



**Registration of a Charge**

Company name: **EMPIRIC (BUCCLEUCH STREET) LIMITED**

Company number: **09106741**



X7L6TKQ8

Received for Electronic Filing: **20/12/2018**

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**Details of Charge**

Date of creation: **19/12/2018**

Charge code: **0910 6741 0006**

Persons entitled: **LLOYDS BANK PLC AS SECURITY AGENT (AS DEFINED IN THE INSTRUMENT EVIDENCING THE CHARGE ACCOMPANYING THIS FORM MR01)**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by:

**JAMES WILSON ON BEHALF OF DENTONS UK AND MIDDLE EAST  
LLP**



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

Company number: 9106741

Charge code: 0910 6741 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th December 2018 and created by EMPIRIC (BUCCLEUCH STREET) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th December 2018 .

Given at Companies House, Cardiff on 21st December 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

## Assignment in Security

**For the purposes of the Legal Writings (Counterparts and Delivery)  
(Scotland) Act 2015, this Assignment in Security is delivered on  
19 December 2018**

**Empiric (Buccleuch Street) Limited**  
(as Assignor)

**Lloyds Bank plc**  
(the Security Agent)

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For the purposes of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015, this Assignment is delivered on 19 December 2018

## Assignment in Security

### Between

- (1) **Empiric (Buccleuch Street) Limited**, a company incorporated in England and Wales and having its Registered Office at 6th Floor Swan House, 17-19 Stratford Place, London, England, W1C 1BQ (Registered number **09106741**) (the **Assignor**); and
- (2) **Lloyds Bank plc** a company incorporated in England and Wales and having its Registered Office at 25 Gresham Street, London, EC2V 7HN (Registered number **00002065**) (the **Security Agent**) as security trustee for the Secured Parties (as defined in the Facility Agreement defined below).

### Background

The Assignor enters into this Assignment in connection with the Facility Agreement (as defined below).

### IT IS AGREED as follows:

#### 1 Definitions and construction

##### 1.1 Definitions

In this Assignment:

**"Assignment"** means this assignment in security.

**"Assigned Documents"** means each of the documents particulars of which are set out in Schedule 1.

**"Assigned Rights"** means all the Assignor's right, title and interest in and to the Assigned Documents and the Related Rights.

**Facility Agreement** means the Facility Agreement dated on or about the date of this Assignment between, among others, Empiric Investments (Five) Limited and the Security Agent.

**"Related Rights"** means all rights, remedies, benefits and entitlements now or at any time hereafter accrued or accruing to the Assignor under or in respect of the Assigned Documents including, without limitation:

- (a) the right to payment of all amounts due thereunder;
- (b) the proceeds of all payments thereunder and of all claims, awards, adjudications and judgments under or in respect thereof;
- (c) all claims for damages in respect of any breach thereof;
- (d) the benefit of any warranties and indemnities;

- (e) all rights of termination or rescission; and
- (f) the right to require and enforce performance by the other party or parties of its or their obligations thereunder by way of adjudication, arbitration, proceedings or otherwise.

**Secured Liabilities** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Transaction Obligors to any Secured Party under each Finance Document.

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

**Security Period** means the period beginning on the date of this Assignment and ending on the date on which the Security Agent (acting reasonably) is satisfied that:

- (a) all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full; and
- (b) no Secured Party is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Transaction Obligor pursuant to the Finance Documents.

## 1.2 Construction

- 1.2.1 Capitalised terms defined in the Facility Agreement have the same meaning in this Assignment unless expressly defined in this Assignment.
- 1.2.2 The provisions of clause 1.2 (*Construction*) of the Facility Agreement apply to this Assignment as though they were set out in full in this Assignment except that references to the Facility Agreement will be construed as references to this Assignment.
- 1.2.3 Unless a contrary indication appears, a reference in this Assignment to:
  - (a) a Finance Document or Transaction Document or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated;
  - (b) any **rights** in respect of an asset includes:
    - (i) all amounts and proceeds paid or payable;
    - (ii) all rights to make any demand or claim; and
    - (iii) all powers, remedies, causes of action, security, guarantees and indemnities, in each case in respect of or derived from that asset;
  - (c) the term **this Security** means any Security created by this Assignment.
- 1.2.4 Any undertaking of the Assignor under this Assignment (other than a payment obligation which has been discharged) remains in force during the Security Period.

- 1.2.5 If the Security Agent considers (acting reasonably) that an amount paid to a Secured Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Assignment.

## **2 Creation of Security**

### **2.1 General**

- 2.1.1 The Assignor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents.
- 2.1.2 All the Security created under this Assignment:
- (a) is created in favour of the Security Agent; and
  - (b) is security for the payment of all the Secured Liabilities.
- 2.1.3 The Security Agent holds the benefit of this Assignment and this Security on trust for the Secured Parties.

### **2.2 Assignment**

The Assignor assigns absolutely, subject to a proviso for re-assignment on redemption, to the Security Agent all of its right, title and interest in and to the Assigned Rights.

### **2.3 Trust**

- 2.3.1 If or to the extent that the assignment of any Assigned Right is ineffective because of a prohibition on that assignment, the Assignor holds it on trust for the Security Agent.
- 2.3.2 If the prohibition referred to in Clause 2.3.1 is due to the fact a consent or waiver must be obtained or a condition must be satisfied, then the Assignor must seek the consent or waiver or satisfy the condition.
- 2.3.3 On the waiver or consent being obtained, or the condition being satisfied, the Assigned Rights shall be mortgaged, charged or assigned (as appropriate) under this Clause and, in relation to those Assigned Rights, the trust referred to in Clause 2.3.1 shall terminate.

## **3 Perfection of Security**

### **3.1 Notice of Assignment**

The Assignor must (following an Event of Default which is continuing):

- (a) immediately serve a notice of assignment substantially in the form set out in Schedule 2 (*Form of notice of assignment*) on each counterparty to the Assigned Documents and deliver to the Security Agent a certified copy of each notice; and
- (b) use reasonable endeavours to ensure that each such party acknowledges that notice, substantially in the form set out in Schedule 3 (*Form of acknowledgement and confirmation*), or in any other form agreed by the Security Agent.



## **4 Restrictions on Dealings**

### **4.1 Security**

Except as expressly allowed under the Facility Agreement or this Assignment, the Assignor must not create or permit to subsist any Security in respect of the Assigned Rights.

### **4.2 Disposals**

Except as expressly allowed under the Facility Agreement or this Assignment, the Assignor must not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer, loan, or otherwise dispose of all or any part of the Assigned Rights or enter into an agreement to make any such disposal.

### **4.3 Assigned Documents**

4.3.1 The Assignor shall not knowingly (without the prior written consent of the Security Agent) unless permitted under the Facility Agreement:

- (a) amend, vary or waive (or agree to amend, vary or waive) any provision of any Assigned Documents (which would materially and adversely affect the Security) or exercise any right to rescind, cancel or terminate any Assigned Document or release any counterparty from any material obligations under any Assigned Document;
- (b) waive any breach by any counterparty to an Assigned Document or consent to any act or omission which would otherwise constitute a breach of an Assigned Document;
- (c) novate, transfer, assign or otherwise dispose of its rights under an Assigned Document;
- (d) do or omit to do any act or thing which will entitle any party to an Assigned Document to regard as terminated any Assigned Document to which it is a party and shall not, without the prior consent of the Security Agent, dismiss any party to any of the Assigned Documents; or

4.3.2 The Assignor shall in respect of the Property:

- (a) comply (in all material respects) with and perform all of its obligations under the relevant Assigned Document;
- (b) use all reasonable endeavours to enforce its rights under the relevant Assigned Document in order to ensure the performance by the other parties to them of their obligations under the Assigned Documents in a proper and timely manner; and
- (c) notify the Security Agent of the resignation of any party to an Assigned Document or the occurrence of any breach or alleged breach by any party to the Assigned Document in the performance or observance of that party's obligations as soon as reasonably practical.

## **5 When Security Becomes Enforceable**

### **5.1 Event of Default**

This Security will become immediately enforceable if an Event of Default occurs and is continuing.

### **5.2 Discretion**

After this Assignment has become enforceable, the Security Agent may enforce all or any part of this Security in any manner it sees fit or as instructed in accordance with the Facility Agreement including (without limitation and without any requirement to give notice to the Assignor) either in its own name or in the name of the Assignor in such manner and on such terms as it may in its sole discretion think fit:

- 5.2.1 take possession of the Assigned Rights or otherwise exercise in relation to them all of the rights of an absolute owner;
- 5.2.2 assign or transfer any or all of the Assigned Rights to any person on such terms as the Security Agent considers appropriate; and
- 5.2.3 collect, recover or compromise, and give a good discharge for, any moneys paid or payable to the Assignor under or in respect of the Assigned Rights, and enforce (in any way whatsoever including, without limitation, by way of instituting proceedings in the Assignor's name) any rights or claims arising under or in respect of the Assigned Rights

## **6 Enforcement of Security**

### **6.1 General**

For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Assignment.

### **6.2 No liability as heritable creditor in possession**

This Security is not intended to and does not constitute the Security Agent as heritable creditor in possession and operates only as an assignment of the Assigned Rights.

### **6.3 Protection of third parties**

No person (including a purchaser) dealing with the Security Agent or its or his/her agents will be concerned to enquire:

- 6.3.1 whether the Secured Liabilities have become payable;
- 6.3.2 whether any power which the Security Agent is purporting to exercise has become exercisable or is being properly exercised;
- 6.3.3 whether any money remains due under the Finance Documents; or
- 6.3.4 how any money paid to the Security Agent is to be applied.

#### **6.4 Contingencies**

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Security Agent may pay the proceeds of any recoveries effected by it into a suspense account or other account selected by it.

#### **6.5 Financial collateral**

6.6 To the extent that the Assigned Rights constitute "financial collateral" and this Assignment and the obligations of the Assignor under this Assignment constitute a "security financial collateral arrangement" (in each case, for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003), the Security Agent will have the right after this Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

6.7 Where any financial collateral is appropriated:

6.7.1 if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or

6.7.2 in any other case, its value will be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent commercial property adviser, investment bank or accountancy firm of national standing selected by it.

and each Finance Party will give credit for the proportion of the value of the financial collateral appropriated to its use.

### **7 Protection of the Security Trustee and others**

#### **7.1 Exclusion of liability**

None of the Security Trustee, the other Secured Parties or any of their respective officers or employees shall have any responsibility or liability:

- (a) for any action taken in relation to all or any of the Assigned Rights;
- (b) for any failure to take any action in relation to all or any of the Assigned Rights, and in particular any failure to:
  - (i) forward to the Assignor any report, circular or other communication received by the Security Trustee in relation to any Assigned Document;
  - (ii) accept or decline any offer made in respect of any Assigned Document;
  - (iii) make any payment in relation to any Assigned Document;
  - (iv) enforce the payment of any moneys which may become payable under any Assigned Document; or
  - (v) make any enquiries as to the nature or sufficiency of any payments which it receives; or

- (c) for any other default or omission in relation to all or any of the Assigned Rights for which a mortgagee in possession might be liable,

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

## **8 Preservation of Security**

### **8.1 Reinstatement**

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

- (a) the liabilities of the Assignor and the Security created by this Assignment shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) the Secured Parties shall be entitled to recover the value or amount of that Security or payment from the Assignor, as if the payment, discharge, avoidance or reduction had not occurred.

### **8.2 Waiver of defences**

Neither the Security created by this Assignment nor the obligations of the Assignor under this Assignment shall 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 Trustee or any other Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Transaction Obligor or other person;
- (b) the release of any Transaction Obligor or any other person under the terms of any composition or arrangement with any person;
- (c) 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 Transaction Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Transaction Obligor or any other person;
- (e) any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- (f) 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
- (g) any insolvency, liquidation, administration or similar procedure.

### **8.3 Assignor intent**

Without prejudice to the generality of Clause 8.2 (*Waiver of defences*), the Assignor expressly confirms that it intends that the Security created by this Assignment shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (a) acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

### **8.4 Immediate recourse**

The Assignor 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 or Security or claim payment from any person before claiming from the Assignor under this Assignment. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

### **8.5 Appropriations**

During the Security Period each Secured Party may:

- (a) refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 9 (*Application of proceeds*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Assignor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Assignor or on account of the Secured Liabilities.

### **8.6 Deferral of Assignor's rights**

During the Security Period and unless the Security Trustee otherwise directs, the Assignor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Assignment or the enforcement of the Security created by this Assignment:

- (a) to receive or claim payment from, or be indemnified by a Transaction Obligor;
- (b) to claim any contribution from any guarantor of, or provider of Security in respect of, any Transaction Obligor's obligations under the Finance Documents;
- (c) 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 Finance Documents by any Secured Party;
- (d) to exercise any right of set-off against any Transaction Obligor; and/or
- (e) to claim or prove as a creditor of any Transaction Obligor in competition with any Secured Party.

## **8.7 Additional Security**

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

## **9 Application of Proceeds**

All amounts from time to time received or recovered by the Security Agent pursuant to the terms of this Assignment or in connection with the realisation or enforcement of all or part of this Security will be held by the Security Agent and applied in accordance with the Facility Agreement. This Clause 9:

- 9.1 is subject to the payment of any claims having priority over this Security; and
- 9.2 does not prejudice the right of any Secured Party to recover any shortfall from the Assignor.

## **10 Registration at Companies House**

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

## **11 Further Assurances**

- 11.1 The Assignor must promptly, at its own expense, take whatever action the Security Agent may reasonably require for:
  - 11.1.1 creating, perfecting or protecting any security over the Assigned Rights; or
  - 11.1.2 facilitating the realisation of the Assigned Rights (if an Event of Default has occurred and is continuing), or the exercise of any right, power or discretion exercisable, by the Security Agent or any of its respective delegates or sub-delegates in respect of the Assigned Rights.
- 11.2 The action that may be required under Clause 11.1 above includes:
  - 11.2.1 the execution of any charge, transfer, conveyance, assignment or assurance of any asset, whether to the Security Agent or to its nominees; or

11.2.2 the giving of any notice, order or direction and the making of any filing or registration, which, in any such case, the Security Agent may reasonably consider necessary or desirable.

## **12 Delegation**

### **12.1 Power of Attorney**

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

### **12.2 Terms**

Any such delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent may, in its discretion, think fit in the interests of the Secured Parties.

### **12.3 Liability**

The Security Agent shall not be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.

## **13 Power of attorney**

The Assignor, by way of security, irrevocably and severally appoints the Security Agent and any of its respective delegates or sub-delegates to be its attorney with the full power and authority of the Assignor either (i) following the occurrence of an Event of Default that is continuing or (ii) following the failure of the Assignor to comply with a request from the Security Agent to take any action and sign or execute any further documents which the Assignor is required to take, sign or execute in accordance with this Assignment, to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case which may be required or which any attorney may in its absolute discretion deem necessary for carrying out any obligation of the Assignor under or pursuant to this Assignment or generally for enabling the Security Agent to exercise the powers conferred on it under this Assignment or by law. The Assignor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 13.

## **14 Re-assignment of Assigned Documents**

14.1 At the end of the Security Period, unless any third party has any subrogation or other rights in respect of the Security created by this Assignment, the Finance Parties must, at the request and cost of the Assignor, take whatever action is necessary to release the Assigned Rights from this Security.

14.2 Without prejudice to clause 14.1 above, if at any time any of the Assigned Rights are disposed of (or are to be disposed of) as permitted or consented to under the Facility Agreement, the Security Agent shall, at the request and cost of the Assignor, take whatever action is necessary to release or re-assign (without recourse or warranty) the Assigned Rights from the Security constituted by this Assignment.

## **15 Expenses and Indemnity**

The Assignor must (but without double counting any amount recoverable under any other Finance Document):

- 15.1 immediately on demand pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with this Assignment including any arising from any actual or alleged breach by any person of any law or regulation; and
- 15.2 keep each Secured Party indemnified against any failure or delay in paying those costs or expenses.

## **16 Miscellaneous**

### **16.1 Continuing Security**

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

### **16.2 New Accounts**

- 16.2.1 If any subsequent charge or other interest affects the Assigned Rights, a Secured Party may open a new account with the Assignor.
- 16.2.2 If that Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- 16.2.3 As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

### **16.3 Time deposits**

Without prejudice to any right of set-off any Secured Party may have under any other Finance Document or otherwise, if any time deposit matures on any account the Assignor has with any Secured Party within the Security Period when:

- 16.3.1 this Security has become enforceable; and
- 16.3.2 no Secured Liability is due and payable,  
  
that time deposit will automatically be renewed for any further maturity which that Secured Party considers appropriate.

### **16.4 Notice to Assignor**

This Assignment constitutes notice in writing to the Assignor of any charge or assignment/assignment of a debt owed by the Assignor to any Transaction Obligor and contained in any other Security Document.



## **17 Calculations and certificates**

### **17.1 Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Assignment, the entries made in the accounts maintained by the Security Agent or any other Secured Party are *prima facie* evidence of the matters to which they relate.

### **17.2 Certificates and determinations**

Any certification or determination by the Security Agent or any other Secured Party of a rate or amount under this Assignment is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **18 Partial invalidity**

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

## **19 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 Assignment 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 Assignment are cumulative and not exclusive of any rights or remedies provided by law.

## **20 Amendments and waivers**

Any term of this Assignment may be amended or waived only with the written consent of the Assignor and the Security Agent.

## **21 Registration**

The Assignor consents to the registration of this Assignment for preservation and execution.

## **22 Costs and expenses**

### **22.1 Transaction expenses**

Without double counting any amount recoverable under any other Finance Document, the Assignor shall promptly on demand pay the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing and execution of this Assignment.

### **22.2 Amendment costs**

Without double counting any amount recoverable under any other Finance Document, if the Assignor requests an amendment, waiver, consent or release of or in relation to this Assignment, that Assignor shall, within three Business Days of demand, reimburse the Security Agent for the amount of all costs and expenses (including legal fees) reasonably

incurred by it in responding to, evaluating, negotiating or complying with that request or requirement.

### **22.3 Enforcement costs**

Without double counting any amount recoverable under any other Finance Document, and without double counting any amount recoverable under Clause 8 (*Expenses and Indemnity*), the Assignor shall, within three Business Days of demand, pay to the Security Agent or any Delegate the amount of all costs and expenses (including legal fees) incurred by the Security Agent or any Delegate in connection with the enforcement of, or the preservation of any rights under, this Assignment or the investigation of any possible Default.

## **23 Notices**

### **23.1 Communications in writing**

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

### **23.2 Addresses**

23.2.1 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Assignment is that identified with its name below or any substitute address, fax number or department or officer as either party may notify to the other by not less than five Business Days' notice.

23.2.2 The addresses referred to in Clause 23.2.1 are:

(a) The Assignor:

Address: 6th Floor Swan House, 17-19 Stratford Place, London W1C 1BQ

Attention: Lynne Fennah

Email: [lynne.fennah@empiric.co.uk](mailto:lynne.fennah@empiric.co.uk)

Fax: N/A

(b) The Security Agent:

Address: Lloyds Bank plc, , 1st Floor, 10 Gresham Street, London, EC2V 7AE

Attention: Andrew Wheldon

Email: [Andrew.Wheldon@lloydsbanking.com](mailto:Andrew.Wheldon@lloydsbanking.com)

Fax: N/A

### **23.3 Delivery**

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

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

and, if a particular department or officer is specified as part of its address details provided under Clause 23.2 (*Addresses*), if addressed to that department or officer.

23.3.2 Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified in Clause 23.2.2 (or any substitute department or officer as the Security Agent shall specify for this purpose).

#### **23.4 English language**

23.4.1 Any notice given under or in connection with this Assignment must be in English.

23.4.2 All other documents provided under or in connection with this Assignment must be:

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

#### **24 Counterparts**

24.1 This Assignment may be executed in any number of counterparts and by each of the parties on separate counterparts.

24.2 Where executed in counterparts:

- (a) unless otherwise agreed between the parties, this Assignment shall not take effect until each of the counterparts has been delivered in accordance with the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the **Counterparts Act**);
- (b) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered;
- (c) the counterparts shall be treated as a single document pursuant to the Counterparts Act;
- (d) the parties may choose to evidence the date of delivery of this Assignment by inserting it on the cover page and at the top of page 1 in the blank provided for the delivery date of this Assignment;

the parties agree that where a person is nominated under section 2(1) of the Counterparts Act to take delivery of one or more of the counterparts, the obligations and/or duties of that person under section 2(3) of the Counterparts Act shall be excluded and such person shall hold such counterparts in accordance with any other arrangements agreed between the parties. The parties agree that this clause is for the benefit of any such nominated person

and can be relied upon by such person notwithstanding that such person may not be a party to this Assignment.

## 25 Governing law and enforcement

### 25.1 Governing law

The law of Scotland governs this Assignment, its interpretation and any non-contractual obligations arising from or connected with it.

### 25.2 Jurisdiction

- 25.2.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Assignment (including a dispute regarding the existence, validity or termination of this Assignment) (a **Dispute**).
- 25.2.2 The parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- 25.2.3 Notwithstanding Clause 25.2.1, neither the Security Agent nor any other 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 Security Agent and the other Secured Parties may take concurrent proceedings in any number of jurisdictions.

IN WITNESS WHEREOF this Assignment consisting of this and the preceding 15 pages together with the Schedules is executed as follows:

#### Assignor


Executed (but not delivered until the date of the delivery specified above) for and on behalf of  
**Empiric (Buccleuch Street) Limited**

at 6th floor Swan House, 17-19 Stratford Place, London W1C 1BQ  
on 17 day of December 2018  
by

  
\_\_\_\_\_  
Director  
(Signature)

Lynne Fennah  
\_\_\_\_\_  
Director  
(Print Full Name)

in the presence of this witness:

  
\_\_\_\_\_  
Emma Magee  
\_\_\_\_\_

Witness

Full name

Address

Gowling WLG (UK) LLP  
4 More London Riverside  
London SE1 2AU  
13 December 2018  
SY/SM/054995.00536/62438645.04

**Security Agent**

Executed (but not delivered until the date of the delivery specified above) for and on behalf of

**LLOYDS BANK PLC**

as Security Agent

by

*at London on the 17<sup>th</sup> day of December 2018*

[Redacted Signature]

Authorised Signatory

in the presence of this witness:

[Redacted Signature]

Witness

*SURYA KUMARAVELU* Full Name

Address

Dentons UK and Middle East LLP  
One Fleet Place  
London EC4M 7WS

THIS IS THE SCHEDULE REFERRED TO IN THE ASSIGNATION GRANTED BY EMPIRIC (BUCCLEUCH STREET) LIMITED IN FAVOUR OF LLOYDS BANK PLC

## Schedule 1– Assigned Documents

### Assigned Documents

Document	Parties	Date
Collateral Warranty Agreement	7N Architects LLP, Cruden Homes (EAST) Limited and Empiric (Buccleuch Street) Limited	01 October 2014 and 06 October 2014
Collateral Warranty Agreement	Goodson Associates Limited, Cruden Homes (EAST) Limited and Empiric (Buccleuch Street) Limited	06 October 2014
Collateral Warranty Agreement	Peter Graham & Partners LLP, Cruden Homes (EAST) Limited and Empiric (Buccleuch Street) Limited	02 December 2014 and 03 December 2014
Collateral Warranty Agreement	Keenan Culbertson Limited, Cruden Homes (EAST) Limited and Empiric (Buccleuch Street) Limited	06 October 2014 and 09 October 2014
Direct Warranty Agreement	Hart Builders (Edinburgh) Limited, Cruden Homes (EAST) Limited and Empiric (Buccleuch Street) Limited	26 September 2014 and 29 September 2014
Sub-Contractor Collateral Warranty Agreement	Kone Plc, Cruden Homes (EAST) Limited and Empiric (Buccleuch Street) Limited	10 May 2017
Sub-Contractor Collateral Warranty Agreement	Cablecom Electrical Limited, Hart Builders (Edinburgh) Limited and Empiric (Buccleuch Street) Limited	18 January 2016 and 13 June 2016 and 10 May 2017
Sub-Contractor Collateral Warranty Agreement	PAW Structures (Scotland) Limited, Hart Builders (Edinburgh) Limited and Empiric (Buccleuch Street) Limited	13 June 2013, 13 June 2016 and 10 May 2017
Building Contract	Empiric (Buccleuch Street) Limited and Cruden Homes (East) Limited	24 July and 11 August 2014

## Schedule 2– Form of notice of assignation

To:                   \*\*                   *[insert name and address of other party to the Assigned Document[s]]*

Attention:       \*\*

Date:             \*\*

Dear Sirs

### **Notice of assignation of the contract or contracts referred to in the schedule to this letter**

We refer to the contract or contracts referred to above, as they may be amended, varied, novated, supplemented and replaced from time to time ([the][each a] **Contract**).

We give you notice that by an assignation (the **Assignment**) dated \*\*                    between ourselves and \*\*                    (the **Security Agent**) we have assigned absolutely to the Security Agent (as trustee for itself and certain entities) all of our rights under and interest in [the][each] **Contract**, including all moneys which may become payable, and the benefit of all property and claims, under [the][each] **Contract**, and including any claim or action against you.

Regardless of any previous authorisations or instructions which we may have given you and without making any enquiry as to the justification for the matter:

- (a) [we irrevocably authorise and instruct you to pay to the Security Agent all moneys which may become payable under [the][each] **Contract** and to comply with all instructions and requests you may receive from the Security Agent in relation to the **Contract**;
- (b) we ask you to inform the Security Agent in writing promptly if at any time:
  - (i) we fail duly and promptly to pay any moneys payable from time to time in respect of [any][the] **Contract** or otherwise breach the terms of any **Contract**; or
  - (ii) you become aware of any actual, potential or asserted assignment, encumbrance, interest, claim or right over or in respect of [any][the] **Contract** in favour of a third party;
- (c) we ask you:
  - (i) to give the Security Agent not less than 30 days' written notice of your terminating [any][the] **Contract** or allowing [any][the] **Contract** to lapse; and
  - (ii) to disclose to the Security Agent any information relating to [the][each] **Contract** which the Security Agent may from time to time request you to disclose to it.

The instructions and requests contained in this letter may not be revoked or varied without the written agreement of the Security Agent.

This letter is governed by Scottish law.

### Schedule 3– Form of acknowledgement and confirmation

To:               \*\*                               *[the Security Agent]*

Attention:       \*\*

Date:            \*\*

Dear Sirs

#### Notice of assignation of **[contract][contracts]**

We acknowledge receipt of a notice (the **Notice**) from \*\*                               (the **Assignor**) dated \*\* of the assignation by the Assignor to you of certain rights under and interests in **[the][each]** Contract (as defined in the Notice).

We confirm that:

- a) we have received the Notice and agree to comply with the instructions and requests contained in the Notice;
- b) **[the][each]** Contract is in full force and effect;
- c) all liabilities and moneys due or payable in respect of **[the][each]** Contract have been duly and promptly performed or paid in full;
- d) we have not received notice of any assignation, encumbrance, interest, claim or right, in favour of any third party, of, over or in respect of **[any][the]** Contract or any rights under or interests in **[any][the]** Contract; and
- e) we do not hold or have, nor will we claim, assert, create or make, any encumbrance, interest, counterclaim, right of set-off or other right over or in respect of **[any][the]** Contract.

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

This letter is governed by Scottish law.

Yours faithfully,

.....  
for and on behalf of \*\*                               *[other party to the contract]*

copy: *[Assignor]*



Please acknowledge and confirm to the Security Agent your agreement to the above in the form attached, with a copy to us.

Yours faithfully,

.....

for and on behalf of \*\* [Assignor]

copy: \*\* [the Security Agent]

### The Schedule

Parties	Date of Contract
**	**