



**Registration of a Charge**

Company name: **ESME LOANS LIMITED**

Company number: **10411077**



X7BDL6TM

Received for Electronic Filing: **31/07/2018**

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**Details of Charge**

Date of creation: **17/07/2018**

Charge code: **1041 1077 0001**

Persons entitled: **HONEYCOMB INVESTMENT TRUST PLC**

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: **ALISTAIR STARK**



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

Company number: 10411077

Charge code: 1041 1077 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th July 2018 and created by ESME LOANS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 31st July 2018 .

Given at Companies House, Cardiff on 2nd August 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 July 2018.

ESME LOANS LIMITED  
as Company

and

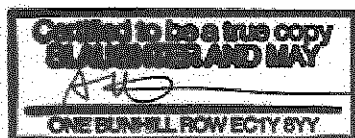
HONEYCOMB INVESTMENT TRUST PLC  
as Chargee

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ACCOUNTS CHARGE

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I certify that, save for material redacted pursuant to  
s. 859F of the Companies Act 2006, this is a collated  
true copy.



Alistair N. Stark

Slaughter and May  
One Bunhill Row  
London EC1Y 8YY  
GO/DVH

551339382

## CONTENTS

	Page
1. DEFINITIONS AND INTERPRETATION	1
2. COVENANT TO PAY	5
3. CHARGE	5
4. GENERAL RESTRICTIONS	5
5. RESTRICTIONS ON WITHDRAWALS	6
6. PERFECTION	6
7. NATURE AND PROTECTION OF SECURITY	7
8. REPRESENTATIONS AND WARRANTIES	9
9. GENERAL COVENANTS	11
10. RELEASE	11
11. ENFORCEMENT	12
12. APPOINTMENT OF RECEIVERS	13
13. DISCRETION AND DELEGATION	15
14. APPLICATION OF MONEYS	15
15. PROTECTION OF THIRD PARTIES	16
16. NO LIABILITY	16
17. COSTS AND EXPENSES	17
18. TAXES	17
19. CURRENCY	18
20. CERTIFICATES AND DETERMINATIONS	19
21. POWER OF ATTORNEY	19
22. ASSIGNMENT	20
23. AMENDMENTS	20

24.	NOTICES	20
25.	REMEDIES AND WAIVERS	22
26.	PARTIAL INVALIDITY	22
27.	EXECUTION AS A DEED	22
28.	COUNTERPARTS	22
29.	JURISDICTION	23
30.	GOVERNING LAW	23
	SCHEDULE 1 NOTICE OF CHARGE	24
	SCHEDULE 2 FORM OF ACKNOWLEDGEMENT	26
	SCHEDULE 3 INSTRUCTIONS	28

THIS ACCOUNTS CHARGE is made by way of deed on the date specified on the cover page of this Deed.

**PARTIES:**

- (1) **ESME LOANS LIMITED**, a company registered in England & Wales with company number 10411077, whose registered address is at 250 Bishopsgate London, EC2M 4AA (the "**Company**"); and
- (2) **HONEYCOMB INVESTMENT TRUST PLC**, a company registered in England & Wales with company number 09899024, whose registered address is at 6th Floor, 140 London Wall, London, United Kingdom, EC2Y 5DN (the "**Chargee**").

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

Terms defined in the Forward Loans Sale Agreement shall, unless otherwise defined in this Deed, have the same meaning when used in this Deed and, in addition:

"**Accounts**" means the Collection Account and the Funding Account;

"**Charge**" means the security interests constituted or expressed to be constituted in favour of the Chargee by or pursuant to this Deed;

"**Collection Account**" means the account with number [REDACTED] and sort code [REDACTED] of the Company held with The Royal Bank of Scotland plc and includes any renewal or redesignation thereof;

"**Costs and Expenses**" means costs, charges, losses, liabilities, expenses and other sums (including legal, accountants' and other professional fees) and any Taxes thereon;

"**Delegate**" means a delegate or sub-delegate appointed pursuant to Clause 13.2 (*Delegation*);

"**Deposits**" means all credit balances now or at any time in future on the Accounts, all debts from time to time represented by such credit balances and all other rights of the Company accruing or arising in relation to the Accounts;

"**Deposit Bank**" means a bank at which an Account is held;

"**Enforcement Event**" means:

- (a) the failure by the Company at any time after the End Date to transfer all of the Deposits to the Chargee;
- (b) the failure by the Company to pay any amount due under any Transaction Document to the Chargee on the due date therefor (or prior to the expiry of any applicable grace period); and

(c) the occurrence of an Insolvency Event with respect to the Company;

**"Forward Loans Sale Agreement"** means the agreement, dated on or about the date of this Deed, between the Company and the Chargee to sell and purchase respectively the beneficial interest in Loans;

**"Funding Account"** means the account with number [REDACTED] and sort code [REDACTED] of the Company held with The Royal Bank of Scotland plc and includes any renewal or redesignation thereof;

**"Insolvency Event"** means, with respect to any person, any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of that party other than a solvent liquidation or reorganisation of that party;
- (b) a composition, compromise, assignment or arrangement with any creditor of that party; or
- (c) the appointment of a liquidator (other than in respect of a solvent liquidation of that party), receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of that party or any of its assets,

or any analogous procedure or step is taken in any jurisdiction, other than any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within ten Business Days of commencement;

**"Instructions"** has the meaning given to that term in Clause 6.1(B);

**"Legal Reservations"** means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; and
- (b) the time barring of claims under the Limitation Act 1980, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;

**"Loan"** means an unsecured loan originated by the Seller to a Borrower;

**"Loan Agreement"** means, in respect of each Loan, the agreement between the Seller and a Borrower evidencing and regulating that Loan (and **"Loan Agreements"** means all such agreements);

**"Loan Assets"** means in respect of a Loan:

- (a) that Loan;
- (b) each Loan Agreement, together with all Portfolio Rights thereto;
- (c) all Receivables, together with all Portfolio Rights thereto;
- (d) the Claims;
- (e) the Contracts; and
- (f) the Loan Information excluding all Intellectual Property Rights in the Loan Information including rights in and to the relevant Seller's names and logos;

"LPA 1925" means the Law of Property Act 1925;

"Permitted Deduction" means commission (of a type and at the level approved in writing by the Purchaser) payable to debt collection agencies in connection with recovering payments under the Loan Assets;

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Deposits;

"Secured Obligations" means all present and future obligations and liabilities of the Company (whether actual or contingent and whether owed jointly or severally or in any other capacity whatever) which are, or are expressed to be, or may become, due, owing or payable to the Chargee under or in connection with any of the Transaction Documents (as such documents may be varied, amended, waived, released, novated, supplemented, extended, restated or replaced from time to time, in each case, however fundamentally), including, for the avoidance of doubt, all costs, charges and expenses incurred by the Chargee which are, or are expressed to be, or may become due, owing or payable by the Company under or in connection with any Transaction Document;

"Seller" means Esme Loans Limited;

"Servicing Agreement" means the servicing agreement, dated on or about the date of this Deed, between the Company and the Chargee;

"Tax" includes (without limitation) all taxes, levies, duties, imposts, charges and withholdings of any nature whatsoever, whether of the United Kingdom or elsewhere, together with all penalties, charges and interest relating to any of them or to any failure to file any return required for the purposes of any of them;

"Transaction Documents" means the Forward Loans Sale Agreement, the Servicing Agreement, this Deed, and any other document designated as such by the Company and the Chargee; and

"Working Hours" means 8.30 am to 6.30 pm on a Business Day.

## 1.2 Construction of particular terms



Unless a contrary intention appears, in this Deed the provisions of clause 1.2 of the Forward Loans Sale Agreement shall apply as if set out in full in this Deed, save that references to the Forward Loans Sale Agreement shall be construed as references to this Deed and:

- (A) **"assets"** includes properties, revenues and rights of every kind, present, future and contingent, and whether tangible or intangible;
- (B) **"authorisation"** or **"consent"** shall be construed as including any authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;
- (C) **"this Deed"** or any other agreement or instrument is a reference to this Deed or other agreement or instrument as it may have been amended, supplemented, replaced or novated from time to time, and includes a reference to any document which amends, supplements, replaces, novates or is entered into, made or given pursuant to or in accordance with any of the terms of this Deed or, as the case may be, the relevant deed, agreement or instrument;
- (D) **"law"** includes any present or future common or customary law, principles of equity and any constitution, decree, judgment, decision, legislation, statute, order, ordinance, regulation, bye-law or other legislative measure in any jurisdiction or any present or future official directive, regulation, guideline, request, rule, code of practice, treaty or requirement (in each case, whether or not having the force of law but, if not having the force of law, the compliance with which is in accordance with the general practice of a person to whom the directive, regulation, guideline, request, rule, code of practice, treaty or requirement is intended to apply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (E) **"rights"** includes all rights, title, benefits, powers, privileges, interests, claims, authorities, discretions, remedies, liberties, easements, quasi-easements and appurtenances (in each case, of every kind, present, future and contingent); and
- (F) **"security"** includes any mortgage, charge, pledge, lien, security assignment, hypothecation or trust arrangement for the purpose of providing security and any other encumbrance or security interest of any kind having the effect of securing any obligation of any person (including the deposit of moneys or property with a person with the intention of affording such person a right of lien, set-off, combination or counter-claim) and any other agreement or any other type of arrangement having a similar effect (including any "flawed asset" or "hold back" arrangement) and **"security interest"** shall be construed accordingly.

### 1.3 Interpretation of this Deed

- (A) Unless a contrary indication appears, a reference to any party or person shall be construed as including its and any subsequent successors in title, permitted

transferees and permitted assigns, in each case in accordance with their respective interests.

- (B) The terms "include", "includes" and "including" shall be construed without limitation.
- (C) References in this Deed to any Clause or Schedule shall be to a Clause or schedule contained in this Deed.
- (D) Unless a contrary indication appears, references to any provision of any law are to be construed as referring to that provision as it may have been, or may from time to time be, amended or re-enacted, and as referring to all bye-laws, instruments, orders, decrees, ordinances and regulations for the time being made under or deriving validity from that provision.

#### **1.4 Third Party Rights**

- (A) Save as otherwise provided in this Deed, a person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.
- (B) 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.
- (C) Any Receiver or Delegate may, subject to this Clause 1.4 and the Contracts (Rights of Third Parties) Act 1999, rely on any Clause of this Deed which expressly confers rights on it.

#### **2. COVENANT TO PAY**

The Company shall discharge all Secured Obligations in accordance with the Transaction Documents.

#### **3. CHARGE**

As continuing security for the full and punctual performance and discharge of the Secured Obligations, the Company, with full title guarantee and free of any other security interest, charges all of its right, title and interest from time to time in and to the Accounts and the Deposits by way of first fixed charge in favour of the Chargee.

#### **4. GENERAL RESTRICTIONS**

- 4.1** The Company shall ensure, or procure as the case may be, that the details of the Accounts are not changed without the prior written consent of the Chargee.
- 4.2** The Company shall not close any Account without the express written consent of the Chargee.

- 4.3 The Company shall not create or permit to subsist any security (other than the Charge) over the Deposits or the Accounts, without the prior written consent of the Chargee.

## **5. RESTRICTIONS ON WITHDRAWALS**

### **5.1 No withdrawals**

Except with the prior written consent of the Chargee or to the extent permitted under Clause 5.2 (*Withdrawal for the origination of Loans*) or Clause 5.3 (*Withdrawals from the Collection Account*), the Company shall not at any time be entitled to, or agree or seek to, withdraw or require repayment of all or any part of the Deposits from the Accounts.

### **5.2 Withdrawal for the origination of Loans**

The Company may withdraw funds from, and only to the extent of amounts standing to the credit of, the Funding Account:

- (A) to transfer such funds to the Chargee;
- (B) to the extent required for payment of any Broker Fees to brokers from the Purchase Price paid by the Chargee and permitted to be paid from the Funding Account pursuant to the Forward Loans Sale Agreement; and
- (C) to transfer such funds to a Borrower.

### **5.3 Withdrawals from the Collection Account**

The Company may withdraw funds from, and only to the extent of amounts standing to the credit of, the Collection Account in accordance with the Instructions:

- (A) to transfer funds to the Chargee in accordance with clause 4(A)(iii) of the Servicing Agreement;
- (B) to the extent required for payment of any fees, costs and expenses of the Chargee permitted to be paid from the Collection Account pursuant to clause 9.1 of the Servicing Agreement;
- (C) to make any Permitted Deduction; and
- (D) to return any funds received from a Borrower through administrative or technical errors in respect of the Loan Assets to the relevant Borrowers.

## **6. PERFECTION**

### **6.1 Notice of Charge**

- (A) Immediately after execution of this Deed, the Company shall give notice (in or substantially in the form of Schedule 1 (*Notice of Charge*)), duly completed, to each Deposit Bank, and shall use reasonable endeavours to procure that each

Deposit Bank promptly acknowledges that notice in writing to the Chargee in or substantially in the form of Schedule 2 (*Form of Acknowledgment*).

- (B) Promptly after the despatch by the Company of notice to each Deposit Bank, the Chargee shall provide, and the Company shall countersign, instructions (the "**Instructions**") to each Deposit Bank substantially in the form of Schedule 3 (*Instructions*).

## **6.2 Instructions to Deposit Bank**

The Company irrevocably authorises the Chargee to give each Deposit Bank, on and from any Enforcement Event, all instructions and notices which the Chargee may from time to time and in its absolute and uncontrolled discretion consider necessary or appropriate in relation to any of the matters contemplated by this Deed, including the enforcement of the Charge.

## **6.3 Further assurances**

The Company shall (at its own cost), promptly take all action necessary to:

- (A) perfect, preserve or protect the Charge and its priority, and
- (B) facilitate the exercise of any and all of the rights, powers and discretions vested or intended to be vested in the Chargee by or pursuant to this Deed and to facilitate the realisation of the Deposits,

including the execution of all such documents, transfers, conveyances, assignments and assurances in respect of the Deposits, and the giving of all such notices, orders, instructions and directions as the Chargee (acting reasonably) may consider necessary from time to time. The obligations of the Company under this Clause 6.3 shall be in addition to and not in substitution for the covenants for further assurance deemed to be included in this Deed by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

## **7. NATURE AND PROTECTION OF SECURITY**

### **7.1 Continuing security**

The Charge is continuing and extends to the ultimate balance of the Secured Obligations from time to time unless and until discharged by the Chargee in accordance with Clause 10 (*Release*), regardless of any intermediate payment, discharge or satisfaction in whole or in part.

### **7.2 Additional security**

The security and the rights conferred on the Chargee under this Deed shall be cumulative, in addition to and independent of every other security which the Chargee may at any time hold for the Secured Obligations or any other rights provided by law. No

prior security held by the Chargee over the whole or any part of the Accounts or the Deposits shall merge into the Charge.

### **7.3 Immediate recourse**

The Company waives any right it may have of first requiring the Chargee to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Company under this Deed. The waiver applies irrespective of any law or any provision of this Deed to the contrary.

### **7.4 No prejudice**

Without prejudice to any other provisions of this Deed, neither this Deed nor the Charge, its priority, the rights of the Chargee under or pursuant to this Deed, nor the liability of the Company for the Secured Obligations shall be prejudiced, reduced, released or otherwise adversely affected by an act, omission, fact or other thing which, but for this Clause 7.4, would or may do so, including:

- (A) any time, waiver or consent granted, or any other indulgence or concession granted to the Company or any other person;
- (B) the release of the Company or any other person under the terms of any composition or arrangement with any creditor;
- (C) the taking, holding, variation, compromise, exchange, renewal, realisation or release by any person of any rights under or in connection with any security, guarantee, indemnity or any other document, including any arrangement or compromise entered into by the Chargee with the Company or any other person;
- (D) the refusal or failure to take up, hold, perfect or enforce by any person any rights under or in connection with any security, guarantee, indemnity or other document (including any failure to comply with any formality or other requirement, or any failure to realise the full value of any security);
- (E) the existence of any claim, set-off or other right which the Company may have at any time against the Chargee or any other person;
- (F) the making or absence of any demand for payment or discharge of any Secured Obligations;
- (G) any amalgamation, merger or reconstruction that may be effected by the Chargee with any other person, including any reconstruction by the Chargee involving the formation of a new company and the transfer of all or any of its assets to that company, or any sale or transfer of the whole or any part of the undertaking and assets of the Chargee to any other person;
- (H) any incapacity, lack of power, authority or legal personality of or change in the members or status of the Company or any other person;

- (I) any variation, amendment, waiver, release, novation, supplement, extension or restatement or replacement of any Transaction Document, or any other security, guarantee, indemnity or other document, in each case however fundamental and of whatsoever nature;
- (J) any change in the identity of the Chargee; or
- (K) any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Document or any other security, guarantee, indemnity or other document.

#### **7.5 New account**

At any time after:

- (A) the Chargee receives or is deemed to have received notice of any subsequent security interest affecting all or any part of any Account or the Deposits or any assignment or transfer of any Account or the Deposits which is prohibited by the terms of this Deed or any other Transaction Document; or
- (B) the occurrence of an Insolvency Event in relation to the Company,

all payments by or on behalf of the Company to the Chargee shall be treated as having been credited to a new account of the Company and not, upon the occurrence of any of the circumstances specified in paragraph (A) or (B) above, as having been applied in reduction of the Secured Obligations.

#### **7.6 Fluctuating amounts**

The Charge is intended to secure the Secured Obligations, the quantum of which may fluctuate. The Charge, and its ranking, is intended to extend to all of the Secured Obligations, notwithstanding any intervening dealing.

### **8. REPRESENTATIONS AND WARRANTIES**

The Company makes the representations and warranties set out in this Clause 8 to Chargee on the date of this Deed.

#### **8.1 Powers**

It has the power to own its assets, and it has the power to enter into, create security and perform all its obligations under this Deed and the transactions contemplated by this Deed.

#### **8.2 Corporate authority**

It has taken all necessary action to authorise its entry into, and the creation of security and the performance of all its obligations under, this Deed.

### **8.3 Obligations binding**

Subject to the Legal Reservations, the obligations expressed to be assumed by it under this Deed are legal, valid, binding and enforceable obligations.

### **8.4 Security valid**

Subject to the Legal Reservations, the Charge is (subject to completion of all registrations required by law) a legal, valid, binding and enforceable first fixed charge over the Deposits ranking in priority to the interests of any liquidator, administrator or creditor of the Company.

### **8.5 Non conflict with laws and other obligations**

The entry into and performance by it of, the creation of security under, and the transactions contemplated by, this Deed do not and will not conflict with:

- (A) any law applicable to it, in a manner which would have a material adverse effect on its ability to perform its obligations under the Transaction Documents;
- (B) its constitutional documents; or
- (C) any agreement or instrument binding upon it, or any of its assets, in a manner which would have a material adverse effect on its ability to perform its obligations under the Transaction Documents.

### **8.6 Validity and admissibility in evidence**

All authorisations and consents required or desirable to:

- (A) enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed;
- (B) permit the creation of security; and
- (C) make this Deed admissible in evidence in its jurisdiction of incorporation,

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

### **8.7 No existing security**

No security interest (other than the Charge) exists on, over or with respect to the Deposits or any part of the Deposits at the date of this Deed.

### **8.8 Repetition**

The Company represents and warrants to the Chargee that the representations and warranties at clauses 8.1 – 8.4 are true and accurate and not misleading at each Completion Date by reference to the then-existing circumstances.

## **9. GENERAL COVENANTS**

The undertakings in this Clause 9 are given to the Chargee by the Company and will remain in force from the date of this Deed for so long as any of the Secured Obligations is outstanding or any security interest created under this Deed has not been released or discharged.

### **9.1 Authorisations**

It shall promptly:

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

(B) supply certified copies to the Chargee of,

any authorisation required under any law of England and Wales to enable it to create the Charge, and to enter into and perform its obligations, under this Deed and to ensure, subject to the Legal Reservations and the Perfection Requirements, the legality, validity, enforceability or admissibility in evidence in England and Wales of this Deed and the Charge.

### **9.2 Compliance with laws**

It shall comply in all respects with all laws to which it may be subject, if breach of such laws would have a material adverse effect on its ability to comply with its obligations under the Transaction Documents.

### **9.3 Disposals of assets**

It shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, transfer, assign, lease, licence or otherwise dispose of any interest in any of the Deposits or the Accounts (otherwise than pursuant to the Transaction Documents).

## **10. RELEASE**

### **10.1 Release of Deposit**

If the Chargee is satisfied that:

(A) all Secured Obligations have been unconditionally and irrevocably paid or discharged in full; or

(B) security or a guarantee for the Secured Obligations, in each case acceptable to the Chargee, has been provided in substitution for this Deed; or



- (C) the Company is unconditionally entitled pursuant to any provision of the Transaction Documents to have the Deposits (or any part of them) released from the Charge,

then, subject to the remainder of this Clause 10, the Chargee shall at the request and cost of the Company take whatever action is necessary to release the Deposits from the Charge.

## **10.2 Reinstatement**

If any discharge, release or arrangement (whether in respect of the obligations of the Company or any security for those obligations or otherwise) is made by the Chargee in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Company under this Deed and the Charge will continue or be reinstated as if the discharge, release or arrangement had not occurred.

## **11. ENFORCEMENT**

### **11.1 Enforcement rights**

- (A) Immediately upon, and at any time after the occurrence of, in relation to the Company, an Enforcement Event, the Chargee shall be entitled, and is hereby irrevocably and unconditionally authorised, without giving prior notice to the Company or obtaining the consent of the Company but at the cost of the Company, to require payment by the Deposit Bank to the Chargee of the whole or any part of the Deposits and to apply the same in or towards payment of the Secured Obligations or any part thereof as the Chargee shall (in its absolute discretion) determine.
- (B) In addition, the Chargee may, without notice to the Company or prior authorisation from any court, enforce all or any part of the Charge and exercise all or any of the powers, authorities and discretions conferred by the Transaction Documents or otherwise by law on mortgagees, chargees and Receivers (whether or not it has appointed a Receiver), in each case at the times, in the manner and on the terms it thinks fit.

### **11.2 Fixed period**

Clause 11.1 (*Enforcement rights*) shall apply notwithstanding that the Deposits or any part of them may have been made or deposited for a fixed period and that that period may not have expired.

### **11.3 Financial Collateral Regulations**

- (A) To the extent that any of the Accounts and the Deposits, this Deed and the rights and obligations of the parties under this Deed constitute a "security financial collateral arrangement" (as defined in and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226)) (the

"Regulations")), the Chargee shall have the benefit of all of the rights of a collateral taker conferred upon it by the Regulations, including the right to appropriate all or any part of the financial collateral (as defined in the Regulations) in or towards discharge of the Secured Obligations.

- (B) The parties agree that the value of the financial collateral (as defined in the Regulations) so appropriated shall be the amount standing to the credit of the Accounts (or any new account opened pursuant to Clause 7.5 (*New account*)), together with any accrued but unposted interest, at the time the right of appropriation is exercised. The parties agree that the method of valuation provided for in this Deed is a commercially reasonable method of valuation for the purposes of the Regulations.

#### **11.4 Variation and extension of statutory powers**

The powers conferred by section 101 of the LPA as varied and extended by this Deed shall be deemed to arise (and the Secured Obligations shall be deemed due and payable for that purpose) immediately on execution of this Deed. Section 109(1) of the LPA 1925 shall not apply to this Deed.

#### **11.5 Restrictions**

The restrictions contained in sections 93 and 103 of the LPA 1925 shall not apply to this Deed or to the exercise by the Chargee or any Receiver or Delegate of its right to consolidate all or any of the Charge with any other security in existence at any time or to its power of sale.

### **12. APPOINTMENT OF RECEIVERS**

#### **12.1 Appointment**

At any time:

- (A) on or after the occurrence of an Enforcement Event; or
- (B) at the written request of the Company,

the Chargee may, without notice to the Company, appoint, one or more qualified persons to be Receiver or Receivers. If the Chargee appoints more than one person as Receiver, the Chargee may give the relevant persons power to exercise all or any of the powers conferred on Receivers individually as well as jointly and to the exclusion of the other or others of them.

#### **12.2 Scope of appointment**

Any Receiver may be appointed either Receiver of all the Deposits or of such part of the Deposits as may be specified in the appointment. In the latter case, the rights conferred by Clause 12.4 (*Powers of Receivers*) shall take effect as though every reference in that

Clause to "rights" were a reference to rights in respect of the specified part of the Deposits.

### **12.3 Removal**

The Chargee may, by deed or by instrument in writing signed by any officer or other person authorised for such purpose by it (so far as it is lawfully able and subject to any requirement of the court in the case of an administrative receiver), remove any Receiver appointed by it and may, whenever it deems expedient, appoint any one or more other qualified persons in place of or to act jointly with any other Receiver.

### **12.4 Powers of Receivers**

Any Receiver appointed under this Deed will (subject to any contrary provision specified in his appointment but notwithstanding the occurrence of an Insolvency Event in relation to the Company) have:

- (A) all the rights conferred by the LPA 1925 on mortgagors and on mortgagees in possession and on any receiver appointed under the LPA 1925;
- (B) all the rights of an administrative receiver set out in schedule 1 to the Insolvency Act 1986 as in force at the date of this Deed (whether or not in force at the date of exercise) and all rights of an administrative receiver as may be added to schedule 1 of the Insolvency Act 1986 after the date of this Deed, in either case, whether or not the Receiver is an administrative receiver;
- (C) the right to manage, use and apply all or any of the Deposits and to exercise (or permit the Company or its nominee to exercise) all other rights of an absolute beneficial owner of the Deposits;
- (D) the right to dispose of or otherwise realise all or any part of the Deposits in any manner whatsoever;
- (E) the right to redeem or transfer to the Chargee any prior security interest over the Deposits;
- (F) all the rights expressed to be conferred upon the Chargee in this Deed; and
- (G) the right to do all lawful things which in the opinion of the Receiver seem to be incidental or conducive to any of the functions, powers, authorities or discretions conferred on or vested in him, the exercise of the rights, powers and discretions vested in the Chargee, or bringing into his hands any assets forming part of, or which when got in would form part of, the Deposits.

### **12.5 Agent**

Any Receiver shall for all purposes be the agent of the Company and therefore deemed to be in the same position as a Receiver duly appointed by a mortgagee under the LPA 1925. The Company shall be solely responsible for his contracts, engagements, acts,

omissions, defaults and losses and for all liabilities incurred by him and for the payment of his remuneration. No Receiver shall at any time act as, or be deemed to be, agent of the Chargee.

#### **12.6 Remuneration**

Subject to section 36 of the Insolvency Act 1986, the Chargee may from time to time fix the remuneration of any Receiver appointed by it (without being limited to the maximum rate specified in section 109(6) of the LPA 1925) and may direct payment of such remuneration out of moneys accruing to him as Receiver, but the Company alone shall be liable for the payment of such remuneration and for all other costs, charges and expenses of the Receiver.

### **13. DISCRETION AND DELEGATION**

#### **13.1 Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Chargee or any Receiver may, subject to the terms and conditions of the Forward Loans Sale Agreement, be exercised or made from time to time in its absolute and unfettered discretion without any obligation to give reasons.

#### **13.2 Delegation**

- (A) Each of the Chargee and any Receiver may at any time delegate all or any of the rights conferred on it by this Deed.
- (B) The delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions as the Chargee may think fit.
- (C) Such delegation shall not preclude either the subsequent exercise of such power, authority or discretion by the Chargee or the Receiver itself or any subsequent delegation or revocation.
- (D) Under no circumstances shall the Chargee, or any Receiver or Delegate, or any officer, agent or employee of any of them be liable to the Company or any other person as a result of or in connection with any act, default, omission or misconduct on the part of any Delegate.

### **14. APPLICATION OF MONEYS**

All moneys arising from the exercise of the powers of enforcement under this Deed shall (except as may be otherwise required by applicable law) be held by the Chargee and any Receiver and, applied in the following order of priority (but without prejudice to the right of the Chargee to recover any shortfall from the Company):

- (A) in or towards payment of all Costs and Expenses of and incidental to the appointment of any Receiver and the exercise of any of his rights including his remuneration and all outgoings paid by him; and
- (B) in or towards the payment or discharge of such of the Secured Obligations in such order as the Chargee in its absolute discretion may from time to time determine;
- (C) after all of the Deposits have been released from the Charge in accordance with paragraph (A) of Clause 10 (*Release*), in payment of any surplus to the Company or other person entitled to it,

and section 109(8) of the LPA 1925 shall be deemed varied and extended in such respect.

## **15. PROTECTION OF THIRD PARTIES**

### **15.1 Consideration**

The receipt of the Chargee or any Receiver or Delegate shall be conclusive discharge to a purchaser and any sale or disposal of any of the Deposits or any acquisition by the Chargee or any Receiver or Delegate shall be for such consideration, and made in such manner and on such terms as it thinks fit.

### **15.2 Protection of purchasers**

- (A) No purchaser or other person dealing with the Chargee, any Receiver or any Delegate shall be bound to inquire whether the right of the Chargee or such Receiver or Delegate to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Chargee or such Receiver or Delegate in such dealings.
- (B) All the protections given to purchasers from a mortgagee by sections 104 and 107 of the LPA 1925, and to persons dealing with a receiver in section 42(3) of the Insolvency Act 1986, shall apply equally to any person purchasing from or dealing with the Chargee and Receiver or any Delegate.

## **16. NO LIABILITY**

- (A) The Company shall at all times remain liable to observe and perform all of the other conditions and obligations relating to the Deposits and the Charge. Neither the Chargee nor any Receiver or Delegate shall be required to perform or fulfil any such conditions or obligations.
- (B) Neither the Chargee nor any Receiver or Delegate nor any officer, agent or employee of any of them will in any circumstances (whether by reason of taking possession of the Deposits or for any other reason whatsoever):
  - (i) be liable to account to the Company or any other person for anything; or

(ii) be liable to the Company or any other person as a result of or in connection with:

- (a) taking any action permitted by this Deed;
- (b) any neglect, default or omission in relation to the Deposits;
- (c) taking possession of or realising all or any part of the Deposits,

except in each case, to the extent directly caused by fraud or wilful default or gross negligence on its part.

## **17. COSTS AND EXPENSES**

### **17.1 Transaction expenses**

Each Party shall be liable for its own costs relating to the negotiation, preparation, execution, stamping, filing, registration and perfection of this Deed.

### **17.2 Administration/amendment costs**

The Company shall indemnify the Chargee on demand against all Costs and Expenses reasonably expended, paid, incurred or debited on account by Chargee in connection with:

- (A) any waiver, consent or authorisation sought by the Company in relation to this Deed; and
- (B) any variation, amendment, extension or modification of, or supplement to, this Deed sought by the Company.

### **17.3 Enforcement costs**

The Company shall indemnify Chargee and every Receiver, Delegate or other person appointed by the Chargee under this Deed (each an "**Indemnified Party**") on demand against all Costs and Expenses expended, paid, incurred or debited on account by an Indemnified Party in connection with:

- (A) enforcing, protecting, preserving or realising, or attempting to enforce, protect, preserve or realise, the Chargee's rights under this Deed or the general law; and
- (B) any default by the Company in the performance of any of the obligations expressed to be assumed by it under the Transaction Documents and this Deed.

## **18. TAXES**

### **18.1 Stamp taxes**

The Company shall pay promptly, and in any event before any penalty becomes payable, all stamp, registration, documentary and similar Taxes, if any, payable in connection with the entry into, performance, enforcement or admissibility in evidence of this Deed and any other document referred to in this Deed, shall indemnify the Chargee on demand against any Costs and Expenses with respect to, or resulting from any delay in paying or omission to pay, any such Tax.

## **18.2 Payments free of deduction**

All payments to be made to the Chargee under this Deed shall be made free and clear of and without deduction for or on account of Tax unless the Company is required to make such payment subject to the deduction or withholding of tax, in which case the sum payable by the Company shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the person on account of whose liability to Tax such deduction or withholding has been made, receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

## **19. CURRENCY**

### **19.1 Conversion**

The Chargee is hereby irrevocably and unconditionally authorised, without prior notice to the Company, for the purposes of any set-off and/or application of all or any part of the Deposits pursuant to this Deed, to convert, at the expense of the Company, the whole or any part or parts of the Deposits denominated in a currency other than pounds sterling into pounds sterling at the Chargee's spot buying rate at (or as nearly as practicable to) the time of such set-off and/or application for the purchase of pounds sterling with the currency (other than pounds sterling) in which the Deposits (or any part thereof) are then denominated.

### **19.2 Currency indemnity**

- (A) If, under any applicable law, whether pursuant to a judgment against the Company or any Insolvency Event in relation to the Company or for any other reason, any payment under or in connection with this Deed is made or fails to be satisfied in a currency (the "**Other Currency**") other than pounds sterling (the "**Required Currency**"), then, to the extent that the payment actually received by the Chargee (when converted into the Required Currency at the rate of exchange on the date of payment or, if it is not practicable for the Chargee to make the conversion on that date, at the rate of exchange as soon afterwards as it is practicable for the Chargee to do so or, in the case of an Insolvency Event, at the rate of exchange on the latest date permitted by applicable law for the determination of liabilities in such an Insolvency Event) falls short of the amount expressed to be due or payable under or in connection with this Deed, the Company shall, as an original and independent obligation under this Deed, indemnify and hold the Chargee harmless against the amount of such shortfall.



- (B) The Company waives any right it may have in any jurisdiction to pay any amount under or in connection with this Deed in a currency or currency unit other than that in which it is expressed to be payable.

### **19.3 Rate of exchange**

For the purpose of Clause 19.2 (*Currency indemnity*), "**rate of exchange**" means the rate at which the Chargee is able on the relevant date to purchase the Required Currency with the Other Currency and shall take into account any commission, premium and other costs of exchange and Taxes payable in connection with such purchase.

## **20. CERTIFICATES AND DETERMINATIONS**

For all purposes, including any legal proceedings:

- (A) a determination by the Chargee; or
- (B) a copy of a certificate signed by an officer of the Chargee,

of the amount of any indebtedness comprised in the Secured Obligations or the amount standing to the credit of the Accounts for the time being or at any time shall, in the absence of manifest error, be prima facie evidence as to such amount.

## **21. POWER OF ATTORNEY**

### **21.1 Appointment**

The Company hereby appoints as its attorney, irrevocably (within the meaning of section 4 of the Powers of Attorney Act 1971) and by way of security for the performance of its obligations under this Deed, the Chargee and any person nominated in writing by the Chargee, severally (with full powers of substitution and delegation), on its behalf and in its name or otherwise and as its act and deed, at such time and in such manner as the attorney may think fit:

- (A) to take any action which it is obliged to take under this Deed but has not, within the time period required for the same, taken; and
- (B) to take any action required to enable the Chargee to exercise all or any of the rights, powers, authorities and discretions conferred on it by or pursuant to this Deed or by law,

and the taking of action by the attorney or attorneys shall (as between the attorney and any third party) be conclusive evidence to any third party of its right to take such action.

### **21.2 Ratification**

The Company undertakes to ratify and confirm everything that any attorney does or purports to do in the exercise or purported exercise of the power of attorney in Clause 21.1 (*Appointment*).



## **22. ASSIGNMENT**

- (A) Without prejudice to the transfer of Loans pursuant to the Transaction Documents, no Party may assign, transfer, declare a trust over or otherwise dispose of all or any of their rights and benefits under any Transaction Document without the prior written consent of the other Parties.
- (B) Notwithstanding paragraph (A) above, any Party may at any time, upon giving notice to the other Parties, assign, transfer, declare a trust over or otherwise dispose of all or any of its rights and benefits under any Transaction Document to:
  - (i) any Affiliate of the relevant Party which each other Party to this Deed is satisfied (acting reasonably) is capable of fulfilling the obligations of the transferring Party hereunder;
  - (ii) any other person by way of Security or Quasi-Security for the obligations of the relevant Party under or in connection with the financing arrangements of the relevant Party; or
  - (iii) in the case of the Chargee, any fund or entity managed or advised by Pollen Street Capital Limited or any of its Affiliates.
- (C) The Parties shall execute all documents, do all acts and things, give all further assurances, and will afford such assistance as any other Party may require from time to time and as may be necessary or expedient effectively for such Party to assign, transfer, declare a trust over or otherwise dispose of all or any of its rights and benefits under this Deed to any other person to the extent permitted to do so under this Deed.
- (D) The Parties may disclose information in their possession relating to the provisions of this Deed and any other document referred to in it, the subject matter of this Deed and the other Parties to a proposed transferee of a sort described in paragraph (A) or paragraph (B), above, at any time in each case provided the disclosure of such information is deemed necessary by such Party for the purposes of the proposed assignment, transfer, declaration of trust over, or other disposal of all or any of such Party's rights and benefits under any Transaction Document or any document referred to therein pursuant to this Clause 22 and that such proposed transferee enters into a Confidentiality Undertaking in favour of the Parties.

## **23. AMENDMENTS**

This Deed may not be amended, modified or waived in any respect, without the prior written consent of the Chargee given with express reference to this Clause 23.

## **24. NOTICES**

### **24.1 Communications in writing**




Any communication to be made under or in connection with this Deed shall be in writing.  
E-mail is permitted.

#### 24.2 Addresses

Notices under this Deed shall be sent to a party to this Deed at its address or number and for the attention of the individual set out below:

<i>Party and title of individual</i>	<i>Address</i>	<i>E-mail address</i>
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##### Chargee

Matthew Potter	The registered address from time to time of Pollen Street Capital Limited (registered number 08741640)	 copy to:  and 
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##### Company

Lucy Hasson	Esme Loan Limited 135 Bishopsgate London EC2M 3UR	
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provided that a party may change its notice details on giving notice to the other party of the change, in accordance with this clause. That notice shall only be effective on the date falling five Business Days after the notification has been received or such later date as may be specified in the notice.

#### 24.3 Delivery

Any notice given under this Deed shall, in the absence of earlier receipt, be deemed to have been duly given as follows:

- (i) if delivered personally, on delivery; or
- (ii) if sent by first class inland post, two Business Days after the date of posting;
- (iii) if sent by airmail, six Business Days after the date of posting; and
- (iv) if sent by e-mail, when sent.

- (B) Any notice given under this Deed outside Working Hours in the place to which it is addressed shall be deemed not to have been given until the start of the next period of Working Hours in such place.

**25. REMEDIES AND WAIVERS**

No failure to exercise, nor any delay or omission in exercising on the part of the Chargee, any right provided by law or under this Deed shall impair, affect or operate as a waiver of that or any other right or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Chargee shall be effective unless it is in writing. No exercise of any right shall prevent any further or other exercise, or the exercise of any other right. The rights provided under this Deed are cumulative and not exclusive of any rights provided by law.

**26. PARTIAL INVALIDITY**

- (A) If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither:

- (i) the legality, validity or enforceability of the remaining provisions under the law of that jurisdiction or any other jurisdiction; nor
- (ii) the legality, validity or enforceability of such provision under the law of any other jurisdiction,

will in any way be affected or impaired.

- (B) The parties shall enter into good faith negotiations, but without any liability whatsoever in the event of no agreement being reached, to replace any illegal, invalid or unenforceable provision with a view to obtaining the same commercial effect as this Deed would have had if such provision had been legal, valid and enforceable.

**27. EXECUTION AS A DEED**

Each of the parties intends this Deed to be a deed and confirms that it is executed and delivered as a deed, notwithstanding the fact that any one or more of the parties may only execute it under hand.

**28. COUNTERPARTS**

This Deed may be executed in any number of counterparts, and by the parties to this Deed on separate counterparts, but will not be effective until each such party has executed at least one counterpart. Each counterpart shall constitute an original of this Deed, but all the counterparts will together constitute one and the same instrument.

## 29. JURISDICTION

- (A) 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) or any non-contractual obligation arising out of or in connection with this Deed (a "**Dispute**").
- (B) 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.
- (C) This Clause 29 is for the benefit of only the Chargee. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.

## 30. GOVERNING LAW

This Deed is governed by and is to be construed in accordance with English law. Any matter, claim or dispute arising out of or in connection with this Deed, whether contractual or non-contractual, is to be determined in accordance with English law.

**IN WITNESS** of which this document has been executed as a deed by the Company and delivered on the date stated at the beginning of this Deed.

**SCHEDULE 1  
NOTICE OF CHARGE**

[LETTERHEAD OF ESME LOANS LIMITED]

To: [Deposit Bank]  
[Address]

[Date]

Dear Sirs,

**NOTICE OF CHARGE**

We refer to our [describe account e.g. "interest-bearing sterling deposit"] account (number [●], sort code [●], designated "[insert account name]") with you (the "Account").

We give you notice that, we have charged by way of first fixed charge (the "Charge") to Honeycomb Investment Trust PLC (the "Chargee") all our rights under or in respect of the Account including all credit balances on the Account from time to time.

We hereby instruct and authorise you as follows (notwithstanding any previous instructions to the contrary):

- (a) to disclose to the Chargee any information relating to the Account required by it from time to time;
- (b) to comply with the terms of any written instructions (including any requests for payment from the Account) received by you from the Chargee from time to time;
- (c) not to act upon our instructions with regard to the Account unless authorised in writing by the Chargee to act upon our instructions; and
- (d) from the date of receipt from the Chargee of notice informing you of the enforcement of the Charge, to hold all amounts standing to the credit of the Account to the order of the Chargee.

The instructions and authorisations which are contained in this notice shall remain in full force and effect until the Chargee gives you notice in writing revoking them.

You may comply with the instructions in this notice without any further permission from us and without any enquiry by you as to the justification for or validity of any request, notice or instruction. In the event of any conflict between communications received from us and from the Chargee, you shall treat the communication from the Chargee as prevailing over the communication from us.

This notice is governed by English law.

Please acknowledge receipt of this notice and confirm your agreement to it, by executing and returning an original copy of the Form of Acknowledgement attached to this notice to the Chargee at Veritas House, 125 Finsbury Pavement, London, United Kingdom, EC2A 1NQ with a copy to us.

Yours faithfully,

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For and on behalf of  
Esme Loans Limited

c.c. Honeycomb Investment Trust PLC

**SCHEDULE 2  
FORM OF ACKNOWLEDGEMENT**

[LETTERHEAD OF DEPOSIT BANK]

To: Honeycomb Investment Trust PLC (the "Chargee")  
Veritas House  
125 Finsbury Pavement  
London EC2A 1NQ

[Date]

Dear Sirs,

**ACKNOWLEDGEMENT OF NOTICE OF CHARGE**

We acknowledge receipt of a notice dated \_\_\_\_\_ (the "Notice") and of instructions dated \_\_\_\_\_ in relation to the Account (the "Instructions") (copies of which are attached to this letter). Words and expressions defined in the Notice shall have the same meanings in this letter.

At the request of the Chargee and Company, we confirm that:

- (a) we accept the instructions and authorisations in the Notice and the Instructions and undertake to act in accordance with their terms;
- (b) we shall not release payments or permit withdrawals from the Account save as specified in the Instructions or as otherwise specified in writing by the Chargee;
- (c) we have not received notice of any previous assignment, charge, trust, claim or other third party interest or action affecting the Account and if, we receive any such notice, we shall immediately notify the Chargee;
- (d) we have not claimed or exercised any rights of counter-claim, set-off or combination of accounts or other equities in respect of the Account, no such rights or equities have arisen in our favour and we shall not assert or seek to exercise any such rights or equities in the future without the prior written consent of the Chargee;
- (e) we will not amend or vary any rights attaching to the Account without the prior consent of the Chargee.

This letter is governed by English law.

Yours faithfully,

Signed for and on behalf of  
[Deposit Bank]

Please acknowledge receipt of this letter and confirm your agreement to it, by executing and returning an original copy of the Form of Acknowledgment attached to the Notice to us at Veritas House, 125 Finsbury Pavement, London, United Kingdom, EC2A 1NQ with a copy to Esme Loans Limited.

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For and on behalf of  
Honeycomb Investment Trust PLC

Countersigned:

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For and on behalf of  
Esme Loans Limited



**SCHEDULE 3  
INSTRUCTIONS**

To: [Deposit Bank]  
[Address]

[Date]

Dear Sirs,

**INSTRUCTIONS FOR ACCOUNT No. [ ]**

We refer to Esme Loans Limited's [*describe account e.g. "interest-bearing sterling deposit"*] account (number [●], sort code [●], designated "[*insert account name*]" ) with you (the "Account") and the notice of charge of the Account dated [●] to you from Esme Loans Limited (the "Notice"). Words and expressions defined in the Notice shall have the same meanings in this letter.

We hereby instruct and authorise you (subject always to our absolute discretion to withdraw such instruction and authorisation at any time) to accept instructions in relation to the Account from Esme Loans Limited to the extent specified below:

- (A) to debit any amounts from the Account for credit to the Chargee's account [*specify account*];
- (B) to debit from the Account such amounts as Esme Loans Limited confirms are permitted to be deducted from the Account in accordance with the Transaction Documents (as defined in the accounts charge dated July 2018 granted by Esme Loans Limited in favour of the Chargee;
- (C) [the following amounts from the Account for payment to third parties or otherwise as Esme Loans Limited shall direct:
  - (i) any amount by which, at the time of withdrawal, the credit balance on the Account exceeds £20,000;
  - (ii) an amount not in excess of £10,000 no more frequently than once per month.]<sup>1</sup>

The instructions and authorisations which are contained in this letter shall remain in full force and effect until we give you notice in writing revoking them, provided that from the date of receipt from the Chargee of notice informing you of the enforcement of the Charge, you shall act solely on the instructions of the Chargee.

This letter is governed by English law.

<sup>1</sup> Include for Instructions regarding the Collection Account. To cover costs and expenses and returns due to administrative error.

Please acknowledge receipt of this letter and confirm your agreement to it, by executing and returning an original copy of the Form of Acknowledgment attached to the Notice to us at Veritas House, 125 Finsbury Pavement, London, United Kingdom, EC2A 1NQ with a copy to Esme Loans Limited.

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For and on behalf of  
Honeycomb Investment Trust PLC

Countersigned:

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For and on behalf of  
Esme Loans Limited

**SIGNATURES**

**COMPANY**

Executed as a deed by  
**ESME LOANS LIMITED**

acting by a director in the presence of:

Director

Witness's signature:

Name (print):

Wen HASSON

Occupation:

Address:

**CHARGE**

EXECUTED as a DEED by

MATTHEW POTTER

a duly authorised signatory for and on  
behalf of **POLLEN STREET CAPITAL  
LIMITED**, acting on behalf of  
**HONEYCOMB INVESTMENT TRUST  
PLC**, in the presence of:

[Redacted Signature]

Authorised Signatory

Witness's signature:

[Redacted Signature]

Name (print):

CHARIS POTTER

Occupation:

[Redacted Occupation]

Address:

[Redacted Address Line 1]

[Redacted Address Line 2]