such information was provided or as at the date (if any) at which it is stated that results in such information being untrue or misleading and which, if disclosed, might adversely affect the decision of any Finance Party to enter into the Finance Documents.

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3.11 No proceedings pending or threatened

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, would reasonably be expected to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against it.

3.12 Security

This deed creates valid Security over the assets to which it relates.

3.13 Subordinated Debt

- 3.13.1 The Subordinated Debt is free of any Security (except those created by or under this deed) and any other rights or interests in favour of third parties.
- 3.13.2 All payments to it by any other party to a Subordinated Debt Document are not subject to any right of set-off or similar right.
- 3.13.3 Each Subordinated Debt Document is legally binding, valid and enforceable obligation.
- 3.13.4 Neither it nor any other party to a Subordinated Debt Document is in default of any of its obligations under that Subordinated Debt Document.
- 3.13.5 There is no prohibition on assignment in respect of any of the Subordinated Debt or its rights under any Subordinated Debt Document.

3.14 FATCA Status

- 3.14.1 It is not a FATCA FFI.
- 3.14.2 It is not a US Tax Obligor.

3.15 Repetition

- 3.15.1 Subject to clause 3.15.2 the representations and warranties in this clause are deemed to be made by each Chargor by reference to the facts and circumstances then existing on each day on which any representations in the Agreement are deemed to be made.
- 3.15.2 The representations and warranties given in clause 3.8 (*No filing or stamp taxes*), shall only be deemed to be given on the date of this deed.

4. NEGATIVE UNDERTAKINGS**4.1 Negative pledge**

Each Chargor shall not create or permit to subsist any Security over any of the Charged Property (other than Security in favour of the Security Agent) or enter into any agreement, arrangement or transaction which could have an adverse effect on the Security granted under this deed.

4.2 Disposals

Each Chargor shall not sell, transfer or otherwise dispose or purport or agree to dispose of any Charged Property.

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4.3 Centre of main interests

Each Chargor shall not move its centre of main interests for the purposes of the Regulation outside the jurisdiction of its incorporation.

4.4 Other restrictions

Each Chargor shall not without first obtaining the Security Agent's written consent merge or consolidate with any other person.

5. GENERAL UNDERTAKINGS**5.1 Information: miscellaneous**

Each Chargor shall supply to the Security Agent:

- 5.1.1 all documents dispatched by it to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;
- 5.1.2 promptly upon becoming aware of them, the details of any litigation, arbitration or administrative proceedings which are current, threatened or pending against it and which if adversely determined might have a Material Adverse Effect; and
- 5.1.3 promptly such further information relating to its financial condition, business as any Finance Party through the Security Agent may reasonably request.

5.2 "Know your customer" checks

If:

- 5.2.1 the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date of this deed;
- 5.2.2 any change in the status of a Chargor or the composition of the shareholders in or members of a Chargor after the date of this deed; or
- 5.2.3 a proposed assignment or transfer by the Security Agent or a bank of any of its rights and obligations under the Finance Documents to a party that is not a bank prior to such assignment or transfer,

obliges the Security Agent or any bank (or, in the case of **clause** 5.2.3 above, any prospective new bank) to comply with "know your customer" or similar identification procedures in circumstances where the necessary information is not already available to it, the relevant Chargor shall promptly upon the request of the Security Agent or any bank supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Security Agent (for itself or on behalf of any bank) or any bank (for itself or, in the case of the event described in **clause** 5.2.3 above, on behalf of any prospective new bank) in order for the Security Agent, such bank or, in the case of the event described in **clause** 5.2.3 above, any prospective new bank to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents.

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5.3 Accuracy

Each Chargor shall ensure that all information supplied to the Security Agent by it is at the time of supply complete and accurate in all material respects.

5.4 Authorisations

Each Chargor shall promptly:

5.4.1 obtain, comply with and do all that is necessary to maintain in full force and effect; and

5.4.2 upon request from the Security Agent supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents to which it is a party and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any such Finance Document.

5.5 Compliance with laws

Each Chargor shall comply in all respects with all laws to which it may be subject, if failure so to comply would impair its ability to perform its obligations under the Finance Documents to which it is a party.

5.6 Consents

Each Chargor shall ensure that all consents and all documents, registrations, licences and other matters and things required by the Security Agent to perfect the Security Documents to which it is a party are produced executed obtained or made as required by the Security Agent in accordance with such Security Documents.

6. UNDERTAKINGS RELATING TO THE CHARGED PROPERTY**6.1 Failure to comply**

If a Chargor fails to comply with any of its obligations under this deed the Security Agent may take such steps as it considers appropriate to procure compliance with such obligations at the cost of the relevant Chargor.

6.2 Subordinated Debt Document

6.2.1 Each Chargor must:

- (a) subject to the terms of each Subordinated Debt Document, duly and promptly perform its obligations under each Subordinated Debt Document to which it is a party; and
- (b) supply to the Security Agent and any Receiver with copies of each Subordinated Debt Document and any information and documentation relating to any Subordinated Debt Document to which it is party reasonably requested by the Security Agent or any Receiver.

6.2.2 After this security has become enforceable, the Security Agent may exercise, without any further consent or authority on the part of the Chargor and irrespective of any direction

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given by the Chargor, any of the Chargor's rights under any Subordinated Debt Document.

7. ENFORCEMENT OF SECURITY

7.1 Security Agent's powers

On or at any time after the occurrence of an Event of Default which is continuing, this deed shall become enforceable and the Security Agent may immediately or at any time thereafter:

- 7.1.1 exercise the power of sale and all other powers conferred by section 101 of the LPA as varied or extended by this deed;
- 7.1.2 subject to section 72A of the Insolvency Act, appoint one or more persons as a receiver or receiver and manager of any Charged Property;
- 7.1.3 exercise all the powers conferred on a Receiver by this deed, the LPA and the Insolvency Act;
- 7.1.4 to the extent that this deed constitutes a "security financial collateral arrangement" as defined in the Financial Collateral Regulations, appropriate any Charged Property which constitutes "financial collateral" as defined in the Financial Collateral Regulations in or towards satisfaction of the Secured Liabilities and the Security Agent shall value such Charged Property by reference to an independent valuation or other procedure selected by the Security Agent acting reasonably.

7.2 Powers under the LPA

- 7.2.1 Section 103 of the LPA will not apply to this deed.
- 7.2.2 The power of sale and all other powers conferred by section 101 of the LPA as varied or extended by this deed will arise upon execution of this deed by each Chargor.

7.3 Receivers

- 7.3.1 The Security Agent may appoint any Receiver upon such terms as to remuneration and otherwise as the Security Agent thinks fit and the maximum rate specified in section 109(6) of the LPA shall not apply.
- 7.3.2 Any Receiver will be the agent of each Chargor for all purposes and the Chargors will be responsible for such Receiver's acts and defaults and for his remuneration, costs, fees, taxes and expenses to the exclusion of liability on the part of the Security Agent.
- 7.3.3 Where two or more persons are appointed as Receiver any act authorised to be done by the Receiver may be done by all of them acting jointly or by any one or more of them acting severally.
- 7.3.4 The Security Agent may at any time by writing remove any Receiver (subject to the obtaining of any required order of the court in the case of an administrative receiver) whether or not the Security Agent appoints any other person as Receiver in his place.

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8. POWERS OF RECEIVER AND SECURITY AGENT**8.1 Statutory powers**

A Receiver shall have and be entitled to exercise all the powers conferred on a receiver by the LPA which powers are incorporated into this deed provided that references in that schedule to the "property of the Company" will be deemed to be references to the Charged Property for the purposes of this deed.

8.2 Additional powers

By way of addition to and without limiting any other powers referred to in this clause a Receiver shall have power (both before and after the commencement of any liquidation of a Chargor) to do every act and thing and exercise every power:

8.2.1 which a Chargor would have been entitled to do or exercise if no Receiver had been appointed or which the Receiver would have been entitled to do or exercise if the Receiver were the absolute legal and beneficial owner of the Charged Property; and

8.2.2 which such Receiver in his absolute discretion considers necessary or desirable for maintaining or enhancing the value of any Charged Property or for or in connection with the enforcement of the Security created by this deed or the realisation of any Charged Property,

and may use the name of the relevant Chargor in connection with any exercise of such powers.

8.3 Prior encumbrances

At any time after the Security given by this deed has become enforceable, the Security Agent may redeem any prior Security against the Charged Property or procure a transfer of such Security to itself and may agree the accounts of the person entitled to that Security and any accounts so agreed will be binding on the Chargors. Any money paid by the Security Agent in connection with a redemption or transfer of any prior Security will form part of the Secured Liabilities.

8.4 Possession

If the Security Agent, any Receiver or any delegate of either of them takes possession of any Charged Property it may go out of possession at any time.

9. DELEGATION OF POWERS BY SECURITY AGENT OR RECEIVER**9.1 Delegation**

The Security Agent or any Receiver may from time to time delegate by power of attorney or in any other manner to any person any powers which are for the time being exercisable by the Security Agent or a Receiver under this deed in relation to any Charged Property and any such delegation may be made upon such terms as the Security Agent or such Receiver may think fit.

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9.2 Liability for delegates

Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Chargor for any loss or damage arising from any act or omission on the part of any such delegate unless such loss or damage is caused by the fraud, gross negligence or wilful misconduct of the delegate.

10. EXCLUSION OF LIABILITY**10.1 No obligation to recover**

Neither the Security Agent nor any Receiver is under any obligation to take action to collect any money or enforce any rights comprised in the Charged Property whether or not it is in possession of the relevant Charged Property.

10.2 Liability as mortgagee in possession

If the Security Agent or any Receiver takes possession of any Charged Property, it will not be liable to account to the Chargors for anything except actual receipts or be liable to the Chargor for any loss arising from any realisation of any Charged Property or for any default or omission for which a receiver or mortgagee in possession would be liable.

10.3 Losses on enforcement

10.4 The Security Agent or any Receiver will not be liable to the Chargors for any loss or damage arising from:

- 10.4.1 any sale of any Charged Property;
- 10.4.2 any act, default or omission of the Security Agent or any Receiver in relation to any Charged Property; or
- 10.4.3 any exercise or non-exercise by the Security Agent or any Receiver of any power conferred upon it in relation to any Charged Property under this deed or by the LPA,

unless such loss or damage is caused by the fraud, gross negligence or wilful misconduct of the Security Agent or any Receiver.

11. REIMBURSEMENT AND INDEMNITY**11.1 Reimbursement**

The Chargor shall pay to the Security Agent within three Business Days of demand:

- 11.1.1 any money paid by the Security Agent or any Receiver:
 - (a) as a result of the Security Agent or any Receiver taking action which the Security Agent or any Receiver considers necessary in connection with any Charged Property or to procure compliance with any obligation of the Chargors in this deed; or
 - (b) in respect of any action or thing expressed in this deed to be done at the cost of the Chargors; and

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- 11.1.2 all costs, fees, taxes and expenses incurred by the Security Agent or any Receiver under or in connection with this deed or its enforcement and/or the preservation of the Security Agent's rights under this deed.

12. APPLICATION OF SUMS REALISED

Subject to claims having priority to the Security created by this deed all money recovered by the Security Agent or any Receiver as a result of the enforcement of this deed or otherwise by reason of the Security created by this deed will be applied in the following order:

- 12.1 in payment of all costs, fees, taxes and expenses incurred by the Security Agent or any Receiver in or pursuant to the exercise of the powers set out in this deed and all other outgoings properly payable by any Receiver;
- 12.2 in payment of remuneration to any Receiver;
- 12.3 in or towards payment to the Finance Parties of the Secured Liabilities; and
- 12.4 the balance (if any) will be applied as required by law.

13. PROTECTION OF PERSONS DEALING WITH SECURITY AGENT OR RECEIVER

No person dealing with the Security Agent or any Receiver will be concerned to enquire:

- 13.1 whether any event has happened upon which any of the powers conferred by this deed may have arisen or be exercisable;
- 13.2 otherwise as to the propriety or regularity of any exercise of the powers conferred by this deed or of any act purporting or intended to be in exercise of such powers; or
- 13.3 whether any Secured Liabilities remain owing.

14. NOTICE OF SUBSEQUENT CHARGE

If any Finance Party receives notice of any Security or other interest affecting any Charged Property:

- 14.1 it may open a new account for the Chargors in its books and may transfer any outstanding balance owing by the Chargors to such new account;
- 14.2 if it does not open a new account then, unless it gives express written notice to the contrary to the Chargors, all payments made by the Chargors to it will as from the time of receipt of such notice be treated as having been credited to a new account of the Chargors and not as having been applied in reduction of the Secured Liabilities.

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15. FURTHER ASSURANCE

When required by the Security Agent or any Receiver the Chargors shall, at their own cost:

- 15.1 execute any documents or do any other thing which the Security Agent or any Receiver may require for perfecting or protecting any Security created by this deed or in connection with the exercise of any powers given to the Security Agent or any Receiver under this deed; and
- 15.2 convey, transfer, assign or otherwise deal with any Charged Property in such manner as the Security Agent or any Receiver may require in connection with any enforcement of any Security created by this deed.

16. POWER OF ATTORNEY BY CHARGOR

Each Chargor irrevocably and by way of Security appoints each of the Security Agent, any person selected by the Security Agent and any Receiver its attorney in each case (with full power to appoint substitutes and to delegate) severally in its name and on its behalf to execute any document or do any act or thing which:

- 16.1 that Chargor is entitled to execute or do in relation to the Charged Property including:
 - 16.1.1 giving a receipt for any money and exercising any rights or remedies forming part of the Charged Property; or
 - 16.1.2 that Chargor is obliged to execute or do under this deed.

17. PROTECTIVE PROVISIONS**17.1 Waiver of defences**

The obligations of the Chargors under this deed and the Security constituted by this deed will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of such obligations or Security including (whether or not known to it or any Finance Party):

- 17.1.1 any time, waiver or consent granted to, or composition with, any other Transaction Obligor or other person;
- 17.1.2 the release of any other Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any Transaction Obligor;
- 17.1.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over property of, any other Transaction Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 17.1.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other Transaction Obligor or any other person;
- 17.1.5 any amalgamation, merger or reconstruction of any Finance Party with any other person or any sale or transfer of the whole or any part of the assets of any Finance Party to any other person;

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- 17.1.6 the existence of any claim, set-off or other rights which any other Transaction Obligor may have at any time against any Finance Party, whether in connection with the Finance Documents or otherwise;
- 17.1.7 any novation, amendment (however fundamental) or replacement of a Finance Document or any other document or Security;
- 17.1.8 any obligation of any person under any Finance Document or any other document or Security being Unenforceable; or
- 17.1.9 any insolvency or similar proceedings.

17.2 **Chargor intent**

Without prejudice to the generality of **clause** 17.1, each Chargor expressly confirms that it intends that the Security created by this deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- 17.2.1 acquisitions of any nature;
- 17.2.2 increasing working capital;
- 17.2.3 enabling investor distributions to be made;
- 17.2.4 carrying out restructurings;
- 17.2.5 refinancing existing facilities;
- 17.2.6 refinancing any other indebtedness;
- 17.2.7 making available acceptance credit facilities, note purchase facilities, guarantee, stand by or documentary credit issuance facilities;
- 17.2.8 making facilities available to new borrowers;
- 17.2.9 any other variation or extension of the purposes for which any such facility or amount might be made available from time to time;
- 17.2.10 any fees, costs and/or expenses associated with any of the foregoing.

17.3 **Immediate recourse**

Each Chargor waives any right it may have of first requiring any Finance Party to proceed against or enforce any other rights or Security or claim payment from any person before enforcing the Security constituted by this deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

17.4 **Appropriations**

Until the Secured Liabilities have been irrevocably paid in full, the Security Agent may:

- 17.4.1 refrain from applying or enforcing any other moneys, Security or rights held or received by the Security Agent in respect of the Secured Liabilities, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargors shall not be entitled to the benefit of the same; and
- 17.4.2 hold in an interest-bearing suspense account any money received under this deed.

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17.5 Deferral of Chargor's rights

Until the Secured Liabilities have been irrevocably paid in full and unless the Security Agent otherwise directs, the Chargors will not exercise any rights which they may have by reason of the enforcement of this deed:

- 17.5.1 to be indemnified by a Transaction Obligor;
- 17.5.2 to claim any contribution from any other Transaction Obligor or any other person in respect of any obligations of that person under the Finance Documents;
- 17.5.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Finance Party under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- 17.5.4 to bring legal or other proceedings for an order requiring any Transaction Obligor to make any payment, or perform any obligation, in respect of which the Chargors have given Security under this deed;
- 17.5.5 to exercise any right of set-off against any Transaction Obligor; and/or
- 17.5.6 to claim or prove as a creditor of any Transaction Obligor in competition with any Finance Party.

17.6 Turnover

If a Chargor receives any benefit, payment or distribution in relation to the rights referred to in **clause 17.5** it shall hold that benefit, payment or distribution to the extent necessary to enable the Secured Liabilities to be repaid in full on trust for the Security Agent as trustee for the Finance Parties and shall promptly pay or transfer the same to the Security Agent or as the Security Agent may direct for application as provided in **clause 12**.

18. DISCHARGE OF SECURITY**18.1 Discharge conditional**

Any discharge of a Chargor by the Security Agent in reliance on a payment or Security received by the Security Agent will cease to be effective if that payment or Security is avoided, reduced or invalidated for any reason and the Security Agent will be entitled to recover from the Chargor on demand the amount of the Secured Liabilities discharged by such payment or Security.

18.2 Retention of Security

Following any discharge of a Chargor made by the Security Agent in reliance on a payment or Security the Security Agent may retain the Security constituted by this deed until the expiry of the maximum period within which such payment or Security can be avoided, reduced or invalidated for any reason. If the person making such payment or giving such Security goes into liquidation or administration or equivalent proceedings in any foreign jurisdiction within that period the Security Agent may retain the Security constituted by this deed for as long as it thinks fit.

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19. REDEMPTION

After the repayment or discharge in full of the Secured Liabilities and provided that the Security Agent is satisfied that no Finance Party is under any obligation to provide financial accommodation to an Obligor the Security Agent will at the request and cost of the Chargors release the Charged Property from the Security created by this deed.

20. DEFAULT INTEREST

Any sum payable by the Chargors under this deed will bear interest from the date on which it is due or if payable on demand from the date of demand until payment (both before and after judgment) at the Default Rate as calculated and compounded from time to time in accordance with the Agreement.

21. NOTICES**21.1 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.

21.2 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:

21.2.1 in the case of BYD and LLP:

Address: Becket House, 1 Lambeth Palace Road, London SE1 7EU

For the attention of: Oliver Campbell

21.2.2 in the case of HS:

Address:

Harrison Street Real Estate Capital

444 W. Lake Street, Suite 2100

Chicago, IL 60606

Attention: Stephen M. Gordon (Senior Managing Director) and Daniel Gorzawski,
copied to Jesse Criz

Email: sgordon@harrisonst.com / dgorzawski@harrisonst.com, cc
jesse.criz@dlapiper.com

Office: 312.376.0199

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21.2.3 in the case of the Security Agent:

Address: 5, rue Guillaume Kroll, L-1882 Luxembourg, Grand Duchy of Luxembourg;

For the attention of: Maximilien Dambax.

or any substitute address, fax number or department or officer as a Chargor may notify to the Security Agent (or the Security Agent may notify to the Chargors, if a change is made by the Security Agent) by not less than five Business Days' notice. In the case of the Chargors, the address of its registered office or of any place where it carries on business shall also be addresses of the Chargors for the purpose of this clause.

21.3 **Delivery**

21.3.1 Any communication or document made or delivered by the Security Agent on the Chargors under or in connection with this deed will be effective:

- (a) if left at an address referred to in this clause, when so left;
- (b) if posted by first class post to an address referred to in this clause, on the next working day in the place of receipt following the day when it was posted;
- (c) if transmitted by fax to a fax number referred to in this clause, when the sending fax machine produces a print out which confirms that transmission has taken place provided that if a fax is transmitted at a time which is after 5.00 pm in the place of receipt then such fax shall be deemed to have been received and effective on the next working day in the place of receipt thereafter

21.3.2 Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer specified above (or any substitute department or officer as the Security Agent shall specify for this purpose).

21.4 **English language**

Any notice given under or in connection with this deed must be in English. All other documents provided under or in connection with this deed must be:

21.4.1 in English; or

21.4.2 if not in English, and if so required by the Security Agent, 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.

22. **CHANGES TO THE PARTIES**

22.1 **Security Agent**

The Security Agent may assign or transfer the rights and interests of the Security Agent in accordance with the terms of the Agreement.

22.2 **Chargors**

The Chargors may not assign any of their rights or transfer any of its rights or obligations under this deed.

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22.3 Disclosure

Any Finance Party may disclose any information about the Chargors to any person connected to or associated with it, and to any person to whom it proposes to assign or transfer (or has assigned or transferred) any of its rights under any Finance Document if the person to whom the information is to be given has entered into a Confidentiality Undertaking.

23. SET-OFF

The Security Agent may set off any obligation whether or not matured due from a Chargor under this deed against any obligation whether or not matured owed by the Security Agent to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

24. MISCELLANEOUS**24.1 Trust**

The Security Agent holds the benefit of this deed as trustee for the Finance Parties on the terms set out in the Agreement.

24.2 Continuing Security

This deed is a continuing Security and extends to the balance from time to time of the Secured Liabilities irrespective of any intermediate payment of moneys due to the Security Agent.

24.3 Other Security

This deed is in addition to and will not in any way be prejudiced or affected by the holding or release by the Security Agent or any other person of any other Security at any time held by the Security Agent.

24.4 Consolidation

The restrictions on the right of consolidating mortgage securities contained in section 93 of the LPA will not apply to this deed.

25. LAW

This deed and any non-contractual obligations arising out of or in connection with this deed shall be governed by English law.

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26. JURISDICTION**26.1 Jurisdiction of English courts**

- 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 regarding the existence, validity or termination of this deed and a dispute regarding a non contractual obligation referred to in **clause 25**) (a "**Dispute**").
- 26.1.2 The Security Agent and the Chargors agree that the courts of England are the most appropriate and convenient courts to settle Disputes. The Chargors will not argue to the contrary.
- 26.1.3 This clause is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions

26.2 Service of process

- 26.2.1 Without prejudice to any other mode of service allowed under any relevant law, HS:
- (a) irrevocably appoints Harrison Street Real Estate Capital Ltd (company number 09665510) as its agent for service of process in relation to any proceedings before the English courts in connection with this deed; and
 - (b) agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.
- 26.2.2 If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, HS must immediately (and in any event within 5 days of such event taking place) appoint another agent on terms acceptable to the Security Agent (acting reasonably). Failing this, the Security Agent may appoint another agent for this purpose.

This deed has been executed and delivered as a deed by the Chargors and signed on behalf of the Security Agent on the date shown at the beginning of this deed.

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CHARGORS:

Executed as a deed by)
HSRE BC HOLDCO, LTD)
acting by a director in the presence of:)
Director Dorina Gorman

Signature of witness)
Name (in BLOCK CAPITALS) Adam Crawford

Address...)

Executed as a deed by)
BY DEVELOPMENT LIMITED)
acting by two directors)
Director Axel Boutrolle

Director
Phillippa PRONGUE

Executed as a deed by **HSU JV LLP**)
acting by two directors of a designated member)
Member (Director) Axel Boutrolle

Member (Director) oliver campbell

EXECUTION VERSION

SECURITY AGENT:

PREMF DEBT MANAGEMENT S. À R.L.

Signed on behalf of **PREMF DEBT MANAGEMENT**

S.ÀR.L., a company incorporated in Luxembourg, registered
with the Luxembourg Register of Commerce and Companies under Authorised signatory
number B184887 with registered address at 33A Avenue J-F
Kennedy, L-1855 Luxembourg by **Amaury Zinga-Botao**
and **Gianluca Loffredo**

being persons who, in
accordance with the laws of that territory, are acting under the
authority of that company.

Authorised signatory