



Registration of a Charge

Company name: **CLYDESDALE BANK PLC**

Company number: **SC001111**



X97K2QIW

Received for Electronic Filing: **19/06/2020**

Details of Charge

Date of creation: **18/06/2020**

Charge code: **SC00 1111 0019**

Persons entitled: **THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND AS
SECURITY TRUSTEE**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

TRAVERS SMITH LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1111

Charge code: SC00 1111 0019

The Registrar of Companies for Scotland hereby certifies that a charge dated 18th June 2020 and created by CLYDESDALE BANK PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 19th June 2020 .

Given at Companies House, Edinburgh on 22nd June 2020

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**



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DATED 18 June 2020

- (1) THE CHARGOR**
- (2) THE GOVERNOR AND COMPANY OF THE BANK OF
ENGLAND AS THE SECURITY TRUSTEE**

DEED OF CHARGE

(RELATING TO THE IMAGE CLEARING SYSTEM)

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THIS DEED is dated 18 June 2020.

BETWEEN:

- (1) **CLYDESDALE BANK PLC** with registered office at 30 St Vincent Place, Glasgow, Scotland G1 2HL (the "**Chargor**"); and
- (2) **THE GOVERNOR AND COMPANY OF THE BANK OF ENGLAND** of Threadneedle Street, London EC2R 8AH (the "**Security Trustee**") as security trustee for itself and the Beneficiaries.

BACKGROUND:

- (A) This Deed is supplemental to a deed of novation dated on or about the date of this Deed between, amongst others, the Chargor, the Security Trustee and the other parties listed therein as FPS Parties, Bacs Parties and ICS Parties (the **Deed of Novation**).
- (B) Pursuant to a court-sanctioned business transfer scheme under Part VII of the Financial Services and Markets Act 2000, Virgin Money PLC transferred to the Chargor the majority of its existing banking business in the United Kingdom on 21 October 2019. The remaining rights and obligations, including in relation to the security arrangements relating to the payment systems to which Virgin Money PLC and the Chargor are participants, will be transferred from Virgin Money PLC to the Chargor by way of the arrangements provided for in the Deed of Novation.
- (C) Pursuant to the terms of the Deed of Novation, at and from the Effective Time, the Chargor will:
 - 1. assume the rights and obligations of Virgin Money PLC as a participant in the payment system known as the "Image Clearing System" (**ICS**) operated by the ICS Operator, but excluding the Excluded Secured Obligations (as defined in the Deed of Novation) arising in connection with Virgin Money PLC's participation in ICS prior to the Effective Time; and
 - 2. have a participation in ICS under Participant ID 0028 which is separate from its Existing Clydesdale Participation (as defined in the Deed of Novation) in ICS under Participant ID 0009.
- (D) In order to secure its obligations arising under or in connection with its participation in ICS under Participant ID 0028, the Chargor has agreed to grant security in favour of the Security Trustee and enter into a Deed of Charge as a condition to the Deed of Novation coming into effect.
- (E) The Chargor enters into this Deed in connection with the settlement arrangements that support the ICS, the system for the clearing and settlement of cheques and other instruments by way of electronic presentment, which is operated by the ICS Operator.
- (F) It is intended that this document takes effect as a deed notwithstanding the fact that a Party might only execute this document under hand.

(G) It is intended that this Security shall take effect at the Effective Time.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

Unless otherwise defined below words and expressions defined in the Deed of Novation shall apply mutatis mutandis to this Deed as if the same were set out in this Deed.

1.2 Additional Definitions

In this Deed:

Beneficiary means, for each Dedicated Liquidity Cycle Period in respect of which the Chargor has a present obligation to settle a Single Amount under Clause 2 (*Covenant to Settle*), each other settlement participant whose Single Amount as calculated by the ICS Operator under the Netting Account in respect of that Dedicated Liquidity Cycle Period is a positive number.

Credit Balance means all amounts from time to time standing to the credit of the ICS RCA.

ICS Glossary is that part of the ICS Manual which is entitled, the "ICS Glossary".

ICS Manual is the document which is entitled, the "ICS Manual" as issued by the ICS Operator.

ICS Operator is Pay.UK Limited incorporated in England and Wales under number 10872449 whose registered office is at 2 Thomas More Square, London E1W 1YN.

ICS RCA is account number ending in xxxxx296 denominated in sterling and maintained by the Bank of England (as SSP and as operator of the RTGS System) in the name of the Chargor:

- (a) in which funds are credited and irrevocably appropriated for the purposes of the settlement of Relevant Payment Messages by the Chargor; and
- (b) which is linked in the ICS Central System to the Specified Participant ID.

ICS RTGS Account is account number xxxxx001 denominated in sterling and maintained by the Bank of England (as SSP and as operator of the RTGS System) in the name of the Chargor:

- (a) which the Bank of England has agreed may be used for the purpose of debiting or, as the case may be, crediting any Single Amount due from or to the Chargor in respect of a Dedicated Liquidity Cycle Period; and
- (b) which is linked in the ICS Central System to the Specified Participant ID.

ICS Service Description is that part of the ICS Manual which is entitled, the "ICS Service Description".

Party means a party to this Deed.

RTGS Account Mandate Terms and Conditions means the terms and conditions on which the Bank of England (as Settlement Service Provider) offers the ICS RCA and ICS RTGS Account to the Chargor (as a settlement participant).

Secured Obligations means the obligations of the Chargor under Clause 2 (*Covenant to Settle*) and Clause 9 (*Expenses and Indemnity*).

Security Interest means any mortgage, pledge, lien, charge, assignment by way of security, retention of title and any other encumbrance or security interest whatsoever created or arising under relevant law, as well as any other agreement or arrangement having the effect of or performing the economic function of conferring security howsoever created or arising.

Security Period means the period:

- (a) beginning at the Effective Time; and
- (b) ending on the date when all Secured Obligations have been irrevocably and unconditionally paid and discharged in full.

Single Amount, in respect of a Dedicated Liquidity Cycle Period, is the amount calculated by the ICS Operator under the Netting Account for each Participant ID of a settlement participant for that Dedicated Liquidity Cycle Period; and such amount may be either a negative number (representing a sum payable by a settlement participant) or a positive number (representing a sum payable to a settlement participant).

SSP means the Bank of England when acting in its capacity as provider of settlement services in relation to the ICS under separate contract with the ICS Operator.

Specified Participant ID relates to identification code 0028 used in connection with the Chargor's participation as a settlement participant under such identification code in the ICS.

1.3 Construction and effect

1.3.1 Terms used in this Deed, which are not defined in Clause 1.2, shall have the same meaning as given to them in the ICS Glossary.

1.3.2 In this Deed, unless the context otherwise requires, any reference to:

- (a) a **person** shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;

- (b) **this Deed** shall be construed as a reference to this Deed as the same may from time to time be amended, varied, supplemented, novated or replaced and shall include any document which is supplemental to, or is expressed to be collateral to, or is entered into pursuant to or in accordance with the terms of, this Deed;
- (c) any other agreement, instrument or document (including the ICS Manual or any part of the ICS Manual) shall be construed as a reference to such agreement, instrument or document (or such part) as the same may from time to time be amended, varied, supplemented, novated or replaced and shall include any document which is supplemental to, or is expressed to be collateral to, or is entered into pursuant to or in accordance with the terms of, such agreement, instrument or document (or such part);
- (d) numbered Clauses or paragraphs are to clauses or paragraphs of this Deed; and
- (e) **this Security** means any security created or purportedly created by this Deed.

1.3.3 For the purposes of this Deed:

- (a) the clause headings in this Deed are for ease of reference only and shall not affect its interpretation;
- (b) in construing its terms, general words whether or not introduced by the word **other** shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words; and
- (c) words importing one gender shall (where appropriate) include any other gender and words importing the singular shall (where appropriate) include the plural and vice versa.

1.3.4 In the event of any material ambiguity, this Deed shall be interpreted in the manner most conducive to the establishment, promotion and maintenance of:

- (a) the ICS as an orderly payment system; and
- (b) high standards of integrity and fair dealing in accordance with best practice.

1.3.5 The provisions of this Deed (other than those contained in this Clause 1.3.5) shall have no effect until the Effective Time.

2. COVENANT TO SETTLE

2.1 The Chargor hereby covenants with the Security Trustee (for itself and as trustee for the Beneficiaries) that in respect of each Dedicated Liquidity Cycle Period it shall immediately settle any Single Amount which is payable by it, under its Specified Participant ID and

upon the completion by the ICS Operator of the Netting Account for that Dedicated Liquidity Cycle Period.

3. CREATION OF SECURITY

3.1 General

3.1.1 This Security:

- (a) is created in favour of the Security Trustee;
- (b) is created over present and future assets of the Chargor (as described in Clause 3.2);
- (c) is security for the payment of the Secured Obligations; and
- (d) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.1.2 The Security Trustee holds the benefit of this Security for itself and on trust for the Beneficiaries from time to time.

3.2 Charge

The Chargor hereby charges in favour of the Security Trustee (for itself and as trustee for the Beneficiaries), as security for the performance, payment and discharge of the Secured Obligations, by way of a first fixed charge all of the Chargor's right, title and interest in or in relation to the Credit Balance.

4. REPRESENTATIONS

4.1 Representations

The Chargor makes the following representations to the Security Trustee (for itself and as trustee for the Beneficiaries) on each ICS Business Day and on each other date while this Security remains in full force and effect as a continuing security for the Secured Obligations, by reference to the circumstances then prevailing.

4.1.1 Power and authority

The Chargor has the power to execute and deliver, and to perform its obligations under this Deed and has taken all necessary action to authorise the execution, delivery and performance of this Deed and the transactions contemplated by this Deed.

4.1.2 Legal Validity

This Deed constitutes legal, valid and binding obligations enforceable in accordance with its terms and creates the security it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

4.1.3 Authorisations

All authorisations required or advisable in connection with the entry into, performance, validity and enforceability of this Deed and the transactions contemplated by this Deed have been obtained or effected and are in full force and effect.

4.1.4 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not:

- (a) conflict with any law or regulation or judicial or official order; or
- (b) conflict with its constitutional documents; or
- (c) conflict with any document which is binding upon it or any of its assets.

4.1.5 Credit Balance

- (a) It is the sole beneficial owner of the Credit Balance and the entitlements and debts represented by such Credit Balance.
- (b) The Credit Balance and the entitlements and debts represented by such Credit Balance are free from:
 - (i) any Security Interest (other than any Security Interest created by the Chargor under this Deed); and
 - (ii) any interests or claims of third parties.

5. RESTRICTIONS ON DEALINGS

5.1 The Chargor may not:

5.1.1 create or permit to subsist any Security Interest over the ICS RCA or its right, title and interest in or in relation to the Credit Balance (other than any Security Interest created by the Chargor under this Deed), or otherwise assign, transfer or declare a trust over any such right, title or interest; or

5.1.2 during and in respect of any Dedicated Liquidity Cycle Period, pay, withdraw or transfer (or instruct the Security Trustee to pay, withdraw or transfer) all or any part of the Credit Balance until after the final settlement of all Relevant Payment Messages sent to the ICS Central System during that Dedicated Liquidity Cycle Period (including, where relevant, through the application under Clause 7.1.1 of all or any part of the Credit Balance to complete the Chargor's performance of any or all of its obligations under Clause 2 (*Covenant to Settle*)) and either:

- (a) the application under Clause 7.1.2 of all or any part of the Credit Balance in or towards the discharge of any or all costs and expenses payable by the Chargor to the Security Trustee under Clause 9 (*Expenses and Indemnity*); or
- (b) the determination by the Security Trustee either:

- (i) that the Chargor has no present obligation to pay the Security Trustee under Clause 9 (*Expenses and Indemnity*); or
- (ii) (under Clause 6.2) that it is neither necessary nor appropriate to apply all or any part of the Credit Balance in order to complete the Chargor's performance of any or all of its obligations under Clause 9 (*Expenses and Indemnity*);

except in the case of Clause 5.1.2 as may be expressly permitted or contemplated under the Drawdown Procedures.

6. WHEN SECURITY BECOMES ENFORCEABLE

6.1 Enforceable

This Security shall, without prior notice to the Chargor, be immediately enforceable by the Security Trustee at any time (and from time to time) on or after:

- 6.1.1 the Chargor having a present obligation to settle under Clause 2 (*Covenant to Settle*); and/or
- 6.1.2 the Chargor having a present obligation to pay the Security Trustee under Clause 9 (*Expenses and Indemnity*).

6.2 Shortfall

If, at any time after this Security becomes enforceable, the funds held in the ICS RTGS Account are insufficient:

- 6.2.1 to complete the Chargor's performance of its obligation to settle under Clause 2 (*Covenant to Settle*); and
- 6.2.2 to discharge and pay in full any amounts payable by the Chargor under Clause 9 (*Expenses and Indemnity*),

then the Security Trustee shall apply the Credit Balance in accordance with Clause 7.1.

7. APPLICATION OF CREDIT BALANCE

- 7.1 After this Security has become enforceable and the Security Trustee identifies pursuant to Clause 6.2 that it is necessary to take the actions described in either or both of Clauses 7.1.1 and 7.1.2 below, the Security Trustee shall apply all or any part of the Credit Balance standing to the credit of the ICS RCA at the end of a Dedicated Liquidity Cycle Period in the following order of priority:

- 7.1.1 first, (except to the extent that, but for this Clause 7.1.1, completion of settlement of all Relevant Payment Messages would have been able to take place) in or towards payment or provision for those liabilities, costs and expenses payable by the Chargor to the Bank of England (whether as Security

Trustee, Settlement Service Provider or otherwise) under or in connection with this Deed;

7.1.2 second, in or towards settlement of any Single Amount (or part of any Single Amount) receivable by (but unpaid to) a Beneficiary in respect of the Dedicated Liquidity Cycle Period (but so that the amount of the Credit Balance so applied shall not exceed that part of the Single Amount payable by the Chargor which is not at that time immediately settled or settleable by way of debit from the ICS RTGS Account); and

7.1.3 third, in payment of the surplus (if any) to the Chargor.

7.2 Save where Clause 7.1 applies, nothing in this Deed shall prejudice the existence of or affect the ability of the Bank of England (whether as Security Trustee, Settlement Service Provider or otherwise) to exercise any lien, right of retention, right of set-off or combination nor other similar right that it may have in respect of all or any part of the Credit Balance standing to the credit of the ICS RCA whether arising or implied by reason of or under contract (including under the RTGS Account Mandate Terms and Conditions), operation of law, statute or otherwise.

8. EFFECTIVENESS OF SECURITY

8.1 Continuing Security

This Security shall remain in full force and effect as a continuing security for the Secured Obligations until it is released by the Security Trustee in accordance with Clause 12. Without prejudice to Clause 5.1.2, no part of this Security will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

8.2 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect, neither the legality, validity or enforceability of the remaining provisions of this Deed shall in any way be affected or impaired thereby and, if any part of this Security is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of this Security.

9. EXPENSES AND INDEMNITY

9.1 Expenses

The Chargor shall:

9.1.1 immediately on demand pay all costs and expenses (including legal fees) incurred in connection with this Deed (attributable to, or arising as a result of any act or omission of, the Chargor) by the Security Trustee or by any attorney, manager, agent or other person appointed by the Security Trustee under this Deed, including any arising from any actual or alleged breach by any person of any law or regulation; and

- 9.1.2** keep the Security Trustee indemnified against any failure or delay in paying those costs or expenses.

9.2 ICS RCA

The Chargor shall, on demand by the Security Trustee, reimburse the Security Trustee for all reasonable charges and expenses incurred by the Security Trustee and directly attributable to it in connection with the opening, maintenance and operation of an ICS RCA.

10. FURTHER ASSURANCES

- 10.1** The Chargor shall, at its own expense, take whatever action the Security Trustee may require for:

10.1.1 creating, perfecting or protecting this Security; or

10.1.2 facilitating the exercise of any right, power or discretion exercisable by the Security Trustee or any of its delegates or sub-delegates in respect of the Chargor's right, title and interest in or in relation to the Credit Balance.

This includes:

(a) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Security Trustee or to its nominee; or

(b) the giving of any notice, order or direction and the making of any registration,

which, in any such case, the Security Trustee may think expedient.

11. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Security Trustee to be its attorney to take any action which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 11.

12. RELEASE

After the end of the Security Period, the Security Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to release the Chargor's right, title and interest in or in relation to the Credit Balance from this Security.

13. CONTRACTS (RIGHTS OF THIRD PARTIES ACT) 1999

A person who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to directly or indirectly enforce any of its terms.

14. GOVERNING LAW

This Deed and all rights and obligations (including, without limitation, any non-contractual obligations) arising under or in connection with this Deed are governed by the laws of England and Wales.

14.1 Jurisdiction

The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any disputes arising out of or in connection with this Deed (including, without limitation, any non-contractual obligations) and the Parties accordingly submit to the exclusive jurisdiction of the courts of England and Wales.

14.2 Binding Forum

The Parties:

- (a) waive objection to the courts of England and Wales on grounds of inconvenient forum or otherwise as regards proceedings arising out of or in connection with this Deed; and
- (b) agree that a judgment or order of a court of England and Wales in connection with this Deed is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

15. COUNTERPARTS

15.1 This Deed may be executed (whether electronically or otherwise) in any number of counterparts and by the Parties on separate counterparts, each of which is an original but all of which together constitute one and the same instrument.

15.2 The Parties confirm and intend that this Deed is executed and delivered as a deed by the Chargor, notwithstanding that the Security Trustee may have executed this document under hand.

THIS DEED has been entered into as a deed and delivered on the date stated at the beginning of this Deed.

SIGNATORIES

The Chargor

EXECUTED as a DEED by)
CLYDESDALE BANK PLC)
acting by Fraser Ingram)
and)

signature of Fraser Ingram)



director

signature of)

)
director

SIGNATORIES

The Chargor

EXECUTED as a DEED by)
CLYDESDALE BANK PLC)
acting by)
and Ben Taylor)

signature of

signature of Ben Taylor

.....
director


director

The Security Trustee

SIGNED by)
Michael Jones)
for and on behalf of)
THE GOVERNOR AND COMPANY)
OF THE BANK OF ENGLAND)
(in its capacity as the Security Trustee)
for the Beneficiaries)

