



Registration of a Charge

Company name: **BREEDON CEMENT LIMITED**

Company number: **08284549**



X74LKUVS

Received for Electronic Filing: **25/04/2018**

Details of Charge

Date of creation: **17/04/2018**

Charge code: **0828 4549 0007**

Persons entitled: **BARCLAYS BANK PLC AS SECURITY AGENT**

Brief description:

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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:

PINSENT MASONS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8284549

Charge code: 0828 4549 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th April 2018 and created by BREEDON CEMENT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th April 2018 .

Given at Companies House, Cardiff on 27th April 2018

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**

DATED 17 April 2018

(1) BREEDON GROUP PLC
AND THE COMPANIES LISTED IN THE SCHEDULE
(as Chargors)

(2) BARCLAYS BANK PLC
(as Security Agent)

FLOATING CHARGE



Pinsent Masons

CONTENTS

Clause		Page
1	INTERPRETATION	1
2	COVENANT TO PAY	3
3	FLOATING CHARGE	3
4	CRYSTALLISATION OF FLOATING CHARGE	4
5	RESTRICTIONS AND FURTHER ASSURANCE	5
6	DEMAND AND ENFORCEMENT	6
7	RECEIVERS	7
8	APPLICATION OF MONEYS	8
9	POWER OF ATTORNEY	9
10	CONSOLIDATION	9
11	PROTECTION OF THIRD PARTIES	10
12	PROTECTION OF THE SECURED PARTIES	10
13	PROVISIONS RELATING TO THE SECURITY AGENT	12
14	PRESERVATION OF SECURITY	12
15	RELEASE	14
16	MISCELLANEOUS PROVISIONS	15
17	GOVERNING LAW	16
18	ENFORCEMENT	16
	SCHEDULE 1 - THE CHARGORS	18
	SCHEDULE 2 - DEED OF ACCESSION	19

THIS DEED is made on

17 April 2018

BETWEEN:-

- (1) **THE COMPANIES** whose names and registered offices are set out in Schedule 1 (together with each company which becomes a party to this Deed by executing a Deed of Accession, each a "**Chargor**" and together the "**Chargors**"); and
- (2) **BARCLAYS BANK PLC** as security agent for the Secured Parties (the "**Security Agent**").

IT IS AGREED as follows:-

1. INTERPRETATION

1.1 Definitions

"Administrator"	means a person appointed under Schedule B1 to the Insolvency Act 1986 to manage each Chargor's affairs, business and property
"Charged Property"	means all the property, assets and undertaking of each Chargor which from time to time are, or are expressed to be, the subject of the Security created in favour of the Security Agent by or pursuant to this Deed
"Declared Default"	means the occurrence of an Event of Default in respect of which notice has been served by the Agent in accordance with clause 25.14 (<i>Acceleration</i>) of the Facilities Agreement
"Deed of Accession"	means a deed substantially in the form of Schedule 2
"Default Rate"	means the rate of interest specified in, and calculated in accordance with, clause 11.3 (<i>Default interest</i>) of the Facilities Agreement
"Facilities Agreement"	means the multicurrency term and revolving facilities agreement dated on or about the date of this Deed made between, among others, (1) Breedon Group PLC (as Parent), (2) the companies listed in part I of schedule 1 to that agreement (as Original Borrowers), (3) the companies listed in part I of schedule 1 to that agreement (as Original Guarantors), (4) Barclays Bank PLC, HSBC Bank plc, The Royal Bank of Scotland plc, Santander UK PLC and AIB Group (UK) P.L.C. t/a First Trust Bank (as Arrangers), (5) the financial institutions listed in part II of schedule 1 to that agreement (as Original Lenders), (6) Barclays Bank PLC, The Royal Bank of Scotland plc and HSBC Bank plc (as Bookrunners), (7) Barclays Bank PLC (as Agent), (8) Barclays Bank PLC (as Security Agent) (9) Barclays Bank PLC (as Documentation Bank) (10) the financial institutions listed in part III of schedule 1 to that agreement (as Original Hedge Counterparties) and (11) Allied Irish Banks P.L.C. (as Ancillary Lender)

"Finance Documents"	has the meaning given to that term in the Facilities Agreement
"Finance Party"	has the meaning given to that term in the Facilities Agreement
"Land"	has the meaning given to that term in section 205(1) of the LPA but for these purposes "Land" excludes heritable property situated in Scotland
"LPA"	means the Law of Property Act 1925
"Party"	means a party to this Deed
"Receiver"	means any receiver, receiver and manager or, to the extent permitted by law, an administrative receiver (whether appointed pursuant to this Deed or any statute, by a court or otherwise) of the whole or any part of the Charged Property
"Regulations"	means the Financial Collateral Arrangements (No2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements and "Regulation" means any of them
"Secured Liability"	means any liability expressed to be due, owing or payable by any Chargor under or in connection with any of the Finance Documents (together the "Secured Liabilities")
"Secured Party"	has the meaning given to that term in the Facilities Agreement
"Security"	means a mortgage, charge, pledge, lien, or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Security Period"	means the period from the date of this Deed until the date on which all of the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and no Secured Party has any further commitment, obligation or liability under or pursuant to the Finance Documents

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facilities Agreement have the same meanings in this Deed.

1.3 Interpretation

- 1.3.1 The principles of interpretation set out in clauses 1.1 to 1.6 of the Facilities Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a "Finance Document" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes

any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument and includes any increase in, extension of or change to any facility made available under that Finance Document or other agreement or instrument.

1.3.2 The liabilities of the Chargors under this Deed are joint and several.

1.4 Acknowledgement

Each Chargor acknowledges that the Security Agent enters into this Deed for itself and as trustee for the Secured Parties who shall be entitled to the full benefit of this Deed.

1.5 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Security Agent.

1.6 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the other Finance Documents and of any side letters between any parties in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition of an interest in Land contained in this Deed is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.7 Third party rights

1.7.1 Each Finance Party, any Receiver and their respective officers, employees and agents may enforce any term of this Deed which purports to confer a benefit on that person, but no other person who is not a Party has any right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

1.7.2 Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

1.8 Full Title Guarantee

Any charge or assignment which is expressed to be made with "full title guarantee" shall be construed so that the covenant implied by section 4(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to the state of repair of any relevant Land (including any buildings, fixtures, fittings, fixed plant or machinery situated thereon).

2. COVENANT TO PAY

2.1 Secured liabilities

Each Chargor covenants that it will on demand pay and discharge any or all of the Secured Liabilities when due in accordance with their terms.

2.2 Interest

Each Chargor covenants to pay interest on any sum due and payable until payment (both before and after judgment) to the Security Agent at the Default Rate.

3. FLOATING CHARGE

3.1 Creation of Floating Charge

As a continuing security for the payment and discharge of the Secured Liabilities each Chargor with full title guarantee (with all covenants implied therein pursuant to the Law of Property (Miscellaneous Provisions) Act 1994 being subject to and qualified by reference to the Legal Reservations and any Permitted Security) charges to the Security Agent by way of first floating charge all of its rights, title and interest from time to time in the whole of its property, assets and undertaking, present and future and wherever situated including, without limitation, any heritable property situated in Scotland.

3.2 Qualifying Floating Charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by this Deed.

3.3 Nature of Security Created

The Security created under this Deed is created:

- 3.3.1 as a continuing security to secure the payment and discharge of the Secured Liabilities and shall not be released or discharged by any intermediate payment or settlement of all or any of the Secured Liabilities save in respect of any release effected pursuant to Clause 15.1 (*Release*) or Clause 15.3 (*Permitted Disposals*) of this Deed;
- 3.3.2 in favour of the Security Agent as trustee for the Secured Parties; and
- 3.3.3 with full title guarantee.

4. CRYSTALLISATION OF FLOATING CHARGE

4.1 Crystallisation: By Notice

4.1.1 The Security Agent may at any time by notice in writing to any Chargor convert the floating charge created by Clause 3 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:-

- (a) a Declared Default has occurred; or
- (b) the Security Agent considers (acting reasonably) that any of the Charged Property may be in jeopardy or in danger of being seized, attached, charged, taken possession of or sold under any form of legal distress, sequestration, execution or other process; or
- (c) the Security Agent considers (acting reasonably) that it is necessary in order to protect the priority of the Security created by or pursuant to this Deed.

4.1.2 If no specific assets subject to the floating charge in Clause 3 (*Floating Charge*) are identified in the notice referred to in Clause 4.1.1 then the crystallisation shall take effect over all of the assets subject to the floating charge in Clause 3 (*Floating Charge*).

4.2 Crystallisation: Automatic

If:-

- 4.2.1 any Chargor creates or attempts to create any Security (other than Permitted Security) over any of the Charged Property; or

- 4.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property;
- 4.2.3 if the Security Agent receives notice of an intention to appoint an administrator of that Chargor;
- 4.2.4 any step is taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of a Chargor, over all or any part of its assets, or if such person is appointed;
- 4.2.5 on the crystallisation of any other floating charge over the Charged Property; or
- 4.2.6 in any other circumstance provided by law,

the floating charge created by Clause 3 (*Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the Charged Property the subject of such Security or, as the case may be, such process or step.

4.3 **Assets acquired post-crystallisation**

Any assets acquired by a Chargor after crystallisation has occurred shall become subject to the floating charge created by Clause 3 (*Floating Charge*) so that the crystallisation shall be effective as if such assets were owned by the Chargor at the date of crystallisation.

4.4 **Crystallisation: Moratorium where directors propose voluntary arrangement**

The floating charge created by Clause 3 (*Floating Charge*) may not be converted into a fixed charge solely by reason of:-

- 4.4.1 the obtaining of a moratorium; or
- 4.4.2 anything done with a view to obtaining a moratorium

under Schedule A1 to the Insolvency Act 1986.

4.5 **Partial crystallisation**

The giving of a notice by the Security Agent pursuant to Clause 4.1 (*Crystallisation: By Notice*) in relation to any class of assets of any Chargor shall not be construed as a waiver or abandonment of the rights of the Security Agent to serve similar notices in respect of any other class of assets or of any other right of the Security Agent and/or the Secured Parties.

4.6 **De-crystallisation of floating charge**

Any charge that has crystallised under this Clause may by notice in writing (given at any time by the Security Agent to the Parent), be reconverted into a floating charge in relation to the assets or class of assets specified in that notice.

5. **RESTRICTIONS AND FURTHER ASSURANCE**

5.1 **Security**

No Chargor shall create or permit to subsist any Security over any Charged Property (other than Permitted Security), or do anything else prohibited by clause 24.11 (*Negative pledge*) of the Facilities Agreement.

5.2 Disposal

No Chargor shall enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of any Charged Property except as permitted by clause 24.12 (*Disposals*) of the Facilities Agreement.

5.3 Further assurance

Each Chargor shall promptly do whatever the Security Agent requires:-

- 5.3.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority (provided that the Security Agent shall act reasonably in requiring any Chargor to take any action in this respect); or
- 5.3.2 after the Security created by this Deed has become enforceable, to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Security Agent or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Charged Property (whether to the Security Agent or its nominees or otherwise), making any registration and giving any notice, order or direction. The obligations of the Chargors under this Clause 5.3 are in addition to the covenants for further assurance deemed to be included by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

6 DEMAND AND ENFORCEMENT

6.1 Enforcement

The Security created by this Deed shall become enforceable upon:-

- 6.1.1 the occurrence of a Declared Default; or
- 6.1.2 any request being made by a Chargor to the Security Agent for the appointment of a Receiver or an administrator, or for the Security Agent to exercise any other power or right available to it.

6.2 Powers on enforcement

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

- 6.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 6.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property, without the restrictions imposed by sections 99 and 100 of the LPA;
- 6.2.3 to the extent that any Charged Property constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as

defined in the Regulations, appropriate all or any part of the Charged Property in or towards satisfaction of the Secured Liability (including transferring the title in and to it to the Security Agent insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18), the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or, in any other case, such amount as the Security Agent shall determine in a commercially reasonable manner;

6.2.4 subject to Clause 7.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Charged Property; and

6.2.5 appoint an administrator of any Chargor.

6.3 Disposal of the Charged Property

In exercising the powers referred to in Clause 6.2 (*Powers on enforcement*), the Security Agent or any Receiver may sell or dispose of all or any of the Charged Property at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

6.4 Same rights as Receiver

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Security Agent, or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Security Agent shall have taken possession or appointed a Receiver of the Charged Property.

6.5 Delegation

The Security Agent may delegate in any manner to any person any rights exercisable by the Security Agent, under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Security Agent thinks fit.

7. RECEIVERS

7.1 Method of appointment or removal

Every appointment or removal of a Receiver, any delegate or any other person by the Security Agent under this Deed shall be in writing under the hand of any officer or manager of the Security Agent (subject to any requirement for a court order in the case of the removal of an administrative receiver).

7.2 Removal

The Security Agent may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Charged Property) appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

7.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

7.3.1 of the Security Agent under this Deed;

- 7.3.2 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- 7.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 7.3.4 in relation to any Charged Property, which he would have if he were its only beneficial owner; and
- 7.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

7.4 Receiver as agent

The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults, remuneration, losses and liabilities) unless and until that Chargor goes into liquidation, from which time he shall act as principal and shall not become the agent of the Security Agent.

7.5 Joint or several

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

7.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Security Agent and the maximum rate specified in section 109(6) of the LPA shall not apply.

8. APPLICATION OF MONEYS

8.1 Application of moneys

All sums received by virtue of this Deed and/or any other Transaction Security Documents by the Security Agent or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the following order of priority:-

- 8.1.1 **first**, in or towards satisfaction pro rata of, or the provision pro rata for, all costs, charges and expenses incurred and payments made by the Security Agent as agent for the Secured Parties and/or as trustee in relation to the Transaction Security Documents, or by any Receiver (including legal expenses), together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full or other person entitled to it;
- 8.1.2 **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Security Agent or any Receiver;
- 8.1.3 **thirdly**, in or towards payment of the Secured Liabilities in accordance with the Facilities Agreement;
- 8.1.4 **fourthly**, in the payment of the surplus (if any), to the Chargors or any other person entitled to it,

and section 109(8) of the LPA shall not apply.

9. POWER OF ATTORNEY

9.1 Appointment

Each Chargor irrevocably and by way of security appoints:-

- 9.1.1 the Security Agent (whether or not a Receiver has been appointed);
- 9.1.2 any delegate or sub-delegate of, or other person nominated in writing by, an officer of the Security Agent; and
- 9.1.3 (as a separate appointment) each Receiver,

severally as such Chargor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of such Chargor, which such Chargor is required to do or execute under any provision of this Deed, or which the Security Agent in its sole opinion may consider necessary or desirable for perfecting its title to any of the Charged Property or enabling the Security Agent or the Receiver to exercise any of its rights or powers under this Deed.

9.2 Exercise

The power of attorney set out in Clause 9.1 above may only be exercised:

- 9.2.1 if the Chargor has failed to comply with Clause 5.3 (*Further Assurance*), any perfection or other obligation under this Deed, promptly following written notice being served by the Security Agent requiring that it comply with such obligation (but only to the extent required to remedy such failure); or
- 9.2.2 following the occurrence of an Event of Default which is continuing, to enable the Security Agent to exercise all or any of the rights conferred on it pursuant to this Deed.

9.3 Ratification

Subject to Clause 9.2 (*Exercise*), each Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 9.1 (*Appointment*) does in the exercise of all or any of the powers, acts or other matters referred to in Clause 9.1 (*Appointment*).

10. CONSOLIDATION

10.1 Combination of accounts

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Security Agent and each Secured Party may at any time following a Declared Default, without notice to the relevant Chargor, combine or consolidate all or any accounts which it then has in relation to such Chargor (in whatever name) and any Secured Liabilities owed by such Chargor to it, and/or set-off or transfer any amounts standing to the credit of one or more accounts of such Chargor in or towards satisfaction of any Secured Liabilities owed it on any other account or otherwise.

10.2 Application

The Security Agent's and each Secured Party's rights under Clause 10.1 (*Combination of accounts*) apply:-

- 10.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;

- 10.2.2 whether or not any credit balance is immediately available or subject to any restriction;
- 10.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Security Agent and the relevant Secured Party may, for the purpose of exercising its rights, elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00am on the date of conversion; and
- 10.2.4 in respect of any Secured Liabilities owed by the relevant Chargor, whether owed solely or jointly, certainly or contingently, presently or in the future, as principal or surety, and howsoever arising.

11. PROTECTION OF THIRD PARTIES

11.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Security Agent, as varied and extended by this Deed, and all other powers of the Security Agent, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

11.2 Purchasers

No purchaser from or other person dealing with the Security Agent, any person to whom it has delegated any of its powers, or the Receiver, shall be concerned:-

- 11.2.1 to enquire whether any of the powers which the Security Agent or a Receiver have exercised has arisen or become exercisable;
- 11.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act;
- 11.2.3 as to the propriety or validity of the exercise of those powers; or
- 11.2.4 with the application of any moneys paid to the Security Agent, any Receiver or to any other person,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

11.3 Receipts

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Security Agent, any other Finance Party, any Receiver or any person to whom any of them have delegated any of their powers.

12. PROTECTION OF THE SECURED PARTIES

12.1 No liability

None of the Security Agent, the other Secured Parties or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed (otherwise than by reason of their gross negligence or wilful misconduct).

12.2 Not mortgagee in possession

Without prejudice to any other provision of this Deed, entry into possession of any Charged Property shall not render the Security Agent, any Receiver or any of their respective officers or employees liable:-

12.2.1 to account as mortgagee in possession;

12.2.2 for any loss on realisation; or

12.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Security Agent or any Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to relinquish possession.

12.3 Indemnity

Each Chargor shall indemnify and keep indemnified the Security Agent, each other Finance Party, any Receiver, and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities incurred by them in respect of all or any of the following:-

12.3.1 any act or omission by any of them in relation to all or any of the Charged Property;

12.3.2 any payment relating to or in respect of all or any of the Charged Property which is made at any time by any of them;

12.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;

12.3.4 exercising or purporting to exercise or failing to exercise any of the rights, powers and discretions conferred on them or permitted under this Deed;

12.3.5 any breach by the relevant Chargor of any of its covenants or other obligations to the Security Agent or any other Secured Party,

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

12.4 Interest

Each Chargor shall pay interest at the Default Rate on the sums payable under this Clause 12 (*Protection of the Secured Parties and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

12.5 Indemnity out of the Charged Property

The Security Agent, the other Finance Parties, any Receiver and their respective officers, employees and delegates shall be entitled to be indemnified out of the Charged Property in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 12.3 (*Indemnity*).

12.6 Continuing protection

The provisions of this Clause 12 (*Protection of the Secured Parties and any Receiver*) shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

13. PROVISIONS RELATING TO THE SECURITY AGENT

13.1 Powers and discretions

The rights, powers and discretions given to the Security Agent in this Deed:-

13.1.1 may be exercised as often as, and in such manner as, the Security Agent thinks fit;

13.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and

13.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

13.2 Certificates

A certificate by an officer of the Security Agent:-

13.2.1 as to any amount for the time being due to the Finance Parties or any of them; or

13.2.2 as to any sum payable to the Security Agent under this Deed,

shall (save in the case of manifest error) be conclusive and binding upon the Chargors for all purposes.

13.3 Trusts

The perpetuity period for any trusts constituted by this Deed shall be 125 years.

14. PRESERVATION OF SECURITY

14.1 Continuing Security

This Deed shall be a continuing security to the Security Agent and shall remain in force until expressly discharged in writing by the Security Agent for the duration of the Security Period notwithstanding any intermediate settlement of account or other matter or thing whatsoever.

14.2 Additional Security

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Security Agent or any other Secured Party may have now or at any time in the future for or in respect of any of the Secured Liabilities.

14.3 Waiver of Defences

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

- 14.3.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 14.3.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 14.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 14.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 14.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 14.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 14.3.7 an insolvency, liquidation, administration or similar procedure.

14.4 Immediate recourse

Each Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from a Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

14.5 Appropriations

During the Security Period each Secured Party may:-

- 14.5.1 refrain from applying or enforcing any monies, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 8.1 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the relevant Chargor shall not be entitled to the same; and
- 14.5.2 hold in an interest-bearing suspense account any moneys received from the relevant Chargor on or account of the Secured Liabilities.

14.6 New Accounts

If the Security Agent or any other Secured Party receives notice (whether actual or otherwise) of any subsequent Security over or affecting any of the Charged Property or if a petition is presented or a resolution passed in relation to the winding up of a Chargor, it may close the current account or accounts and/or open a new account or accounts for such Chargor. If the Security Agent or any other Secured Party does not open a new account or accounts immediately it shall nevertheless be treated as if it had done so at the time when the relevant event occurred, and as from that time all payments made by such Chargor to that Secured Party shall be credited or be treated

as having been credited the new account or accounts and shall not operate to reduce the Secured Liabilities.

14.7 Tacking

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Security Agent confirms on behalf of the Lenders that the Lenders shall make further advances to the Chargors on the terms and subject to the conditions of the Finance Documents.

14.8 Deferral of Chargor's rights

During the Security Period and unless the Security Agent otherwise directs, no Chargor shall exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed:-

- 14.8.1 to receive or claim payment from, or be indemnified by an Obligor;
- 14.8.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under the Finance Documents;
- 14.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Party under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Secured Documents by any Secured Party;
- 14.8.4 to exercise any right of set-off against any Obligor; and/or
- 14.8.5 to claim or prove as a creditor of any Obligor in competition with any Secured Party.

15. RELEASE

15.1 Release

Upon the date on which the Secured Liabilities are irrevocably and unconditionally paid and discharged in full and none of the Secured Parties are under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargors under any of the Finance Documents, the Security Agent shall, or shall procure that its appointees will, at the request and cost of the relevant Chargor:-

- 15.1.1 release the Charged Property from this Deed; and
- 15.1.2 re-assign the Charged Property that has been assigned to the Security Agent under this Deed.

15.2 Reinstatement

If the Security Agent considers (acting reasonably) that any amount paid or credited to any Secured Party under any Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside by virtue of any bankruptcy, insolvency,

liquidation or similar laws:-

- 15.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

15.2.2 the liability of each Chargor and the Security created by this Deed shall continue as if that amount had not been paid or credited.

15.3 Permitted Disposals

Where a Chargor makes a disposal permitted under the terms of the Facilities Agreement, the Security Agent shall, at the reasonable request and cost of that Chargor, take all or any action (including the provision of a letter of non-crystallisation) necessary to release the Charged Property which is the subject of such disposal from the Security constituted by this Deed.

15.4 Consolidation

Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Deed.

16. MISCELLANEOUS PROVISIONS

16.1 Severability

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

16.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

16.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

16.2 Amendments and variations

This Deed shall remain in full force and effect notwithstanding any amendment, restatement, novation or supplementation of the Finance Documents (including any increase in the amount of the Secured Liabilities).

16.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

16.4 Joint and separate liability

Unless the context otherwise requires, all covenants, agreements, representations and warranties on the part of the Chargors contained in this Deed are given by them jointly and separately and shall be construed accordingly.

16.5 Counterparts

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

16.6 Deeds of Accession

16.6.1 The Parent and each of the Chargors shall procure that each company which is required by the Finance Documents to accede to this Deed shall, within the timeframe allotted by the Finance Documents, execute and deliver a Deed of Accession.

16.6.2 Each of the Parties agrees that:

- (a) each Deed of Accession shall be supplemental to this Deed and be binding on and to the benefit of all the parties to this Deed;
- (b) the execution of any Deed of Accession will not prejudice or affect the Security granted by each other Chargor under (and the covenants given by each of them in) this Deed or any previous Deed of Accession and that this Deed shall remain in full force and effect as supplemented by any such Deed of Accession; and
- (c) the property and assets, charged to the Security Agent by or pursuant to any Deed of Accession shall form part of the Charged Property and references in this Deed to the Security created by or pursuant to the Deed will be deemed to include the Security created by or pursuant to any Deed of Accession.

16.6.3 Delivery of a Deed of Accession constitutes confirmation by the New Chargor (as such term is defined in the relevant Deed of Accession) that the Repeating Representations are true and correct to the extent applicable to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

17. GOVERNING LAW

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

18. ENFORCEMENT

18.1 Jurisdiction of English Courts

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

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

18.1.3 This Clause 18.1 (*Jurisdiction of English Courts*) is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

18.2 Service of Process

18.2.1 Without prejudice to any other mode of service allowed under any relevant law, each Chargor:-

- (a) irrevocably appoints Breedon Holdings Limited as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and
- (b) agrees that failure by a process agent to notify the Chargors of the process will not invalidate the proceedings concerned.

- 18.2.2 If any person appointed as process agent is unable for any reason to act as agent for service of process, the Chargors must immediately (and in the event within five days of such event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another agent for this purpose.
- 18.2.3 Each Chargor expressly agrees and consents to the provisions of this Clause 18 (*Enforcement*) and Clause 17 (*Governing Law*).

EXECUTED AS A DEED and delivered on the date appearing at the beginning of this Deed.

SCHEDULE 1 **THE CHARGORS**

1. Breedon Group PLC incorporated in Jersey with registered number 98465 and whose registered office is at 28 Esplanade, St Helier, Jersey JE2 3QA.
2. Breedon Holdings (Jersey) Limited, formerly known as Marwyn Materials Investments Limited, incorporated in Jersey with registered number 100816 and whose registered office is at 28 Esplanade, St Helier, Jersey, JE2 3QA.
3. Breedon Holdings Limited incorporated in England and Wales with registered number 6773575 and whose registered office is at Breedon Quarry, Main Street, Breedon-On-The-Hill, Derby, DE73 8AP.
4. Breedon Properties Limited incorporated in England and Wales with registered number 6831375 and whose registered office is at Breedon Quarry, Main Street, Breedon-On-The-Hill, Derby, DE73 8AP.
5. Breedon Southern Limited incorporated in England and Wales with registered number 156531 and whose registered office is at Breedon Quarry, Main Street, Breedon-On-The-Hill, Derby, DE73 8AP.
6. Breedon Group Services Limited incorporated in England and Wales with registered number 2723957 and whose registered office is at Breedon Quarry, Main Street, Breedon-On-The-Hill, Derby, DE73 8AP.
7. Breedon Cement Limited, formerly known as Hope Construction Materials Limited, incorporated in England and Wales with registered number 08284549 and whose registered office is at Pinnacle House, Breedon Quarry, Breedon On The Hill, Derby, England, DE73 8AP.

SCHEDULE 2
DEED OF ACCESSION

THIS DEED is made on [REDACTED]

BETWEEN:-

- (1) [REDACTED] (the "**New Chargor**"), a company incorporated in England or Wales whose registered office is at [REDACTED];
- (2) [REDACTED] (the "**Parent**") for itself and as agent for and on behalf of each of the other Chargors (as defined in the Floating Charge referred to below); and
- (3) [REDACTED] **BANK [PLC][Plc][plc]** as the Security Agent.

INTRODUCTION

- (A) The New Chargor is, or will on the date of this Deed become, a [wholly-owned] subsidiary of the Parent.
- (B) This Deed is supplemental to a deed dated [REDACTED] (as supplemented and amended from time to time, (the "**Floating Charge**") between, among others, the Parent, each of the companies named in the Floating Charge as Chargors, and [REDACTED] Bank [PLC] [Plc] [plc] as agent and trustee for the Secured Parties.
- (C) The New Chargor at the request of the Parent and in consideration of the Finance Parties making or continuing to make facilities available to the Parent or any other member of its group has agreed to enter into this Deed and become a Chargor under the Floating Charge.

IT IS AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

- 1.1 Terms defined in the Floating Charge have the same meaning in this Deed.
- 1.2 The principles of interpretation set out in Clause 1 of the Floating Charge apply to this Deed insofar as they are relevant to it, as they apply to the Floating Charge.

2. ACCESSION

The New Chargor agrees to become a party to and to be bound by the terms of the Floating Charge with immediate effect and so that the Floating Charge shall be read and construed for all purposes as if the New Chargor had been an original party to it as a Chargor.

3. SECURITY

The New Chargor mortgages, charges and assigns to the Security Agent, as agent and trustee for the Secured Parties, all its business, undertaking and assets on the terms of Clause 3 of the Floating Charge.

4. CONSENT OF EXISTING CHARGORS

The Parent by its execution of this Deed confirms the consent of the existing Chargors to the terms of this Deed and their agreement that this Deed will in no way prejudice or affect their obligations under, or the covenants they have given, or the Security created by, the Floating Charge.

5. EFFECT ON FLOATING CHARGE

- 5.1 The Floating Charge and this Deed shall be read and construed as one document so that references in the Floating Charge to "this Deed", "herein", and similar phrases will be deemed to include this Deed.
- 5.2 For the purposes of this Deed and the Floating Charge and with effect from the date of this Deed, the property and assets of the New Chargor mortgaged, charged or assigned to the Security Agent (whether by way of legal mortgage, assignment or fixed or floating charge) by or pursuant to this Deed shall form part of the Charged Property and references in the Floating Charge to the Security created by or pursuant to the Floating Charge will be deemed to include the Security created by or pursuant to this Deed.

6. GOVERNING LAW

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

EXECUTED AS A DEED AND DELIVERED on the date set out at the beginning of this Deed.

SIGNATURE PAGES TO DEED OF ACCESSION

The New Chargor

EXECUTED as a Deed)
by [NAME OF COMPANY] [LIMITED] [PLC])
acting by two Directors or a Director and its)
Secretary:-)
)

Director

Director/Secretary

Address: []

Facsimile number []

OR

EXECUTED as a Deed by [NAME OF)
COMPANY] [LIMITED] [PLC])
acting by [NAME OF DIRECTOR], a)
Director, in the presence of:-)
)

Signature of witness: Director

Name of witness:

Address:

Occupation:

Address: []

Facsimile number []

The Parent

EXECUTED (but not delivered)
until the date hereof) **AS A DEED**)
by [] **LIMITED**)
acting by:-)

Director

Director/Secretary

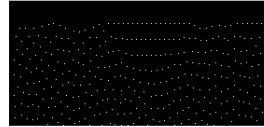
The Security Agent

SIGNED for and on behalf of)
[] **BANK [PLC] [Plc] [plc]**)

EXECUTION PAGES

The Chargors

EXECUTED as a Deed (but not delivered)
until dated) by BREEDON GROUP PLC acting)
by Rob Wood , a director, in the)
presence of:-)



Signature of witness:

Director

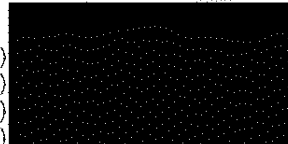


Name of witness: GRACE KELLY

Address: TRAVERS SMITH LLP, 10 SNOW HILL, LONDON EC1A 2AL

Occupation: TRAINEE SOLICITOR

EXECUTED as a Deed (but not delivered)
until dated) by BREEDON HOLDINGS)
(JERSEY) LIMITED, FORMERLY KNOWN AS)
MARWYN MATERIALS INVESTMENTS)
LIMITED, acting by Rob Wood ,)
a director, in the presence of:-)



Director

Signature of witness:

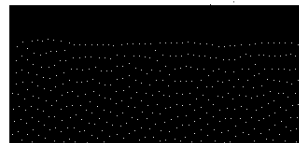


Name of witness: GRACE KELLY

Address: TRAVERS SMITH LLP, 10 SNOW HILL, LONDON EC1A 2AL

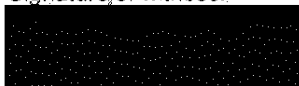
Occupation: TRAINEE SOLICITOR

EXECUTED as a Deed (but not delivered)
until dated) by BREEDON HOLDINGS)
LIMITED acting by Rob Wood ,)
a director, in the presence of:-)



Signature of witness:

Director




Name of witness: GRACE KELLY

Address: TRAVERS SMITH LLP, 10 SNOW HILL, LONDON EC1A 2AL

Occupation: TRAINEE SOLICITOR

EXECUTED as a Deed (but not delivered
until dated) by **BREEDON PROPERTIES**
LIMITED acting by Rob Wood
a director, in the presence of:-

Signature of witness:



Name of witness: GRACE KELLY

Address: TRAVERS SMITH LLP, 10 SNOW HILL, LONDON EC1A 2AL

Occupation: TRAINEE SOLICITOR

Director

EXECUTED as a Deed (but not delivered
until dated) by **BREEDON SOUTHERN**
LIMITED acting
by Rob Wood
a director, in the presence of:-

Signature of witness:



Name of witness: GRACE KELLY

Address: TRAVERS SMITH LLP, 10 SNOW HILL, LONDON EC1A 2AL

Occupation: TRAINEE SOLICITOR

Director

EXECUTED as a Deed (but not delivered
until dated) by **BREEDON GROUP SERVICES**
LIMITED acting by Rob Wood
a director, in the presence of:-

Signature of witness:



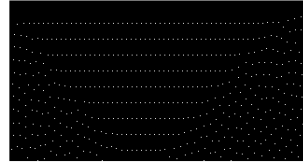
Name of witness: GRACE KELLY

Address: TRAVERS SMITH LLP, 10 SNOW HILL, LONDON EC1A 2AL

Occupation: TRAINEE SOLICITOR

Director

EXECUTED as a Deed (but not delivered)
until dated) by BREEDON CEMENT LIMITED)
acting by Rob Wood ,)
a director, in the presence of:-)



Signature of witness:

Director



Name of witness: GRACE KELLY

Address: TRAVERS SMITH LLP, 10 SNOW HILL, LONDON EC1A 2A2

Occupation: TRAINEE SOLICITOR

The Security Agent

SIGNED for and on behalf of)
BARCLAYS BANK PLC)

EXECUTED as a Deed (but not delivered)
until dated) by BREEDON CEMENT LIMITED)
acting by)
a director, in the presence of:-)

Signature of witness: Director

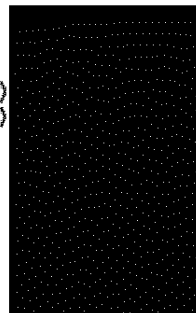
Name of witness:

Address:

Occupation:

The Security Agent

SIGNED for and on behalf of
BARCLAYS BANK PLC



Barclays Bank PLC
1 Churchill Place
London
E14 5HP