

# M

CHWP000

COMPANIES FORM No. 466(Scot)

## Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

# 466

Please do not  
write in  
this margin

Pursuant to section 410 and 466 of the Companies Act 1985

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

To the Registrar of Companies  
(Address overleaf - Note 5)

For official use

Company number

3

SC450313

Name of company

\* Kyleloch Limited (the "Company")

\* insert full name  
of company

Date of creation of the charge (note 1)

2 August 2019

Description of the instrument creating or evidencing the charge or of any ancillary document which has  
been altered (note 1)

Floating charge

Names of the persons entitled to the charge

City Facilities Management Holdings (UK) Limited (the "Subordinated Creditor")

Short particulars of all the property charged

The whole of the property (including uncalled capital) which is or may be from time to time comprised in  
the property and undertaking of the Company.

Presenter's name address and  
reference (if any):

REO.CIT61.29  
Brodies LLP  
110 Queen Street  
Glasgow  
G1 3BX

For official use (02/06)

Charges Section

Post room

WEDNESDAY



SCT \*S8BSUWIH\* #156  
14/08/2019  
COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

(1) Bank of Scotland plc (Company Number SC327000) having its registered office at The Mound, Edinburgh EH1 1YZ ("BoS"); (2) the Subordinated Creditor (Company Number SC148945) having its registered office at Caledonia House, 2 Lawmoor Street, Glasgow, Strathclyde, G5 0US (3) Ediston (RES) Limited (Company Number SC633869) having its registered office at 1 St Andrew Square Edinburgh EH2 2BD; and (4) the Companies listed in Part 1 of the Schedule to the Intercreditor Agreement (together the "Obligors" and each an "Obligor").

*Please do not  
write in  
this margin*

*Please complete  
legibly, preferably  
in black type, or  
bold block lettering*

Date(s) of execution of the instrument of alteration

Intercreditor agreement signed by BoS, the Subordinated Creditor, the Company and each Obligor on 2 August 2019 and with a date of delivery of 2 August 2019 (the "Intercreditor Agreement").

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

*During the Security Period, no Obligor will (and the Subordinated Creditor will not require any Obligor to) create or permit to subsist any Security Right over any of its assets for all or part of the Subordinated Debt or any guarantee (or other assurance against financial loss) for or in respect of all or any part of the Subordinated Debt, in either case other than by the security or guarantees conferred by the Subordinated Security Documents entered into on or before the date of the Intercreditor Agreement.*

Short particulars of any property released from the floating charge

N/A

The amount, if any, by which the amount secured by the floating charge has been increased

N/A

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

*Please do not  
write in  
this margin*

*Please complete  
legibly, preferably  
in black type, or  
bold block lettering*

BoS and the Subordinated Creditor agrees and the Obligors acknowledge that the BoS Security Documents and the Subordinated Security Documents shall rank as follows:-

1. the BoS Fixed Charges shall rank first to the extent of the BoS Debt;
2. upon the satisfaction in full of the BoS Fixed Charges, the BoS Floating Charge shall rank second to the extent of the BoS Debt;
3. upon the satisfaction in full of the BoS Fixed Charge and the BoS Floating Charge, the Subordinated Security Documents shall rank third to the extent of the Subordinated Debt.

**Definitions:**

"BoS Debt" means all or any monies and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to BoS by the Obligors, whether actually or contingently, solely or jointly and whether as principal or surety and whether or not BoS shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which BoS may in the course of its business charge or incur in respect of any of those matters or for keeping the Obligors' accounts, and so that interest shall be computed and compounded according to the usual BoS rates and practice as well after as before any demand made or decree obtained;

"BoS Fixed Charges" means the standard securities granted by the Obligors in favour of BoS over the Properties and each is a "BoS Fixed Charge";

"BoS Floating Charges" means the floating charges granted by the Obligors in favour of BoS and each is a "BoS Floating Charge";

"BoS Security Documents" means the BoS Fixed Charges, the BoS Floating Charges and all fixed and floating charges and other security and all collateral or substituted securities for the time being held by BoS and given by the Obligors (or any of them) as security for the payment and/or discharge of the BoS Debt;

"Facility Letter" means the facility letter dated 2 August 2019 from BoS to the Subordinated Creditor in relation to the term loan facilities of £16,000,000 (as amended, restated, supplemented, novated or replaced from time to time);

"Properties" means the properties as defined in the Facility Letter;

"Security Period" means the period from the date of the Intercreditor Agreement to the date on which the BoS Debt is repaid in full and no commitment by BoS to provide facilities to the Subordinated Creditor or the Obligors remains in effect;

"Security Right" means any mortgage, charge, standard security, right in security, security, pledge, lien, right of set-off, right to retention of title or other encumbrance, whether fixed or floating, over any present or future property, assets or undertaking;

"Subordinated Debt" means all present and future sums, liabilities and obligations (whether actual and contingent, present or future) payable or owing by the Obligors or any of them to the Subordinated Creditor under the Subordinated Documents;

"Subordinated Documents" means the Subordinated Loan Agreement and the Subordinated Security Documents;

"Subordinated Fixed Charges" means the standard securities granted by the Obligors in favour of the Subordinated Creditor over the Properties and each is a "Subordinated Fixed Charge";

"Subordinated Floating Charges" means the floating charges granted by the Obligors in favour of the Subordinated Creditor and each is a "Subordinated Floating Charge";

"Subordinated Loan Agreement" means the loan agreement dated 2 August 2019 between the Subordinated Creditor and the SPV in terms of which City made available to the SPV a loan of £16,000,000;

"Subordinated Security Documents" means the Subordinated Fixed Charges, the Subordinated Floating Charges and all fixed and floating charges and other security and all collateral or substituted securities for the time being held by the Subordinated Creditor and given by the Obligors (or any of them) as security for the payment and/or discharge of the Subordinated Debt.

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

*Please do not  
write in  
this margin*

*Please complete  
legibly, preferably  
in black type, or  
bold block lettering*

Signed Broderick Date 12 August 2019

On behalf of ~~company~~ [chargee]

**Notes**

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given. ☐ delete as appropriate  
For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF DX 235 Edinburgh

**This is the Paper Apart referred to in the foregoing Form 466 (Scotland) in respect of KYLELOCH LIMITED**

**M466 – Form of Alteration**

Page 2 – Names and addresses of the persons who have executed the instrument of alteration.

- (1) Bank of Scotland plc (Company Number SC327000) having its registered office at The Mound, Edinburgh EH1 1YZ ("BoS");
- (2) the Subordinated Creditor (Company Number SC148945) having its registered office at Caledonia House, 2 Lawmoor Street, Glasgow, Strathclyde, G5 0US
- (3) Ediston (RES) Limited (Company Number SC633869) having its registered office at 1 St Andrew Square Edinburgh EH2 2BD; and
- (4) the Companies listed in Part 1 of the Schedule to the Intercreditor Agreement (together the "Obligors" and each an "Obligor"):
  - a. Ediston (Res) Limited (Company Number SC633869) having its registered office at 1 St. Andrew Square, Edinburgh, Scotland, EH2 2BD;
  - b. Southcove Limited (Company Number SC449697) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
  - c. Mereacre Limited (Company Number SC454422) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
  - d. Bathsheba (Properties) Limited (Company Number SC330496) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
  - e. Ensco 1533 Limited (Company Number SC550781) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
  - f. Glenerrol Limited (Company Number SC223952) having its registered office at Lynett Leisure Group, 23 Royal Exchange Square, Glasgow, G1 3AJ;
  - g. Forthwell Limited (Company Number SC450314) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
  - h. Kyleloch Limited (Company Number SC450313) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
  - i. Lynnet Leisure (Properties) Limited (Company Number SC136348) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;

- j. Gowton Limited (Company Number SC212284) having its registered office at Lynett Leisure Group, 23 Royal Exchange Square, Glasgow, G1 3AJ;
- k. Landfern Limited (Company Number SC454427) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
- l. Bathsheba (Holdings) Limited (Company Number SC317455) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
- m. Bathsheba (Citation) Limited (Company Number SC330493) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ;
- n. Lynnet Leisure (Rogano) Limited (Company Number SC304220) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ; and,
- o. Lansforth Limited (Company Number SC256910) having its registered office at 23 Royal Exchange Square, Glasgow, G1 3AJ.



**FILE COPY**

**CERTIFICATE OF THE REGISTRATION  
OF AN ALTERATION TO A FLOATING CHARGE**

COMPANY NO. 450313  
CHARGE CODE SC45 0313 0003

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT  
OF ALTERATION DATED 2 AUGUST 2019 WERE DELIVERED  
PURSUANT TO SECTION 466 OF THE COMPANIES ACT 1985  
ON 14 AUGUST 2019

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 2  
AUGUST 2019

BY KYLELOCH LIMITED

IN FAVOUR OF  
CITY FACILITIES MANAGEMENT HOLDINGS (UK) LIMITED

GIVEN AT COMPANIES HOUSE, EDINBURGH 20 AUGUST 2019



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

# BANK OF SCOTLAND

DELIVERED ON *2 August* 2019

## INTER CREDITOR AGREEMENT

between

**BANK OF SCOTLAND PLC**

**CITY FACILITIES MANAGEMENT HOLDINGS (UK) LIMITED**

and

**EDISTON (RES) LIMITED**

CERTIFIED TO BE A TRUE AND COMPLETE  
COPY OF THE ORIGINAL  
DATED THIS 09 DAY OF August 2019  
Pinsent Masons LLP *Pinsent Masons LLP*



**IMPORTANT NOTICE:** We recommend that you consult your solicitor or other independent legal adviser before executing this document.

#### **INTERCREDITOR AGREEMENT**

This INTERCREDITOR AGREEMENT is delivered on *2 August* 2019 and entered into by:

- (1) **BANK OF SCOTLAND PLC** (Company Number SC327000) having its registered office at The Mound, Edinburgh EH1 1YZ ("BoS").
- (2) **CITY FACILITIES MANAGEMENT HOLDINGS (UK) LIMITED** (Company Number SC148945) having its registered office at Caledonia House, 2 Lawmoor Street, Glasgow, Strathclyde, G5 0US ("Subordinated Creditor");
- (3) **EDISTON (RES) LIMITED** (Company Number SC633869) having its registered office at 1 St Andrew Square Edinburgh EH2 2BD (the "SPV"); and
- (4) **THE COMPANIES** listed in Part 1 of the Schedule (together the "Obligors" and each an "Obligor").

**NOW IT IS AGREED as follows:-**

**1. Purpose of this Agreement**

- 1.1. In consideration of BoS entering into the BoS Documents, the Subordinated Creditor agrees to regulate its rights under the Subordinated Documents as set out in this Agreement.
- 1.2. The Obligors enter into this Agreement to acknowledge and agree the arrangements between themselves, BoS and the Subordinated Creditor and none of the undertakings given in this Agreement are given to or enforceable by any Obligor.

**2. Ranking of Debt**

- 2.1. BoS and the Subordinated Creditor hereby agree, and each of the Obligors acknowledges, that the BoS Debt shall rank for all purposes and at all times ahead of the Subordinated Debt.

**3. Ranking of Security**

- 3.1. BoS and the Subordinated Creditor agrees and the Obligors acknowledge that the BoS Security Documents and the Subordinated Security Documents shall rank as follows:-
  - 3.1.1. the BoS Fixed Charges shall rank first to the extent of the BoS Debt;
  - 3.1.2. upon the satisfaction in full of the BoS Fixed Charges, the BoS Floating Charge shall rank second to the extent of the BoS Debt;
  - 3.1.3. upon the satisfaction in full of the BoS Fixed Charge and the BoS Floating Charge, the Subordinated Security Documents shall rank third to the extent of the Subordinated Debt.
- 3.2. If BoS agrees to release any Obligor's assets from the security conferred by the BoS Security Documents, the Subordinated Creditor will promptly execute each such release and each other necessary document to permit those assets to be held by the relevant Obligor or any acquirer from it free from the

security conferred by the Subordinated Security Documents.

- 3.3. The Subordinated Creditor agrees that during the Security Period documents of title to the property and assets charged by the Subordinated Security Documents shall be held by BoS and may be dealt with by BoS without reference to or consent of the Subordinated Creditor. BoS agrees to deliver all such documents to the Subordinated Creditor or other person entitled to them at the end of the Security Period.
- 3.4. Subject to the provisions of this Agreement, the BoS Security Documents and the Subordinated Security Documents shall rank as continuing security for the payment and discharge of all the liabilities and obligations the payment and/or discharge of which are thereby secured and shall not be affected by any fluctuation in the moneys, obligations and liabilities from time to time due, owing or incurred to BoS or by the existence at any time of a credit balance on any current or other account of all or any of the Obligors with BoS.
- 3.5. Moneys received by any administrator, administrative receiver, receiver and/or manager appointed under the BoS Security Documents or from realisation of the security and guarantees conferred by the BoS Security Documents or otherwise shall be applied in the order set out in clause 13 of this Agreement.
- 3.6. Each of BoS and the Subordinated Creditor hereby consent to the creation of the security and guarantees conferred by the BoS Security Documents and the Subordinated Security Documents.
- 3.7. The Subordinated Creditor will not in any circumstances be subrogated to any of the rights of BoS (whether by way of security, guarantee or otherwise) under the BoS Documents.

#### 4. Undertakings of Obligors

During the Security Period, no Obligor will (and the Subordinated Creditor will not require any Obligor to):-

- 4.1. create or permit to subsist any Security Right over any of its assets for all or part of the Subordinated Debt or any guarantee (or other assurance against financial loss) for or in respect of all or any part of the Subordinated Debt, in either case other than by the security or guarantees conferred by the Subordinated Security Documents entered into on or before the date of this Agreement;
- 4.2. pay, repay, prepay, redeem, purchase or otherwise discharge or release any of the Subordinated Debt, other than in respect of any Permitted Payments in accordance with the terms of clause 6;
- 4.3. amend any of the terms of the Subordinated Documents, save to the extent expressly permitted by the BoS Documents;
- 4.4. discharge any of the Subordinated Debt by set-off or any right of combination of accounts save only to the extent it may be required to do so or if the same occurs automatically by operation of law (but not, in either case, by reason of any contract or agreement);
- 4.5. give any financial support to any person to enable it to do any of the things referred to in clause 4.1 to 4.4(inclusive) above;
- 4.6. take or omit to take any action whereby the ranking and/or subordination arrangements provided for herein in relation to the Subordinated Debt or any

part thereof may be impaired or adversely affected;

- 4.7. change its business in any way which would result in it becoming a 'relevant financial institution' for the purposes of clause 2 of The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014. Each Obligor shall promptly provide BoS with copies of any information that BoS may from time to time reasonably request in connection with that Obligor's status in respect of this clause 4.7; or
- 4.8. carry on any business which would constitute 'excluded activities' 'in terms of Part 2 of the Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014.

## **5. Undertakings of Subordinated Creditor**

- 5.1. During the Security Period the Subordinated Creditor will not:-
  - 5.1.1. demand or (except in respect of any Permitted Payment in accordance with the terms of clause 6) accept payment, repayment, prepayment or any distribution in respect of, or on account of, any Subordinated Debt in cash or in kind or accelerate, declare payable on demand or enforce by execution or otherwise any principal, interest, cost or other sums in respect of the Subordinated Debt or part thereof;
  - 5.1.2. exercise any right of set-off, combination of accounts or lien or exercise or accept any transfer of rights, property or assets from any of the Obligors (or any other source) in satisfaction of the Subordinated Debt or part thereof;
  - 5.1.3. claim or rank as a creditor in the insolvency, winding-up, bankruptcy or liquidation of any of the Obligors, other than in accordance with clause 9;
  - 5.1.4. take, receive or permit to subsist any Security Right or any guarantee (or other assurance against financial loss) for, or in respect of, any Subordinated Debt, other than in terms of the Subordinated Security Documents entered into on or before the date of this Agreement;
  - 5.1.5. amend, vary, waive or release any provision of the Subordinated Documents in any way which, in the opinion of BoS, is likely to have an adverse effect upon the interests of BoS under the BoS Documents;
  - 5.1.6. sell, transfer or otherwise dispose of any of the Subordinated Debt, other than in accordance with clause 15.4;
  - 5.1.7. take any Enforcement Action involving any Obligor, other than in terms of clause 7;
  - 5.1.8. take or omit to take any action whereby the ranking and/or subordination arrangements provided for herein in relation to the Subordinated Debt or any part thereof may be impaired or adversely affected;
  - 5.1.9. not change its business in any way which would result in it becoming a 'relevant financial institution' for the purposes of clause 2 of The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014. The Subordinated Creditor shall promptly provide BoS with copies of any information that BoS may from time to

time reasonably request in connection with the Subordinated Creditor's status in respect of this clause 5.1.9;

5.1.10. not carry on any business which would constitute 'excluded activities' in terms of Part 2 of the Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014.

5.2. During the Security Period, the Subordinated Creditor undertakes to BoS that it shall comply with its obligations under this Agreement and (subject to such obligations) the Subordinated Documents.

## **6. Permitted Payments**

6.1. The SPV may pay interest or repay capital in respect of the Subordinated Debt if the condition set out in clause 6.2 is satisfied.

6.2. The condition to a payment by the SPV of the Subordinated Debt under clause 6.1 are that no Default has occurred and is continuing or would occur as a result of making the proposed payment;

6.3. The SPV may pay all fees and expenses which are payable in accordance with the provisions of the Subordinated Documents.

6.4. A partial payment to a Subordinated Creditor may be made if and to the extent that such partial payment complies with the condition set out in Clause 6.2 above.

## **7. Permitted Enforcement**

7.1. Subject to clause 7.2 below, the Subordinated Creditor may not take any Enforcement Action prior to the end of the Security Period without the prior written consent of BoS.

7.2. The restriction in clause 7.1 will not apply to the Subordinated Creditor if:-

7.2.1. BoS has enforced the security conferred by the BoS Security Documents (or any of them) other than by the exercise by BoS of any set-off or similar rights; or

7.2.2. a court makes a winding-up order or an order for the dissolution or liquidation of an Obligor or a liquidator or an administrator or equivalent is appointed to an Obligor other than in any such case as a result of action taken by (or on behalf of) the Subordinated Creditor; or

7.2.3. BoS demands payment of or declares payable all or any part of the BoS Debt owed to it (other than any part of the BoS Debt repayable on demand).

## **8. Release of Security and Consents**

8.1. Subject to Clause 8.2 below, if, during the Security Period, any assets of the Obligors are being sold pursuant to a power of sale or otherwise in terms of the BoS Security Documents at a time when a Default is continuing, the Subordinated Creditor shall on the written request of BoS (in favour of BoS and the Obligors) provide a consent in writing to the sale and release of the assets which are the subject of the sale from any security constituted by the Subordinated Documents.

- 8.2. In effecting any disposal referred to in Clause 8.1, BoS or the relevant Obligor (as the case may be) shall use reasonable endeavours to obtain a fair market price having regard to the prevailing market conditions in relation to such disposal although will be under no obligation to delay (or request the postponement) of such disposal in order to achieve a higher price.
- 8.3. If, during the Security Period, BoS has agreed any amendment, consent, approval or waiver with or in connection with the BoS Documents, such amendment, consent, approval or waiver shall be binding on the Subordinated Creditor and the Subordinated Creditor shall be deemed to have done the same and to have made an equivalent or equal amendment, consent, approval or waiver under, of or in respect of, the Subordinated Documents.
- 8.4. The Subordinated Creditor hereby undertakes to do such things and execute all such documents as BoS may reasonably require to give effect to clauses 8.1 and/or 8.2.
- 8.5. Nothing in clauses 8.1 or 8.2 shall result in the reduction in the amount of the Subordinated Debt or in any delay or postponement of the payment of all or any part of the Subordinated Debt.

**9. Subordination on Insolvency**

- 9.1. If an Insolvency Event occurs in respect of any Obligor during the Security Period then:-
  - (a) the Subordinated Debt will be postponed and subordinated to the BoS Debt and (if required by BoS but not otherwise) the Subordinated Creditor will file any proof or other claim necessary for the recovery of the Subordinated Debt;
  - (b) any payment or distribution of any kind or character and all and any rights in respect of such payment or distribution, whether in cash, securities or other property, which is payable or deliverable upon or with respect to all or part of the Subordinated Debt by a liquidator, administrator, administrative receiver or receiver (or equivalent) of any Obligor or its estate made or paid to or received by the Subordinated Creditor or to which the Subordinated Creditor is entitled, will be held in trust by its recipient for BoS and will immediately be paid or, transferred or assigned to BoS for application in the order set out in clause 13 of this Agreement; and
  - (c) if the trust referred to in sub-clause (b) above fails or cannot be given effect to, the Subordinated Creditor (and any agent or trustee on its behalf) receiving any such payment or distribution will pay an amount equal to such payment or distribution to BoS for application in the order set out in clause 13 of this Agreement.
- 9.2. The Subordinated Creditor hereby irrevocably authorises BoS to demand, sue and prove for, collect and receive every payment or distribution referred to in clause 9.1 and discharge liability therefor and to file claims and take such other proceedings, in the name of BoS or in the name of the Subordinated Creditor or otherwise, as BoS may deem necessary or advisable for the enforcement of this Agreement.
- 9.3. The Subordinated Creditor will execute and deliver to BoS such powers of attorney, assignments, assignations or other instruments as may be requested by BoS to enable BoS to enforce any claims upon or with respect to all or part of the Subordinated Debt, and to collect and receive any payments or distributions which may be payable or deliverable at any time upon or with respect to all or part of the Subordinated Debt.

- 9.4. The liquidator or other insolvency representative or trustee of any Obligor or its estate is hereby authorised by the Subordinated Creditor to apply any assets or monies received by him in accordance with the terms of this Agreement.

## **10. Contravention**

- 10.1. If at any time prior to the expiry of the Security Period:-

- 10.1.1. the Subordinated Creditor receives or recovers a payment or distribution of any kind whatsoever in respect of or on account of any Subordinated Debt (other than in accordance with the terms of clause 6);
- 10.1.2. the Subordinated Creditor receives or recovers any proceeds pursuant to any Enforcement Action;
- 10.1.3. any Obligor makes any payment or distribution of any kind whatsoever in respect of, or on account of the purchase or other acquisition of, any Subordinated Debt (other than in terms of clause 6);
- 10.1.4. all or any of the Subordinated Debt is discharged by set-off, combination of accounts or otherwise;

the recipient or beneficiary of such payment, distribution, set-off or combination will promptly pay all such amounts or distributions to BoS for application in the order set out in clause 13 of this Agreement after deducting the costs, liabilities and expenses (if any) reasonably incurred in recovering or receiving such payment or distribution and, pending such payment, will hold these amounts and distributions on trust (or otherwise separated from its assets) and on behalf of BoS.

- 10.2. The Subordinated Debt will, as between the relevant Obligor and the Subordinated Creditor, be deemed not to have been reduced or discharged to the extent of any payment or distribution to BoS under clause 10.1.

## **11. New Money**

- 11.1. The Subordinated Creditor and the Obligors each agree that the debt provided by BoS to the Subordinated Creditor (the "BoS Loan") which is guaranteed by the Obligors and forms the BoS Debt may be refinanced and/or that its terms may be amended and that any amounts borrowed or obligations incurred by any Obligor in refinancing the BoS Loan (whether or not the amount of such BoS Loan is greater than the amount made available at the date of this Agreement) will be BoS Debt within the meaning of this Agreement and will rank in priority to the Subordinated Debt on substantially the terms set out in this Agreement.
- 11.2. The Subordinated Creditor and the Obligors each agree that if BoS makes further advances of the BoS Loan to the Subordinated Creditor each such advance, if guaranteed by the Obligors, will be deemed to constitute BoS Debt for the purposes of this Agreement.

## **12. Waiver of Defences**

- 12.1. The subordination effected or intended to be effected by this Agreement and the obligations of the Subordinated Creditor under it shall not be affected by any act, omission or circumstances which but for this provision might operate to release any of the Subordinated Creditor from its obligations or affect such obligations or such subordination including, without limitation and whether or

not known to the Subordinated Creditor or any other person:-

- 12.1.1. any time, indulgence or waiver granted to, or composition with any Obligor or any other person;
- 12.1.2. the taking, variation, compromise, renewal or release of, or refusal or neglect to perfect or enforce, any rights, remedies or securities against or granted by any Obligor or any other person;
- 12.1.3. any unenforceability, illegality, invalidity or frustration of any obligation of any of the Obligors under the BoS Documents or of any other person under any other document;
- 12.1.4. any amendment to or variation of the terms of the BoS Documents or any other document;
- 12.1.5. any postponement, discharge, reduction, non-provability or other similar circumstance affecting any obligation of any Obligor under any BoS Document resulting from any insolvency, liquidation or dissolution proceedings or from any law or regulation.
- 12.2. This Agreement shall apply in respect of the BoS Debt irrespective of any intermediate payment of any of the BoS Debt and shall apply to the ultimate balance of the BoS Debt.
- 12.3. Notwithstanding any of the provisions of this Agreement postponing, subordinating or delaying the payment of all or any of the Subordinated Debt, such Subordinated Debt shall as between the SPV and the Subordinated Creditor remain owing or due and payable in accordance with the terms of the Subordinated Documents.

### 13. Application of Monies

- 13.1. All monies received by BoS under or by virtue of the BoS Security Documents following enforcement thereof shall be applied, subject to the claims of any creditors ranking in priority to or *pari passu* with the claims of BoS hereunder, in the following order:-
  - 13.1.1. in or towards payment of all costs, charges and expenses of or incidental to the enforcement of the BoS Security Documents;
  - 13.1.2. in or towards satisfaction of the BoS Debt in such order as BoS may from time to time require; and
  - 13.1.3. any surplus shall be paid to the Subordinated Creditor (or any other person) entitled to such surplus.
- 13.2. The SPV and the Obligors hereby agree that nothing contained in this Agreement shall limit the right of BoS, if and for so long as BoS (in its discretion) shall consider it appropriate, to place all or any money arising from the enforcement of the BoS Security Documents into a suspense account, without any obligation to apply the same or any part of such money in or towards the discharge of any of the BoS Debt (unless the sums arising from such enforcement are sufficient to extinguish the BoS Debt in its entirety, in which case such sums will be so applied).
- 13.3. Any amount received hereunder by BoS in a currency other than that in which the BoS Debt is denominated and payable shall be converted into Sterling at such rate of exchange as on the date of payment and in such market as is determined by BoS to be appropriate for such conversion. The Obligors shall

pay the costs of such conversion and nothing in this Agreement shall entitle any Obligor to pay the BoS Debt in a currency other than Sterling.

- 13.4. BoS may apply any monies received by it to any liability in respect of the BoS Debt in such order or manner as it may determine.

#### **14. Professional Claims**

- 14.1. Save to the extent permitted in terms of clause 14.2 below, the Subordinated Creditor undertakes to BoS that during the Security Period it will not, except at the request of, or with the consent of BoS, exercise any rights it may have:-
- (a) to claim or accept damages against any person in respect of any of the Due Diligence Reports or any part thereof, whether for breach of contract, in tort, for negligence or misrepresentation or in any other respect; or
  - (b) to claim or agree to be indemnified by any person in respect of any of the Due Diligence Reports or any part thereof; or
  - (c) to take or accept the proceeds of any claim on any policy of insurance maintained by any other person in respect of any of the Due Diligence Reports or any part thereof.
- 14.2. The Subordinated Creditor may take any action which would otherwise be prohibited by clause 14.1 above if and to the extent that the following conditions are satisfied:-
- (a) the Subordinated Creditor consults with BoS in relation to such action prior to the taking of such action; and
  - (b) if a Default is outstanding the Subordinated Creditor pays all amounts received by it during the Security Period as a result of taking such action (less all costs and expenses directly incurred in taking such action) to BoS for application in accordance with the terms of this Agreement.

#### **15. Assignment and Transfer**

- 15.1. This Agreement shall enure to and be binding on the permitted successors and assignees of the parties to this agreement.
- 15.2. No Obligor may assign, transfer or otherwise dispose of all or any of its rights, obligations or benefits under this Agreement.
- 15.3. BoS shall be entitled to assign, transfer, securitise or otherwise dispose of the whole or any part of the benefit of this Agreement (a "Transfer") to any person (the "Transferee") in any manner that it sees fit to whom all or a corresponding part of its rights and benefits and, where applicable, obligations under any BoS Document are assigned, transferred, securitised or otherwise disposed of in accordance with the provisions of them. Following such Transfer each Obligor and the Subordinated Creditor shall have recourse only to the Transferee in respect of that portion of BoS's obligations transferred to the Transferee.
- 15.4. BoS will be entitled to disclose to its advisors and to any prospective or actual assignee, any party to a securitisation, transferee or participant, any other member of the BoS Group, its auditors, advisors or applicable regulatory authority, any rating agency, or any other person or entity who enters or propose to enter into any transaction as referred to in this clause 15.4 with BoS in relation to the BoS Documents (in each case, together with their professional advisors) all information, including any confidential information,



financial information and any other information give to BoS in relation to this Agreement.

- 15.5. The Subordinated Creditor hereby undertakes to BoS that it shall not sell, transfer or otherwise dispose of all or any part of the Subordinated Debt to any person unless such purchaser or transferee of any of the Subordinated Debt enters into an Accession Agreement at or prior to the completion of such sale or transfer.

#### **16. Miscellaneous**

- 16.1. If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Agreement hereof nor the legality, validity or enforceability of such provisions under the law of any other jurisdiction shall in any way be affected or impaired.
- 16.2. No failure to exercise, nor delay in exercising, any right or remedy under this Agreement by BoS will operate as a waiver of such rights and remedies, nor will any single or partial exercise of any other right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.
- 16.3. During the Security Period, BoS and the Subordinated Creditor may disclose to each other information concerning any Obligor and its affairs in such manner and to such extent as BoS and the Subordinated Creditor may wish and each Obligor consents to such disclosure.
- 16.4. If there is any conflict between the terms of this Agreement and the Subordinated Documents, this Agreement shall prevail.

#### **17. Amendment**

This Agreement shall not be varied or amended in any way except in writing signed by each of the Subordinated Creditor, the Obligors and BoS.

#### **18. Instrument of Alteration**

- 18.1. The parties acknowledge and agree that this Agreement is an instrument of alteration in terms of Section 466 of the Companies Act 1985.
- 18.2. The Subordinated Creditor confirms and undertakes to BoS that it will within 21 days of the date of this Agreement register the required details of this Agreement at Companies House in order for this Agreement to constitute a valid instrument of alteration in respect of the Subordinated Floating Charges.

#### **19. Power of Attorney**

Each Obligor and Subordinated Creditor irrevocably appoints BoS as its attorney to do anything which such person has authorised BoS to do under this Agreement or which such person is required to do under this Agreement but has failed to do for a period of five Business Days after receiving notice from BoS requiring it to do so.

#### **20. Notices**

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

- 20.2. The address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Agreement is that identified with its name below or any substitute address or department or officer as the party may notify to the other parties by not less than five Business Days' notice.
- 20.3. Any communication made or document made or delivered by one person to another under or in connection with this Agreement will only be effective:-
  - (a) if by way of letter, when it has been delivered to the relevant address or three Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,
- 20.4. and, if a particular department or officer is specified as part of the address details set out below, if addressed to that department or officer.
- 20.5. Any communication or document to be made or delivered to BoS will be effective only when actually received by BoS and then only if it is expressly marked for the attention of the department or officer identified with BoS' signature below (or any substitute department or officer as BoS shall specify for this purpose). Any communication or document made or delivered to the SPV in accordance with this clause will be deemed to have been made or delivered to each of the Obligors.

## **21. Counterparts and Delivery**

- 21.1. This Agreement may be executed in any number of counterparts and by each of the parties on separate counterparts.
- 21.2. Where executed in counterparts:
  - 21.2.1. this Agreement shall not take effect until each of the counterparts have been delivered; and
  - 21.2.2. delivery will take place when the date of delivery is agreed between the parties after execution of this Agreement as evidence by the date inserted on page 1 of this Agreement.
- 21.3. Where not executed in counterparts, this Agreement shall become effective on the date agreed between the parties as evidence by the date inserted on page 1 of this Agreement.

**22. Governing Law**

This Agreement shall be governed by and construed according to Scots law.

IN WITNESS WHEREOF this Inter Creditor Agreement consisting of this and the 10 preceding pages together with the attached Schedule are executed as follows:

**THE SUBORDINATED CREDITOR**

SUBSCRIBED for and on behalf of the said  
CITY FACILITIES MANAGEMENT  
HOLDINGS (UK) LIMITED (pursuant to a  
resolution of its Board of Directors)

at GLASGOW

on 24 AUGUST 2019

by COLIN SEGGIE

Full Name

Colin Seggie

Director

in the presence of:

FR

Witness Signature

PAUL DOUGLAS BREEN

Full Name

110 QUEEN STREET

Address

GLASGOW, G1 3BX

## THE OBLIGORS

SUBSCRIBED for and on behalf of the said  
EDISTON (RES) LIMITED (pursuant to a  
resolution of its Board of Directors)

at GLASGOW  
on 2 AUGUST 2019  
by RANKIN LAING  
Full Name

  
Director

in the presence of:

  
SIAN LAURIE  
Full Name

Witness Signature

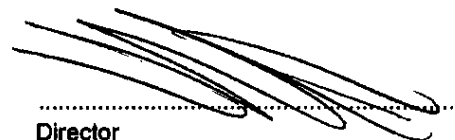
Full Name

Address

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

SUBSCRIBED for and on behalf of the said  
SOUTHCOTE LIMITED (pursuant to a  
resolution of its Board of Directors)

at GLASGOW  
on 2 AUGUST 2019  
by LYNN MORTIMER  
Full Name

  
Director

in the presence of:

FIONA CAMERON  
Full Name

Witness Signature

Full Name

Address

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

**SUBSCRIBED** for and on behalf of the said  
**MERECRE LIMITED** (pursuant to a  
 resolution of its Board of Directors)

at GLASGOW

on 2 AUGUST 2019

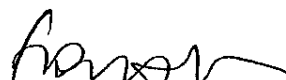
by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

FIONA CAMERON

Witness Signature



Full Name

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

Address

**SUBSCRIBED** for and on behalf of the said  
**BATHSHEBA (PROPERTIES) LIMITED**  
 (pursuant to a resolution of its Board of  
 Directors)

at GLASGOW

on 2 AUGUST 2019

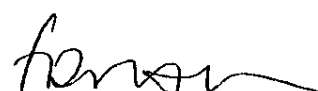
by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

FIONA CAMERON

Witness Signature



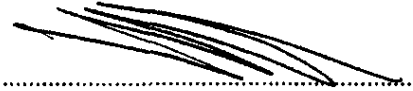
Full Name

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

Address

SUBSCRIBED for and on behalf of the said  
**ENSCO 1533 LIMITED** (pursuant to a  
 resolution of its Board of Directors)

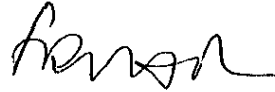
at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

FIONA CAMERON

Witness Signature



Full Name

Address

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

SUBSCRIBED for and on behalf of the said  
**GLENERROL LIMITED** (pursuant to a  
 resolution of its Board of Directors)

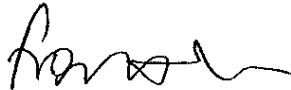
at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

FIONA CAMERON

Witness Signature



Full Name

Address

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

SUBSCRIBED for and on behalf of the said  
**FORTHWELL LIMITED** (pursuant to a  
 resolution of its Board of Directors)

at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

FIONA CAMERON

Witness Signature



**BRODIES LLP**

Full Name

**110 Queen Street**

Address

**Glasgow**

**G1 3BX**

SUBSCRIBED for and on behalf of the said  
**KYLELOCH LIMITED** (pursuant to a  
 resolution of its Board of Directors)

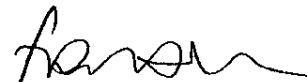
at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

FIONA CAMERON

Witness Signature



**BRODIES LLP**

Full Name

**110 Queen Street**

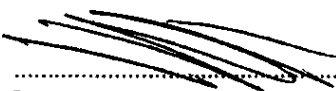
Address

**Glasgow**

**G1 3BX**

SUBSCRIBED for and on behalf of the said  
**LYNNET LEISURE (PROPERTIES)**  
**LIMITED** (pursuant to a resolution of its  
 Board of Directors)

at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

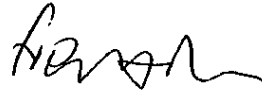
  
 Director

in the presence of:

FIONA CAMERON

Witness Signature

Full Name



BRODIES LLP  
110 Queen Street  
Glasgow  
G1 3BX  
 Address

SUBSCRIBED for and on behalf of the said  
**GOWTON LIMITED** (pursuant to a resolution  
 of its Board of Directors)

at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

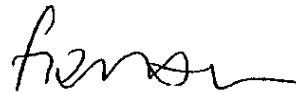
  
 Director

in the presence of:

FIONA CAMERON

Witness Signature

Full Name

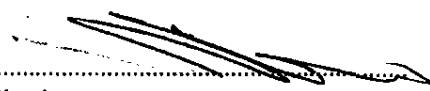


BRODIES LLP  
110 Queen Street  
Glasgow  
G1 3BX  
 Address



SUBSCRIBED for and on behalf of the said  
**LANDFERN LIMITED** (pursuant to a  
 resolution of its Board of Directors)

at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

HONA CAMERON

Witness Signature

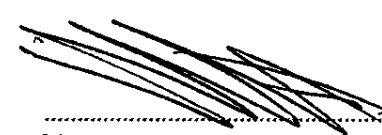
Full Name

Address

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

SUBSCRIBED for and on behalf of the said  
**BATHSHEBA (HOLDINGS) LIMITED**  
 (pursuant to a resolution of its Board of  
 Directors)

at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

HONA CAMERON

Witness Signature

Full Name

Address

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

SUBSCRIBED for and on behalf of the said  
**BATHSHEBA (CITATION) LIMITED**  
 (pursuant to a resolution of its Board of  
 Directors)

at GLASGOW

on 2 AUGUST 2009

by ANNETTE MORTIMER  
 Full Name

  
 Director

in the presence of:



Witness Signature

SIÂN LAURIE

Full Name

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

Address

SUBSCRIBED for and on behalf of the said  
**LYNNET LEISURE (ROGANO) LIMITED**  
 (pursuant to a resolution of its Board of  
 Directors)

at GLASGOW

on 2 AUGUST 2009

by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:



Witness Signature

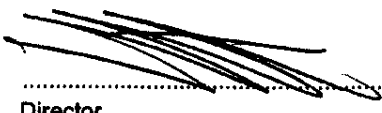
Full Name

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

Address

**SUBSCRIBED** for and on behalf of the said  
**LANSFORTH LIMITED** (pursuant to a  
 resolution of its Board of Directors)

at GLASGOW  
 on 2 AUGUST 2019  
 by LYNN MORTIMER  
 Full Name

  
 Director

in the presence of:

FIONA CAMERON

Witness Signature



Full Name

**BRODIES LLP**  
**110 Queen Street**  
**Glasgow**  
**G1 3BX**

Address

**BOS**

**SUBSCRIBED** for and on behalf of the said  
**BANK OF SCOTLAND PLC**

at .....

on .....

by .....

Full Name

Attorney

as attorney in the presence of:

..... Witness Signature

..... Full Name

..... Address

.....

**SUBSCRIBED** for and on behalf of the said  
**LANSFORTH LIMITED** (pursuant to a  
 resolution of its Board of Directors)

at .....

on .....

by .....  
 Full Name

.....  
 Director

In the presence of:

.....  
 Witness Signature

.....  
 Full Name

.....  
 Address

**BOS**

**SUBSCRIBED** for and on behalf of the said  
**BANK OF SCOTLAND PLC**

at LEEDS .....

on 1/8/19 .....

by JAMES LONGLEY .....  
 Full Name

[Signature] .....  
 Attorney

as attorney in the presence of:

[Signature] .....  
 Witness Signature

CATUN BLADONAW .....  
 Full Name

.....  
 Pinsent Masons LLP .....  
 Address

1 Park Row

Leeds

LS1 5AB

Solicitor

This is the Schedule in three parts referred to in the preceding Inter Creditor Agreement dated *2 August* 2019 between City Facilities Management Holdings (UK) Limited, Bank of Scotland plc, Ediston (RES) Limited and the Obligors identified in Schedule 1 of the Inter Creditor Agreement.

## THE SCHEDULE

### PART 1

#### The Obligors

| Name                                | Registered Office                                               | Registered Number |
|-------------------------------------|-----------------------------------------------------------------|-------------------|
| Ediston (Res) Limited               | 1 St. Andrew Square, Edinburgh, Scotland, EH2 2BD               | SC633869          |
| Southcove Limited                   | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC449697          |
| Mereacre Limited                    | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC454422          |
| Bathsheba (Properties) Limited      | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC330496          |
| Ensco 1533 Limited                  | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC550781          |
| Glenerrol Limited                   | Lynnet Leisure Group, 23 Royal Exchange Square, Glasgow, G1 3AJ | SC223952          |
| Forthwell Limited                   | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC450314          |
| Kyleloch Limited                    | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC450313          |
| Lynnet Leisure (Properties) Limited | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC136348          |
| Gowton Limited                      | Lynnet Leisure Group, 23 Royal Exchange Square, Glasgow, G1 3AJ | SC212284          |
| Landfern Limited                    | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC454427          |
| Bathsheba (Holdings) Limited        | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC317455          |
| Bathsheba (Citation) Limited        | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC330493          |
| Lynnet Leisure (Rogano) Limited     | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC304220          |
| Lansforth Limited                   | 23 Royal Exchange Square, Glasgow, G1 3AJ                       | SC256910          |

**THE SCHEDULE**

**PART 2**

**Accession Agreement**

This Agreement is made

BY: [ ] of [ ] (the "Acceding Party") in favour of BANK OF SCOTLAND PLC

and is SUPPLEMENTAL to an inter creditor agreement (the "Inter Creditor Agreement") dated ● 2019 and made between (1) the Obligors (as defined therein), (2) the Subordinated Creditor (as defined) therein and (3) Bank of Scotland plc.

**NOW IT IS AGREED AS FOLLOWS**

1. Words and expressions defined in the Inter Creditor Agreement shall have the same meaning in this Agreement.
2. The Acceding Party confirms it has been supplied with a copy of the Inter Creditor Agreement and that [ ] (the "Transferor") has agreed to transfer to it [the Subordinated Debt] detailed in the Schedule to this Agreement.
3. The Acceding Party undertakes to BoS for the benefit of BoS (including its respective assignees, transferees and successors in title) to be bound by all the terms of the Inter Creditor Agreement capable of applying to it to the intent and effect that the Acceding Party shall be a party to the Inter Creditor Agreement with effect from the date of this Agreement.
4. This Agreement shall be governed by and construed according to Scots law.

IN WITNESS WHEREOF [Insert wording]

**THE SCHEDULE**

**[Details of Subordinated Debt]**

[Insert execution provisions]

## THE SCHEDULE

### PART 3

#### Definitions and Interpretation

#### 1. Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:-

**"Accession Agreement"** means an accession agreement in favour of BoS substantially in the form set out in Part 2 of the Schedule (or in such other form as BoS shall approve in writing);

**"BoS Debt"** means all or any monies and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to BoS by the Obligors, whether actually or contingently, solely or jointly and whether as principal or surety and whether or not BoS shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which BoS may in the course of its business charge or incur in respect of any of those matters or for keeping the Obligors' accounts, and so that interest shall be computed and compounded according to the usual BoS rates and practice as well after as before any demand made or decree obtained;

**"BoS Documents"** means the Facility Letter, any Hedging Documents entered into between BoS and City and the BoS Security Documents;

**"BoS Fixed Charges"** means the standard securities granted by the Obligors in favour of BoS over the Properties and each is a **"BoS Fixed Charge"**;

**"BoS Floating Charges"** means the floating charges granted by the Obligors in favour of BoS and each is a **"BoS Floating Charge"**;

**"BoS Security Documents"** means the BoS Fixed Charges, the BoS Floating Charges and all fixed and floating charges and other security and all collateral or substituted securities for the time being held by BoS and given by the Obligors (or any of them) as security for the payment and/or discharge of the BoS Debt;

**"City"** means City Facilities Management Holdings (UK) Limited (Company No. SC148945);

**"Default"** means any Event of Default or Potential Event of Default;

**"Enforcement Action"** means any action whatsoever to:

- (a) demand payment of, declare prematurely due and payable or otherwise seek to accelerate payment of or place on demand, all or any part of the Subordinated Debt;
- (b) recover all or any part of the Subordinated Debt (including, without limitation, by exercising any right of set-off or combination of accounts);
- (c) exercise or enforce any security right or rights against guarantors or sureties or any other rights under any other document or agreement in relation to (or given in support of) all or any part of the Subordinated Debt (including, without limitation, under the Subordinated Security Documents);

- (d) petition for (or take any other steps or action which may lead to) an Insolvency Event in relation to any Obligor;
- (e) commence legal proceedings against any Obligor;

**"Facility Letter"** means the facility letter dated on or around the date of this Agreement from BoS to City in relation to the term loan facilities of £16,000,000 (as amended, restated, supplemented, novated or replaced from time to time);

**"Hedging Documents"** means the form of ISDA master agreement, schedule and associated confirmations used from time to time by BoS for entities like City together with all other documents referred to in, or supplemental to, such documentation;

**"Insolvency Event"** means:

- (a) any application, notice, resolution or order is made, passed or given for or in connection with the winding up, liquidation, dissolution, administration or reorganisation of any Obligor;
- (b) any Obligor becomes subject to any insolvency, reorganisation, receivership (whether relating to all or some only of its assets), liquidation, dissolution or other similar proceedings, whether voluntary or involuntary and whether or not involving insolvency;
- (c) any Obligor assigns all or any of its assets for the benefit of its creditors generally (or any class thereof) or enters into any composition or arrangement with its creditors generally or any arrangement is ordered or declared by a court of competent jurisdiction whereby all or any of its affairs and/or assets are submitted to the control of, or are protected from, its creditors;
- (d) any Obligor becomes subject to any distribution of its assets in consequence of insolvency, reorganisation, liquidation, dissolution or administration; or
- (e) any event analogous to any of the foregoing shall occur in relation to any Obligor or any of its assets in any jurisdiction;

**"Permitted Payments"** means the payments in respect of the Subordinated Debt which may be paid by an Obligor in accordance with Clause 6 hereof;

**"Property"** has the meaning provided in the Facility Letter;

**"Security Period"** means the period from the date of this Agreement to the date on which the BoS Debt is repaid in full and no commitment by BoS to provide facilities to City or the Obligors remains in effect;

**"Subordinated Debt"** means all present and future sums, liabilities and obligations (whether actual and contingent, present or future) payable or owing by the Obligors or any of them to the Subordinated Creditor under the Subordinated Documents;

**"Subordinated Documents"** means the Subordinated Loan Agreement and the Subordinated Security Documents;

**"Subordinated Fixed Charges"** means the standard securities granted by the Obligors in favour of the Subordinated Creditor over the Properties and each is a "Subordinated Fixed Charge";

**"Subordinated Floating Charges"** means the floating charges granted by the Obligors in favour of the Subordinated Creditor and each is a "Subordinated



**Floating Charge";**

**"Subordinated Loan Agreement"** means the loan agreement dated on or around the date of this Agreement between City and the SPV in terms of which City made available to the SPV a loan of £16,000,000;

**"Subordinated Security Documents"** means the Subordinated Fixed Charges, the Subordinated Floating Charges and all fixed and floating charges and other security and all collateral or substituted securities for the time being held by the Subordinated Creditor and given by the Obligors (or any of them) as security for the payment and/or discharge of the Subordinated Debt;

**"SPV"** means Ediston (RES) Limited (Company. No. SC633869);

## 2. Interpretation

In this Agreement, unless a contrary intention appears:-

- (a) a reference to statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation;
- (b) a reference to "control" of any company shall be interpreted in accordance with Section 995 of the Income Tax Act 2007;
- (c) a reference to "including" shall not be construed as limiting the generality of the words preceding it;
- (d) a reference to this Agreement shall include the Schedules;
- (e) any term or phrase defined in the Companies Act 2006 (as amended from time to time) shall bear the same meaning in this Agreement;
- (f) words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- (g) a reference to this Agreement and to any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- (h) a reference to any person is to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- (i) a reference to any person is to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- (j) clause headings are for ease of reference only and are not to affect the interpretation of this Agreement;
- (k) any reference to the Subordinated Creditor includes any agent or trustee (howsoever described) holding any Security Rights or other rights for or on behalf of the Subordinated Creditor;
- (l) words and expressions defined in the Facility Letter shall bear the same meanings when used in this Agreement.