



**Registration of a Charge**

Company Name: **6 DARNAWAY STREET LIMITED**

Company Number: **SC210857**



Received for filing in Electronic Format on the: **18/11/2021**

XAHJPXB6

**Details of Charge**

Date of creation: **12/11/2021**

Charge code: **SC21 0857 0004**

Persons entitled: **ASSETZ CAPITAL TRUST COMPANY LIMITED**

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: **GAVIN BUCHAN**



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

Company number: 210857

Charge code: SC21 0857 0004

The Registrar of Companies for Scotland hereby certifies that a charge dated 12th November 2021 and created by 6 DARNAWAY STREET LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th November 2021 .

Given at Companies House, Edinburgh on 18th November 2021

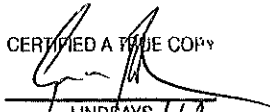
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

CERTIFIED A TRUE COPY  
  
LINDSAYS  
CALEDONIAN EXCHANGE  
19A CANNING STREET  
EDINBURGH EH3 8HE

**6 DARNAWAY STREET LIMITED**

(1)

in favour of

**ASSETZ CAPITAL TRUST COMPANY LIMITED**

(2)

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**ASSIGNATION OF RENTS**

Property: 8 Darnaway Street, Edinburgh

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THIS ASSIGNATION OF RENTS is delivered on 12 NOVEMBER 2021

## ASSIGNATION OF RENTS

BY

- (1) **6 DARNAWAY STREET LIMITED** (registered number SC210857) whose registered office is at 8 Darnaway Street, Edinburgh EH3 6BG (the "**Assignor**");

in favour of

- (2) **ASSETZ CAPITAL TRUST COMPANY LIMITED** (a company registered in England and Wales with company number 08336441) whose registered office is at Assetz House, Manchester Green, 335 Styal Road, Manchester, M22 5LW acting in its capacity as security trustee for itself and the Finance Parties (the "**Security Trustee**").

IT IS HEREBY AGREED AND DECLARED as follows:

### 1. INTERPRETATION

#### 1.1 Expressly defined terms

In this Assignment:

"Agent"	means Assetz SME Capital Limited (company number 08007287) a company registered in England and Wales and whose registered office is at Assetz House Manchester Green, 335 Styal Road, Manchester, M22 5LW;
"Assignment"	means this assignment of rents;
"Authorisation"	means an authorisation, approval, licence, filing, consent, resolution, exemption, notarisation or registration;
"Business Day"	means a day, other than a Saturday or a Sunday, on which banks are open for general business in London;
"Delegate"	means each and any delegate, sub-delegate, agent, attorney or trustee appointed by the Security Trustee from time to time;
"Discharge Date"	means the date upon which the Security Trustee confirms in writing that all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full;
"Enforcement Party"	means each and any of the Security Trustee or a Delegate;
"Event of Default"	shall have the meaning given to it in the Loan Agreement;
"Finance Document"	shall have the meaning given to it in the Loan Agreement;
"Finance Party"	means the Security Trustee, the Agent and the Lending Syndicate Members and "Finance Parties" shall be construed accordingly;
"Incapacity"	means, in relation to a person, the insolvency, sequestration, liquidation, dissolution, winding-up, administration,

		receivership, amalgamation, reconstruction or other incapacity of that person whatsoever;
"Interest"		means interest rate as agreed between the Finance Parties and the Assignor from time to time, and if not so agreed, in accordance with the practice of the Finance Parties from time to time both before and after judgement;
"Leases"		means each of the occupational tenancies in respect of the Property as more particularly described in Part 2 of the Schedule (each being a "Lease");
"Lending Members"	Syndicate	means the Lending Members (as defined on the Website) of the Network who have been successful in their bid to participate in the loan to be made to the Assignor pursuant to the Loan Agreement;
"Loan Agreement"		means the loan agreement entered into between the Assignor and the Agent, acting as agent for the Lending Syndicate Members, and dated on or around the date of this Assignment, as the same may be amended, varied, novated or replaced from time to time and any other loan agreement entered into from time to time between the Assignor and the Agent;
"Network"		means the peer to peer lending network established by the website operated at <a href="http://www.assetzcapital.co.uk">www.assetzcapital.co.uk</a> and any other internet address used from time to time to conduct the business activities of the Agent and to which the Lending Syndicate Members have access;
"Obligor"		means the Assignor and any subsidiary or holding company of the Assignor and any other person who has created a Security in favour of the Security Trustee or given a guarantee to the Security Trustee, in each case, in support of the Secured Obligations;
"Party"		means a party to this Assignment;
"Property"		means the property specified in Part 1 of the Schedule (The Property);
"Regulations"		means the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226);
"Rental Income"		means the aggregate of all amounts paid or payable to or for the account of the Assignor under or connection with each Lease, including each of the following amounts relating to the Property: <ul style="list-style-type: none"> <li>(a) rent, licence fees and equivalent amounts paid or payable;</li> <li>(b) any sum received or receivable from any deposit held as security for performance of a Tenant's obligations;</li> </ul>

- (c) a sum equal to any apportionment of rent allowed favour of the Assignor;
- (d) any other moneys paid or payable in respect of occupation and/or usage of the Property and any fixture and fitting on the Property including any fixture or fitting on the Property for display or advertisement, on licence or otherwise;
- (e) any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent;
- (f) any sum paid or payable, or the value of any consideration given, for the grant, surrender, renunciation, amendment, supplement, waiver, extension or release of any Lease;
- (g) any sum paid or payable in respect of a breach of covenant, obligations, undertaking or dilapidations under any Lease;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Lease; and
- (i) any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by another person) by the Assignor

but excluding Tenant Contributions;

<b>"Schedule"</b>	the schedule in three parts annexed as relative to this Assignment;
<b>"Secured Assets"</b>	means each, any and all of the assets and undertakings assigned in security pursuant to clause 3 or otherwise the subject of any security created by or pursuant to this Assignment and includes any part or parts of such assets;
<b>"Secured Obligations"</b>	means all monies, obligations and liabilities due, owing or incurred by the Assignor or any of the Obligors to the Finance Parties whether express or implied, present, future or contingent, joint or several, incurred as principal or surety determined in whatever currency under or pursuant to the Loan Agreement or any other Finance Document and/or this Assignment or otherwise howsoever;
<b>"Security Period"</b>	means the period beginning on the date of this Assignment and ending on the Discharge Date;
<b>"Security"</b>	any mortgage, standard security, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment or assignment by way of security or other security interest

	securing any obligation of any person, or any other agreement or arrangement having a similar effect;
<b>"Tenant Contributions"</b>	means any amount paid or payable to the Assignor by any tenant under a Lease or any other occupier of the Property, by way of contribution to: <ul style="list-style-type: none"> <li>(a) ground rent;</li> <li>(b) insurance premia;</li> <li>(c) the cost of an insurance valuation;</li> <li>(d) a service or other charge in respect of the Assignor's costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, the Property; or</li> <li>(e) a reserve or sinking fund; or</li> <li>(f) VAT;</li> </ul>
<b>"Tenants"</b>	means the tenants for the time being and from time to time under the Leases;
<b>"VAT"</b>	means value added tax as provided for in the Value Added Taxes Act 1994 and any other tax of a similar fiscal nature;
<b>"Website"</b>	means the website operated at <a href="http://www.assetzcapital.co.uk">www.assetzcapital.co.uk</a> and any other internet address used from time to time to conduct the business activities of the Agent and to which the Lending Syndicate Members have access.

## 1.2 Construction

In this Assignment:

- (a) any reference to:
  - (i) the word **"assets"** includes present and future property, revenue, rights and interests of every description;
  - (ii) the word **"guarantee"** includes any guarantee or indemnity and/or any other financial support of any nature in respect of any person's indebtedness;
  - (iii) the word **"indebtedness"** includes any obligation for the payment or repayment of money, whether incurred as principal or as surety and whether present or future, actual or contingent;
  - (iv) a **"lease"** includes a lease, sub-lease, tenancy agreement and agreement for lease;

- (v) the word "**law**" includes law established by or under statute, constitution, treaty, decree, regulation or judgment and common law as amended or re-enacted from time to time and the word "**lawful**" and similar words and phrases are to be construed accordingly;
  - (vi) the word "**person**" includes any person, company, limited liability partnership, corporation, government, state or any association, trust or partnership (in each case, whether or not it has separate legal personality);
  - (vii) the word "**regulation**" includes all requests or guidelines, official directives, regulations, rules (in each case, whether or not having the force of law) of any governmental, inter-governmental or supranational body or department or of any regulatory or other authority or organisation (whether statutory or non-statutory, governmental or non-governmental);
  - (viii) the word "**security**" includes any assignation or assignment by way of security, charge, equity, option to purchase, lien, mortgage, pledge or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect;
  - (ix) the word "**set-off**" includes analogous rights and obligations in other jurisdictions; and
  - (x) the word "**tax**" includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment);
- (b) each reference to the "**Assignor**", "**Obligor**", "**Agent**", "**Lending Syndicate Member**", "**Finance Party**" or to the "**Security Trustee**" includes its successors in title and its permitted assignees or permitted transferees;
- (c) where the "**Assignor**" is more than one person then all obligations and liabilities of whatever nature, however so arising and whether past, present or future (actual or contingent) shall be a joint and several liability between such persons and reference to "**Assignor**" shall include reference to each of them, jointly and severally;
- (d) unless this Assignment expressly states otherwise or the context requires otherwise:
- (i) each reference in this Assignment to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Assignment); and
  - (ii) each reference in this Assignment to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Assignment and whether amended or re-enacted since the date of this Assignment);
- 1.3 each reference to this Assignment or to any other agreement or deed means, at any time as amended, assigned, novated or supplemented, at that time;
- 1.4 words importing the plural include the singular and vice versa, as the context requires;
- 1.5 each heading in this Assignment is for reference only and does not affect the meaning of the words thereunder; and



- 1.6 each reference to a clause or to a part of the Schedule is (unless expressly provided to the contrary) to be construed as a reference to the relevant clause of or part of the Schedule to this Assignment.

1.7 **Clawback**

If the Security Trustee considers that an amount paid by the Assignor in respect of the Secured Obligations is capable of being avoided or otherwise set aside on the liquidation or administration of the Assignor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Assignment

2. **UNDERTAKING TO PAY**

The Assignor undertakes to the Security Trustee that it shall, on demand, pay and discharge the Secured Obligations when they become due.

3. **ASSIGNATION OF RENTS**

3.1 **Assignment of rents**

As a continuing security for the payment, discharge and performance of the Secured Obligations, the Assignor HEREBY ASSIGNS to the Security Trustee all the rights, title, benefit and interest, present or future of the Assignor in and to the Rental Income.

3.2 **No obligations or liabilities assumed by the Security Trustee**

No obligation shall be assumed by the Security Trustee in respect of a Lease as a result of the execution and delivery of this Assignment and (in particular but without limitation to the generality thereof) no liability will be incurred by the Security Trustee as a result of any failure by the Assignor to comply with all or any of its obligations in relation to a Lease.

3.3 **Further leases**

The Assignor undertakes to the Security Trustee that it shall promptly after being requested to do so by the Security Trustee execute and deliver to the Security Trustee a further assignment of rental income and any other instruments and documents in respect of any lease or tenancy of the Property or any part of it which come into existence after the date of this Assignment and shall give all notices, orders or directions which the Security Trustee may think expedient.

4. **INTIMATION**

4.1 **Intimation**

The Assignor shall, on the date of this Assignment, intimate this Assignment to the Tenants and such other relevant third parties as the Security Trustee shall reasonably require in the form set out in the draft letter of intimation in Part 3 of the Schedule and shall provide the Security Trustee with such evidence of intimation as the Security Trustee shall reasonably require.

4.2 **Acknowledgement**

The Assignor shall use reasonable endeavours to ensure that the Tenants and such other relevant third party as may have received an intimation pursuant to clause 4.1 acknowledge receipt of the intimation of this Assignment and shall provide the Security Trustee with such evidence of acknowledgement as the Security Trustee shall reasonably require.

5. **RESTRICTIONS ON DEALING AND NEGATIVE PLEDGE**

- 5.1 The Assignor shall not without the prior written consent of the Security Trustee:

- (a) create, purport to create or permit to subsist any Security over any part of the Secured Assets other than this Assignment and the other Security Documents; and
- (b) sell, assign, convey, transfer, grant or lease or otherwise dispose of the Secured Assets or permit or enter into any agreement for any of the same to occur.

## **6. FINANCIAL COLLATERAL**

### **6.1 Financial Collateral**

To the extent that the Secured Assets 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 Regulations), the Security Trustee will have the right after this Assignment has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.

### **6.2 Appropriation**

Where any financial collateral is appropriated:

- (a) 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
- (b) in any other case, its value will be such amount as the Security Trustee 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. LIABILITY OF THE ASSIGNOR**

### **7.1 Liability not discharged**

The Assignor's liability under this Assignment in respect of any of the Secured Obligations shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Security Trustee that is or becomes wholly or partially illegal, void or unenforceable on any ground;
- (b) the Security Trustee renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this clause 7 might have discharged, or otherwise prejudiced or affected, the liability of the Assignor.

### **7.2 Immediate recourse**

The Assignor waives any right it may have to require the Security Trustee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Assignment against the Assignor.

## **8. REPRESENTATIONS AND WARRANTIES**

### **8.1 Representations and warranties**

The Assignor makes the representations and warranties set out in this clause 8 to the Security Trustee.

### **8.2 Ownership of Secured Assets**

The Assignor is the legal owner of, and has good and valid title to the Secured Assets.

### **8.3 Secured Assets**

- (a) The counterparts and instruments comprising the Leases or other document, agreement or arrangement comprising the Secured Assets as provided to the Security Trustee before the date of this Assignment, evidence all terms of the Secured Assets, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of the Secured Assets.
- (b) No Lease or other document, agreement or arrangement comprising the Secured Assets is void, voidable or otherwise unenforceable.
- (c) No variation of any Lease or other document, agreement or arrangement comprising the Secured Assets is contemplated.
- (d) The Assignor is not in breach of its obligations under any Lease or other document, agreement or arrangement comprising the Secured Assets and nothing has occurred:
  - (i) which is, or would constitute (with the giving of notice or passage of time or both), a ground for irritancy (however described) under any Lease or other document, agreement or arrangement comprising the Secured Assets; or
  - (ii) which would entitle a person to terminate, surrender or renounce a Lease or other document, agreement or arrangement comprising the Secured Assets.

### **8.4 No Security**

The Secured Assets are free from any Security other than the Security created by this Assignment and any other Security permitted under or as created under or pursuant to a Finance Document.

### **8.5 No adverse claims**

The Assignor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

### **8.6 No adverse undertakings**

There are no undertakings, obligations, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affects the Secured Assets.

### **8.7 No breach of laws**

There is no breach of any law or regulation, which materially and adversely affects the Secured Assets.

### **8.8 Avoidance of security**

No Security expressed to be created under this Assignment is liable to be avoided, or otherwise set aside, on the insolvency of the Assignor or otherwise.

#### **8.9 Enforceable security**

This Assignment constitutes and will constitute the legal, valid, binding and enforceable obligations of the Assignor and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

#### **8.10 Times for making representations and warranties**

The representations and warranties set out in clause 8.2 to clause 8.9 are made by the Assignor on the date of this Assignment and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

### **9. UNDERTAKINGS**

#### **9.1 Preservation of Secured Assets**

The Assignor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Security Trustee or diminish the value of any of the Secured Assets or the effectiveness of the security created by this Assignment.

#### **9.2 Leases**

The Assignor shall not, unless the Security Trustee agrees otherwise in writing, agree to:

- (a) any amendment, supplement, extension, waiver, surrender, renunciation or release in respect of a Lease;
- (b) exercise any right to break, determine, renounce or extend a Lease;
- (c) commence any irritancy proceedings in respect of a Lease;
- (d) consent to any sublease or assignment of any tenant's interest under a Lease;  
or
- (e) agree to any change of use under, or (except where required to do so under the terms of the relevant Lease) rent review in respect of, a Lease.

#### **9.3 Rights**

The Assignor shall:

- (a) not waive any of the Security Trustee's rights or release any person from its obligations in connection with the Secured Assets; and
- (b) take all necessary or appropriate action against any person (including as reasonably required by the Security Trustee) to protect and enforce its rights, and recover money or receive other property in connection with, the Secured Assets.

#### **9.4 Assignor's waiver of set-off**

The Assignor waives any present or future right of set-off it may have in respect of any Secured Assets (including sums payable by the Assignor under this Assignment).

#### **9.5 Compliance with laws and regulations**

The Assignor shall comply with the requirements of any law and regulation relating to or affecting the Secured Assets.

#### **9.6 Enforcement of rights**

The Assignor shall use its best endeavours to:

- (a) procure the prompt observance and performance of the undertakings, conditions and other obligations imposed on the Tenants; and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Security Trustee may require from time to time.

#### **9.7 Notice of misrepresentations and breaches**

The Assignor shall, promptly on becoming aware of any of the same, notify the Security Trustee in writing of:

- (a) any representation or warranty set out in clause 8 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any undertaking set out in this Assignment.

#### **9.8 Documents**

The Assignor shall, if so required by the Security Trustee, deposit with the Security Trustee and the Security Trustee shall, for the duration of the Security Period, be entitled to hold all the Assignor's original counterparts of, and instruments comprising, each Lease and each other document, instrument or agreement comprising the Secured Assets.

#### **9.9 Information**

The Assignor shall:

- (a) give the Security Trustee such information concerning the Secured Assets as the Security Trustee may require; and
- (b) promptly notify the Security Trustee in writing of any action, claim, notice or demand made by or against it in connection with all or any part of the Secured Assets or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Assignor's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Security Trustee's prior approval, implement those proposals at its own expense.

#### **9.10 Payment of outgoings**

The Assignor shall promptly pay all taxes, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Security Trustee.

### **10. POWERS OF THE SECURITY TRUSTEE**

#### **10.1 Power to remedy**

- (a) The Security Trustee shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Assignor of any of its obligations contained in this Assignment.

- (b) The Assignor irrevocably authorises the Security Trustee and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Security Trustee in remedying a breach by the Assignor of its obligations contained in this Assignment, shall be reimbursed by the Assignor to the Security Trustee on a full indemnity basis and shall carry interest in accordance with clause 15.1.

#### 10.2 Exercise of rights

The rights of the Security Trustee under clause 10.1 are without prejudice to any other rights of the Security Trustee under this Assignment. The exercise of any rights of the Security Trustee under this Assignment shall not make the Security Trustee liable to account as a mortgagee or creditor in possession.

#### 10.3 New accounts

- (a) If the Security Trustee receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Security Trustee may open a new account for the Assignor in the Security Trustee's books. Without prejudice to the Security Trustee's right to combine accounts, no money paid to the credit of the Assignor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Obligations.
- (b) If the Security Trustee does not open a new account immediately on receipt of the notice, or deemed notice, under clause 10.3(a), then, unless the Security Trustee gives express written notice to the contrary to the Assignor, all payments made by the Assignor to the Security Trustee shall be treated as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Obligations, as from the time of receipt of the relevant notice by the Security Trustee.

#### 10.4 Indulgence

The Security Trustee may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this Assignment (whether or not any such person is jointly liable with the Assignor) in respect of any of the Secured Obligations or of any other security for them without prejudice either to this Assignment or to the liability of the Assignor for the Secured Obligations.

### 11. ENFORCEMENT OF SECURITY

- 11.1 The security constituted by this Assignment shall be immediately enforceable if an Event of Default occurs.
- 11.2 After the security constituted by this Assignment has become enforceable, the Security Trustee may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.
- 11.3 No purchaser, mortgagee or other person dealing with the Security Trustee or Delegate shall be concerned to enquire:
  - (a) whether any of the Secured Obligations have become due or payable, or remain unpaid or undischarged;
  - (b) whether any power the Security Trustee or Delegate is purporting to exercise has become exercisable or is properly exercisable; or

(c) how any money paid to the Security Trustee or any Delegate is to be applied.

- 11.4 Neither the Security Trustee nor any Delegate shall be liable to account as mortgagee or creditor in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee or creditor in possession might be liable as such.

## **12. DELEGATION**

### **12.1 Delegation**

The Security Trustee may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Assignment (including the power of attorney granted under clause 17).

### **12.2 Terms**

The Security Trustee may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

### **12.3 Liability**

The Security Trustee shall not be in any way liable or responsible to the Assignor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **13. PROTECTION OF SECURITY TRUSTEE/ ENFORCEMENT PARTY**

### **13.1 No liability for Enforcement Party**

No Enforcement Party will be liable to the Assignor for any expense, loss, liability or damage incurred by the Assignor arising out of the exercise of its rights or powers or any attempt or failure to exercise those rights or powers except any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct.

### **13.2 Preservation of rights**

Neither the liability of the Assignor nor the validity or enforceability of this Assignment shall be prejudiced, affected or discharged by:

- (a) the granting of any time or indulgence to the Assignor or any other person;
- (b) any variation or modification of any facility letter or facility agreement relating to the Secured Obligations or any other documents referred to therein or related thereto or establishing financial indebtedness that forms part of or relates to the Secured Obligations;
- (c) the invalidity or enforceability of any obligation or liability of any party due to the Security Trustee;
- (d) any invalidity or irregularity in the execution of any facility letter or facility agreement or any other agreement establishing indebtedness that forms part of or relates to the Secured Obligations or any other documents referred to therein or related thereto;
- (e) any lack of capacity or deficiency in the powers of the Assignor or any other person to enter into or perform any of its obligations due to a Finance Party or any irregularity in the exercise thereof or any lack of authority by any person purporting to act on behalf of the Assignor or such other person;

- (f) the insolvency, sequestration, bankruptcy or incapacity, disability or limitation or any change in the constitution or status of the Assignor or any other person;
- (g) any other security interest, encumbrance, guarantee or other security or surety or right or remedy being or becoming held by or available to a Finance Party or by any other person or by any of the same being or becoming wholly or partly void, voidable, unenforceable or impaired or by a Finance Party at any time releasing, refraining from enforcing, varying or in any other way dealing with any of the same or any power, right or remedy a Finance Party may now or hereafter have from or against the Assignor or any other person;
- (h) any waiver, exercise, omission to exercise, compromise, renewal or release of any rights against the Assignor or any other person or any compromise, arrangement or settlement with any of the same; or
- (i) any act, omission, event or circumstance which would or may but for this provision operate to prejudice, affect or discharge this Assignment or the liability of the Assignor under this Assignment.

#### **14. APPLICATION OF PROCEEDS**

##### **14.1 Order of application of proceeds**

All monies received by the Security Trustee shall, subject to clause 14.2 (Suspense account), be paid to the Security Trustee after the discharge of all liabilities having priority in law to the Secured Obligations, in or towards satisfaction of the Secured Obligations.

##### **14.2 Suspense account**

Any money received pursuant to the realisation of any security created pursuant to this Assignment (whether before or after any Incapacity of the Assignor or any other person liable) may be placed to the credit of an interest-bearing suspense account with a view to preserving the rights of the Security Trustee to prove for the whole of their respective claims against any other person liable.

#### **15. INDEMNITIES; EXCLUSION OF LIABILITY**

##### **15.1 Enforcement costs**

The Assignor hereby undertakes to the Security Trustee to pay on demand all costs, charges and expenses incurred by or on behalf of the Security Trustee in or about the enforcement or preservation or attempted enforcement or preservation of any of the security created by or pursuant to this Assignment or any of the Secured Assets on a full indemnity basis, together with interest at the default rate specified in the Loan Agreement from the date on which such costs, charges or expenses are so incurred until the date of payment (as well after as before judgment or decree).

##### **15.2 Recovery of Rental Income**

The Security Trustee shall not have any liability or responsibility of any kind to the Assignor arising out of the exercise or non-exercise of the right to enforce recovery of the Rental Income or shall be obliged to make any enquiry as to the sufficiency of any sums received in respect of any Rental Income or to make any claims or take any other action to collect or enforce the same.

##### **15.3 Indemnity**

The Assignor hereby undertakes to indemnify and keep indemnified each of the Security Trustee and any attorney, agent or other person appointed by the Security Trustee under this



Assignment and the Security Trustee's officers and employees (each an "Indemnified Party") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort, delict or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Assignment; or
- (b) any breach by the Assignor of any of its obligations under this Assignment,

provided that the Assignor shall not have any obligation under this clause 15.3 to indemnify an Indemnified Party in respect of any costs, losses, actions, claims, expenses, demands or liabilities which were caused by the gross negligence, fraud or wilful misconduct of the Indemnified Party.

#### 15.4 Third Party Rights

- (a) Each Indemnified Party and each Finance Party shall have the benefit and may enforce the terms of this Assignment in accordance with the provisions of the Contract (Third Party Rights) (Scotland) Act 2017.
- (b) Subject to clause 15.4 (a), a person who is not a party to this Assignment has no rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Assignment.

#### 16. FURTHER ASSURANCE

The Assignor shall if and when at any time required by the Security Trustee execute such further Security and assurances in favour or for the benefit of the Security Trustee and do all such acts and things as the Security Trustee shall from time to time reasonably require over or in relation to all or any of the Secured Assets to secure the Secured Obligations or to perfect or protect the Security Trustee's security over the Secured Assets or any part thereof or to facilitate the realisation of the same.

#### 17. POWER OF ATTORNEY

17.1 The Assignor hereby irrevocably appoints the Security Trustee to be its attorney in its name and on its behalf to do all things which the Assignor may be required to do under this Assignment but which it has failed to do including:

- (a) to execute and complete any documents or instruments which the Security Trustee may require for perfecting the title of the Security Trustee to the Secured Assets or for vesting the same in the Security Trustee, its nominees or any purchaser;
- (b) to sign, execute, seal and deliver and otherwise perfect any further security document referred to in clause 16 (Further Assurance); and
- (c) otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which are required for the full exercise of all or any of the powers conferred on the Security Trustee which may be deemed expedient by the Security Trustee in connection with any disposition, realisation or getting in by the Security Trustee of the Secured Assets or in connection with any other exercise of any power under this Assignment, without being liable for any losses suffered by the Assignor, or any part thereof.

- 17.2 The Assignor ratifies and confirms (and agrees to do so) whatever any such attorney shall do, or attempt to do, in the exercise of all or any of the powers, authorities and discretions pursuant to clause 17.1.

**18. RELEASE**

- 18.1 Subject to clause 21.8, on the expiry of the Security Period (but not otherwise), the Security Trustee shall, at the request and cost of the Assignor, take whatever action is necessary to:

- (a) release the Secured Assets from the security constituted by this Assignment; and
- (b) retrocess this Assignment and reassign the Secured Assets to the Assignor.

**19. ASSIGNATION AND TRANSFER**

**19.1 Assignment by Security Trustee**

- (a) At any time, without the consent of the Assignor, the Security Trustee may assign or transfer any or all of its rights and obligations under this Assignment.
- (b) The Security Trustee may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Assignor, the Secured Assets and this Assignment that the Security Trustee considers appropriate.

**19.2 Assignment by Assignor**

The Assignor may not assign any of its rights, or transfer any of its rights or obligations, under this Assignment.

**20. SET-OFF**

**20.1 Security Trustee's right of set-off**

The Security Trustee may at any time set off any liability of the Assignor to the Security Trustee against any liability of the Security Trustee to the Assignor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Assignment. If the liabilities to be set off are expressed in different currencies, the Security Trustee may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Security Trustee of its rights under this clause 20 shall not limit or affect any other rights or remedies available to it under this Assignment or otherwise.

**21. MISCELLANEOUS**

**21.1 Amendments**

No amendment of this Assignment shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

**21.2 Waivers and consents**

- (a) A waiver of any right or remedy under this Assignment or by law, or any consent given under this Assignment, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure or delay by a party to exercise any right or remedy provided under this Assignment or by law shall not constitute a waiver of that or any other right or

remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Assignment. No single or partial exercise of any right or remedy provided under this Assignment or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Assignment by the Security Trustee shall be effective unless it is in writing.

### **21.3 Rights and remedies**

The rights and remedies provided under this Assignment are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

### **21.4 Severance**

If any provision (or part of a provision) of this Assignment is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Assignment.

### **21.5 Third Party rights**

Except as expressly provided in this Assignment, a person who is not a party to this Assignment (other than a permitted successor or assignee or any Delegate) has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Assignment. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

### **21.6 Independent security**

This Assignment shall be in addition to, and independent of, any other security or guarantee that the Security Trustee may hold for any of the Secured Obligations at any time. No prior security held by the Security Trustee over the whole or any part of the Secured Assets shall merge in the security created by this Assignment.

### **21.7 Continuing security**

This Assignment shall remain in full force and effect as a continuing security for the Secured Obligations, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Security Trustee discharges this Assignment in writing.

### **21.8 Discharge conditional**

Any release, retrocession, re-assignment, discharge or settlement between the Assignor and the Security Trustee shall be deemed conditional on no payment or security received by the Security Trustee in respect of the Secured Obligations being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, sequestration, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, retrocession, re-assignment, discharge or settlement:

- (a) the Security Trustee or its nominee may retain this Assignment and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Security Trustee deems necessary to provide the Security Trustee with security against any such avoidance, reduction or order for refund; and
- (b) the Security Trustee may recover the value or amount of such security or payment from the Assignor subsequently as if the release, retrocession, re-assignment, discharge or settlement had not occurred.

## 21.9 Certificates

A certificate or determination by the Security Trustee as to any amount for the time being due to it from the Assignor under this Assignment and the Loan Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.

## 22. NOTICES

### 22.1 Requirements for Notices

Every notice, request, demand or other communication under this Assignment shall:

- (a) be in writing delivered personally or by first-class pre-paid letter or facsimile transmission only; and
- (b) be deemed to have been received, subject as otherwise provided in this Assignment, in the case of a letter, when delivered and, in the case of a facsimile transmission, when a complete and legible copy is received by the addressee (unless the time of despatch is after close of business in which case it shall be deemed to have been received at the opening of business on the next business day); and
- (c) be sent to the Security Trustee or the Assignor at such address as provided for from time to time under the Loan Agreement or to such other address or fax number as is notified by the Assignor or, as the case may be, the Security Trustee to the other party.

## 23. COUNTERPARTS

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

23.2 Where executed in counterpart:

- (a) this Assignment shall not take effect until all of the counterparts have been delivered;
- (b) the parties may choose to evidence the date of delivery of this Assignment by inserting the date of delivery at the top of the first page of this Assignment.

23.3 If this Assignment is not executed in counterparts, this Assignment shall be delivered on the date inserted at the top of the first page of this Assignment or, if no such date is inserted, the date on which the last party signed this Assignment.

23.4 The parties to this Assignment, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the "Counterparts Act"), nominate the Security Trustee's Scottish solicitors to take delivery of all counterparts of this Assignment. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Assignment.

23.5 The date of delivery of this Assignment is the date of delivery stated at the top of the first page of this Assignment. If no date of delivery is stated, the date of delivery is the date of signing stated below the signature of the Assignor.

23.6 The Assignor hereby authorises the Security Trustee or its agent to insert the date of delivery of this Assignment at the top of the first page of this Assignment.

24. **CONSENT TO REGISTRATION**

The Assignor consents to the registration of this Assignment and any certificate referred to in clause 21.9 for preservation and execution

25. **GOVERNING LAW AND JURISDICTION**

25.1 This Assignment and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Scotland.

25.2 Each party irrevocably agree that, subject as provided below, the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Assignment or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Security Trustee to take proceedings against the Assignor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

25.3 The Assignor irrevocably consents to any process in any proceedings under clause 25.2 being served on it in accordance with the provisions of this Assignment relating to service of notices. Nothing contained in this Assignment shall affect the right to serve process in any other manner permitted by law.

IN WITNESS WHEREOF these presents consisting of this and the preceding 17 pages together with the Schedule annexed as relative hereto are executed as follows:

**IMPORTANT**

**YOU SHOULD CONSULT A SOLICITOR BEFORE SIGNING THIS DOCUMENT**

**THE ASSIGNOR**

EXECUTED )  
for and on behalf of 6 DARNAWAY STREET LIMITED )

by ) Director - signature

Director's Full Name DAVID STANKS MRS CRYSTIE

In the presence of:

Witness Signature: [Redacted]

Witness Name: FRANK OTHMAN ROSSINI

Witness Address: 15 Aiken Crescent EDINBURGH

Witness Occupation: Solicitor

At: Darnaway Street, Edinburgh On: 11 November 2021

**THE SECURITY TRUSTEE**

**EXECUTED**

By \_\_\_\_\_ attorney for )  
**ASSETZ CAPITAL TRUST COMPANY LIMITED** )  
under a power of attorney dated \_\_\_\_\_ ) as attorney for  
Assetz Capital Trust Company Limited

In the presence of:

Witness Signature: .....

Witness Name: .....

Witness Address: .....

Witness Occupation: .....

At: ..... On: .....

**This is the Schedule referred to in the foregoing Assignment of Rents by 6 Darnaway Street Limited in favour of Assetz Capital Trust Company Limited**

**Part 1**

**The Property**

ALL and WHOLE those subjects known as and forming 8 Darnaway Street, Edinburgh being the subjects registered in the Land Register of Scotland under Title Number MID6868 UNDER EXCEPTION of the subjects known as 6 Darnaway Street, Edinburgh which are presently undergoing registration in the Land Register of Scotland under Title Number MID205486

**Part 2**

**Lease**

1. lease of the Property between the Assignor and Reiach and Hall Limited dated on or around the date of this Assignment and to be registered in the Books of Council and Session.

**Part 3**

**Form of letter of intimation**

To: [Insert name and address of tenant]

Dated: [ ]

Dear Sirs

**RE: LEASE BETWEEN [•] AND [•] DATED [•] AND [ ] AND REGISTERED IN THE BOOKS OF COUNCIL AND SESSION ON [ ] ("LEASE") IN RESPECT OF [ADD PROPERTY ADDRESS]**

- 1 We notify you that under an assignation of rents dated \_\_\_\_\_ 20[ ] (the "Assignation") [•] (the "Assignor") has assigned to Assetz Capital Trust Company Limited as security trustee for itself, the Agent and the Lending Syndicate Members (as defined in the Assignation) (the "Security Trustee") all its right, title and interest to, under or in connection with the Rental Income (as defined in the Assignation) as security for certain obligations owed by the Assignor to the Security Trustee.
- 2 Terms defined in the Assignation shall have, unless otherwise defined herein, the same meaning in this notice. A certified true copy of the Assignation is enclosed.
- 3 We further notify you that:
  - 3.1 the Assignor may not agree to:
    - 3.1.1 any amendment, supplement, extension, waiver, surrender, renunciation or release in respect of the Lease;
    - 3.1.2 exercise any right to break, determine, renounce or extend the Lease;
    - 3.1.3 commence any irritancy proceedings in respect of the Lease;
    - 3.1.4 consent to any sublease or assignation of any tenant's interest under the Lease; or
    - 3.1.5 agree to any change of use under, or (except where required to do so under the terms of the relevant Lease) rent review in respect of, the Lease;without the prior written consent of the Security Trustee;
  - 3.2 subject to paragraph 3.1 above, you may continue to deal with the Assignor in relation to the Lease until you receive written notice to the contrary from the Security Trustee. Thereafter the Assignor will cease to have any right to deal with you in relation to the Lease and therefore from that time you should deal only with the Security Trustee;
  - 3.3 you are authorised to disclose information in relation to the Lease to the Security Trustee on request;



- 3.4 the Assignor will remain liable under the Lease to perform all obligations assumed by it and none of the Security Trustee, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Lease as a result of a failure by the Assignor to perform its obligations under the Lease; and
- 3.5 the provisions of this notice may only be revoked with the written consent of the Security Trustee.
- 4 We hereby irrevocably instruct and authorise you (notwithstanding any previous instructions which we may have given) to pay any rent and other amounts payable by you under the Lease to our account [ ] at [ ], Account No. [ ], Sort Code [ ].
- 5 Please sign and return the enclosed copy of this notice to the Security Trustee (with a copy to the Assignor) by way of confirmation that:
- 5.1 you agree to the terms set out in this notice and to act in accordance with its provisions;
- 5.2 you have not received notice that the Assignor has assigned its rights under the Lease to a third party or created any other interest (whether by way of security or otherwise) in the Lease in favour of a third party; and
- 5.3 you have not claimed or exercised, nor do you have any outstanding right to claim or exercise, against the Assignor any right of set-off, counter-claim or other right relating to the Lease.

The provisions of this notice and any non-contractual obligations arising out of or in connection with it are governed by Scots law.

Yours faithfully

.....

for and on behalf of

**6 Darnaway Street Limited - Landlord**

[On acknowledgement copy]

To: Assetz Capital Trust Company Limited

Address: Assetz House, Manchester Green, 335 Styal Road, Manchester M22 5LW

Attention: Lucie Martin

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs 5.1 to 5.3 above.

.....  
for and on behalf of [insert name of tenant]

Dated:.....

\_\_\_\_\_  
Director of the Assignor  
(Signature)

.....  
Attorney of the Security Trustee  
(Signature)

**6 DARNAWAY STREET LIMITED**

**(1)**

in favour of

**ASSETZ CAPITAL TRUST COMPANY LIMITED**

**(2)**

---

**ASSIGNATION OF RENTS**

Property: 8 Darnaway Street, Edinburgh

---

THIS ASSIGNATION OF RENTS is delivered on 12 NOVEMBER 2021

**ASSIGNATION OF RENTS**

**BY**

- (1) **6 DARNAWAY STREET LIMITED** (registered number SC210857) whose registered office is at 8 Darnaway Street, Edinburgh EH3 6BG (the "**Assignor**");

in favour of

- (2) **ASSETZ CAPITAL TRUST COMPANY LIMITED** (a company registered in England and Wales with company number 08336441) whose registered office is at Assetz House, Manchester Green, 335 Styal Road, Manchester, M22 5LW acting in its capacity as security trustee for itself and the Finance Parties (the "**Security Trustee**").

**IT IS HEREBY AGREED AND DECLARED** as follows:

**1. INTERPRETATION**

**1.1 Expressly defined terms**

In this Assignment:

"Agent"	means Assetz SME Capital Limited (company number 08007287) a company registered in England and Wales and whose registered office is at Assetz House Manchester Green, 335 Styal Road, Manchester, M22 5LW;
"Assignment"	means this assignment of rents;
"Authorisation"	means an authorisation, approval, licence, filing, consent, resolution, exemption, notarisation or registration;
"Business Day"	means a day, other than a Saturday or a Sunday, on which banks are open for general business in London;
"Delegate"	means each and any delegate, sub-delegate, agent, attorney or trustee appointed by the Security Trustee from time to time;
"Discharge Date"	means the date upon which the Security Trustee confirms in writing that all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full;
"Enforcement Party"	means each and any of the Security Trustee or a Delegate;
"Event of Default"	shall have the meaning given to it in the Loan Agreement;
"Finance Document"	shall have the meaning given to it in the Loan Agreement;
"Finance Party"	means the Security Trustee, the Agent and the Lending Syndicate Members and "Finance Parties" shall be construed accordingly;
"Incapacity"	means, in relation to a person, the insolvency, sequestration, liquidation, dissolution, winding-up, administration,

receivership, amalgamation, reconstruction or other incapacity of that person whatsoever;

<b>"Interest"</b>		means interest rate as agreed between the Finance Parties and the Assignor from time to time, and if not so agreed, in accordance with the practice of the Finance Parties from time to time both before and after judgement;
<b>"Leases"</b>		means each of the occupational tenancies in respect of the Property as more particularly described in Part 2 of the Schedule (each being a "Lease");
<b>"Lending Members"</b>	<b>Syndicate</b>	means the Lending Members (as defined on the Website) of the Network who have been successful in their bid to participate in the loan to be made to the Assignor pursuant to the Loan Agreement;
<b>"Loan Agreement"</b>		means the loan agreement entered into between the Assignor and the Agent, acting as agent for the Lending Syndicate Members, and dated on or around the date of this Assignment, as the same may be amended, varied, novated or replaced from time to time and any other loan agreement entered into from time to time between the Assignor and the Agent;
<b>"Network"</b>		means the peer to peer lending network established by the website operated at <a href="http://www.assetzcapital.co.uk">www.assetzcapital.co.uk</a> and any other internet address used from time to time to conduct the business activities of the Agent and to which the Lending Syndicate Members have access;
<b>"Obligor"</b>		means the Assignor and any subsidiary or holding company of the Assignor and any other person who has created a Security in favour of the Security Trustee or given a guarantee to the Security Trustee, in each case, in support of the Secured Obligations;
<b>"Party"</b>		means a party to this Assignment;
<b>"Property"</b>		means the property specified in Part 1 of the Schedule (The Property);
<b>"Regulations"</b>		means the Financial Collateral Arrangements (No.2) Regulations 2003 (SI 2003 No. 3226);
<b>"Rental Income"</b>		means the aggregate of all amounts paid or payable to or for the account of the Assignor under or connection with each Lease, including each of the following amounts relating to the Property: <ul style="list-style-type: none"><li>(a) rent, licence fees and equivalent amounts paid or payable;</li><li>(b) any sum received or receivable from any deposit held as security for performance of a Tenant's obligations;</li></ul>

- (c) a sum equal to any apportionment of rent allowed favour of the Assignor;
- (d) any other moneys paid or payable in respect of occupation and/or usage of the Property and any fixture and fitting on the Property including any fixture or fitting on the Property for display or advertisement, on licence or otherwise;
- (e) any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent;
- (f) any sum paid or payable, or the value of any consideration given, for the grant, surrender, renunciation, amendment, supplement, waiver, extension or release of any Lease;
- (g) any sum paid or payable in respect of a breach of covenant, obligations, undertaking or dilapidations under any Lease;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Lease; and
- (i) any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by another person) by the Assignor

but excluding Tenant Contributions;

<b>"Schedule"</b>	the schedule in three parts annexed as relative to this Assignment;
<b>"Secured Assets"</b>	means each, any and all of the assets and undertakings assigned in security pursuant to clause 3 or otherwise the subject of any security created by or pursuant to this Assignment and includes any part or parts of such assets;
<b>"Secured Obligations"</b>	means all monies, obligations and liabilities due, owing or incurred by the Assignor or any of the Obligors to the Finance Parties whether express or implied, present, future or contingent, joint or several, incurred as principal or surety determined in whatever currency under or pursuant to the Loan Agreement or any other Finance Document and/or this Assignment or otherwise howsoever;
<b>"Security Period"</b>	means the period beginning on the date of this Assignment and ending on the Discharge Date;
<b>"Security"</b>	any mortgage, standard security, charge (whether fixed or floating, legal or equitable), pledge, lien, assignation or assignment by way of security or other security interest

securing any obligation of any person, or any other agreement or arrangement having a similar effect;

**"Tenant Contributions"** means any amount paid or payable to the Assignor by any tenant under a Lease or any other occupier of the Property, by way of contribution to:

- (a) ground rent;
- (b) insurance premia;
- (c) the cost of an insurance valuation;
- (d) a service or other charge in respect of the Assignor's costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, the Property; or
- (e) a reserve or sinking fund; or
- (f) VAT;

**"Tenants"** means the tenants for the time being and from time to time under the Leases;

**"VAT"** means value added tax as provided for in the Value Added Taxes Act 1994 and any other tax of a similar fiscal nature;

**"Website"** means the website operated at [www.assetzcapital.co.uk](http://www.assetzcapital.co.uk) and any other internet address used from time to time to conduct the business activities of the Agent and to which the Lending Syndicate Members have access.

## 1.2 Construction

In this Assignment:

- (a) any reference to:
  - (i) the word **"assets"** includes present and future property, revenue, rights and interests of every description;
  - (ii) the word **"guarantee"** includes any guarantee or indemnity and/or any other financial support of any nature in respect of any person's indebtedness;
  - (iii) the word **"indebtedness"** includes any obligation for the payment or repayment of money, whether incurred as principal or as surety and whether present or future, actual or contingent;
  - (iv) a **"lease"** includes a lease, sub-lease, tenancy agreement and agreement for lease;

- (v) the word "**law**" includes law established by or under statute, constitution, treaty, decree, regulation or judgment and common law as amended or re-enacted from time to time and the word "**lawful**" and similar words and phrases are to be construed accordingly;
  - (vi) the word "**person**" includes any person, company, limited liability partnership, corporation, government, state or any association, trust or partnership (in each case, whether or not it has separate legal personality);
  - (vii) the word "**regulation**" includes all requests or guidelines, official directives, regulations, rules (in each case, whether or not having the force of law) of any governmental, inter-governmental or supranational body or department or of any regulatory or other authority or organisation (whether statutory or non-statutory, governmental or non-governmental);
  - (viii) the word "**security**" includes any assignation or assignment by way of security, charge, equity, option to purchase, lien, mortgage, pledge or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect;
  - (ix) the word "**set-off**" includes analogous rights and obligations in other jurisdictions; and
  - (x) the word "**tax**" includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment);
- (b) each reference to the "**Assignor**", "**Obligor**", "**Agent**", "**Lending Syndicate Member**", "**Finance Party**" or to the "**Security Trustee**" includes its successors in title and its permitted assignees or permitted transferees;
- (c) where the "**Assignor**" is more than one person then all obligations and liabilities of whatever nature, however so arising and whether past, present or future (actual or contingent) shall be a joint and several liability between such persons and reference to "**Assignor**" shall include reference to each of them, jointly and severally;
- (d) unless this Assignment expressly states otherwise or the context requires otherwise:
- (i) each reference in this Assignment to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Assignment); and
  - (ii) each reference in this Assignment to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Assignment and whether amended or re-enacted since the date of this Assignment);
- 1.3 each reference to this Assignment or to any other agreement or deed means, at any time as amended, assigned, novated or supplemented, at that time;
- 1.4 words importing the plural include the singular and vice versa, as the context requires;
- 1.5 each heading in this Assignment is for reference only and does not affect the meaning of the words thereunder; and



- 1.6 each reference to a clause or to a part of the Schedule is (unless expressly provided to the contrary) to be construed as a reference to the relevant clause of or part of the Schedule to this Assignment.

**1.7 Clawback**

If the Security Trustee considers that an amount paid by the Assignor in respect of the Secured Obligations is capable of being avoided or otherwise set aside on the liquidation or administration of the Assignor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Assignment

**2. UNDERTAKING TO PAY**

The Assignor undertakes to the Security Trustee that it shall, on demand, pay and discharge the Secured Obligations when they become due.

**3. ASSIGNATION OF RENTS**

**3.1 Assignment of rents**

As a continuing security for the payment, discharge and performance of the Secured Obligations, the Assignor HEREBY ASSIGNS to the Security Trustee all the rights, title, benefit and interest, present or future of the Assignor in and to the Rental Income.

**3.2 No obligations or liabilities assumed by the Security Trustee**

No obligation shall be assumed by the Security Trustee in respect of a Lease as a result of the execution and delivery of this Assignment and (in particular but without limitation to the generality thereof) no liability will be incurred by the Security Trustee as a result of any failure by the Assignor to comply with all or any of its obligations in relation to a Lease.

**3.3 Further leases**

The Assignor undertakes to the Security Trustee that it shall promptly after being requested to do so by the Security Trustee execute and deliver to the Security Trustee a further assignment of rental income and any other instruments and documents in respect of any lease or tenancy of the Property or any part of it which come into existence after the date of this Assignment and shall give all notices, orders or directions which the Security Trustee may think expedient.

**4. INTIMATION**

**4.1 Intimation**

The Assignor shall, on the date of this Assignment, intimate this Assignment to the Tenants and such other relevant third parties as the Security Trustee shall reasonably require in the form set out in the draft letter of intimation in Part 3 of the Schedule and shall provide the Security Trustee with such evidence of intimation as the Security Trustee shall reasonably require.

**4.2 Acknowledgement**

The Assignor shall use reasonable endeavours to ensure that the Tenants and such other relevant third party as may have received an intimation pursuant to clause 4.1 acknowledge receipt of the intimation of this Assignment and shall provide the Security Trustee with such evidence of acknowledgement as the Security Trustee shall reasonably require.

**5. RESTRICTIONS ON DEALING AND NEGATIVE PLEDGE**

- 5.1 The Assignor shall not without the prior written consent of the Security Trustee:

- (a) create, purport to create or permit to subsist any Security over any part of the Secured Assets other than this Assignment and the other Security Documents; and
- (b) sell, assign, convey, transfer, grant or lease or otherwise dispose of the Secured Assets or permit or enter into any agreement for any of the same to occur.

## **6. FINANCIAL COLLATERAL**

### **6.1 Financial Collateral**

To the extent that the Secured Assets 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 Regulations), the Security Trustee will have the right after this Assignment has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.

### **6.2 Appropriation**

Where any financial collateral is appropriated:

- (a) 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
- (b) in any other case, its value will be such amount as the Security Trustee 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. LIABILITY OF THE ASSIGNOR**

### **7.1 Liability not discharged**

The Assignor's liability under this Assignment in respect of any of the Secured Obligations shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Security Trustee that is or becomes wholly or partially illegal, void or unenforceable on any ground;
- (b) the Security Trustee renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this clause 7 might have discharged, or otherwise prejudiced or affected, the liability of the Assignor.

### **7.2 Immediate recourse**

The Assignor waives any right it may have to require the Security Trustee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this Assignment against the Assignor.

## **8. REPRESENTATIONS AND WARRANTIES**

### **8.1 Representations and warranties**

The Assignor makes the representations and warranties set out in this clause 8 to the Security Trustee.

### **8.2 Ownership of Secured Assets**

The Assignor is the legal owner of, and has good and valid title to the Secured Assets.

### **8.3 Secured Assets**

- (a) The counterparts and instruments comprising the Leases or other document, agreement or arrangement comprising the Secured Assets as provided to the Security Trustee before the date of this Assignment, evidence all terms of the Secured Assets, and there are no other documents, agreements or arrangements that may affect the operation or enforceability of the Secured Assets.
- (b) No Lease or other document, agreement or arrangement comprising the Secured Assets is void, voidable or otherwise unenforceable.
- (c) No variation of any Lease or other document, agreement or arrangement comprising the Secured Assets is contemplated.
- (d) The Assignor is not in breach of its obligations under any Lease or other document, agreement or arrangement comprising the Secured Assets and nothing has occurred:
  - (i) which is, or would constitute (with the giving of notice or passage of time or both), a ground for irritancy (however described) under any Lease or other document, agreement or arrangement comprising the Secured Assets; or
  - (ii) which would entitle a person to terminate, surrender or renounce a Lease or other document, agreement or arrangement comprising the Secured Assets.

### **8.4 No Security**

The Secured Assets are free from any Security other than the Security created by this Assignment and any other Security permitted under or as created under or pursuant to a Finance Document.

### **8.5 No adverse claims**

The Assignor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.

### **8.6 No adverse undertakings**

There are no undertakings, obligations, agreements, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affects the Secured Assets.

### **8.7 No breach of laws**

There is no breach of any law or regulation, which materially and adversely affects the Secured Assets.

### **8.8 Avoidance of security**

No Security expressed to be created under this Assignment is liable to be avoided, or otherwise set aside, on the insolvency of the Assignor or otherwise.

**8.9 Enforceable security**

This Assignment constitutes and will constitute the legal, valid, binding and enforceable obligations of the Assignor and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms.

**8.10 Times for making representations and warranties**

The representations and warranties set out in clause 8.2 to clause 8.9 are made by the Assignor on the date of this Assignment and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

**9. UNDERTAKINGS**

**9.1 Preservation of Secured Assets**

The Assignor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Security Trustee or diminish the value of any of the Secured Assets or the effectiveness of the security created by this Assignment.

**9.2 Leases**

The Assignor shall not, unless the Security Trustee agrees otherwise in writing, agree to:

- (a) any amendment, supplement, extension, waiver, surrender, renunciation or release in respect of a Lease;
- (b) exercise any right to break, determine, renounce or extend a Lease;
- (c) commence any irritancy proceedings in respect of a Lease;
- (d) consent to any sublease or assignment of any tenant's interest under a Lease;  
or
- (e) agree to any change of use under, or (except where required to do so under the terms of the relevant Lease) rent review in respect of, a Lease.

**9.3 Rights**

The Assignor shall:

- (a) not waive any of the Security Trustee's rights or release any person from its obligations in connection with the Secured Assets; and
- (b) take all necessary or appropriate action against any person (including as reasonably required by the Security Trustee) to protect and enforce its rights, and recover money or receive other property in connection with, the Secured Assets.

**9.4 Assignor's waiver of set-off**

The Assignor waives any present or future right of set-off it may have in respect of any Secured Assets (including sums payable by the Assignor under this Assignment).

**9.5 Compliance with laws and regulations**

The Assignor shall comply with the requirements of any law and regulation relating to or affecting the Secured Assets.

**9.6 Enforcement of rights**

The Assignor shall use its best endeavours to:

- (a) procure the prompt observance and performance of the undertakings, conditions and other obligations imposed on the Tenants; and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets that the Security Trustee may require from time to time.

**9.7 Notice of misrepresentations and breaches**

The Assignor shall, promptly on becoming aware of any of the same, notify the Security Trustee in writing of:

- (a) any representation or warranty set out in clause 8 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any undertaking set out in this Assignment.

**9.8 Documents**

The Assignor shall, if so required by the Security Trustee, deposit with the Security Trustee and the Security Trustee shall, for the duration of the Security Period, be entitled to hold all the Assignor's original counterparts of, and instruments comprising, each Lease and each other document, instrument or agreement comprising the Secured Assets.

**9.9 Information**

The Assignor shall:

- (a) give the Security Trustee such information concerning the Secured Assets as the Security Trustee may require; and
- (b) promptly notify the Security Trustee in writing of any action, claim, notice or demand made by or against it in connection with all or any part of the Secured Assets or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Assignor's proposals for settling, liquidating, compounding or contesting any such action, claim or demand and shall, subject to the Security Trustee's prior approval, implement those proposals at its own expense.

**9.10 Payment of outgoings**

The Assignor shall promptly pay all taxes, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Security Trustee.

**10. POWERS OF THE SECURITY TRUSTEE**

**10.1 Power to remedy**

- (a) The Security Trustee shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Assignor of any of its obligations contained in this Assignment.

- (b) The Assignor irrevocably authorises the Security Trustee and its agents to do all things that are necessary or desirable for that purpose.
- (c) Any monies expended by the Security Trustee in remedying a breach by the Assignor of its obligations contained in this Assignment, shall be reimbursed by the Assignor to the Security Trustee on a full indemnity basis and shall carry interest in accordance with clause 15.1.

#### 10.2 Exercise of rights

The rights of the Security Trustee under clause 10.1 are without prejudice to any other rights of the Security Trustee under this Assignment. The exercise of any rights of the Security Trustee under this Assignment shall not make the Security Trustee liable to account as a mortgagee or creditor in possession.

#### 10.3 New accounts

- (a) If the Security Trustee receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, the Security Trustee may open a new account for the Assignor in the Security Trustee's books. Without prejudice to the Security Trustee's right to combine accounts, no money paid to the credit of the Assignor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Obligations.
- (b) If the Security Trustee does not open a new account immediately on receipt of the notice, or deemed notice, under clause 10.3(a), then, unless the Security Trustee gives express written notice to the contrary to the Assignor, all payments made by the Assignor to the Security Trustee shall be treated as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Obligations, as from the time of receipt of the relevant notice by the Security Trustee.

#### 10.4 Indulgence

The Security Trustee may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this Assignment (whether or not any such person is jointly liable with the Assignor) in respect of any of the Secured Obligations or of any other security for them without prejudice either to this Assignment or to the liability of the Assignor for the Secured Obligations.

### 11. ENFORCEMENT OF SECURITY

- 11.1 The security constituted by this Assignment shall be immediately enforceable if an Event of Default occurs.
- 11.2 After the security constituted by this Assignment has become enforceable, the Security Trustee may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.
- 11.3 No purchaser, mortgagee or other person dealing with the Security Trustee or Delegate shall be concerned to enquire:
  - (a) whether any of the Secured Obligations have become due or payable, or remain unpaid or undischarged;
  - (b) whether any power the Security Trustee or Delegate is purporting to exercise has become exercisable or is properly exercisable; or

(c) how any money paid to the Security Trustee or any Delegate is to be applied.

- 11.4 Neither the Security Trustee nor any Delegate shall be liable to account as mortgagee or creditor in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee or creditor in possession might be liable as such.

## **12. DELEGATION**

### **12.1 Delegation**

The Security Trustee may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Assignment (including the power of attorney granted under clause 17).

### **12.2 Terms**

The Security Trustee may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

### **12.3 Liability**

The Security Trustee shall not be in any way liable or responsible to the Assignor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

## **13. PROTECTION OF SECURITY TRUSTEE/ ENFORCEMENT PARTY**

### **13.1 No liability for Enforcement Party**

No Enforcement Party will be liable to the Assignor for any expense, loss, liability or damage incurred by the Assignor arising out of the exercise of its rights or powers or any attempt or failure to exercise those rights or powers except any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct.

### **13.2 Preservation of rights**

Neither the liability of the Assignor nor the validity or enforceability of this Assignment shall be prejudiced, affected or discharged by:

- (a) the granting of any time or indulgence to the Assignor or any other person;
- (b) any variation or modification of any facility letter or facility agreement relating to the Secured Obligations or any other documents referred to therein or related thereto or establishing financial indebtedness that forms part of or relates to the Secured Obligations;
- (c) the invalidity or enforceability of any obligation or liability of any party due to the Security Trustee;
- (d) any invalidity or irregularity in the execution of any facility letter or facility agreement or any other agreement establishing indebtedness that forms part of or relates to the Secured Obligations or any other documents referred to therein or related thereto;
- (e) any lack of capacity or deficiency in the powers of the Assignor or any other person to enter into or perform any of its obligations due to a Finance Party or any irregularity in the exercise thereof or any lack of authority by any person purporting to act on behalf of the Assignor or such other person;

- (f) the insolvency, sequestration, bankruptcy or incapacity, disability or limitation or any change in the constitution or status of the Assignor or any other person;
- (g) any other security interest, encumbrance, guarantee or other security or surety or right or remedy being or becoming held by or available to a Finance Party or by any other person or by any of the same being or becoming wholly or partly void, voidable, unenforceable or impaired or by a Finance Party at any time releasing, refraining from enforcing, varying or in any other way dealing with any of the same or any power, right or remedy a Finance Party may now or hereafter have from or against the Assignor or any other person;
- (h) any waiver, exercise, omission to exercise, compromise, renewal or release of any rights against the Assignor or any other person or any compromise, arrangement or settlement with any of the same; or
- (i) any act, omission, event or circumstance which would or may but for this provision operate to prejudice, affect or discharge this Assignment or the liability of the Assignor under this Assignment.

#### **14. APPLICATION OF PROCEEDS**

##### **14.1 Order of application of proceeds**

All monies received by the Security Trustee shall, subject to clause 14.2 (Suspense account), be paid to the Security Trustee after the discharge of all liabilities having priority in law to the Secured Obligations, in or towards satisfaction of the Secured Obligations.

##### **14.2 Suspense account**

Any money received pursuant to the realisation of any security created pursuant to this Assignment (whether before or after any Incapacity of the Assignor or any other person liable) may be placed to the credit of an interest-bearing suspense account with a view to preserving the rights of the Security Trustee to prove for the whole of their respective claims against any other person liable.

#### **15. INDEMNITIES; EXCLUSION OF LIABILITY**

##### **15.1 Enforcement costs**

The Assignor hereby undertakes to the Security Trustee to pay on demand all costs, charges and expenses incurred by or on behalf of the Security Trustee in or about the enforcement or preservation or attempted enforcement or preservation of any of the security created by or pursuant to this Assignment or any of the Secured Assets on a full indemnity basis, together with interest at the default rate specified in the Loan Agreement from the date on which such costs, charges or expenses are so incurred until the date of payment (as well after as before judgment or decree).

##### **15.2 Recovery of Rental Income**

The Security Trustee shall not have any liability or responsibility of any kind to the Assignor arising out of the exercise or non-exercise of the right to enforce recovery of the Rental Income or shall be obliged to make any enquiry as to the sufficiency of any sums received in respect of any Rental Income or to make any claims or take any other action to collect or enforce the same.

##### **15.3 Indemnity**

The Assignor hereby undertakes to indemnify and keep indemnified each of the Security Trustee and any attorney, agent or other person appointed by the Security Trustee under this



Assignment and the Security Trustee's officers and employees (each an "Indemnified Party") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort, delict or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Assignment; or
- (b) any breach by the Assignor of any of its obligations under this Assignment,

provided that the Assignor shall not have any obligation under this clause 15.3 to indemnify an Indemnified Party in respect of any costs, losses, actions, claims, expenses, demands or liabilities which were caused by the gross negligence, fraud or wilful misconduct of the Indemnified Party.

#### 15.4 Third Party Rights

- (a) Each Indemnified Party and each Finance Party shall have the benefit and may enforce the terms of this Assignment in accordance with the provisions of the Contract (Third Party Rights) (Scotland) Act 2017.
- (b) Subject to clause 15.4 (a), a person who is not a party to this Assignment has no rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Assignment.

#### 16. FURTHER ASSURANCE

The Assignor shall if and when at any time required by the Security Trustee execute such further Security and assurances in favour or for the benefit of the Security Trustee and do all such acts and things as the Security Trustee shall from time to time reasonably require over or in relation to all or any of the Secured Assets to secure the Secured Obligations or to perfect or protect the Security Trustee's security over the Secured Assets or any part thereof or to facilitate the realisation of the same.

#### 17. POWER OF ATTORNEY

17.1 The Assignor hereby irrevocably appoints the Security Trustee to be its attorney in its name and on its behalf to do all things which the Assignor may be required to do under this Assignment but which it has failed to do including:

- (a) to execute and complete any documents or instruments which the Security Trustee may require for perfecting the title of the Security Trustee to the Secured Assets or for vesting the same in the Security Trustee, its nominees or any purchaser;
- (b) to sign, execute, seal and deliver and otherwise perfect any further security document referred to in clause 16 (Further Assurance); and
- (c) otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which are required for the full exercise of all or any of the powers conferred on the Security Trustee which may be deemed expedient by the Security Trustee in connection with any disposition, realisation or getting in by the Security Trustee of the Secured Assets or in connection with any other exercise of any power under this Assignment, without being liable for any losses suffered by the Assignor, or any part thereof.

- 17.2 The Assignor ratifies and confirms (and agrees to do so) whatever any such attorney shall do, or attempt to do, in the exercise of all or any of the powers, authorities and discretions pursuant to clause 17.1.

**18. RELEASE**

- 18.1 Subject to clause 21.8, on the expiry of the Security Period (but not otherwise), the Security Trustee shall, at the request and cost of the Assignor, take whatever action is necessary to:

- (a) release the Secured Assets from the security constituted by this Assignment; and
- (b) retrocess this Assignment and reassign the Secured Assets to the Assignor.

**19. ASSIGNATION AND TRANSFER**

**19.1 Assignment by Security Trustee**

- (a) At any time, without the consent of the Assignor, the Security Trustee may assign or transfer any or all of its rights and obligations under this Assignment.
- (b) The Security Trustee may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Assignor, the Secured Assets and this Assignment that the Security Trustee considers appropriate.

**19.2 Assignment by Assignor**

The Assignor may not assign any of its rights, or transfer any of its rights or obligations, under this Assignment.

**20. SET-OFF**

**20.1 Security Trustee's right of set-off**

The Security Trustee may at any time set off any liability of the Assignor to the Security Trustee against any liability of the Security Trustee to the Assignor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Assignment. If the liabilities to be set off are expressed in different currencies, the Security Trustee may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Security Trustee of its rights under this clause 20 shall not limit or affect any other rights or remedies available to it under this Assignment or otherwise.

**21. MISCELLANEOUS**

**21.1 Amendments**

No amendment of this Assignment shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

**21.2 Waivers and consents**

- (a) A waiver of any right or remedy under this Assignment or by law, or any consent given under this Assignment, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure or delay by a party to exercise any right or remedy provided under this Assignment or by law shall not constitute a waiver of that or any other right or

remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this Assignment. No single or partial exercise of any right or remedy provided under this Assignment or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this Assignment by the Security Trustee shall be effective unless it is in writing.

**21.3 Rights and remedies**

The rights and remedies provided under this Assignment are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

**21.4 Severance**

If any provision (or part of a provision) of this Assignment is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this Assignment.

**21.5 Third Party rights**

Except as expressly provided in this Assignment, a person who is not a party to this Assignment (other than a permitted successor or assignee or any Delegate) has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Assignment. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

**21.6 Independent security**

This Assignment shall be in addition to, and independent of, any other security or guarantee that the Security Trustee may hold for any of the Secured Obligations at any time. No prior security held by the Security Trustee over the whole or any part of the Secured Assets shall merge in the security created by this Assignment.

**21.7 Continuing security**

This Assignment shall remain in full force and effect as a continuing security for the Secured Obligations, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Security Trustee discharges this Assignment in writing.

**21.8 Discharge conditional**

Any release, retrocession, re-assignment, discharge or settlement between the Assignor and the Security Trustee shall be deemed conditional on no payment or security received by the Security Trustee in respect of the Secured Obligations being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, sequestration, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, retrocession, re-assignment, discharge or settlement:

- (a) the Security Trustee or its nominee may retain this Assignment and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Security Trustee deems necessary to provide the Security Trustee with security against any such avoidance, reduction or order for refund; and
- (b) the Security Trustee may recover the value or amount of such security or payment from the Assignor subsequently as if the release, retrocession, re-assignment, discharge or settlement had not occurred.

## 21.9 Certificates

A certificate or determination by the Security Trustee as to any amount for the time being due to it from the Assignor under this Assignment and the Loan Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.

## 22. NOTICES

### 22.1 Requirements for Notices

Every notice, request, demand or other communication under this Assignment shall:

- (a) be in writing delivered personally or by first-class pre-paid letter or facsimile transmission only; and
- (b) be deemed to have been received, subject as otherwise provided in this Assignment, in the case of a letter, when delivered and, in the case of a facsimile transmission, when a complete and legible copy is received by the addressee (unless the time of despatch is after close of business in which case it shall be deemed to have been received at the opening of business on the next business day); and
- (c) be sent to the Security Trustee or the Assignor at such address as provided for from time to time under the Loan Agreement or to such other address or fax number as is notified by the Assignor or, as the case may be, the Security Trustee to the other party.

## 23. COUNTERPARTS

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

23.2 Where executed in counterpart:

- (a) this Assignment shall not take effect until all of the counterparts have been delivered;
- (b) the parties may choose to evidence the date of delivery of this Assignment by inserting the date of delivery at the top of the first page of this Assignment.

23.3 If this Assignment is not executed in counterparts, this Assignment shall be delivered on the date inserted at the top of the first page of this Assignment or, if no such date is inserted, the date on which the last party signed this Assignment.

23.4 The parties to this Assignment, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 (the "Counterparts Act"), nominate the Security Trustee's Scottish solicitors to take delivery of all counterparts of this Assignment. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Assignment.

23.5 The date of delivery of this Assignment is the date of delivery stated at the top of the first page of this Assignment. If no date of delivery is stated, the date of delivery is the date of signing stated below the signature of the Assignor.

23.6 The Assignor hereby authorises the Security Trustee or its agent to insert the date of delivery of this Assignment at the top of the first page of this Assignment.

24. **CONSENT TO REGISTRATION**

The Assignor consents to the registration of this Assignment and any certificate referred to in clause 21.9 for preservation and execution

25. **GOVERNING LAW AND JURISDICTION**

25.1 This Assignment and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Scotland.

25.2 Each party irrevocably agree that, subject as provided below, the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Assignment or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Security Trustee to take proceedings against the Assignor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

25.3 The Assignor irrevocably consents to any process in any proceedings under clause 25.2 being served on it in accordance with the provisions of this Assignment relating to service of notices. Nothing contained in this Assignment shall affect the right to serve process in any other manner permitted by law.

IN WITNESS WHEREOF these presents consisting of this and the preceding 17 pages together with the Schedule annexed as relative hereto are executed as follows:

**IMPORTANT**

**YOU SHOULD CONSULT A SOLICITOR BEFORE SIGNING THIS DOCUMENT**

**THE ASSIGNOR**

EXECUTED )  
for and on behalf of 6 DARNAWAY STREET LIMITED )

by ) Director - signature

Director's Full Name .....

In the presence of:

Witness Signature: .....

Witness Name: .....

Witness Address: .....

Witness Occupation: .....

At: ..... On: .....

**THE SECURITY TRUSTEE**

EXECUTED

By Chris Macmillan attorney for )

ASSETZ CAPITAL TRUST COMPANY LIMITED )

under a power of attorney dated 21/9/21 )

as attorney for  
Assetz Capital Trust Company Limited

In the presence of:

Witness Signature: [Redacted]

Witness Name: Laura Pegler

Witness Address: [Redacted]

Witness Occupation: Relationship Support

At: Assetz House On: 1.8.11.21  
Manchester Green;  
Manchester

Assetz House  
Manchester Green  
335 Styal Road  
Manchester  
M22 5LW

Reference: 14771

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Initials:

**This is the Schedule referred to in the foregoing Assignment of Rents by 6 Darnaway Street Limited in favour of Assetz Capital Trust Company Limited**

**Part 1**

**The Property**

ALL and WHOLE those subjects known as and forming 8 Darnaway Street, Edinburgh being the subjects registered in the Land Register of Scotland under Title Number MID6868 UNDER EXCEPTION of the subjects known as 6 Darnaway Street, Edinburgh which are presently undergoing registration in the Land Register of Scotland under Title Number MID205486

**Part 2**

**Lease**

1. lease of the Property between the Assignor and Relach and Hall Limited dated on or around the date of this Assignment and to be registered in the Books of Council and Session.

**Part 3**

**Form of letter of intimation**

To: [Insert name and address of tenant]

Dated: [ ]

Dear Sirs

**RE: LEASE BETWEEN [•] AND [•] DATED [•] AND [ ] AND REGISTERED IN THE BOOKS OF COUNCIL AND SESSION ON [ ] ("LEASE") IN RESPECT OF [ADD PROPERTY ADDRESS]**

- 1 We notify you that under an assignation of rents dated \_\_\_\_\_ 20[ ] (the "Assignment") [•] (the "Assignor") has assigned to Assetz Capital Trust Company Limited as security trustee for itself, the Agent and the Lending Syndicate Members (as defined in the Assignment) (the "Security Trustee") all its right, title and interest to, under or in connection with the Rental Income (as defined in the Assignment) as security for certain obligations owed by the Assignor to the Security Trustee.
- 2 Terms defined in the Assignment shall have, unless otherwise defined herein, the same meaning in this notice. A certified true copy of the Assignment is enclosed.
- 3 We further notify you that:
  - 3.1 the Assignor may not agree to:
    - 3.1.1 any amendment, supplement, extension, waiver, surrender, renunciation or release in respect of the Lease;
    - 3.1.2 exercise any right to break, determine, renounce or extend the Lease;
    - 3.1.3 commence any irritancy proceedings in respect of the Lease;
    - 3.1.4 consent to any sublease or assignation of any tenant's interest under the Lease; or
    - 3.1.5 agree to any change of use under, or (except where required to do so under the terms of the relevant Lease) rent review in respect of, the Lease;without the prior written consent of the Security Trustee;
  - 3.2 subject to paragraph 3.1 above, you may continue to deal with the Assignor in relation to the Lease until you receive written notice to the contrary from the Security Trustee. Thereafter the Assignor will cease to have any right to deal with you in relation to the Lease and therefore from that time you should deal only with the Security Trustee;
  - 3.3 you are authorised to disclose information in relation to the Lease to the Security Trustee on request;



- 3.4 the Assignor will remain liable under the Lease to perform all obligations assumed by it and none of the Security Trustee, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Lease as a result of a failure by the Assignor to perform its obligations under the Lease; and
- 3.5 the provisions of this notice may only be revoked with the written consent of the Security Trustee.
- 4 We hereby irrevocably instruct and authorise you (notwithstanding any previous instructions which we may have given) to pay any rent and other amounts payable by you under the Lease to our account [ ] at [ ], Account No. [ ], Sort Code [ ].
- 5 Please sign and return the enclosed copy of this notice to the Security Trustee (with a copy to the Assignor) by way of confirmation that:
- 5.1 you agree to the terms set out in this notice and to act in accordance with its provisions;
- 5.2 you have not received notice that the Assignor has assigned its rights under the Lease to a third party or created any other interest (whether by way of security or otherwise) in the Lease in favour of a third party; and
- 5.3 you have not claimed or exercised, nor do you have any outstanding right to claim or exercise, against the Assignor any right of set-off, counter-claim or other right relating to the Lease.

The provisions of this notice and any non-contractual obligations arising out of or in connection with it are governed by Scots law.

Yours faithfully

.....

for and on behalf of

**6 Darnaway Street Limited - Landlord**

[On acknowledgement copy]

To: Assetz Capital Trust Company Limited

Address: Assetz House, Manchester Green, 335 Styal Road, Manchester M22 5LW

Attention: Lucie Martin

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs 5.1 to 5.3 above.

.....

for and on behalf of *[insert name of tenant]*

Dated: .....

\_\_\_\_\_

.....  
Director of the **Assignor**  
(Signature)



.....  
Attorney of the **Security Trustee**  
(Signature)