



Registration of a Charge

Company name: **PHP INVESTMENTS NO.2 LIMITED**

Company number: **07647993**



X4C1IJZK

Received for Electronic Filing: **20/07/2015**

Details of Charge

Date of creation: **10/07/2015**

Charge code: **0764 7993 0005**

Persons entitled: **AVIVA PUBLIC PRIVATE FINANCE LIMITED AS TRUSTEE FOR ITSELF AND THE OTHER LENDERS (AS DEFINED IN THE INSTRUMENT EVIDENCING THE CHARGE ACCOMPANYING THIS FORM MR01) FROM TIME TO TIME.**

Brief description: **1. ALL THAT FREEHOLD LAND (1) KNOWN AS MELBOURNE PARK MEDICAL CENTRE, MELBOURNE ROAD, NOTTINGHAM NG8 5HL REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER NT177469, (2) TO THE SOUTH-EAST SIDE OF MELBOURNE ROAD, NOTTINGHAM REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER NT503006, (3) ON THE EAST SIDE OF MELBOURNE PARK MEDICAL CENTRE, MELBOURNE ROAD, NOTTINGHAM NG8 5HL REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER NT493415 AND (4) LYING TO THE SOUTH-WEST OF MELBOURNE COURT, NOTTINGHAM REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER NT504663. 2. ALL THAT FREEHOLD LAND AND BUILDINGS KNOWN AS LEAP VALLEY MEDICAL CENTRE, BEAUFORT ROAD, DOWNEND, BRISTOL, BS16 6UG REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER GR378555.**

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: **AINSLEY REID**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7647993

Charge code: 0764 7993 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th July 2015 and created by PHP INVESTMENTS NO.2 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th July 2015 .

Given at Companies House, Cardiff on 21st July 2015

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

SUPPLEMENTAL DEED

Chief Land Registrar - please note that Clause 2.3 of this Supplemental Deed contains an application to enter a restriction on the register of the affected titles.

THIS SUPPLEMENTAL DEED is made the 10th day of July 2015

BETWEEN:-

- (1) **PHP INVESTMENTS NO.1 LIMITED** (Company Number 07647909) and **PHP INVESTMENTS NO.2 LIMITED** (Company Number 07647993) whose registered offices are at 5th Floor Greener House, 66-68 Haymarket, London, England, SW1Y 4RF (the "**Existing Chargors**");
- (2) **PHP INVESTMENTS NO.2 LIMITED** (Company Number 07647993) whose registered office is at 5th Floor Greener House, 66-68 Haymarket, London, England, SW1Y 4RF (the "**Charging Chargor**"); and
- (3) **AVIVA PUBLIC PRIVATE FINANCE LIMITED** (Company Number 2334210) of Rosso 2, Surrey Street, Norwich, Norfolk NR1 3UY as trustee for itself and the other Lenders from time to time (the "**Trustee**" which expression shall include the successors in title and assigns of the Trustee);

and is **SUPPLEMENTAL** to a Deed (the "**Principal Deed**") dated 4 October 2011 made between PHP Investments No.1 Limited and the Trustee and all deeds supplemental thereto.

NOW THIS SUPPLEMENTAL DEED WITNESSES as follows:-

1. DEFINITIONS

All words and expressions defined in the Principal Deed, as amended by the provisions of Clause 2 of this Supplemental Deed, shall, unless otherwise defined herein, have the same meanings where used in this Supplemental Deed.

2. CHARGE

2.1 As security for the payment and discharge of its obligations hereunder and in respect of the Indebtedness, the Charging Chargor with full title guarantee, and to the intent that the security created shall rank as a continuing security, hereby charges to the Trustee:-

- (a) by way of legal mortgage, those properties particulars of which are set out opposite its name in the Schedule to this Supplemental Deed together with all buildings, erections and fixtures and fittings (but excluding tenants' fixtures and fittings) and fixed plant, equipment and machinery for the time being thereon and all improvements and additions thereto and all easements, benefits, rights and licences appurtenant thereto, subject to and with the benefit of all leases, underleases, tenancies, agreements for lease, rights, options, covenants, indemnities, guarantees, warranties and conditions affecting the same and all proceeds of sale therefrom but otherwise free from Encumbrance (the "**New Properties**");
- (b) (in the case of leasehold property) by way of fixed charge any interest in reversion to the leasehold interest for that Property specified in the Schedule to this Supplemental Deed;
- (c) by way of fixed charge, all moneys from time to time deposited with the Trustee on the terms set out in Schedule 6 to the Principal Deed; and
- (d) (to the extent not effectively assigned under Clause 2.2) by way of fixed charge the assets, (including present and future property, contracts, revenues and rights of every description) which are specified in Clause 2.2.

2.2 As security for the payment and discharge of its obligations hereunder and in respect of the Indebtedness, the Charging Chargor with full title guarantee hereby assigns absolutely and agrees to assign absolutely to the Trustee (subject to re-assignment on discharge of the Indebtedness) all rights and claims to which the Charging Chargor is now or may hereafter become entitled in relation to the New Properties including, without limitation:-

- (a) all insurances related to the New Properties and any proceeds derived therefrom;
- (b) each building contract, consultant appointment and collateral warranty in respect of the development and/or refurbishment of any Property; and
- (c) any rights or remedies derived from any such contract or arrangement.

2.3 The Charging Chargor hereby applies to the Chief Land Registrar to enter on the register a restriction that "No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of [] referred to in the charges register".

2.4 The Charging Chargor hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that it is the legal and beneficial owner of the whole of each of the New Properties particulars of which are set out opposite its name in the Schedule to this Supplemental Deed.

2.5 The Charging Chargor hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that no part of the New Properties and in respect of which it is the Chargor is registered as a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002 and there is no pending application for any such registration.

3. CONTINUING OBLIGATIONS

Each Chargor confirms and acknowledges that its respective obligations under the Principal Deed as amended on or before the date of this Supplemental Deed and under any other document entered into by such Chargor in relation to the Indebtedness shall continue in full force and effect notwithstanding the execution of this Supplemental Deed.

4. PRINCIPAL DEED

The Principal Deed shall henceforth be read in conjunction with this Supplemental Deed.

5. CONDITION SUBSEQUENT

The Charging Chargor shall provide, within two (2) Business Days of receipt by it of the same and in any event on or before 31 July 2015, a local search certificate in respect of the New Property known as Melbourne Park Medical Centre, Melbourne Road, Nottingham from Nottingham City Council in response to the application made on 1 June 2015.

6. GOVERNING LAW AND JURISDICTION

6.1 This Supplemental Deed and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

6.2 Each Chargor irrevocably agrees for the benefit of the Trustee and each Lender that the High Court of Justice in England (the "Court") shall have exclusive jurisdiction (subject as provided below) to settle any claim, dispute or difference arising out of or in connection with this Supplemental Deed or its subject matter, existence, negotiation, validity, termination or enforceability (including a non-contractual claim or dispute).

- 6.3 Each Chargor irrevocably waives any right that it may have to object to an action being brought in the Court, to claim that the action has been brought in an inconvenient forum or to claim that the Court does not have jurisdiction.
- 6.4 Such aforesaid submission to the jurisdiction of the Court shall not (and shall not be construed so as to) limit the right of the Trustee to bring legal proceedings in any other court of competent jurisdiction (including, without limitation, the courts having jurisdiction by reason of a Chargor's place of incorporation). Legal proceedings by the Trustee in any one or more jurisdictions shall not preclude legal proceedings by it in any other jurisdiction, whether by way of substantive action, ancillary relief, enforcement or otherwise.

IN WITNESS WHEREOF the Chargors hereto have executed this instrument as a deed the day and year first before written.

SCHEDULE

New Properties

Chargor

Particulars of property to be charged

PHP Investments No.2 Limited

All that freehold land (1) known as Melbourne Park Medical Centre, Melbourne Road, Nottingham NG8 5HL registered at the Land Registry under Title Number NT177469, (2) to the south-east side of Melbourne Road, Nottingham registered at the Land Registry under Title Number NT503006, (3) on the east side of Melbourne Park Medical Centre, Melbourne Road, Nottingham NG8 5HL registered at the Land Registry under Title Number NT493415 and (4) lying to the south-west of Melbourne Court, Nottingham registered at the Land Registry under Title Number NT504663.

PHP Investments No.2 Limited

All that freehold land and buildings known as Leap Valley Medical Centre, Beaufort Road, Downend, Bristol, BS16 6UG registered at the Land Registry under Title Number GR378555.

EXECUTED as a **DEED** (but not
delivered until the date inserted
above) by
PHP INVESTMENTS NO.1 LIMITED
acting by a director and its
secretary or by two directors
or by a director in the presence of a
witness

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Director

Director/Secretary/Witness

Witness Name: *FIONA ELLACOTT*

Witness Address: *4TH FLOOR GREENER HOUSE, 66-68 HAYMARKET, LONDON, SW1Y 4RF*

Witness Occupation: *PERSONAL ASSISTANT*

EXECUTED as a **DEED** (but not
delivered until the date inserted
above) by
PHP INVESTMENTS NO.2 LIMITED
acting by a director and its
secretary or by two directors
or by a director in the presence of a
witness

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Director

Director/Secretary/Witness

Witness Name: *FIONA ELLACOTT*

Witness Address: *4TH FLOOR, GREENER HOUSE, 66-68 HAYMARKET, LONDON, SW1Y 4RF*

Witness Occupation: *PERSONAL ASSISTANT*

SIGNED for and on behalf of
the Trustee

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Director/Secretary/Witness

Witness Occupation:

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Director/Secretary/Witness

Witness Occupation:

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DATED 4 October 2011

PHP INVESTMENTS NO.1 LIMITED (1)

-and-

CERTAIN OF ITS ASSOCIATES (2)

-and-

AVIVA PUBLIC PRIVATE FINANCE LIMITED (3)

(as trustee for itself and others)

DEED OF LEGAL CHARGE

Aviva Commercial Finance

THIS DEED OF LEGAL CHARGE is made the 4 day of October 2011

BETWEEN:-

- (1) **PHP INVESTMENTS NO.1 LIMITED** (Company Number 07647909) whose registered office is at Ground Floor, Ryder Court, 14 Ryder Street, London SW1Y 6QB (the "Initial Chargor") which expression shall include the successors in title and assigns of the Initial Chargor);
- (2) **THE CHARGORS** from time to time; and
- (3) **AVIVA PUBLIC PRIVATE FINANCE LIMITED** (Company Number 2334210) of Sentinel House, 37 Surrey Street, Norwich, Norfolk NR1 3UY as trustee for itself and the other Lenders (as defined below) from time to time (the "Trustee").

WHEREAS:-

- (A) Aviva Public Private Finance Limited ("Original Lender") has agreed to make available facilities of us to £25,000,000 under and pursuant to the terms of a loan agreement dated 15 December 2010 and made between the Original Lender and PHP Healthcare Investments Limited ("Departing Borrower") and a deed of novation entered into on or around the date of this Deed and made between the Original Lender, the Departing Borrower and the Initial Chargor.
- (B) It is a condition precedent to the effectiveness of the Deed of Novation that the Initial Chargor enters into this Deed.

NOW THIS DEED WITNESSES as follows:-

1. DEFINITIONS AND CONSTRUCTION

- 1.1 In this deed unless the context otherwise requires the following expressions shall have the meanings respectively assigned to them:-

"Administrator"	means a person appointed under Schedule B1 to the Insolvency Act 1986 to manage the affairs, business and property of any member of the Borrowing Group;
"Borrowing Group"	means PHP Healthcare Investments (Holdings) Limited (Company Number 07289558) and any company from time to time which is a holding company or subsidiary of PHP Healthcare Investments (Holdings) Limited (Company Number 07289558) and any subsidiary undertaking or associate of any such person and any entity which would but for the fact its shares are mortgaged to a third party fall within this definition;
"Business Day"	means a day (excluding a Saturday or Sunday) on which banks in England are open for counter services;
"Chargor"	means any person (including the Initial Chargor) which shall have granted or otherwise provided any Encumbrance in favour of the Trustee over any of its assets under or pursuant to this Deed or any deed supplemental hereto, and which shall not for the time being have ceased to be a Chargor pursuant to the provisions of this Deed;

"Dangerous Substance"	means any natural or artificial substance (whether in a solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any such other substance) capable of causing harm to the Environment or damaging the Environment or public health or welfare including (but not limited to) any noxious, hazardous, toxic, dangerous, special or controlled waste or other polluting substance or matter;
"Deed"	means this deed and the schedules hereto, any deed or instrument expressed to be supplemental hereto and the schedules (if any) thereto and any other deed or instrument conferring rights on any Lender or to which any Lender may be a party and which is executed or entered into pursuant to this Deed or any deed supplemental hereto;
"Encumbrance"	means any mortgage, standard security, pledge, hypothecation, title retention, lien, charge, assignment by way of security or other agreement or arrangement having the effect of conferring security;
"Environment"	means the natural and man-made environment and all or any of the following media namely air (including air within buildings and air within other natural or man-made structures above or below ground), water (including water under or within land or in drains or sewers and inland waters), land and any living organisms (including humans) or systems supported by those media;
"Environmental Claim"	means any claim alleging liability whether civil or criminal actual or potential arising out of or resulting from the presence at on or under and Property or presence in or escape or release into the environment of any Dangerous Substance from any Property or in circumstances attributable to the operation of the Chargor's activities or any breach of any applicable Environmental Law or any applicable Environmental Licence;
"Environmental Law"	means all statutes, instruments, regulations, orders and ordinances (including but not limited to European Union legislation, regulations, directives, decisions and judgments applicable to the United Kingdom) being in force from time to time and directly enforceable in the United Kingdom relating to pollution, prevention thereof or protection of human health or the conditions of the Environment or the use, disposal, generation, storage, transportation, treatment, dumping, release, deposit, burial, emission or disposal of any Dangerous Substance;
"Environmental Licence"	means any permit, licence, authorisation, consent or other approval required by any Environmental Law or the Planning (Hazardous Substances) Act 1990;
"Group Member"	means each member of the Borrowing Group (including the Initial Chargor) from time to time which has an obligation to any Lender in relation to the Indebtedness;
"Indebtedness"	means all moneys, obligations and liabilities whatsoever which may now or at any time in the future be due, owing or incurred by any Group Member to the Trustee or any Lender or for or in respect of which any Group Member may be liable to the Trustee or any Lender whether present or future, actual

or contingent on any account whatsoever and in any manner whatsoever, as principal or surety and whether alone or jointly with any other party or parties including, without limitation, interest, legal and other costs, charges and expenses;

"Lender"

means:

(a) the Trustee and Aviva plc;

(b) any company which is or becomes a holding company of any such company or subsidiary or associate of any such company or holding company; and

(c) any company which would, but for the fact its shares are mortgaged to a third party, be a Lender,

but excluding any company which would only be a Lender solely because another Lender has security over the shares in that company;

"LPA"

means the Law of Property Act 1925;

"Occupational Right"

means any lease, agreement for lease, licence, tenancy or other right of occupation in the Property;

"Permitted Security"

means any Encumbrance expressly permitted in an agreement between a Lender and/or the Trustee and any one or more of the Chargors;

"Planning Acts"

means the Town and Country Planning Act 1990 and, where applicable, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and the Planning Act 2008 and any associated or similar legislation regulating the development or use of land;

"Property"

means all and each of the property or properties described in Schedule 2, or such of them as shall for the time being remain subject to this Deed including all buildings, erections and fixtures and fittings (but excluding tenants' fixtures and fittings) and fixed plant, equipment and machinery for the time being thereon and all improvements and additions thereto and all easements, benefits, rights and licences appurtenant thereto subject to and with the benefit of all leases, underleases, tenancies, agreements for lease, rights, options, covenants, indemnities, guarantees, warranties and conditions affecting the same and all proceeds of sale therefrom but otherwise free from Encumbrance, and includes all other property which from time to time shall become subject to this Deed pursuant to Clauses 4 or 7 and references to the Property include any part thereof;

"Qualifying Collateral"

means that property for the time being charged to the Trustee under Clauses 3.1(a) and/or (b) of this Deed and any real property (situate in England or Wales) or moneys (from time to time deposited with the Trustee on the terms set out in Schedule 6) which are for the time being charged, on the terms of this Deed;

- "Receiver"** means any person or persons appointed to be a receiver, administrative receiver or receiver and manager of the Undertaking or any part of it subject to this Deed;
- "Taxes"** means all forms of tax, duty, rate, levy, social, security or similar payments or other imposition whenever and by whatever authority imposed and whether of the United Kingdom or elsewhere, and any interest, penalty or fine in connection with any such items;
- "Undertaking"** means the property, assets, rights and revenues of any Chargor, whatsoever and wheresoever, present and future, including the uncalled share capital (if any) or such of them as the context requires.
- 1.2 Where at any time during the continuance of this Deed there is more than one Chargor, the charge or charges created and the assignment or assignments made by them hereunder shall extend to the entirety of the respective estates and interests of such persons and each of them respectively in the Property.
- 1.3 References to any statute or statutory provision shall include any statute or statutory provision which amends, extends, consolidates or replaces the same, or which has been amended, extended, consolidated or replaced by the same, and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision.
- 1.4 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 1.5 References to Clauses and Schedules shall be construed as references to the clauses of and schedules to this Deed (unless the context otherwise requires) and headings to Clauses are inserted for convenience and shall have no effect in the interpretation of this Deed.
- 1.6 The terms **"holding company"** and **"subsidiary"** have the meaning set out in section 1159 of the Companies Act 2006, **"subsidiary undertaking"** has the meaning set out in section 1162 of the Companies Act 2006 and **"associate"** has the meaning set out in section 435 of the Insolvency Act 1986.
- 1.7 References to **"the Lender"** and to **"the Trustee"** shall include its or their respective successors in title and assigns.
- 1.8 References to a **"person"** shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- 1.9 No term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.
- 1.10 The obligations of each Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.
- 1.11 This Deed is intended to take effect as a deed notwithstanding that the Trustee may have executed it under hand only.
- 1.12 To the extent necessary for any agreement for the disposition of the Properties in this Deed to be a valid agreement under section 2(1) of the Law of Property Act (Miscellaneous Provisions) Act 1989, the terms of each other document between each Group Member and the Lender and/or the Trustee are incorporated into this Deed.

2. COVENANT TO PAY

- 2.1 Each Chargor as principal debtor and not merely as surety hereby covenants to the Trustee that it will (immediately when the same becomes due and payable) pay and discharge to the Trustee (on behalf of each Lender) the Indebtedness.
- 2.2 In addition to its obligations under Clause 2.1 and separate therefrom, each Chargor hereby, jointly and severally, guarantees to each Lender the due and punctual payment by each other Group Member of the Indebtedness and agrees to indemnify the Trustee from and against any loss incurred by any Lender as a result of any other Group Member failing to pay the Indebtedness or as a result of the Indebtedness being or becoming void, voidable, unenforceable or ineffective for any reason whatsoever whether known to the Trustee or a Lender or not.
- 2.3 Each Chargor hereby agrees to pay, in respect of the Indebtedness, interest under this Deed accruing due to each Lender from first demand of the Chargor until actual payment (after as well as before any further demand or judgment or the liquidation of any Group Member) at the rate of interest payable or deemed to be payable by the Group Member in respect of the Indebtedness as calculated and compounded in accordance with the agreement between the relevant Lender and the Group Member with respect to the Indebtedness regardless of whether such agreement has been determined or, in the absence of any such agreement, at the rate which is two per cent (2%) above the cost of funds to the relevant Lender (as determined by the relevant Lender).
- 2.4 Neither the covenant to pay in Clause 2.1 nor the obligation to pay interest pursuant to Clause 2.3 nor the security created by this Deed shall extend to or include any liability for any sums which would, but for this Clause 2.4, cause such covenant or security to be unlawful under any applicable law.

3. CHARGE

- 3.1 As security for the payment and discharge of its obligations hereunder and in respect of the Indebtedness, each Chargor with full title guarantee, and to the intent that the security created shall rank as a continuing security, hereby charges to the Trustee:-
- (a) by way of legal mortgage, those parts of the Property details of which are set out immediately opposite its name in Schedule 2;
 - (b) by way of fixed charge, all moneys from time to time deposited with the Trustee on the terms set out in Schedule 6;
 - (c) by way of floating charge, such of its Undertaking which is not otherwise from time to time effectively assigned, mortgaged or charged pursuant to Clauses 3.1(a), 3.1(b) or 3.2 ;and
 - (d) (to the extent not effectively assigned under Clause 3.2) by way of fixed charge the assets (including present and future property, contracts, revenues and rights of every description) which are specified in Clause 3.2.
- 3.2 As security for the payment and discharge of its obligations hereunder and in respect of the Indebtedness, each Chargor with full title guarantee hereby assigns absolutely and agrees to assign absolutely to the Trustee (subject to re-assignment on discharge of the Indebtedness) all rights and claims to which the Chargor is now or may hereafter become entitled in relation to the Property including without limitation:-
- (a) all insurances related to the Property and any proceeds derived therefrom; and
 - (c) any rights or remedies derived from any such contract or arrangement.
- 3.3 Each Chargor shall at any time if and when required by the Trustee execute (in such form as the Trustee shall reasonably require) such documents (including assignments, transfers,

mortgages, charges notices and instructions) in favour of the Trustee or its nominees and do all such assurances and things as the Trustee may reasonably require for:-

- (a) perfecting and/or protecting (by registration or in any other way) the security created or intended to be created by this Deed;
- (b) conferring upon the Trustee such security as it may require over the assets of the Chargor located outside of England and Wales which if in England and Wales would form part of or be intended to form part of the Qualifying Collateral;
- (c) facilitating, at any time on or after the occurrence of an event of default (howsoever described), the realisation of all or any part of the assets of the Chargor; and
- (d) exercising all powers, authorities and discretions conferred on the Trustee or any Receiver pursuant to this Deed or by law.

3.4 The Chargor shall take all such action as may be available to it for the purpose of creating, perfecting or maintaining the security created or intended to be created pursuant to this Deed including the obtaining of any necessary consent (in form and content satisfactory to the Trustee) to enable its assets to be mortgaged, charged or assigned pursuant to this Deed. Immediately upon obtaining any necessary consent the asset concerned shall become subject to the security created by this Deed. The Chargor shall promptly deliver a copy of each such consent to the Trustee.

3.5 Each floating charge created under this Deed is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

3.6 Without prejudice to Clause 3.5 the Trustee reserves any rights it may have to appoint an administrative receiver in accordance with sections 72C and 72E of the Insolvency Act 1986.

3.7 Notwithstanding anything express or implied in this Deed:-

- (a) without prejudice to any law which may have similar effect, if:-
 - (i) any Chargor creates or attempts to create any Encumbrance over all or any of the Qualifying Collateral without the prior written consent of the Trustee; or
 - (ii) any person levies or attempts to levy any distress, execution, or other process against any of the Qualifying Collateral; or
 - (iii) a resolution is passed or an order is made for the winding up, dissolution, administration or other reorganisation of a Chargor; or
 - (iv) an Administrator is appointed in relation to a Chargor or any step intended to result in such an appointment is taken,

then the floating charge created over the Undertaking of such Chargor pursuant to Clause 3.1(c) will, to the extent permitted by law, automatically and immediately (without notice) be converted into a fixed charge as regards all of the assets subject to the floating charge; and

(b) the Trustee may at any time:-

- (i) after any of the Indebtedness becomes or is declared to be immediately repayable; or
- (ii) if the Trustee considers in good faith that any of the Qualifying Collateral is in danger of being seized or sold as a result of any legal process, are otherwise in jeopardy or the Trustee legally believes that steps are being taken or have been taken which are likely or intended to lead to the appointment of an Administrator or the presentation of a petition for the winding-up of any Chargor,

by giving notice in writing to that effect to the Chargor, to the extent permitted by law, convert the floating charge created by Clause 3.1(c) into a fixed charge as regards any assets specified in such notice. The conversion shall take effect immediately upon the giving of the notice.

- 3.8 Each Chargor undertakes to deposit with the Trustee, upon the date of creation of any charge in favour of the Trustee over the same, the deeds and documents of title relating to the Property.
- 3.9 Each Chargor hereby applies to the Chief Land Registrar to enter on the register a restriction that "No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of Aviva Public Private Finance Limited referred to in the Charges Register".
- 3.10 Each Chargor hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that it is the legal and beneficial owner of the whole of each of the Properties details of which are set out immediately opposite its name in Schedule 2.
- 3.11 Each Chargor hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that no part of the Property situate in England or Wales and in respect of which it is the Chargor is registered as a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002 and there is no pending application for any such registration.

4. ADMISSION AND RELEASE OF CHARGORS

- 4.1 The Initial Chargor or any other Chargor may from time to time by deed introduce any other members of the Borrowing Group as a Chargor (the "New Chargor") by causing the New Chargor to charge in favour of the Trustee by way of legal mortgage expressed to be supplemental to this Deed any property approved by the Trustee and/or by way of fixed charge any cash deposit and/or by way of assignment any rights relating to such property and/or by way of floating charge the whole of the remainder of its Undertaking, PROVIDED THAT the Trustee is satisfied that the New Chargor is duly empowered to charge its property and assets by way of security for the Indebtedness and that such charge, when created by it, will be valid security for the Indebtedness.
- 4.2 Every deed executed pursuant to Clause 4.1 shall be substantially in the form set out in Part I of Schedule 3 and shall contain all such covenants and provisions binding on the New Chargor as the Trustee may reasonably require.
- 4.3 Following any withdrawal, sale, dealing or other transaction as is mentioned in Clause 7 or otherwise, the Trustee may, in its absolute discretion and on the application and at the expense of the relevant Chargor, agree to release such Chargor from the covenants and provisions contained in this Deed by executing a document substantially in the form set out in Schedule 4 to the intent that it shall, as from the date or upon the happening of the event specified in such release, cease to be a Chargor.
- 4.4 Each Chargor shall be deemed to have consented to and agrees that its liability shall not be affected by the admission or release of any person as a Chargor or by the addition, substitution or withdrawal of any Qualifying Collateral pursuant to this Clause 4 or by the Trustee's agreement given pursuant to Clause 4.3 and it shall not be necessary for the Initial Chargor or any other Chargor to concur in or consent to any deed admitting or releasing any Chargor and/or adding, substituting or withdrawing any Qualifying Collateral.
- 4.5 Each Chargor hereby irrevocably appoints any Director of any other Chargor holding office at the relevant time as its attorney to execute any document contemplated by this Clause 4 on its behalf in such form as such Director sees fit.

5. COVENANTS RELATING TO THE PROPERTY

- 5.1 A Chargor shall within six weeks from the date hereof (or from the date upon which any property charged by that Chargor becomes subject to this Deed (if different)), or within such longer period as the Trustee may in writing agree, complete to the satisfaction of the Trustee or its surveyor any repairs and alterations prescribed by the Trustee prior to the date hereof (or the date upon which any property charged by that Chargor becomes subject to this Deed (if different)) to be carried out on the Property and repay to the Trustee any fees and expenses incurred by the Trustee in connection with the inspection or approval of such repairs and alterations.
- 5.2 For so long as a Chargor remains bound by the provisions of this Deed, each Chargor shall:
- (a) pay or cause to be paid all rents, rates, levies, assessments, impositions and outgoings whether governmental, municipal or otherwise imposed upon or payable in respect of the Property as and when the same become payable;
 - (b) keep or cause to be kept the Property in good and substantial repair and permit the Trustee and any person authorised by the Trustee at all reasonable times to inspect the Property and view the state of the same;
 - (c) maintain in its name (with the Trustee's interest noted) with reputable underwriters or insurance companies against such risks and to such extent as is usual for companies carrying on a business such as that carried on by it and in a form acceptable to the Trustee:-
 - (i) insurance of each Property and the plant and machinery on such Property including fixtures and improvements on a full reinstatement basis, including the costs of site clearance, professional fees and any value added tax and the loss of rents or prospective rents for a period of no less than 3 years or such longer period as the Trustee shall from time to time require;
 - (ii) third party liability insurances;
 - (iii) insurance against acts of terrorism;
 - (iv) such other insurances as a prudent property company would effect; and
 - (v) insurance against such other risks as the Trustee may from time to time require;
- and ensure that any policy for such insurance shall:-
- (1) contain a standard mortgagee clause whereby such insurance shall not be vitiated or avoided as against a mortgagee in the event or as a result of any misrepresentation, act or neglect or failure to make disclosure on the part of the insured party or any circumstances beyond the control of the insured party;
 - (2) contains terms providing that it shall not be invalidated so far as the Trustee is concerned for failure to pay any premium due without the insurer first giving notice to the Trustee not less than 28 days' written notice;
 - (3) if at any time the Trustee is named as co-insured, contain terms providing that the Trustee shall have no duty of disclosure to the insurance company or underwriters and have no liability to pay any unpaid premium;
 - (4) be otherwise in an amount and form acceptable to the Trustee; and
 - (5) be with an insurance company or underwriters acceptable to the Trustee;

- (d) procure that there be given to the Trustee such information in connection with the insurances and copies of the policies as the Trustee may reasonably require and will notify the Trustee of premiums paid, renewals made and cancellations of policies made or, to the knowledge of the Chargor, threatened or pending;
- (e) not agree or enter into material variation of any insurance policy concerning any part of any Property without the prior written consent of the Trustee;
- (f) not permit anything to be done which may make void or voidable any insurance policy in connection with any part of any Property;
- (g) promptly pay all premiums and do all other things necessary to keep all of the insurance policies in force;
- (h) not, without the prior written consent of the Trustee, pull down, remove or permit or suffer to be pulled down or removed any building, installation or structure for the time being comprised in or subject to this Deed or any walls, hedges or fences whereby the external boundaries are defined or (except in connection with the renewal or replacement thereof) any fixtures or erect or make or suffer to be erected or made on the Property any building, installation, alteration or improvement or otherwise waste, destroy or injure in any manner or by any means lessen or suffer to be lessened the value of the Property;
- (i) save in relation to a Permitted Security or otherwise with the prior written consent of the Trustee, not create or permit to exist any Encumbrance over any of the Qualifying Collateral or its property assets and undertaking or otherwise dispose of, deal with or part with or share possession of the Property or any interest therein nor make or suffer to be made any material change or addition whatsoever in or to the use of the Property or agree to do any of the foregoing. Any such Encumbrance, whether expressly permitted or otherwise, shall (unless agreed in writing by the Trustee) be expressed to be subject to the security created by this Deed.
- (j) not commit any nuisance on the Property nor without the prior written consent of the Trustee do or permit to be done on the Property anything which would or might be prejudicial to the validity of any policy of insurance;
- (k) not, without the prior written consent of the Trustee, cause or allow any person to be registered as the proprietor of the Property who is not already so registered;
- (l) not do or omit or suffer to be done or omitted any act, matter or thing in, on or in respect of the Property in contravention of the Planning Acts or any licences, consents, permissions or conditions granted or imposed thereunder;
- (m) within seven days of the service of any notice, order, direction, permission or proposal given, made or issued under or by virtue of the Planning Acts or otherwise affecting or likely to affect the Property or any part thereof give full particulars thereof to the Trustee and without delay comply with the same or, if the Trustee so requires in writing, join with the Trustee in objecting to or contesting the same;
- (n) perform and observe all covenants, stipulations and provisions affecting the Property (including but without prejudice to the generality of the foregoing all requirements and regulations of the competent authorities) and if the Property is leasehold property or subject to a rent-charge also produce on demand to the Trustee the receipt for the last payment of rent reserved by the lease under which such property is held or of the said rent-charge as the case may be;
- (o) immediately furnish to the Trustee any report, survey or information in respect of the structural condition of the Property, deleterious materials therein or contaminated substances thereon or affecting the same or which may affect adjacent or adjoining property as may come or may have come to the notice or attention of the Chargor at any time and carry out such further inspection works or take such other remedial action as the Trustee may direct;

- (p) from time to time or at such stated periods as may be required by the Trustee, furnish to the Trustee all such particulars and information as the Trustee may require relating to any leases, agreements for lease or tenancies then subsisting or other arrangements effected in relation to the Property and deliver to the Trustee duly stamped and executed counterparts of any such leases, agreements for lease or tenancies as soon as the same have been granted;
- (q) at all times advise the Trustee if any defects, damages or wants of repair manifest themselves in respect of any of the structures for the time being upon the Property and which are or may be considered to be the responsibility of any warrantors pursuant to the terms of any professional warranty agreement relating to the Property and whenever so required by and at the absolute discretion of the Trustee (but at no cost to the Trustee) promptly take all proper steps that the Trustee may prescribe for the purpose of enforcing such warranties and recovering from the warrantors thereunder all such damages or other remedy or recompense to which any Chargor or any Group Member may be entitled pursuant to the terms of such warranties and at all times keep the Trustee fully advised as to progress in that regard and apply any moneys recovered from any of the warrantors in or towards (with the Chargor making up any shortfall) the making good of the defects, damages and wants of repair to which the same relate;
- (r) not, without the prior written consent of the Trustee (such consent not to be unreasonably withheld or delayed) or unless the Trustee shall otherwise require, exercise any option or right of election available at law that the supplies made in respect of any lease or tenancy shall be chargeable or taxable for value added tax purposes at the standard or any other applicable rate, including (without limitation) pursuant to paragraph 2 of Schedule 10 to the Value Added Tax Act 1994;
- (s) not, without the prior written consent of the Trustee, enter into any negotiations with any competent authority with regard to the compulsory acquisition of the Property or consent to the compulsory acquisition of the Property and, where any such compulsory acquisition has or could have an adverse effect on the value of the Property, upon request by the Trustee, permit the Trustee and/or its representatives (for such time as the Trustee requires) to conduct all or part of such negotiations or give such consent on its behalf;
- (t) immediately notify the Trustee of any contract, conveyance, transfer or other disposition for the acquisition by the Chargor of the legal or beneficial interest in any real property;
- (u) obtain, maintain and comply with all necessary Environmental Licences in relation to each Property and the Undertaking, comply with all Environmental Laws and ensure that all occupiers of the Property carry on their activities on the Property in a prudent manner and keep them secure so as not to cause or knowingly permit harm or damage to the Environment (including but not limited to nuisance or pollution) or the significant risk thereof;
- (v) promptly upon becoming aware notify the Trustee of:-
 - (i) any Environmental Claim current or to its knowledge threatened;
 - (ii) any circumstances likely to result in an Environmental Claim; or
 - (iii) any suspension, revocation or notification of any Environmental Licence;
- (w) indemnify any Lender and the Trustee against any loss or liability which:-
 - (i) any Lender or the Trustee incurs as a result of any Environmental Claim; and
 - (ii) would not have arisen if this Deed and the documents evidencing the liabilities it secures had not been entered into;

- (x) indemnify and keep indemnified (on a full indemnity basis) the Trustee or, as the case may be, any other Lender, in respect of any Indebtedness outstanding and pay the Trustee upon demand with interest thereon at the rate specified in any relevant loan agreement or legal charge from the respective dates for payment all moneys paid by the Trustee or, as the case may be, any other Lender, in respect of all claims, costs, expenses and liability whatsoever from time to time incurred in relation to this Deed including (but without prejudice to the generality of the foregoing) all sums paid and expenses incurred by the Trustee or, as the case may be, such Lender:-
- (i) in remedying or making good any breach or non-observance of any covenant or obligation on the part of any Chargor herein contained; or
 - (ii) under any covenant, agreement or obligation contained in or imposed by any Occupational Right which may have been or may hereafter be granted or entered into by the Chargor or by the predecessors in title of the Chargor or by any one or more of them; or
 - (iii) under any legislation concerning or affecting landlord and tenant; or
 - (iv) under the Planning Acts whether in respect of any act, matter or thing done, omitted or suffered to be done or omitted by or on behalf of the Chargor or any person claiming under the Chargor or through whom the Chargor derives title to the Property or in respect of any objection to or the contesting of any notice, order or proposal therefor or otherwise howsoever; or
 - (v) under any requirements or regulation of any competent authority; or
 - (vi) arising out of any defect in or want of repair to the Property; or
 - (vii) under any covenant, agreement or obligation, restrictive or otherwise, affecting the freehold or any leasehold estate in the Property and enforceable against the Property or the owner thereof for the time being and whether or not recited or referred to herein; or
 - (viii) in enforcing or exercising or protecting or attempting to enforce or exercise or protect any of the rights, powers, provisions and covenants contained in this Deed or to be implied herefrom; or
 - (ix) in releasing, discharging, reconveying or re-assigning any of the Property or the Qualifying Collateral to any person;
- (y) not, without the prior written consent of the Trustee, convert or apply to the Land Registry for the conversion of any freehold estate in any part of the Property which is situate in England or Wales to a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002;
- (z) not, without the prior written consent of the Trustee, apply for:-
- (i) or consent to, an application to the registrar under section 34(2)(a) of the Land Registration Act 2002, for an entry of an "agreed notice" in the register of those parts of the Property which it has charged to the Trustee; or
 - (ii) an entry of a restriction in the register of those parts of the Property which it has charged to the Trustee, other than in the form set out in Clause 3.9 of this Deed;
- (aa) within 5 Business Days of the Land Registry notifying it that either an agreed notice or a unilateral notice has been entered in the register of any part of the Property which it has charged to the Trustee give full particulars thereof to the Trustee; and
- (bb) if the Trustee so requires in writing:-

- (i) forthwith apply, at its own expense, for cancellation of any unilateral notice which has been entered in the register of any part of the Property which it has charged to the Trustee;
- (ii) comply with any reasonable request of the Trustee relating to any such application and any negotiations which the relevant Chargor undertakes with the beneficiary of the unilateral notice in an attempt to reach agreement; and
- (iii) keep the Trustee advised of the progress of the application including any reference to and any determination by the Adjudicator to the Land Registry.

5.3 If any Chargor fails at any time to perform or observe any covenant or condition on its part herein contained, the Trustee shall be entitled, but not obliged, in order to make good such failure in whole or in part:-

- (a) to enter upon the Property and effect such repairs and other works thereon as the Trustee considers necessary;
- (b) to take such steps, give such notices, execute such works and do such things as the Trustee considers necessary to comply with any requirements of or any notice, order, direction, permission or proposal given, served or made under the Planning Acts or otherwise affecting or likely to affect the Property;
- (c) to insure and keep insured the Property in such amount and in such manner as the Trustee considers necessary; and
- (d) to admit, settle, liquidate, compound or contest in such manner as the Trustee thinks fit any claim or liability in relation to the Property whether or not the Trustee is expressly indemnified herein against the same and to make such payments and expend or debit on account such moneys as the Trustee considers necessary to that end,

Provided that the Trustee shall not be deemed to be a mortgagee in possession by reason of the exercise of any right conferred by this Clause 5.3 and provided further that any sum expended by the Trustee in accordance with this Clause 5.3 shall be repayable by the relevant Chargor and be added to the Indebtedness.

5.4 For so long as it remains bound by the provisions of this Deed, a Chargor shall not without the prior written consent of the Trustee (save as authorised by the Agricultural Holdings Act 1986 or the Agricultural Tenancies Act 1995 (as the case may be) in the case of agricultural land):-

- (a) grant or agree to grant any Occupational Right; or
- (b) make or agree to make any variation of or to surrender any Occupational Right; or
- (c) consent or agree to consent to the assignment of any Occupational Right; or
- (d) consent or agree to consent to the grant of any sub-lease or agreement for sub-lease of the Property; or
- (e) accept or agree to accept a surrender of any Occupational Right; or
- (f) enter into any agreement, compromise or arrangement with any past or present tenant or occupier of the Property, or any surety or guarantor of such tenant or occupier, to accept any payment (whether by way of liquidated damages or otherwise) in respect of any surrender, breach of covenant, want of repair or otherwise in respect of the Property.

5.5 All moneys received under any insurance whatsoever in respect of loss or damage (howsoever caused) to the Property shall (subject to any contractual obligation to apply such moneys towards reinstatement imposed upon the Chargor by any Occupational Right), if the Trustee so requires, be applied in making good the loss or damage or in or towards the discharge of the Indebtedness.

6. OTHER COVENANTS

- 6.1 For so long as it remains bound by the provisions of this Deed, a Chargor shall not without the prior written consent of the Trustee:-
- (a) assign, charge or in any other way divert the payment of any rents due in respect of the Property away from that Chargor;
 - (b) enter into or permit to subsist any floating charge or other Encumbrance over the whole or a substantial part of its Undertaking which would entitle any person to appoint an Administrator or an administrative receiver;
 - (c) amend its constitutional documents in a way which will contravene or result in contravention of any provision of this Deed; or
 - (d) enter into any agreement which has a material adverse effect upon the Chargor's ability to perform its obligations under this Deed.
- 6.2 Each Chargor will at all times comply with all rules and regulations applicable to it and will obtain and maintain in full force and effect all consents, licences, approvals or authorisations of, exemptions by or registrations or declarations with, any governmental or other authority which may at any time be required in relation to this Deed or the Property.
- 6.3 Each Chargor shall provide the Trustee promptly on request with such financial or other information relating to that Chargor and the Property as it may from time to time request.
- 6.4 Without prejudice to Clause 5.2(c), each Chargor shall maintain any other Insurance policies as are normally maintained by prudent companies carrying on business similar to that of such Chargor.

7. ADDITION, SUBSTITUTION AND WITHDRAWAL OF PROPERTY

- 7.1 Subject to the other provisions of this Deed, a Chargor may, on giving the Trustee written notice, add any property approved by the Trustee to the Property.
- 7.2 Subject to the other provisions of this Deed, a Chargor may, on giving the Trustee written notice in advance, withdraw all or any part of the Property charged by it as specified in such notice (and the Trustee shall release the same) and charge in substitution therefor such other property or properties specified in such notice or cash of such amount as agreed by the Trustee **PROVIDED ALWAYS THAT:-**
- (a) the property proposed for substitution is acceptable to the Trustee in all respects including in the case of security over land, without prejudice to the generality of the foregoing, value and valuation, the acceptability of any tenants and leases in respect thereof and the suitability of such property as security for the Indebtedness;
 - (b) the Trustee is satisfied that the Chargor owns and is duly empowered to charge its property and assets by way of security for the Indebtedness and that such charge, when created by it, will be valid security for the Indebtedness;
 - (c) the Trustee considers that the proposed substitution will not adversely affect its rights under this Deed;
 - (d) all warranties contained in the relevant loan agreement are true, correct and fully observed as of the date of the proposed substitution; and
 - (e) no event of default (and no condition, act or event which with the giving of notice by the relevant Lender or the lapse of time is likely to become an event of default) under the relevant loan agreement has occurred and is continuing on the date of the proposed substitution.

- 7.3 If the Trustee agrees to the addition, substitution or withdrawal of any of the Property under this Clause 7, the Chargor hereby agrees to enter into or procure the entry into of such documentation as the Trustee may require, including without limiting the generality of the foregoing a document in substantially the form set out in Schedule 5.
- 7.4 As a condition to giving its consent to the disposal of any of the Property and the release of any of the Property, the Trustee may request that the Chargor agrees to pay or procure the payment agrees to pay or procure the payment into an account opened with the Trustee, which will be subject to the charge set out in Clause 3.1(b), secured cash of an amount equal to the greater of:
- (a) the proceeds of disposal of that part of the Secured Property; and
 - (b) the aggregate of:
 - (i) the amount required (as determined by the Trustee in its absolute discretion):
 - (a) to satisfy all covenants in relation to the loan to property value ratio and interest and amortised capital repayments to income ratio contained in any loan agreement made between the Trustee and a Group Member ("PHP Loan Agreements"); or, if greater
 - (b) to ensure that the loan to property value ratio in relation to all PHP Loan Agreements immediately following such disposal is equal to or lower than the loan to property value ratio in relation to all PHP Loan Agreements immediately prior to such disposal; and
 - (c) to ensure that the interest and amortised capital repayments to income ratio in relation to all PHP Loan Agreements immediately following such disposal is equal to or higher than the interest and amortised capital repayments to income ratio in relation to all PHP Loan Agreements immediately prior to such disposal;

(the amount determined by the Trustee in relation to this sub-clause 7.4 (b) (i) being the "Substitution Deposit Amount"); and
 - (ii) the ERF Amount (as defined in Schedule 6 of this Deed) as at the date of the deposit; and
 - (iii) an amount equal to six months interest on the Substitution Deposit Amount with reference to the relevant loan agreement(s).
- 7.5 Each Chargor shall be deemed to have consented to and agrees that its liability shall not be affected by the addition, substitution or withdrawal of any Qualifying Collateral pursuant to this Clause 7 or by virtue of the Trustee's agreement given pursuant to this Clause 7 and it shall not be necessary for the Initial Chargor or any other Chargor to concur in or consent to any deed adding, substituting or withdrawing any Qualifying Collateral.
- 7.6 Each Chargor hereby irrevocably appoints any Director of any other Chargor holding office at the relevant time as its attorney to execute any document contemplated by this Clause 7 on its behalf in such form as such Director sees fit.

8 PAYMENTS

- 8.1 All payments by a Chargor pursuant to this Deed shall be made without any set-off, retention, counterclaim, plea of compensation or equity and free and clear of and without withholding or deduction for or on account of any Taxes except to the extent that such Chargor is required by law to make such withholding or deduction. If a Chargor or any agent of a Chargor is obliged to make any such withholding or deduction such Chargor shall pay a sufficient amount

as will result (after such withholding or deduction) in the receipt by the Trustee or the relevant Lender of the sum which would have been receivable by it in the absence of such withholding or deduction in respect of the Chargor's obligations under this Deed; except that no such amount shall be payable in respect of United Kingdom income tax deducted from any payment of interest which any person is obliged to deduct pursuant to section 874 Income Tax Act 2007 (as currently enacted).

- 8.2 If a Chargor makes a payment hereunder for the account of a Lender and such Lender in its sole opinion determines in good faith that it has received or been granted a credit against or relief or remission for or repayment of any Taxes paid or payable by it in respect of or calculated with reference to the deduction or withholding or matter giving rise to such payment such Lender shall to the extent that it can do so without prejudice to the retention of the amount of such credit, relief, remission or repayment within a reasonable period after such determination pay to such Chargor the amount as such Lender shall in its sole opinion have determined to be attributable to the deduction or withholding or other matter which would leave the Lender (after such payment) in no better or worse position than it would have been in if such Chargor had not been required to make such deduction or withholding. Nothing herein contained shall interfere with the right of the Lender to arrange its tax affairs in whatever manner it thinks fit nor oblige the Lender to disclose any information relating to its tax affairs or any computations in respect thereof or require the Lender to do anything that would prejudice its ability to benefit from any other credits or reliefs or remissions for or repayments to which it may be entitled.
- 8.3 All Taxes which are required by law to be deducted or withheld by any Chargor from any amount paid or payable under this Deed shall be paid by the relevant Chargor to the appropriate authority when due in accordance with the provisions of any applicable law and the Chargor shall within 30 days of the payment being made deliver to the Trustee evidence satisfactory to the Trustee (including all relevant Tax receipts that it shall then have received) that the payment has been duly remitted to the appropriate authority.
- 8.4 The obligations of each Chargor under this Deed to make payments in any currency shall not be discharged or satisfied by any tender or recovery pursuant to any judgement or otherwise, expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by the Trustee of the full amount of the currency payable under this Deed. To the extent that there is a shortfall between the amount of receipt in one currency and the amount due under this Deed in the original currency then the Trustee shall have a further separate cause of action against each Chargor and shall be entitled to enforce the security created hereunder to recover the amount of that shortfall.
- 8.5 All moneys received or held by the Trustee pursuant to this Deed in a currency other than the currency in which the Indebtedness is denominated may from time to time be sold for such one or more of the currencies in which the Indebtedness is denominated. Each Chargor shall indemnify the Trustee against the full cost (including all costs, charges and expenses) incurred in relation to such sale. The Trustee shall not have any liability to any Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such sale.

9 POWER OF SALE AND APPOINTMENT OF RECEIVER OR ADMINISTRATOR

- 9.1 Section 103 of the LPA shall not apply to this Deed and the power of sale and all other powers conferred by the LPA (including the power to appoint a receiver) as varied or extended by this Deed and (insofar as is lawfully permitted) the power, by notice in writing, to appoint an Administrator or, if it is so entitled, an administrative receiver shall be deemed to arise immediately on execution of this Deed.
- 9.2 The power of sale conferred by the LPA shall be extended so as to authorise the Trustee to carry such sale into effect:-
- (a) in the case of so much of the Property as is freehold, by a demise thereof or by demises of parts thereof; or

- (b) in the case of so much of the Property as is leasehold, by a sub-demise thereof or sub-demises of parts thereof,

for such term or terms and at such rent or rents with or without payment of a fine or premium as the Trustee shall think fit and also to sell the freehold or leasehold reversion or reversions so created.

- 9.3 At any time after all or any part of the Indebtedness becomes immediately due and payable, or at the request of any Chargor (and upon receipt of such request the security created under this Deed shall be enforceable), the Trustee may, without prior notice to any Chargor, in writing (under seal, by deed or otherwise under hand) appoint a Receiver or an Administrator in respect of the Undertaking or any part thereof.
- 9.4 Nothing in Clause 9.3 shall restrict the exercise by the Trustee of any one or more of the rights of the Trustee under Schedule B1 to the Insolvency Act 1986 and the rules thereunder or at common law.
- 9.5 Where more than one Receiver or more than one Administrator is appointed, each joint Receiver or joint Administrator shall have the power to act severally, independently of any other joint Receiver or other joint Administrator, except to the extent that the Trustee may specify to the contrary in the appointment.
- 9.6 Save as provided for in statute or as otherwise agreed in writing by the Trustee, the Trustee shall have no liability for the acts or omissions of an Administrator.

10

POWERS OF A RECEIVER

- 10.1 A Receiver shall (subject to any restrictions in the instrument appointing him and notwithstanding any winding-up or dissolution of the Chargor) have (and be entitled to exercise) in relation to the Qualifying Collateral or Undertaking over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Deed):-
- (a) all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
 - (b) all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA;
 - (c) all the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which the Chargor itself could do or omit to do;
 - (d) the power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Deed or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargor; the collection and/or realisation of Qualifying Collateral and/or Undertaking in such manner and on such terms as the Receiver sees fit; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).
- 10.2 Any such Receiver shall be deemed to be the agent of the relevant Chargor who shall be solely responsible for the Receiver's remuneration and for his acts or defaults whether such acts or defaults purport to be done or made under any of the powers and authorities vested in him as aforesaid or otherwise.
- 10.3 The following variations shall be made:-
- (a) section 109(8)(i) of the LPA shall apply as if it read "in discharge of all rents affecting the mortgaged property";
 - (b) section 109(8)(iv) of the LPA shall apply as if it read "in payment of the moneys (whether for interest or otherwise) in arrear or accruing due under the mortgage";

- (c) section 109(8) of the LPA shall be read as if there is an additional sub-clause (vi) as follows: "in discharge of all taxes council tax and other outgoings affecting the mortgaged property"; and
 - (d) the restrictions contained in sections 99 to 100 of the LPA shall not apply to restrict the rights of the Trustee or any Receiver under this Deed. The statutory powers of leasing may, without notice to the Chargor, be exercised by the Trustee upon and following demand for immediate repayment of all or any part of the Indebtedness and the Trustee and any Receiver may make any lease or agreement for lease and/or accept any surrenders of leases and/or grant options on such terms as it sees fit without the need to comply with the aforementioned restrictions.
- 10.4 The Trustee shall have power from time to time to fix the remuneration of any Receiver appointed by it and (without being limited to any maximum rate specified by any statute or statutory instrument) to expend all sums required to effect such indemnity insurance as may reasonably be required by such Receiver in connection with his appointment and to direct payment of such remuneration and sums out of the Undertaking.
- 10.5 At any time after taking possession of the Undertaking or appointing a Receiver the Trustee may give up possession or remove the Receiver and/or appoint another in his stead on giving notice to the relevant Chargor.
- 10.6 The Trustee or any Receiver appointed by the Trustee hereunder may as agent of the relevant Chargor and as well before as after taking possession of the Property:-
- (a) demand and receive the whole of the rent or other sums payable in respect of any lease, tenancy or licence affecting the Property which also comprises plant, machinery, equipment, furniture, fittings or other chattels and apply the same as if the same were payable only in respect of the Property; and
 - (b) after giving seven days notice in writing to the relevant Chargor of an intention so to do and at the expense of the relevant Chargor remove, store, sell or otherwise deal with any livestock, plant, machinery, equipment, furniture, goods or other chattels on the Property and the Trustee shall not be liable for any loss or damage thus occasioned and any moneys received by the Trustee as a result of such sale may be applied by the Trustee in or towards the discharge of any of the Indebtedness,
- Provided that this condition shall not be construed or operated to confer on the Trustee any right in equity thereto or any charge or security thereon or otherwise so as to create a bill of sale.
- 10.7 Each Chargor hereby irrevocably appoints the Trustee and any Receiver appointed under the powers hereinbefore contained to be its attorney in its name and on its behalf and as its act and deed or otherwise to execute and otherwise perfect any deed, assurance or act which it is required to do but fails to do under this Deed or which may be required or which may be deemed proper on any sale or disposition by the Trustee or by any such Receiver as aforesaid of any property or assets of that Chargor under any power of sale or other disposition applicable thereto. Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment hereunder.
- 10.8 Any Receiver shall have full power to delegate the powers, authorities and discretions conferred on it or him by this Deed (including the power of attorney) on such terms and conditions as it or he shall see fit which shall not preclude exercise of those powers, authorities or discretions by it or him or any revocation of the delegation or any subsequent delegation and Clause 11.7 shall apply, mutatis mutandis, to any such delegation.
- 10.9 The Trustee shall not, nor shall any Receiver, by reason of it or the Receiver entering into possession of the Undertaking or any part thereof, be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable; but every Receiver duly appointed by the Trustee under the powers contained in this Deed shall for all purposes be deemed to be in the same

position as a receiver duly appointed by a mortgagee under the LPA, save to the extent that the provisions of the LPA are varied by or are inconsistent with the provisions of this Deed when the provisions hereof shall prevail, and every such Receiver and the Trustee shall in any event be entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers duly appointed under the LPA.

- 10.10 In the exercise of the powers conferred by this Deed, the Trustee or any Receiver may sever and sell plant, machinery or other fixtures separately from the property to which they may be annexed and the Trustee or any Receiver may apportion any rent or other amount without the consent of the Chargor.

11 THE TRUSTEE'S RIGHTS

- 11.1 Section 93 of the LPA shall not apply to this Deed but the Trustee shall have the same right of consolidating this Deed and the principal money and interest and other moneys hereby covenanted to be paid with any other Encumbrance and may exercise that right without any obligation to notify the Chargor.
- 11.2 Save in so far as may be expressly provided for in the conditions of any dealing or as may otherwise be acknowledged in writing by the Trustee such dealings shall not prejudice or affect the covenants, liabilities and obligations of the Chargors hereunder or any of them or the rights and remedies of the Trustee and shall not release or discharge any Encumbrance given by the Chargors hereunder or any of them.
- 11.3 The conditions of any dealing agreed in writing by the parties thereto shall be deemed to have been set forth herein and shall be enforceable by the Trustee accordingly.
- 11.4 For the purpose of this provision a dealing shall include:-
- (a) the giving of time or indulgence by the Trustee or, as the case may be, a Lender;
 - (b) the neglect or forbearance of the Trustee or, as the case may be, a Lender, in requiring or enforcing payment of any moneys hereby secured;
 - (c) the release of any property subject to this Deed or of any covenant, condition, liability or obligation hereunder; and
 - (d) any act, omission, matter or thing whatsoever whereby any Chargor hereunder would or might have been released from any covenant, condition, liability or obligation hereunder or any Encumbrance given by it.
- 11.5 The Trustee's costs (including legal costs and surveyors fees) of any dealing including the costs of any release, discharge or reconveyance will be the responsibility and borne (jointly and severally if there is more than one Chargor) by the relevant Chargor or Chargors and shall be added to the Indebtedness.
- 11.6 Notwithstanding its fiduciary position, the Trustee and any director or officer of the Trustee or any company or person in any other way associated with the Trustee shall be entitled to be or be appointed a director or officer of and to enter into or be otherwise interested in banking, financial, business or other contracts or any other transactions or arrangements with any Chargor or any member of the Borrowing Group or in connection with the Property or any other part of the Undertaking which it could have entered into had it not been a Trustee, and without prejudice to the generality of these provisions it is expressly declared that such contracts, transactions or arrangements may include any contract for the purchase by or leasing to the Trustee of the Property or any other part of the Undertaking or any property or assets formerly included therein or for the sale or leasing by the Trustee of any property or assets on the basis that such will become part of the Property or will be exchanged for the Property or any other part of the Undertaking or any other dealing with or in relation to property or assets subject to this Deed.
- 11.7 The Trustee may, instead of acting personally, employ or pay an agent, whether being a solicitor or another person to transact or concur in transacting any business or to do or concur

in doing any acts required to be done by the Trustee and the Trustee shall not be bound to supervise or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such agent and the Trustee shall be entitled to be paid all the usual professional and other charges for business transacted or acts done by it in connection with this Deed.

- 11.8 The Trustee may in relation to this Deed act on the opinion or advice of or any information obtained from any lawyer, valuer, surveyor, auditor, accountant or other expert acting in his professional capacity whether obtained by a Chargor or the Trustee and shall not be responsible for any loss occasioned by so acting.

12 SUBSTITUTION OF TRUSTEE

- 12.1 The power of appointing new trustees shall be vested in the Trustee.

- 12.2 The Trustee (for the purposes of this Clause 12.2 "Old Trustee") may retire at any time upon giving written notice to the relevant Lender, and appoint a new trustee (for the purposes of this Clause 12.2 "New Trustee") as Trustee in its place. On the retirement of the Old Trustee, the Old Trustee shall be released from, and the New Trustee shall assume, all the powers and duties of the Old Trustee pursuant to this Deed.

- 12.3 The Trustee may at any time appoint any person (whether or not a trust corporation) to act either as a separate trustee or as a co-trustee jointly with the Trustee:

- (a) if the Trustee considers such appointment to be in its own interests and those of the Lender; or
- (b) for the purposes of conforming to any legal requirements, restrictions or conditions which the Trustee deems relevant for the purposes hereof,

and the Trustee shall give written notice to any Chargor (for itself and on behalf of all other Chargors) and the Lender (other than itself) of any such appointment as soon as practicable thereafter.

- 12.4 Any persons appointed under Clause 12.3 shall have such powers, authorities and discretions and such duties and obligations as shall be conferred or imposed on such person by the instrument of appointment. The Trustee shall have power in like manner to remove any person so appointed. Such reasonable remuneration as the Trustee may pay to any person so appointed, and any costs, charges and expenses incurred by such person in performing its functions pursuant to such appointment, shall for the purposes hereof be treated as costs, charges and expenses incurred by the Trustee.

13 CERTIFICATE OF SUMS DUE

A certificate by a director, officer or manager of the Trustee as to the money or liabilities for the time being due or incurred to it by any Chargor shall be conclusive evidence against that Chargor in any legal proceedings in the absence of manifest error.

14 CONTINUING SECURITY

- 14.1 The security created by this Deed shall not be considered as satisfied by any intermediate payment or satisfaction of the whole or part of the Indebtedness but shall be a continuing security for all the Indebtedness.

- 14.2 The security created by this Deed shall be in addition to and shall not in any way be prejudiced or affected by any collateral, other Encumbrance or guarantee now or hereafter held or judgment or order obtained by the Trustee or any Lender for all or any part of the Indebtedness or the omission of the Trustee or any Lender to claim payment from any Chargor or any other person nor shall such collateral, other Encumbrance or guarantee, judgment or order or any lien to which the Trustee or any Lender may otherwise be entitled (including any Encumbrance prior to the date of this Deed) or the liability of any person not

party hereto for all or any part of the Indebtedness be in any way prejudiced or affected by this Deed.

15 WARRANTY

Each Chargor hereby warrants and represents to the Trustee that this Deed and performance of its terms does not and will not exceed any power granted to it by or violate any provisions of:

- (a) any law or regulation or any order or decree of any governmental authority or agency to which it is subject; or
- (b) its constitutional documents (whether comprising a memorandum and articles of association or any other documents); or
- (c) any deed, contract, undertaking, agreement or instrument to which it is a party or which is binding upon it or any of its assets.

16 NOTICES

- 16.1 Except as otherwise stated herein, all notices or other communications required in connection with this Deed shall be in writing and sent by hand, by first class prepaid post, by air mail (if overseas) or by facsimile transmission to the relevant address set out in this Deed or in the case of facsimile transmission the last published number thereof of the relevant addressee or such other address or facsimile number as the relevant party may notify to the other party in writing by not less than 5 Business Days prior notice.
- 16.2 Subject to Clause 16.3, any notice or communication that the Trustee gives shall be deemed to have been received:
 - (a) if given by hand, at the time of actual delivery;
 - (b) if sent by mail other than airmail, on the second Business Day after it was posted;
 - (c) if sent by airmail, on the fifth Business Day after it was posted; and
 - (d) if sent by fax, upon completion of transmission by the Trustee.
- 16.3 Any notice or other communication received on a day which is not a Business Day or after 5 p.m. local time on any Business Day in the place of receipt shall be deemed received on the next following Business Day.
- 16.4 Any notice or communication to be given to the Trustee shall be deemed to have been received only on actual receipt.
- 16.5 Any notice given under or in connection with this Deed must be in English and all other documents provided under or in connection with this Deed must be:-
 - (i) in English; or
 - (ii) 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

17 PRESERVATION OF RIGHTS

- 17.1 Neither the security created by this Deed, the obligations of a Chargor herein contained nor the rights, powers and remedies conferred in respect of any Chargor upon the Trustee by this Deed or by law shall be discharged, impaired or otherwise affected by:

- (a) the winding up, dissolution, administration or reorganisation of any Group Member or any change in the status, function, control or ownership of any Group Member;
 - (b) any legal limitation, disability, incapacity or other circumstances relating to a Chargor or any other Group Member in relation to the Indebtedness or any of the obligations of any Group Member in relation to the Indebtedness being or becoming illegal, invalid, unenforceable or ineffective in any respect;
 - (c) any time or other indulgence being granted or agreed to be granted to any Group Member in respect of its obligations in relation to the Indebtedness, this Deed or under any other Encumbrance;
 - (d) any amendment to, or any variation, waiver or release of any obligation of any Group Member in relation to the Indebtedness or this Deed;
 - (e) any failure to take, or fully to take, any Encumbrance agreed to be taken in respect of the obligations of any Group Member in relation to the Indebtedness;
 - (f) any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any such Encumbrance taken in respect of any Group Member in relation to the Indebtedness; or
 - (g) any other act, event or omission which, but for this Clause might operate to discharge, impair or otherwise affect any of the obligations of any Chargor herein contained or any of the rights, powers or remedies conferred upon the Trustee by this Deed or by law.
- 17.2 Any settlement or discharge given by the Trustee to any Chargor in respect of any Chargor's obligations hereunder or any other agreement reached between the Trustee and a Chargor in relation thereto shall be, and be deemed always to have been, void if any act on the faith of which the Trustee gave that Chargor that settlement or discharge or entered into that agreement is subsequently avoided by or in pursuance of any provision of law.
- 17.3 No amount paid, repaid or credited to the Trustee shall be deemed to have been irrevocably paid if the Trustee considers that the payment or credit of such amount is capable of being avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws.
- 17.4 If any amount paid, repaid or credited to the Trustee is avoided or reduced because of any laws applicable on bankruptcy, insolvency, liquidation or any similar laws then any release, discharge or settlement between the Trustee and the Chargor shall be deemed not to have occurred and the Trustee shall be entitled to enforce this Deed subsequently as if such release, discharge or settlement had not occurred and such payment had not been made.
- 17.5 (a) The Trustee shall not be obliged before exercising any of the rights, powers or remedies conferred upon it in respect of any Chargor or hereby or by law:
- (i) to make any demand of any other Group Member;
 - (ii) to take any action or obtain judgment in any court against any other Group Member;
 - (iii) to make or file any claim or proof in a winding-up or dissolution of any other Group Member; or
 - (iv) to enforce or seek to enforce any other Encumbrance taken in respect of any of the obligations of any other Group Member in relation to the Indebtedness.
- (b) Each Chargor (which is incorporated or has a place of business in Jersey or Guernsey) hereby irrevocably and unconditionally waives and abandons any and all rights which it has or may have under the existing or future law of the Island of Jersey or the Island of Guernsey whether by virtue of the customary law rights of "Droit de

Discussion" or otherwise to require that recourse be had by the Trustee or any Lender to the assets of any principal obligor or other person before any claim is enforced against such Chargor in respect of the guarantee obligations assumed by it hereunder and each Chargor irrevocably and unconditionally undertakes that if at any time proceedings are brought against it in respect of its guarantee obligations and the principal obligor and/or any other person is not also joined in any such proceedings, it will not require that the principal obligor and/or any other person be joined in or otherwise made a party to such proceedings, whether the formalities required by any law of the Island of Jersey or the Island of Guernsey whether existing or future in regard to the rights and obligations of sureties shall or shall not have been complied with or observed. Each Chargor hereby irrevocably and unconditionally waives and abandons any and all rights or entitlement which it has or may have under the existing or future laws of the Island of Jersey or the Island of Guernsey, whether by virtue of the customary law right of "Droit de Division", or otherwise, to require that any liability under the guarantee obligations assumed by it hereunder be divided or apportioned with any other person or be reduced in any manner whatsoever.

- 17.6 Each Chargor agrees that, so long as any amounts are or may be owed by any other Group Member in relation to the Indebtedness or any other Group Member has any actual or contingent obligation in respect of the Indebtedness, the Chargor shall not exercise any rights which the Chargor may at any time have by reason of the performance by it of its obligations hereunder:
- (a) to be indemnified by any other Group Member;
 - (b) to claim any contribution from any other guarantor of the Indebtedness; and/or
 - (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Trustee or any other Lender hereunder or under any other Encumbrance taken pursuant to, or in connection with, the Indebtedness.

18 TRUST PROVISIONS

- 18.1 The Trustee shall hold the benefit of the security created by this Deed upon trust for itself and the other Lenders in accordance with their respective rights under the Indebtedness and upon and subject to the terms of the Indebtedness and this Deed, and together with all moneys, property and assets paid to the Trustee or held by it or received or recovered by it pursuant to, or in connection with, this Deed for the benefit of itself and the other Lenders (the perpetuity period applicable to the trusts herein declared being 125 years).
- 18.2 The Trustee shall, as regards all the trusts, powers, authorities and discretions vested in it by this Deed or by operation of law, have absolute and uncontrolled discretion as to the exercise or non-exercise thereof and shall not (save in the case of its gross negligence or wilful misconduct) be responsible for any loss, costs, damages or expenses that may result from the exercise or non-exercise thereof.
- 18.3 The Trustee may, subject to the repayment of any claims having priority to this Deed and to any applicable statutory requirement as to the payment of preferential debts, at its absolute discretion, apply any of the moneys received pursuant to this Deed in whatever manner it sees fit, save that the Trustee may credit any moneys received under this Deed to a suspense account for so long and in such manner as the Trustee may from time to time determine and the Receiver may retain the same for such period as he and the Trustee consider appropriate.
- 18.4 The Trustee shall be at liberty to place this Deed and all deeds and other documents relating hereto in any safe deposit, safe or other receptacle selected by the Trustee, or with any bank or banking company or any other company whose business includes undertaking the safe custody of documents or any lawyer or firm of lawyers, and the Trustee shall not be responsible for any loss thereby incurred.

19. MISCELLANEOUS

- 19.1 The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Deed. The Trustee may pass all or any part of its rights and obligations under this Deed to a replacement security trustee appointed pursuant to the terms of this Deed. Such replacement security trustee will, from the date of such appointment, be the agent of and the trustee of each Lender for the purposes of this Deed instead of the previous security trustee. The Trustee may disclose such information regarding the Chargors and this Deed as it considers appropriate to any Lender, any of its professional advisors or any proposed or actual assignee, transferee, novatee or participant of or in its rights and/or obligations under this Deed, an Administrator, a Receiver or a prospective Receiver and/or to any other person to whom information may be required to be disclosed by law.
- 19.2 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed, nor the legality, validity or enforceability of that provision under the law of any other jurisdiction, shall be affected or impaired in any way.
- 19.3 Any determination by the Trustee under this Deed is binding on each of the Chargors in the absence of manifest error.
- 19.4 This Deed may be executed in any number of counterparts each of which, when executed and delivered, shall constitute an original but all the counterparts shall together constitute the same instrument.
- 19.5 At any time on or after this Deed has become enforceable, the Trustee may redeem or take a transfer of any prior security over the Indebtedness and may agree the accounts of prior encumbrancers. An agreed account shall be conclusive and binding on the Chargors. Any amount paid in connection with such redemption or transfer (including expenses) shall be paid on demand by the Chargors to the Trustee and until such payment shall form part of the Indebtedness. Neither the Trustee nor any Lender shall be obliged to enforce any other security it may hold for the Indebtedness before enforcing any of its rights under this Deed.
- 19.6 No person or persons dealing with the Trustee (or any other Lender) or any Receiver or any Administrator shall be concerned to enquire whether any event has happened upon which any of the powers in this Deed are or may be exercisable or otherwise as to the propriety or regularity of any exercise of such power or of any act purporting or intended to be an exercise of such powers or whether any amount remains secured by this Deed. All the protections to purchasers and persons dealing with receivers contained in sections 104, 107 and 109(4) of the LPA shall apply to any person purchasing from or dealing with the Trustee (or any other Lender) or any such Receiver.
- 19.7 The Trustee and every Receiver, attorney, delegate, manager, trustee or other person appointed by the Trustee hereunder shall be entitled to be indemnified out of the assets secured by this Deed or any part thereof in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the assets secured by this Deed or any part of them. The Trustee and any such Receiver may retain and pay all sums in respect of which it is indemnified out of any moneys received by it or him under the powers conferred by this Deed.
- 19.8 The Trustee shall, at the request and cost of the Chargor, execute (or procure the execution by its nominee) (in each case in a form acceptable to the Trustee) and do all such deeds, acts and things as are necessary to release and/or reassign the Property and/or the Undertaking from the security created by or in accordance with this Deed at such time as all of the Indebtedness has been unconditionally and irrevocably discharged.
- 19.9 The Chargor covenants to pay to the Trustee immediately on demand:-
- (a) a sum equal to any liability which the Trustee or any Lender incurs in respect of stamp duty, registration fees and other taxes which is or becomes payable in

connection with the entry into, performance or enforcement of this Deed (including any interest, penalties, liabilities, costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax);

- (b) such sum as is sufficient to reimburse the Trustee, each Lender and any Receiver, attorney, manager, agent or other person appointed by the Trustee under this Deed for all costs and expenses (including legal fees):-
 - (i) reasonably incurred by each and any of them in connection with the completion of the transactions and perfection of the security created or contemplated by this Deed; and
 - (ii) (on a full indemnity basis) incurred by each and any of them in connection with the enforcement or attempted enforcement of the security created or contemplated by, or the preservation of any rights under, this Deed

in each case with any applicable VAT.

20. GOVERNING LAW AND JURISDICTION

- 20.1 This Deed and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 20.2 Each Chargor irrevocably agrees for the benefit of the Trustee and each Lender that the High Court of Justice in England (the "Court") shall have exclusive jurisdiction (subject as provided below) to settle any claim, dispute or difference arising out of or in connection with this Deed or its subject matter, existence, negotiation, validity, termination or enforceability (including a non-contractual claim or dispute).
- 20.3 Each Chargor irrevocably waives any right that it may have to object to an action being brought in the Court, to claim that the action has been brought in an inconvenient forum or to claim that the Court does not have jurisdiction.
- 20.4 Such aforesaid submission to the jurisdiction of the Court shall not (and shall not be construed so as to) limit the right of the Trustee to bring legal proceedings in any other court of competent jurisdiction (including, without limitation, the courts having jurisdiction by reason of a Chargor's place of incorporation). Legal proceedings by the Trustee in any one or more jurisdictions shall not preclude legal proceedings by it in any other jurisdiction, whether by way of substantive action, ancillary relief, enforcement or otherwise.

IN WITNESS WHEREOF the Chargors hereto have executed this instrument as a deed the day and year first before written.

SCHEDULE 1 – CHARGORS

CHARGOR	REGISTERED OFFICE	ADDRESS IN ENGLAND FOR THE SERVICE OF NOTICES AND PROCESS
PHP Healthcare Investments No.1 Limited	Ground Floor, Ryder Court, 14 Ryder Street, London SW1Y 6QB	Ground Floor, Ryder Court, 14 Ryder Street, London SW1Y 6QB

SCHEDULE 2 – PROPERTY

None as at the date of this Deed.

SCHEDULE 3

FORM OF SUPPLEMENTAL DEED (ADDITION OF A CHARGOR)

Chief Land Registrar - please note that Clause 2.3 of this Supplemental Deed contains an application to enter a restriction on the register of the affected titles.

THIS SUPPLEMENTAL DEED is made the _____ day of _____ 20[]

BETWEEN:-

- (1) [ALL EXISTING CHARGORS] (Company Number[s] []) whose registered office[s] is[are] at [] (the "Existing Chargor/Existing Chargors");
- (2) [NEW CHARGOR] (Company Number []) whose registered office is at [] (the "New Chargor/New Chargors"); and
- (3) [AVIVA COMMERCIAL FINANCE LIMITED (Company Number 2559391) / AVIVA PUBLIC PRIVATE FINANCE LIMITED (Company Number 2334210)] of Sentinel House, 37 Surrey Street, Norwich, Norfolk NR1 3UY as trustee for itself and the other Lenders from time to time (the "Trustee" which expression shall include the successors in title and assigns of the Trustee);

and is SUPPLEMENTAL to a Deed (the "Principal Deed") dated [] made between [] and the Trustee [and to all deeds supplemental thereto].

NOW THIS SUPPLEMENTAL DEED WITNESSES as follows:-

1. DEFINITIONS

[All words and expressions defined in the Principal Deed shall, unless otherwise defined herein, have the same meanings where used in this Supplemental Deed.]

- 1.1 All words and expressions defined in the Principal Deed shall, unless otherwise defined herein, have the same meanings where used in this Supplemental Deed.

- 1.2 In this Supplemental Deed:

- (a) "Relevant Loan Agreement" means a term loan facility agreement between [] [the New Chargor] and [] [the Trustee] (as lender) [of even date herewith] [dated]; and
- (b) "Project Documents" has the meaning given to that term in the Relevant Loan Agreement.]

2. CHARGE

- 2.1 As security for the payment and discharge of its obligations hereunder and in respect of the Indebtedness, [the New Chargor] [each of the New Chargors] with full title guarantee, and to the intent that the security created shall rank as a continuing security, hereby charges to the Trustee:-

- (a) by way of legal mortgage, those properties particulars of which are set out in the Schedule to this Supplemental Deed together with all buildings, erections and fixtures and fittings (but excluding tenants' fixtures and fittings) and fixed plant, equipment and machinery for the time being thereon and all improvements and additions thereto and all easements, benefits, rights and licences appurtenant thereto, subject to and with the benefit of all leases, underleases, tenancies, agreements for lease, rights, options, covenants, indemnities, guarantees, warranties and conditions affecting the

same and all proceeds of sale therefrom but otherwise free from Encumbrance (the "New Properties");

- (b) by way of fixed charge, all moneys from time to time deposited with the Trustee on the terms set out in Schedule 6 to the Principal Deed;
- (c) by way of floating charge, such of its Undertaking which is not otherwise from time to time effectively assigned, mortgaged or charged pursuant to Clause 2.1(a), 2.1(b) or 2.2; and
- (d) (to the extent not effectively assigned under Clause 2.2) by way of fixed charge the assets, (including present and future property, contracts, revenues and rights of every description) which are specified in Clause 2.2.

2.2 As security for the payment and discharge of its obligations hereunder and in respect of the Indebtedness, [the New Chargor] [each of the New Chargors] with full title guarantee hereby assigns absolutely and agrees to assign absolutely to the Trustee (subject to re-assignment on discharge of the Indebtedness) all rights and claims to which [the New Chargor] [each of the New Chargors] is now or may hereafter become entitled in relation to the New Properties including, without limitation:-

- (a) all insurances related to the New Properties and any proceeds derived therefrom;
- (b) [each building contract, consultant appointment and collateral warranty in respect of the development and/or refurbishment of any Property] [all rights and claims under the Project Documents to which it is a party]; and
- (c) any rights or remedies derived from any such contract or arrangement.

2.3 [The New Chargor] [Each of the New Chargors] hereby applies to the Chief Land Registrar to enter on the register a restriction that "No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of [] referred to in the Charges Register".

2.4 [The New Chargor] [Each of the New Chargors] hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that it is the legal and beneficial owner of the whole of each of the New Properties particulars of which are set out opposite its name in the Schedule..

2.5 [The New Chargor] [Each of the New Chargors] hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that no part of the New Properties is registered as a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002 and there is no pending application for any such registration.

3. ASSUMPTION OF OBLIGATIONS AND COVENANTS

All the provisions of the Principal Deed relating to Chargors and their respective assets shall henceforth apply to [the New Chargor] [each of the New Chargors] and its assets hereby charged and [the New Chargor] [each of the New Chargors] hereby covenants with the Trustee that it will henceforth duly observe and perform all the provisions contained in the Principal Deed which are binding on Chargors.

4. POWER OF ATTORNEY

[The New Chargor] [Each of the New Chargors] hereby irrevocably appoints the Trustee and any Receiver appointed under the powers contained in the Principal Deed to be its attorney in its name and on its behalf and as its act and deed or otherwise to execute and otherwise perfect any deed, assurance or act which it is required to do but fails to do under this Supplemental Deed and/or the Principal Deed or which may be required or which may be deemed proper on any sale or disposition by the Trustee or by any such Receiver of any

property or assets of [the New Chargor] [any of the New Chargors] under any power of sale or other disposition applicable thereto. [The New Chargor] [Each of the New Chargors] ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment hereunder.

5. CONTINUING OBLIGATIONS

Each Chargor (other than the New Chargor[s]) confirms and acknowledges that its respective obligations under the Principal Deed as amended on or before the date of this Supplemental Deed and under any other document entered into by such Chargor in relation to the Indebtedness shall continue in full force and effect notwithstanding the execution of this Supplemental Deed.

6. PRINCIPAL DEED

The Principal Deed shall henceforth be read in conjunction with this Supplemental Deed.

7. GOVERNING LAW AND JURISDICTION

7.1 This Supplemental Deed shall be governed by and construed in accordance with English law.

7.2 [The New Chargor] [Each of the New Chargors] irrevocably agrees for the benefit of the Trustee and each Lender that the High Court of Justice in England (the "Court") shall have exclusive jurisdiction (subject as provided below) in relation to any claim, dispute or difference concerning this Deed and in relation to, or in relation to the enforcement of, any judgment relating to any such claim, dispute or difference.

7.3 [The New Chargor] [Each of the New Chargors] irrevocably waives any right that it may have to object to an action being brought in the Court, to claim that the action has been brought in an inconvenient forum or to claim that the Court does not have jurisdiction.

7.4 Such aforesaid submission to the jurisdiction of the Court shall not (and shall not be construed as to) limit the right of the Trustee to bring legal proceedings in any other court of competent jurisdiction (including, without limitation, the courts having jurisdiction by reason of [the] [a] New Chargor's place of incorporation). Legal proceedings by the Trustee in any one or more jurisdictions shall not preclude legal proceedings by it in any other jurisdiction, whether by way of substantive action, ancillary relief, enforcement or otherwise.

7.5 [[The New Chargor] [Each of the New Chargors], if incorporated otherwise than in England and Wales, without preventing any other mode of service, hereby authorises and appoints [*name and address of process agents*] (or such other firm of solicitors resident in England or Wales as the Trustee may from time to time agree) to accept service of all legal process and any document in an action arising out of or in connection with this Deed and service on such solicitors shall be deemed to be service upon the New Chargor[s].]

IN WITNESS WHEREOF the Chargors have executed this instrument as a deed the day and year first before written.

Schedule

New Properties

Chargor

Particulars of property to be charged

[ALL EXISTING CHARGORS AND THE NEW CHARGOR]

EXECUTED as a DEED (but not)
delivered until the date inserted)
above) by)
[] LIMITED/PLC)
acting by a director and its)
secretary or by two directors)
or by a director in the presence of a)
witness)

Director

Director/Secretary/Witness

Witness Name:

Witness Address:

Witness Occupation:

*[THE COMMON SEAL of)
[] LIMITED/PLC)
was hereto affixed in the presence of:-)

Director

Director/Secretary

*SIGNED as a DEED (but not)
delivered until the date inserted)
above) on behalf of [])
a company incorporated in)
[])
by [])
being a person who in accordance with the)
laws of that territory is acting under the)
authority of that company)

*NB. This method of execution to
be provided where either off-shore
Company or specifically requested
by the Company

SIGNED for and on behalf of
the Trustee

)
)

SCHEDULE 4

FORM OF SUPPLEMENTAL DEED (RELEASE OF CHARGOR)

THIS SUPPLEMENTAL DEED is made the _____ day of _____ 20[.]

BETWEEN:-

- (1) [ALL EXISTING CHARGORS] (Company Number[s] [_____]) whose registered office(s) is [are] at [_____] (the "Existing Chargor");
- (2) [CHARGOR] (Company Number [_____]) whose registered office is at [_____] (the "Retiring Chargor"); and
- (3) [AVIVA COMMERCIAL FINANCE LIMITED (Company Number 2559391) / [AVIVA PUBLIC PRIVATE FINANCE LIMITED (Company Number 2334210)] of Sentinel House, 37 Surrey Street, Norwich, Norfolk NR1 3UY as trustee for itself and the other Lenders from time to time (the "Trustee" which expression shall include the successors in title and assigns of the Trustee);

and is SUPPLEMENTAL to a Deed (the "Principal Deed") dated [_____] made between [_____] and the Trustee [and to all deeds supplemental thereto].

NOW THIS SUPPLEMENTAL DEED WITNESSES as follows:-

1. DEFINITIONS

All words and expressions defined in the Principal Deed shall have the same meanings where used in this Supplemental Deed.

2. PRINCIPAL DEED

The Principal Deed shall henceforth be read in conjunction with this Supplemental Deed.

3. RELEASE OF PROPERTY [, DISCHARGE AND RE-ASSIGNMENT]

The Trustee hereby:-

- (a) releases those properties particulars of which are set out in the Schedule to this Supplemental Deed together with all buildings, erections and fixtures and fittings (but excluding tenants' fixtures and fittings) and fixed plant, equipment and machinery for the time being thereon and all improvements and additions thereto and all easements, rights and licences appurtenant thereto (the "Released Properties");
- (b) [releases and discharges the Retiring Chargor from the floating charge granted to the Trustee pursuant to clause 3.1(c) of the Principal Deed or pursuant to clause 2.1(c) of any deed supplemental thereto (as the case may be);] and
- (c) [re-assigns to the Retiring Chargor such rights and claims (if any) as may have been assigned to the Trustee pursuant to clause 3.2 of the Principal Deed and/or pursuant to any deed supplemental thereto (as the case may be).]

4. RELEASE OF RETIRING CHARGOR

With effect on and from the date of this Supplemental Deed the Trustee hereby releases and discharges the Retiring Chargor from all its obligations under the Principal Deed.

5. CONTINUING OBLIGATIONS

Each Chargor (other than the Retiring Chargor) confirms and acknowledges that its respective obligations under the Principal Deed as amended on or before the date of this Supplemental Deed and under any other document entered into by such Chargor in relation

to the Indebtedness shall continue in full force and effect notwithstanding the execution of this Supplemental Deed.

6. GOVERNING LAW

This Supplemental Deed shall be governed by and construed in accordance with English law.

IN WITNESS WHEREOF the parties hereto have executed this instrument as a deed the day and year first before written.

Schedule

Released Properties

Chargor

Particulars of property to be released

[ALL EXISTING CHARGORS]

EXECUTED as a DEED (but not)
delivered until the date inserted)
above) by)
[] LIMITED/PLC)
acting by a director and its)
secretary or by two directors)
or by a director in the presence of a)
witness)

Director

Director/Secretary/Witness

Witness Name:

Witness Address:

Witness Occupation:

*(THE COMMON SEAL of)
[] LIMITED/PLC)
was hereto affixed in the presence of:-)

Director

Director/Secretary

*SIGNED as a DEED (but not)
delivered until the date inserted)
above) on behalf of [])
a company incorporated in)
[])
by [])
being a person who in accordance with the)
laws of that territory is acting under the)
authority of that company)

*NB. This method of execution to
be provided where either off-shore
Company or specifically requested
by the Company

EXECUTED as a DEED (but not
delivered until the date inserted
above) by
**AVIVA COMMERCIAL
FINANCE LIMITED
ACTING BY ITS ATTORNEY**

in the presence of:

Signature of witness
Name of witness
Address of witness	Sentinel House 37 Surrey Street Norwich NR1 3UY
Occupation of witness	Administrative Assistant

EXECUTED as a DEED (but not
delivered until the date inserted
above) by
**AVIVA PUBLIC PRIVATE FINANCE LIMITED
ACTING BY ITS ATTORNEY**

in the presence of:

Signature of witness
Name of witness
Address of witness	Sentinel House 37 Surrey Street Norwich NR1 3UY
Occupation of witness	Administrative Assistant

SCHEDULE 5

FORM OF SUPPLEMENTAL DEED (ADDITION OF PROPERTY)

Chief Land Registrar - please note that Clause 2.3 of this Supplemental Deed contains an application to enter a restriction on the register of the affected titles.

THIS SUPPLEMENTAL DEED is made the day of 20[]

BETWEEN:-

- (1) [EXISTING CHARGOR] (Company Number []) whose registered office is at [] (the "Existing Chargor/Existing Chargors"); and
- [(2) [OTHER CHARGORS] (Company Number[s] []) whose registered office[s] is [are] at [] (the "Charging Chargor/Charging Chargors"); and]
- (3) [AVIVA COMMERCIAL FINANCE LIMITED (Company Number 2559391) / AVIVA PUBLIC PRIVATE FINANCE LIMITED (Company Number 2334210)] of Sentinel House, 37 Surrey Street, Norwich, Norfolk NR1 3UY as trustee for itself and the other Lenders from time to time (the "Trustee" which expression shall include the successors in title and assigns of the Trustee);]

and is SUPPLEMENTAL to a Deed (the "Principal Deed") dated [] made between [] and the Trustee [and to all deeds supplemental thereto].

NOW THIS SUPPLEMENTAL DEED WITNESSES as follows:-

1. DEFINITIONS

[All words and expressions defined in the Principal Deed shall, unless otherwise defined herein, have the same meanings where used in this Supplemental Deed.]

- [1.1 All words and expressions defined in the Principal Deed shall, unless otherwise defined herein, have the same meanings where used in this Supplemental Deed.

1.2 In this Supplemental Deed:

- (a) "Relevant Loan Agreement" means a term loan facility agreement between [] [the Charging Chargor] and [] [the Trustee] (as lender) [of even date herewith] [dated]; and
- (b) "Project Documents" has the meaning given to that term in the Relevant Loan Agreement.]

2. CHARGE OF NEW PROPERTY

- 2.1 As security for the payment and discharge of its obligations hereunder and in respect of the indebtedness, [the Existing Chargor] [each of the Existing Chargors] [the Charging Chargor] [each of the Charging Chargors] with full title guarantee, and to the intent that the security created shall rank as a continuing security, hereby charges to the Trustee:-

- (a) by way of legal mortgage, those properties particulars of which are set out in the Schedule to this Supplemental Deed together with all buildings, erections and fixtures and fittings (but excluding tenants' fixtures and fittings) and fixed plant, equipment and machinery for the time being thereon and all improvements and additions thereto and all easements, benefits, rights and licences appurtenant thereto, subject to and with the benefit of all leases, underleases, tenancies, agreements for lease, rights, options, covenants, indemnities, guarantees, warranties and conditions affecting the same and all proceeds of sale therefrom but otherwise free from Encumbrance (the "New Properties");

- (b) by way of fixed charge, the moneys from time to time deposited with the Trustee on the terms set out in Schedule 6 to the Principal Deed; and
 - (c) (to the extent not effectively assigned under Clause 2.2) by way of fixed charge the assets, (including present and future property, contracts, revenues and rights of every description) which are specified in Clause 2.2.
- 2.2 As security for the payment and discharge of its obligations hereunder and in respect of the Indebtedness, [the Existing Chargor] [each of the Existing Chargors] [the Charging Chargor] [each of the Charging Chargors] with full title guarantee hereby assigns absolutely and agrees to assign absolutely to the Trustee (subject to re-assignment on discharge of the Indebtedness) all rights and claims to which [the Existing Chargor] [each of the Existing Chargors] [the Charging Chargor] [the Charging Chargors] is now or may hereafter become entitled in relation to the New Properties including, without limitation:-
- (a) all insurances related to the New Properties and any proceeds derived therefrom;
 - (b) [each building contract, consultant appointment and collateral warranty in respect of the development and/or refurbishment of any New Property] [all rights and claims under the Project Documents to which it is a party]; and
 - (c) any rights or remedies derived from any such contract or arrangement.
- 18.2[The Existing Chargor] [Each of the Existing Chargors] [The Charging Chargor] [Each of the Charging Chargors] hereby applies to the Chief Land Registrar to enter on the register a restriction that "No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of [] referred to in the Charges Register".
- 2.4 [The Existing Chargor] [Each of the Existing Chargors] [The Charging Chargor] [Each of the Charging Chargors] hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that it is the legal and beneficial owner of the whole of each of the New Properties particulars of which are set out against its name in the Schedule .
- 2.5 [The Existing Chargor] [Each of the Existing Chargors] [The Charging Chargor] [Each of the Charging Chargors] hereby represents and warrants to the Trustee (for the benefit of itself and the other Lenders) that no part of the New Properties is registered as a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002 and there is no pending application for any such registration.
- 3. CONTINUING OBLIGATIONS**
- Each Chargor confirms and acknowledges that its respective obligations under the Principal Deed as amended on or before the date of this Supplemental Deed and under any other document entered into by such Chargor in relation to the Indebtedness shall continue in full force and effect notwithstanding the execution of this Supplemental Deed.
- 4. PRINCIPAL DEED**
- The Principal Deed shall henceforth be read in conjunction with this Supplemental Deed.
- 5. GOVERNING LAW**
- This Supplemental Deed shall be governed by and construed in accordance with English law.
- IN WITNESS WHEREOF** the Chargors hereto have executed this instrument as a deed the day and year first before written.

Schedule
New Properties

Chargor

Particulars of property to be charged

[THE EXISTING CHARGOR AND ALL OTHER CHARGORS]

EXECUTED as a DEED (but not)
delivered until the date inserted)
above) by)
[] LIMITED/PLC)
acting by a director and its)
secretary or by two directors)
or by a director in the presence of a)
witness)

Director

Director/Secretary/Witness

Witness Name:

Witness Address:

Witness Occupation:

*[THE COMMON SEAL of)
[] LIMITED/PLC)
was hereto affixed in the presence of:-)

Director

Director/Secretary

*SIGNED as a DEED (but not)
delivered until the date inserted)
above) on behalf of)
a company incorporated in)
[])
by [])
being a person who in accordance with the)
laws of that territory is acting under the)
authority of that company)

*NB. This method of execution to be provided where either off-shore Company or specifically requested by the Company

SIGNED for and on behalf of
the Trustee

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SCHEDULE 6 - TERMS AND CONDITIONS FOR SECURITY OVER CASH

1. SECURITY

1.1 In consideration of the Trustee or any other Lender:

- (a) advancing and/or continuing to advance funds to the Chargor (or to any other member of the Borrowing Group) at any time on or after the date hereof; or
- (b) giving its consent to the withdrawal of any of the Property charged pursuant to this Deed and to its disposal (as the case may be),

the Chargor with full title guarantee hereby charges to the Trustee the benefit and right to repayment of all sums (including interest) ("**secured cash**") from time to time standing to the credit of the Chargor's deposit account open or to be opened in the Trustee's books entitled "[name of Trustee] Charged Deposit Account re. [name of Chargor]." (the "**Deposit Account**") as a continuing security for the payment and discharge upon first demand of the Indebtedness.

- 1.2 Where the Trustee has agreed to accept secured cash in substitution for any Property or upon the date hereof or upon the date any funds are advanced as contemplated by Clause 1.1, the Trustee shall require to be included in the amount of the secured cash the amount of any early repayment fee that would have been payable (if any) by the borrower under the relevant loan agreement or other document under which the relevant Indebtedness is constituted at the date of such proposed substitution or the date hereof (as the case may be) as if the amount of such secured cash had been applied by the relevant Lender in reduction of the loan at that time (the "**ERF Amount**").
- 1.3 The Trustee shall be entitled, at the end of each calendar month (the "**Review Date**"), and until such time as all the secured cash is released as security by the Trustee, to review the ERF Amount. Upon each Review Date the Trustee shall calculate the early repayment fee (if any) that would have been payable if the amount of secured cash then being held had been applied in reduction of the relevant loan(s) on the Review Date. Promptly following each Review Date the Trustee may require the Chargor to place additional monies on deposit as secured cash to cover any shortfall in the then required ERF Amount.
- 1.4 If the Trustee has not accepted as security for the Indebtedness real property in substitution for secured cash within six months of the date that such secured cash has been substituted for the Property (or such longer period as the Trustee may agree with the Chargor in writing) the Trustee may apply the amount of such secured cash in reduction of the Indebtedness (including, without limitation, any early repayment fee which may become due as a result of such application under the terms of the relevant loan agreement or other document under which any part of the Indebtedness is constituted).

2. PROHIBITION ON WITHDRAWALS

For as long as any of the Indebtedness is outstanding the Chargor shall not be entitled, without the Trustee's prior written consent, to withdraw all or any part of the moneys standing to the credit of the Deposit Account.

3. SET-OFF AND APPROPRIATION OF BALANCES

- 3.1 The Trustee is hereby irrevocably and unconditionally authorised at any time and from time to time (and section 103 of the LPA shall not apply to this Deed) without notice to the Chargor to consolidate any accounts open or then opened in the name of the Chargor or apply by way of set-off the amount standing to the credit of the Deposit Account or any other account (whether matured or not) in or towards reimbursement to the Trustee of any of the Indebtedness which, to the extent not then payable, shall automatically become payable to effect such set-off. The Trustee may, at the cost of the Chargor, effect any currency exchanges which it considers to be appropriate to implement such set-off. A certificate of an officer of the Trustee as to the

amount of such debt or other liability shall (save for manifest error) be conclusive evidence for all purposes in connection with this Deed and binding on the Chargor.

- 3.2 The rights of the Trustee pursuant to Clause 3.1 above shall be continuing rights and shall not be affected or discharged by any intermediate payment or satisfaction of the whole or any part of the Indebtedness or by any variation in the amount standing to the credit of the Deposit Account or any other account.

4. RESIDUAL BALANCES

Any credit balance remaining in the Deposit Account or any other account after discharge of this Deed shall be paid to the Chargor or to the Chargor's order.

5. REPRESENTATIONS AND WARRANTIES

The Chargor warrants and represents to the Trustee at the time of the deposit of moneys in the Deposit Account that:-

- (a) it has full power, authority and right to enter into and perform the terms contained in this Deed and to make the deposits contemplated hereby and has taken all necessary corporate and other action to authorise the same upon the terms and conditions of this Deed; and
- (b) the moneys deposited (or to be deposited) in the Deposit Account or standing (or in the future standing) to the credit of any other account are (or, when deposited, will be) the property of the Chargor free and clear of all Encumbrances (except those arising under the Security Documents).

6. COVENANTS

- 6.1 The Chargor undertakes to the Trustee to pay or procure the payment to the Deposit Account of the proceeds of sale of such of the Property sold as the Trustee may require immediately upon payment of the same by the purchaser thereof.
- 6.2 The Chargor covenants with the Trustee that for so long as this Deed remains undischarged it will not create any other charge or interest affecting the Deposit Account but if it does so in breach of this covenant and the Trustee receives notice thereof the Trustee may open a new account (which shall, for the purposes of this Deed, be deemed to be, and shall operate as, a further Deposit Account) to which may be credited amounts deposited by the Chargor to be held on the terms of this Deed. If the Trustee does not actually open such new account then, unless the Trustee gives express written notice to the Chargor to the contrary, as from the date of the Trustee having such notice, all deposits made by the Chargor shall be deemed to have been credited to a new Deposit Account.

EXECUTED as a DEED (but not
delivered until the date inserted
above) by PHP INVESTMENTS
NO.1 LIMITED
acting by a director and its
secretary or by two directors
or by a director in the presence of a
witness

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Director

Director/Secretary/Witness

Witness Name:

Witness Address:

Witness Occupation:

SIGNED for and on behalf of
the Trustee

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