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**INDEPENDENT LEGAL ADVICE SHOULD BE TAKEN BEFORE  
SIGNING THIS DOCUMENT**

Dated 5 June 2008

CATHERINE McPHILLIPS

– in favour of –

*JS*

**SENIORS MONEY MORTGAGES (IRELAND) LIMITED**

**DEED OF MORTGAGE AND CHARGE OVER REAL PROPERTY**

*The Deed of Confirmation (a non-recourse supplemental mortgage) must be executed by any person or body who may have acquired any financial, equitable or beneficial estate or interest in the Mortgaged Property.*

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THIS DEED is made the 5 day of June 2008

**BETWEEN:**

- (1) Mrs Catherine Mc Phillips of Knockalouny Monaghan, Co. Monaghan and, if two persons comprise the Mortgagor, \_\_\_\_\_ of \_\_\_\_\_ (the "Mortgagor");
- (2) **SENIORS MONEY MORTGAGES (IRELAND) LIMITED** having its principal place of business at Beech House, Beech Hill Office Park, Clonskeagh, Dublin 4 (the "Lender").

**RECITALS:**

- A. Pursuant to a loan agreement dated on or about the date hereof between the Mortgagor and the Lender (the "**Loan Agreement**"), the Lender agreed to make available a Seniors Money Lifetime Loan to the Mortgagor (the "**Loan**"), on the terms and subject to the conditions of the Loan Agreement.
- B. It is a term of the Loan Agreement that the Mortgagor enters into this Deed and creates in favour of the Lender the security to be created by this Deed.

**THIS DEED WITNESSES AND IT IS AGREED AND DECLARED** as follows:

**1. Definitions and Interpretation**

- 1.1 In this Deed the following expressions shall, unless the context otherwise requires, have the following meanings:
  - (a) "**Act**" means the Conveyancing and Law of Property Act, 1881 as amended by the Conveyancing Acts, 1882 and 1911;
  - (b) "**Deed**" means this Deed of Mortgage and Charge over Real Property;
  - (c) "**Environment**" means:
    - (i) land including the sea bed and any natural or man-made structures;



- (ii) water including rivers, lakes (man-made or natural), canals, the ocean (whether within or without territorial waters), ground waters and waters in drains and sewers; and
  - (iii) air including air within buildings and other natural and man-made structures above or below ground;
- (d) **“Environmental Law”** means all and any applicable law, including common law, statute, bye-law and subordinate legislation, customary law, regulations and directives and judgements and decisions, including notice, orders or circulars, of any court or authority competent to make such judgement or decision compliance with which is mandatory for the Mortgagor in any jurisdiction with regard to Environmental Matters and protection of the Environment including, without limitation, the Public Health (Ireland) Acts 1878 to 1919, the Foreshore Acts 1933 to 1998, the Factories Act 1955, the Office Premises Act 1958, the Fisheries Acts 1959 to 2000, the Planning Acts, the Housing Acts 1966 to 2002, the European Communities Act 1972, the Dangerous Substances Acts 1972 and 1979, the Wildlife Acts 1976 and 2000, the Local Government (Water Pollution) Acts 1977 to and 1990, the Safety in Industry Act 1980, the Air Pollution Act 1987, the Local Government (Multi-Storey Buildings) Act 1988, the Safety, Health and Welfare at Work Act 1989, the European Communities (Protection of Workers) (Exposure to Asbestos) Regulations 1989 to 2000, the Litter Pollution Acts 1997 to 2003, the Environmental Protection Agency Acts 1992 and 2003, the Waste Management Acts 1996 to 2003 and the Protection of the Environment Act 2003 and all regulations, bye-laws, orders, decisions and codes made hereunder;
- (e) **“Environmental Matters”** means any matter arising out of, relating to, or resulting from:
  - (i) the pollution or protection of the Environment;
  - (ii) harm to the health of humans, animals or plants including laws relating to public and workers’ health and safety;
  - (iii) emissions, discharges or releases into the Environment of chemicals or any other pollutants or contaminants or industrial, radioactive, dangerous, toxic or hazardous substances or waste (whether in solid, semi-solid, liquid or

gaseous form and including noises and genetically modified organisms); or

- (iv) the manufacture, processing, use treatment, storage, distribution, disposal, transport or handling of the substances or wastes described in (iii) above;
- (f) **“Environmental Permits”** means all and any permits, licences, consents, approvals, certificates, qualifications, specifications, registrations and other authorisations including any conditions which attach to any of the foregoing and the filing of all notifications, reports and assessments required under Environmental Laws for the operation of any business from or using any of the Mortgaged Property or the occupation or use of all or any of the freehold, leasehold or immovable property of the Mortgagor;
- (g) **“Mortgaged Property”** means all that property referred to in Clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d), 3.1(e), 3.1(f), 3.1(g), 3.1(h) and each and every part thereof;
- (h) **“Planning Acts”** means the Local Government (Planning and Development) Acts 1963 to 1999, the Building Control Act, 1990, the Planning and Development Acts, 2000 & 2001 and any regulations issued pursuant thereto;
- (i) **“Real Property”** means all that property referred to in Clauses 3.1(a), 3.1(b) and 3.1(c) and each and every part thereof;
- (j) **“Receiver”** means any one or more receivers and/or managers appointed by the Lender in respect of the Mortgagor or over all or part of the Mortgaged Property in accordance with Clause 12;
- (k) **“Secured Obligations”** means all obligations and liabilities of the Mortgagor to the Lender of whatever nature, whether now existing or hereafter incurred or acquired, whether matured or un-matured, liquidated or unliquidated, direct or indirect, absolute or contingent, primary or secondary, guarantor or surety, sole, joint, several or joint and several, secured or unsecured (including without limitation any obligations and liabilities under the Loan Agreement); and
- (l) **“Security”** means the security from time to time constituted by or pursuant to this Deed and each and every part of that security.

1.2 Any reference in this Deed to:

- (a) the “**Lender**” shall be construed as a reference to its subsequent successors and assigns;
- (b) “**encumbrance**” shall be construed as reference to a guarantee, indemnity, mortgage, charge, pledge, lien, hypothecation, assignment or deposit by way of security or any other encumbrance or security interest of any kind (other than a lien arising in the ordinary course of business by operation of law) or any other type of preferential arrangement (including title transfer, defeasance and retention arrangements) having a similar effect;
- (c) the “**Mortgagor**” shall be construed as a reference to its successors, assigns, personal representatives, executors and administrators;
- (d) “**Business Day**” shall be construed as a reference to a day (other than a Saturday or a Sunday) on which banks are generally open for business in Dublin;
- (e) a “**Clause**” or “**Schedule**” shall, unless otherwise stated, be construed as a reference to a clause or schedule hereof;
- (f) “**tax**” shall be construed so as to include any tax, levy, impost, duty or other charge of a similar nature (including any penalty or interest payable in connection with any failure to pay or delay in paying any of the same); and
- (g) “**value added tax**” shall be construed so as to include any similar tax which may be imposed from time to time.

1.3 Save where the contrary is indicated, any reference in this Deed:

- (a) to any statute or provision of any statute shall be deemed also to refer to any statutory modification, substitution or re-enactment thereof or any statutory instrument, order, regulation, bye-law, permission or direction made under that statute or under any such modification, substitution or re-enactment;
- (b) to this Deed shall be construed as a reference to this Deed (or such other agreement or document) as the same may have been, or may from time to time be, amended, varied, novated, substituted or supplemented;
- (c) words:

- (i) importing the singular meaning include the plural meaning and vice versa;
  - (ii) of one gender include the other gender; and
  - (iii) neutral as to gender include both genders, where the context so admits;
  - (d) to a “**person**” or “**persons**” include, without limitation, individuals, firms, corporations, government agencies, authorities and other bodies, incorporated or unincorporated and whether having direct legal personality or not.
- 1.4 Clause and Schedule headings are for ease of reference only.

2. **Covenant to Pay**

The Mortgagor hereby covenants with the Lender that the Mortgagor will, on demand in writing being made by the Lender on the Mortgagor and in accordance with the terms of the Loan Agreement, pay or discharge to the Lender, when due, the Secured Obligations.

3. **Charging Provisions**

- 3.1 The Mortgagor as legal and beneficial owner as continuing security for the payment, performance and discharge of the Secured Obligations hereby:

- (a) grants, conveys, transfers and demises to the Lender **ALL THAT AND THOSE** the freehold and leasehold property of the Mortgagor specified in Part A of the Schedule (and all of the Mortgagor’s interest therein) and all buildings, fixtures (including trade fixtures) and works in progress from time to time on such property and all fixed plant and machinery of the Mortgagor both present and future therein or thereon, to hold the same as to so much thereof as is of freehold tenure unto the Lender in fee simple and as to so much thereof as is of leasehold tenure unto the Lender for the residue of the respective terms of years for which the Lender now or, as applicable at the time of acquisition, then holds the same less the last three days of each such term, subject to the proviso for redemption herein contained **PROVIDED** that the Mortgagor hereby declares that it shall henceforth stand possessed of such of the said property as is of leasehold tenure for the last day or respective last days of the term or terms of years for which the same is held by him, and for any further or other interest which he

now has or may hereafter acquire or become entitled to in the same or any part thereof by virtue of any Act or Acts of the Oireachtas or otherwise howsoever, in trust for the Lender and to be conveyed, assigned or otherwise dealt with (whether to the Lender or its nominee or otherwise) as the Lender shall direct but subject to the same equity of redemption as may for the time being be subsisting in the said property, and **PROVIDED FURTHER** that the Mortgagor hereby irrevocably appoints each officer of the Lender from time to time to be his attorney, in his name and on his behalf, and as his act and deed to sign, seal and deliver and otherwise perfect every or any deed of conveyance of the leasehold reversion which may be desired by the Lender, in order to vest in the Lender or in any person or persons in trust as agent for the Lender, subject as aforesaid, or in any purchaser of the said property or any part thereof, the said leasehold reversion and any further or other interest which the Mortgagor now has or may hereafter acquire or become entitled to in the said leasehold premises or any part thereof by virtue of any Act or Acts of the Oireachtas or otherwise howsoever;

- (b) as registered owner or, as the case may be, the person entitled to be registered as owner, charges to the Lender by way of first fixed charge **ALL THAT AND THOSE** the freehold and leasehold lands, hereditaments, premises and property of the Mortgagor registered under the Registration of Title Act, 1964 and specified in Part B of the Schedule (and all of the Mortgagor's interest therein) together with all buildings, fixtures (including trade fixtures) and works in progress from time to time on such property and all fixed plant and machinery both present and future therein;
- (c) charges to the Lender by way of first fixed charge all the Mortgagor's other estate, right, title or interests (including works in progress) in the lands, hereditaments and premises specified in the Schedule (whether or not the legal estate is vested in the Mortgagor or registered in the name of the Mortgagor), and all future estate, right, title or interests of the Mortgagor in such lands, hereditaments and premises and/or the proceeds of sale thereof together in all cases, with all fixtures (including trade fixtures), works in progress and all fixed plant and machinery from time to time therein;
- (d) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment the benefit of all present and future leases, licences, permissions, consents and authorisations (statutory



or otherwise) held by the Mortgagor in connection with the use of any of the Real Property and the right to recover and receive all compensation which may at any time become payable to the Mortgagor in respect thereof to the extent permitted by the terms of such licences, leases, permissions, consents and authorisations;

- (e) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment all present and future rights, interest, title and benefit of the Mortgagor to and in the proceeds of any policy of insurance in which the Mortgagor may now or hereafter have an interest which relate to the Real Property or any part or parts thereof or any mortgage protection insurance or policy of life assurance which the Mortgagor is obliged to effect in accordance with the Loan Agreement to cover the Secured Obligations including any additional or substituted policy;
- (f) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment all present and future rights, interest, title and benefit of the Mortgagor to and in the proceeds of any compensation received by the Mortgagor in relation to any compulsory purchase order issued over the Real Property in which the Mortgagor may now or hereafter have an interest or the refusal or grant subject to the conditions of planning permission or approval in respect of the Mortgaged Property or any control or limitation imposed upon or affecting the use of the Mortgaged Property so that the production of the Deed to the person liable to pay such compensation shall be sufficient authority to such person to pay any such moneys to the Lender;
- (g) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment:
  - (i) any covenant, agreement or undertaking in relation to the construction of roads, footpaths, utilities and services abutting or serving the Mortgaged Property or charges, levies or such like in respect of the same or the taking in charge thereof by the local authority and any indemnity in respect thereof;
  - (ii) any covenant, agreement, guarantee, bond or indemnity in respect of the construction, maintenance or structural repair of buildings now erected or in the course of erection or after the date of this Deed to be erected on the Mortgaged Property the benefit of which is enjoyed by the Mortgagor;

- (iii) any covenant, agreement, undertaking, charge, right, remedy or indemnity in relation to the Mortgaged Property and/or securing the payment of any rent or apportioned rent payable in relation thereto or charged thereon;
- (iv) all rights entitling the Mortgagor to sell merchandise of a particular kind (including intoxicating liquor) on or from the Mortgaged Property or to use the Mortgaged Property for any particular purpose or activity;
- (v) all rights enjoyed or available to the Mortgagor by virtue of any farming, industrial or other activity carried on or desisted from being carried on in or under the Mortgaged Property; and
- (vi) any and all other covenants, agreements, guarantees, indemnities, undertakings, goodwill, licences, rights, remedies, charges, easements and privileges appertaining to or enjoyed with or incidental to the ownership of the Mortgaged Property in any manner whatsoever; and

3.2 Notwithstanding anything to the contrary contained in this Deed:

- (a) the Mortgagor shall remain liable under any contracts, agreements and other documents relating to the Mortgaged Property to perform all of his duties and obligations under such contracts, agreements and other documents to the same extent as if this Deed had not been executed;
- (b) the exercise by the Lender of any of its rights under this Deed shall not release the Mortgagor from any of his duties or obligations under such contracts, agreements and other documents; and
- (c) the Lender shall not have any obligation or liability under any such contracts, agreements or other documents included in the Mortgaged Property by reason of this Deed, nor shall the Lender be obligated to perform any of the obligations or duties of the Mortgagor under such contracts, agreements and other documents or to take any action to collect or enforce any such contract, agreement or other document.

3.3 The Security shall have effect whether or not the principal monies and interest and all other sums intended to be secured by this Deed or by any part of this Deed are advanced before, after or upon the date of the execution of this Deed.



4. **First Security**

The Security shall rank as a first security and any encumbrance over the Mortgaged Property created after the date of this Deed by the Mortgagor (otherwise than in favour of the Lender) shall be expressed to be subject to the Security, unless the Lender otherwise agrees in writing.

5. **Redemption of Security**

Subject to Clause 20 upon and subject to the discharge of the Secured Obligations, promptly thereafter and at the request and cost of the Mortgagor, the Lender, shall (but subject to the rights and claims of any person having prior rights thereto) reassign the Mortgaged Property to the Mortgagor and release or otherwise discharge the Security.

6. **Protection of Security**

6.1 The Mortgagor shall not be released or discharged from his obligations under this Deed, and the Security shall not be impaired, affected or reduced by any act, omission, transaction, limitation, matter, thing or circumstance whatsoever which, but for this provision, might operate to release or exonerate the Mortgagor of all or any part of the Security or impair, affect or reduce such Security or cause all or any part of the Secured Obligations to be irrecoverable from or unenforceable against the Mortgagor or to discharge, reduce, affect or impair the Security, including without limitation:

- (a) any determination, increase, renewal or variation of any credit, accommodation or facility granted to the Mortgagor;
- (b) any time, waiver or indulgence granted to the Mortgagor or any other person, the forbearance of the Lender in enforcing the obligations of the Mortgagor or of any other person or the release by the Lender of the Mortgagor from his obligations under this Deed;
- (c) the taking of any other security from the Mortgagor or from any other person or the variation, compromise, renewal or release of, or the failure, refusal or neglect to take, perfect or enforce, any rights, remedies or securities from or against the Mortgagor under this Deed or any other guarantee or security for the sums and liabilities secured by this Deed or the release or discharge of the Mortgagor from liability under this Deed or any other guarantee, security or obligation;

- (d) any alteration in the capacity in which the Mortgagor is borrowing under the Loan Agreement or any defect in or irregular exercise of the borrowing or other powers of any other person or any legal limitation, disability, incapacity or other circumstance relating to the Mortgagor or any other person;
- (e) any amendment or supplement to or variation of the Loan Agreement or any other document evidencing the terms of the sums and liabilities hereby secured or any other document or security;
- (f) the insolvency, bankruptcy, liquidation or reorganisation of, or analogous proceedings relating to the Mortgagor or any other person or any composition or arrangement made by any of them with the Lender or any other person or any transfer or extinction of any liabilities of the Mortgagor by any law, order, regulation, decree, court order or similar instrument or the death of the Mortgagor; or
- (g) any irregularity, unenforceability or invalidity of any obligations of the Mortgagor or any other person under any security or document (to the intent that the Mortgagor's obligations under this Deed shall remain in full force and effect and this Deed shall be construed accordingly as if there were no such irregularity, unenforceability or invalidity),

and so that as a separate and independent stipulation all sums and liabilities the payment and discharge of which are expressed to be secured by this Deed which may not be recoverable from the Mortgagor by reason of any act, omission, transaction, limitation, matter, thing or circumstance whatsoever shall nevertheless be recoverable from the Security as though the same had been incurred by the Mortgagor and the Mortgagor was the sole or principal debtor in respect thereof.

## 7. **Continuing Security**

- 7.1 The Security is created for the purpose of securing the Secured Obligations and this Deed shall be a continuing security to the Lender notwithstanding any discharge, intermediate payment or settlement of the whole or part of any account or any other matter or thing whatsoever and shall be without prejudice and in addition to and independent of any other right, remedy or security whether by way of mortgage, equitable charge or otherwise howsoever which the Lender may now, or at any time hereafter or but for the Security would, have on or in respect of the

Mortgaged Property or any of it for or in respect of the monies and liabilities hereby secured or any part thereof.

- 7.2 Neither the Security nor any remedy of the Lender in respect thereof shall be prejudiced by any unenforceability or invalidity of any other agreement or document or any time or indulgence granted to the Mortgagor by the Lender or any other act or thing whatsoever, which, but for this Clause 7, would or might prejudice the Security or the right of the Lender to any remedy.

## 8. **Negative Pledge**

- 8.1 The Mortgagor undertakes that at no time during the continuance of this Deed will he, otherwise than:

- (a) in the Lender's favour; or
- (b) with the Lender's prior written consent,

create, grant, extend or permit to subsist or arise any encumbrance on or over all or any part of the Mortgaged Property.

- 8.2 The Mortgagor undertakes that at no time during the continuance of this Deed will he, except with the prior written consent of the Lender and except to the extent permitted by Clause 8.3 sell, convey, transfer, assign or otherwise dispose of all or any part of the Mortgaged Property or agree to do any of the foregoing.

- 8.3 The foregoing provisions of this Clause 8 shall not be construed as limiting any powers exercisable by any Receiver appointed by the Lender under or pursuant to this Deed.

## 9. **Representations**

- 9.1 The Mortgagor hereby represents and warrants to the Lender that during the continuance of this Deed:

- (a) he is the legal and beneficial owner of all the Mortgaged Property free from any encumbrance (other than an encumbrance created by or pursuant to this Deed);
- (b) to the extent that (with the prior consent of the Lender) he sells or agrees to sell any part of the Mortgaged Property, the proceeds of any such sale shall be subject to the fixed charge created pursuant to this Deed;

- (c) he has obtained all consents necessary to ensure that no other party to any agreement or arrangement entered into by him becomes entitled to terminate such agreement or arrangement as a consequence of the Mortgagor entering into this Deed;
- (d) all actions, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents or the like) in order:
  - (i) to enable him lawfully to enter into and perform and comply with his obligations under or pursuant to this Deed and to ensure that those obligations are valid, legally binding and enforceable;
  - (ii) to enable him to create the Security and to ensure that (subject to all necessary registrations and stamping thereof being made) the Security is valid, legally binding and enforceable and has and will have the ranking which it is expressed to have; and
  - (iii) to make this Deed admissible in evidence in the courts of Ireland,have been taken, fulfilled and done;
- (e) all material covenants, restrictions and stipulations affecting the Mortgaged Property have been observed and performed and the Mortgagor has not suffered or committed or caused any breach of any such material covenant, restriction or stipulation;
- (f) nothing has been done on or in relation to any of the Mortgaged Property which constitutes a “**development**” within the meaning of the Planning Acts without any requisite permission having been obtained and no situation exists in relation to any of the Mortgaged Property secured hereby in respect of which a warning notice or an enforcement notice has been or may be made;
- (g) he is in compliance with all Environmental Laws and he has obtained, and is in compliance with, all Environmental Permits; and
- (h) there are no circumstances relating to any of the Mortgaged Property which have led, or could lead, to a competent authority or a third party taking any action or making a claim under any Environmental Laws where such action or claim could have an

adverse effect on the value of any of the Mortgaged Property or on the ability of the Mortgagor to perform his obligations under this Deed.

- 9.2 The representations and warranties of the Mortgagor set out in Clause 9.1 shall survive the execution of this Deed and shall be repeated on each date on which a representation or warranty is repeated by the Mortgagor under the Loan Agreement by reference to the then existing circumstances.

10. **Covenants**

The Mortgagor hereby covenants with the Lender that the Mortgagor shall during the continuance of this Deed:

- (a) keep all buildings, structures, fixtures and fittings, plant and machinery now or for the time being subject to this Deed insured against loss or damage by fire and such other risks as the Lender may from time to time require to the full replacement value thereof with an insurance office or underwriters approved by the Lender in writing from time to time and if so required by the Lender in the joint names of the Mortgagor and the Lender;
- (b) duly pay all premiums and other monies necessary for effecting and keeping up such insurance within one week of the same becoming due;
- (c) forthwith on their being effected or renewed produce to the Lender the policies of such insurance and the receipts for such payments;
- (d) if so required by the Lender, cause the policies of insurance maintained by the Mortgagor pursuant to Clause 10.1(a) hereof to be forthwith amended to include clauses in a form satisfactory to the Lender to ensure that no breach of any of the terms of such policies by the Mortgagor will, as regards the Lender, invalidate such policies or any provision thereof and to use reasonable endeavours to ensure that the relevant insurer undertakes to advise the Lender of:
  - (i) the proposed cancellation of or any alteration in, or termination or expiry of, any policy, at least 14 days before such cancellation, alteration, termination or expiry is due to take effect; and

- (ii) any default in the payment of any premium or failure to renew any policy, at least 14 days prior to the date on which the policy would otherwise lapse;
- (e) duly and with reasonable expedition complete any building operations commenced at any time by the Mortgagor on the Mortgaged Property;
- (f) provide the Lender with copies of all notices which may affect the Mortgaged Property or any part thereof forthwith upon receipt of the same;
- (g) permit the Lender to inspect at all reasonable times any of the Mortgaged Property or any part thereof on the giving of reasonable notice by the Lender;
- (h) observe and perform all covenants and stipulations from time to time affecting the Mortgaged Property or the mode of user or enjoyment of the same and not enter into any onerous or restrictive obligations affecting the Mortgaged Property or any part thereof or create or permit to arise any overriding interest or any easement or right whatsoever in or on the Mortgaged Property or any part thereof which might adversely affect the value thereof or do or suffer to be done on the Mortgaged Property or any part thereof anything which is a “**development**” as defined in the Planning Acts otherwise than in accordance with the provisions of the Planning Acts nor do or suffer or omit to be done any act, matter or thing whereby any provision of any Act of the Oireachtas, order or regulation from time to time in force affecting the Mortgaged Property or any part thereof is infringed;
- (i) keep all of the Mortgaged Property in good and substantial repair and not pull down or remove or sell or otherwise dispose of any of the same except in the ordinary course of use, repair, maintenance or improvement and with the prior written consent of the Lender;
- (j) pay as and when the same must be paid all taxes, rates, duties, charges, assessments and outgoings whatsoever and of any description which shall be assessed, charged or imposed upon or payable in respect of any of the Mortgaged Property (save to the extent that payment of the same is being contested in good faith);
- (k) not, without the prior written consent of the Lender (such consent not to be unreasonably withheld or delayed), grant or agree to grant (whether in exercise or independently of any statutory power) any



lease or tenancy of the Mortgaged Property or any material part thereof;

- (l) duly and punctually perform and observe all his obligations in connection with the Mortgaged Property under any present or future statute or any regulation, order or notice made or given thereunder and any lease or licence in connection with the Mortgaged Property; and
- (m) comply with all Environmental Laws and Environmental Permits applicable from time to time to the Mortgaged Property or any part thereof and not allow any circumstances to arise which could lead to a competent authority or a third party taking action or making a claim under any Environmental Laws.

10.2 At any time after payment of the monies hereby secured has been demanded or if default shall be made by the Mortgagor in performing any of the obligations set out in Clause 10.1 hereof the Lender may insure and keep insured the said buildings in any sum which the Lender may think expedient or repair and keep in repair the said buildings or complete any such building operations or do any and all such acts in relation to the Mortgaged Property as the Lender may in its discretion deem reasonable or necessary to preserve and maintain the value of the Mortgaged Property (with power to enter upon the Mortgaged Property for any of those purposes without thereby becoming a mortgagee in possession). All monies expended by the Lender under this Clause 10.2 shall be deemed to be properly paid by the Lender and shall form part of the Secured Obligations.

10.3 All monies received on insurance whatsoever in respect of loss or damage by fire or otherwise to the said buildings or any part thereof (whether effected or maintained by the Mortgagor in pursuance of the Mortgagor's obligation under the covenant in that behalf contained in Clause 10.1(a) above or independently of or otherwise than in pursuance of such obligation) shall as the Lender requires either be applied in making good the loss or damage in respect of which the monies are received or be paid to the Lender in or towards payment of the monies for the time being hereby secured.

## 11. **Events of Default**

The Lender shall not exercise any of its powers under this Deed to enforce the Security unless one of the following events has occurred



(each an “**Event of Default**”) and the Lender may then decide to enforce the Security in accordance with both this Deed and the Loan Agreement:

- (a) the Total Amount Owing (as defined in the Loan Agreement) becomes due for repayment pursuant to Clause 11.1 of the Loan Agreement;
- (b) the Mortgagor breaches any covenant, warranty, condition or analogous term of this Deed or of the Loan Agreement or implied by statute in either this Deed or the Loan Agreement, other than covenants, warranties or conditions relating to the payment and discharge of the Secured Obligations, and such a breach, where capable of remedy, is not remedied within the period specified in a written notice served by the Lender on the Mortgagor in accordance with Clause 11 of the Loan Agreement;
- (c) a petition is presented or an order is made or analogous proceedings are taken for making a Mortgagor bankrupt;
- (d) the Mortgagor dies or, where there are two persons comprising the Mortgagor, both of them have died;
- (e) the Mortgagor becomes (or if there is more than one Mortgagor, both Mortgagors become) of unsound mind;
- (f) an encumbrancer takes possession of, or attempts to exercise any power of sale in respect of, or a Receiver is appointed in respect of, all or any part of the Mortgaged Property;
- (g) any building on the Mortgaged Property is damaged in a manner which could have a material adverse effect on the value of the Security;
- (h) the Mortgaged Property is compulsorily acquired.

## 12. **Appointment and Powers of Receiver**

- 12.1 At any time after the occurrence of an Event of Default which is continuing, or if requested by the Mortgagor, the Lender may appoint by deed or by instrument in writing under the hand of any officer or manager of the Lender any person or persons (whether an officer of the Lender or not) to be receiver and manager or receivers and managers (hereinafter called the “**Receiver**” which expression shall, where the context so admits, include the plural and any substituted receiver and manager or receivers and managers) of all or any part of the Mortgaged Property.

- 12.2 An appointment of a Receiver over part only of the Mortgaged Property shall not preclude the Lender from making any subsequent appointment of a Receiver over any part of the Mortgaged Property over which an appointment has not previously been made by the Lender.
- 12.3 The Lender may from time to time determine the remuneration of the Receiver.
- 12.4 The Lender may remove the Receiver from all or any part of the Mortgaged Property of which he is the Receiver and at any time after the Receiver shall have vacated office or ceased to act in respect of any of the Mortgaged Property, appoint a further Receiver over all or any part of the Mortgaged Property, or of the part thereof in respect of which he shall have ceased to act.
- 12.5 The Receiver shall (so far as the law permits) be the agent of the Mortgagor (who shall alone be solely liable for his acts, defaults and remuneration) and shall not be the agent of the Lender.
- 12.6 The restrictions contained in Sections 24(1) and 24(6) of the Act shall not apply to this Deed.
- 12.7 The Receiver shall have, and be entitled to exercise, all powers conferred by the Act and the Conveyancing and Law of Property Act, 1911 (as varied or extended by this Deed) in the same way as if the Receiver had been duly appointed thereunder and all such powers of appointment shall be and remain exercisable by the Lender in relation to any part of the Mortgaged Property in respect of which no appointment of a Receiver by the Lender shall for the time being be subsisting and notwithstanding that an appointment under the provisions of this Clause 12 shall have subsisted and been withdrawn in respect of that property or shall be subsisting in respect of any other part of the Mortgaged Property. In particular by way of addition to but without hereby limiting any general powers herein before referred to (and without prejudice to any of the Lender's powers) the Receiver shall have power in the name of the Mortgagor or otherwise to do the following things:
- (a) to take possession of, collect and get in all or any part of the Mortgaged Property and for that (or any other) purpose to take or defend any proceedings as he shall think fit;
  - (b) to carry on in such manner as he shall think fit any business carried on at or from the Mortgaged Property and to change the situation of the registered office of the Mortgagor;

- (c) to commence and/or complete any building operations or other works on the Mortgaged Property or any part thereof and to apply for and obtain any planning permissions, building regulation approvals and any other permissions, consents or licenses in each case as he may in his absolute discretion think fit;
- (d) to raise money (including money for the completion with or without modification of any building in the course of construction and any development or project located on the Mortgaged Property) from the Lender or others on such terms with or without security as he may think fit and so that any such security may be or include a charge on the whole of the Mortgaged Property ranking in priority to this Security or otherwise;
- (e) to redeem any prior encumbrance and settle and pass the accounts of the encumbrancer so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Mortgagor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (f) to provide such facilities and services for tenants and generally to manage the Mortgaged Property in such manner as he shall think fit;
- (g) if the Mortgaged Property or any part thereof is leasehold to vary the terms of or surrender any lease and/or to take a new lease thereof or of any part thereof on such terms as he shall think fit and so that any such new lease shall ipso facto become charged to the Lender on the terms hereof so far as applicable and to execute a formal legal charge over any such new lease in favour of the Lender in such form as it may require;
- (h) to sell, transfer, convey, let, lease or license, or concur in selling, letting, leasing or licensing, and to vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options or licences over, all or any part of the Mortgaged Property in such manner and for such term, with or without premium, with such rights relating to other parts thereof and containing such covenants on the part of the Mortgagor and generally on such terms and conditions (including the payment of money to a licensee, lessee or tenant on a surrender) as in his absolute discretion he shall think fit and so that any sale may be made for cash payable by instalments, or for shares or securities of a company, and the

Receiver may promote or concur in promoting, a company to purchase the Mortgaged Property to be sold or otherwise;

- (i) to make any arrangement or compromise which the Lender or he shall think fit;
  - (j) to make and effect all repairs, developments, modifications, improvements and insurances in connection with the Mortgaged Property as he may deem expedient;
  - (k) to appoint managers, officers, contractors and agents for the aforesaid purposes upon such terms as to remuneration or otherwise as he may determine;
  - (l) to sever any fixtures forming part of the Mortgaged Property from the property to which they are attached;
  - (m) to enter into bonds, covenants, guarantees, commitments, indemnities and other obligations or liabilities as he shall think fit and make all payments needed to effect, maintain or satisfy such obligations or liabilities; and
  - (n) to do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the matters or powers aforesaid or conducive to the preservation, improvement or realisation of the Mortgaged Property either on behalf of and in the name of the Mortgagor or on his own behalf.
- 12.8 The Receiver shall not be authorised to exercise any of the powers set out in Clause 12.7 hereof if and insofar and so long as the Lender shall in writing exclude the same whether at the time of his appointment or subsequently.
- 12.9 In no circumstances shall the Lender or the Receiver be liable to account to the Mortgagor as a mortgagee in possession.
- 12.10 The Mortgagor shall indemnify the Lender and every Receiver against all actions, claims, demands, losses, expenses or liabilities of whatever nature now or hereafter incurred by them or by any officer, agent or employee for whose liability act or omission they or any of them may be answerable for anything done or omitted in the exercise or purported exercise of the powers herein contained or occasioned by any breach by the Mortgagor of any of his covenants or other obligations to the Lender unless such loss or damage shall be caused by the Lender's or the Receiver's own fraud or wilful neglect or gross negligence.

13. **Delegation of Powers of the Lender**

The Lender may, at any time and from time to time delegate by power of attorney or in any other manner to any person or persons or company or fluctuating body of persons all or any of the powers, authorities and discretions which are, for the time being, exercisable by the Lender under this Deed or under the Act in relation to the Mortgaged Property or any part thereof, and any such delegation may be made upon such terms and conditions (including power to sub-delegate) and subject to such regulations as the Lender may think fit, and the Lender shall not be in any way liable or responsible to the Mortgagor for any loss or damage arising from any act, default, omission, or misconduct on the part of any such delegate (or sub-delegate).

14. **Power of Attorney**

14.1 The Mortgagor by way of security hereby irrevocably appoints the Lender (whether or not a Receiver has been appointed) and also (as a separate appointment) the Receiver, and each person to whom the Lender or such Receiver may from time to time have delegated the powers conferred on it or him, severally the attorney of the Mortgagor in the Mortgagor's name and on the Mortgagor's behalf, and at the Mortgagor's act and deed or otherwise, after the Secured Obligations become due and payable and payment thereof has been demanded but remains unpaid to execute, deliver and otherwise perfect any deed, assurance, agreement, instrument or act which may be required of the Mortgagor hereunder, or may be deemed proper for any of the purposes of this Deed, including (without limitation) any legal mortgage, assignment or other security required pursuant to Clause 18 of this Deed, or any conveyance or transfer of a legal estate to any purchaser of any freehold or leasehold heritable property hereby charged or any sale, letting, leasing or licensing of the Mortgaged Property or any part thereof.

14.2 All powers of a Receiver hereunder may be exercised by the Lender following demand hereunder whether as attorney of the Mortgagor or otherwise and whether or not a Receiver shall have been appointed.

14.3 The Mortgagor shall ratify and confirm all things done by the attorney in the exercise or purported exercise of his powers.

15. **Restrictions**

During the continuance of this Deed:



- (a) no statutory or other powers of granting or agreeing to grant or of accepting or agreeing to accept surrender of leases, tenancies or licenses of the Mortgaged Property or any part thereof shall be capable of being exercised by the Mortgagor without the prior written consent of the Lender;
- (b) Section 17 of the Act dealing with the consolidation of mortgages shall not apply to this Deed;
- (c) the Mortgagor shall not be entitled to part with possession of the Mortgaged Property or any part thereof or to share the occupation thereof with any person without the prior written consent of the Lender; and
- (d) the Mortgagor shall not agree to amend or vary any lease, tenancy or license to which the Lender has previously given its consent in writing and shall not consent to the assignment by any tenant of any lease or tenancy without the prior written consent of the Lender.

## 16. **Protection of Purchasers**

- 16.1 No purchaser, mortgagor, mortgagee or other person or company dealing with a Receiver or the Lender shall be concerned to enquire whether any power exercised or purported to be exercised by him or it has become exercisable or whether any money is due on the security hereof or as to the propriety or regularity of any sale by or other dealing with such Receiver or the Lender but any such sale or dealing shall be deemed to be within the powers hereby conferred and to be valid and effectual accordingly and all the protection to purchasers contained in Sections 21 and 22 of the Act shall apply to any person purchasing from or dealing with a Receiver or the Lender.
- 16.2 The receipt of the Lender or any Receiver shall be an absolute and conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Lender or any Receiver.
- 16.3 In Clauses 16.1 and 15.2 “**purchaser**” includes any person acquiring for money or money’s worth, any lease of, or encumbrance over, or any other interest or right whatsoever in relation to, the Mortgaged Property.

## 17. **Powers of Sale, Leasing and Accepting Surrenders**

- 17.1 Section 20 of the Act shall not apply to this Deed but the statutory power of sale and all the powers conferred on mortgagees by the common law and the Act (as varied by this Deed) shall (as between the Lender and a purchaser from the Lender) arise on and be exercisable at any time after the execution of this Deed, provided that the Lender shall not exercise the said power of sale until payment of the monies hereby secured has been demanded or a Receiver has been appointed, but this proviso shall not affect a purchaser or put him upon inquiry whether such demand has been made.
- 17.2 The statutory powers of leasing, letting, entering into agreements for leases or lettings and accepting and agreeing to accept surrenders of leases conferred by Section 18 of the Act and Section 3 of the Conveyancing and Law of Property Act, 1911 may be exercised by the Lender at any time after the execution of this Deed and are hereby extended so as to authorise the Lender (whether in its own name or in that of the Mortgagor) to grant a lease or leases of the whole or any part or parts of the Mortgaged Property with such rights relating to other parts thereof and containing such covenants on the part of the Mortgagor and generally on such terms and conditions and whether or not at a premium as the Lender in its absolute discretion shall think fit and generally without the necessity for the Lender to comply with any restrictions imposed by the said Sections 18 and 3 or to comply with any other provisions of the said Sections 18 and 3.
- 17.3 The statutory power of sale exercisable by the Lender hereunder is hereby extended so as to authorise the Lender to sever any fixtures from the Mortgaged Property to which they are attached and sell them separately from any Mortgaged Property.
- 17.4 At any time after payment of the monies hereby secured has been demanded and any part thereof remains unpaid the Lender may as agent of the Mortgagor remove and sell any chattels on the Mortgaged Property and the net proceeds of the sale thereof shall be paid to the Lender on demand and the Lender shall have the right to retain or set off such proceeds of sale against any indebtedness of the Mortgagor to the Lender.
18. **Further Assurance**
- 18.1 The Mortgagor shall on demand in writing made to the Mortgagor by the Lender at the cost of the Mortgagor:
- (a) execute a valid legal mortgage in a form substantially similar to this Deed for the time being or in such other form as the Lender



may reasonably require, of any of the Mortgaged Property which is not hereby effectively charged pursuant to Clause 3 hereof; and

- (b) do and concur in all such other acts or things, or execute such notices or such other assignments, transfers, securities or other documents or make all such filings and registrations, as the Lender may deem necessary to vest the Lender's legal title to all or any of the Mortgaged Property under Clause 3 hereof or in connection with the improvement, perfection, protection or maintenance of the Security.

- 18.2 The Mortgagor shall, upon execution of this Deed and further upon the acquisition by the Mortgagor (or any nominee on its behalf) of any further interest in the Mortgaged Property, deposit with the Lender all deeds, certificates and other documents constituting or evidencing title to the Mortgaged Property and, in respect of any such further interest, execute a valid legal mortgage in a form substantially similar to this Deed for the time being or in such other form as the Lender may reasonably require.

## 19. **Costs and Expenses**

- 19.1 All costs, charges, losses and expenses (including without limitation costs and charges relating to professional fees, disbursements, stamp duty, value added tax, completion, maintenance, repair, assurance, insurance, vacate, release, surrender or discharge) incurred by the Lender hereunder and all other monies paid by the Lender in perfecting or otherwise in connection with this Deed, including all costs of the Lender of all proceedings for enforcement of this Deed or for obtaining payment of the monies hereby secured or any part thereof shall be recoverable from the Mortgagor as a debt and may be debited to any account of the Mortgagor with the Lender and shall bear interest accordingly and shall be charged on the Mortgaged Property and the charges hereby conferred shall be in addition and without prejudice to any and every other remedy, lien or security which the Lender may have or, but for the said charges, would have for the monies hereby secured or any part thereof.
- 19.2 Without prejudice to the generality of the provisions of Clause 19.1, the costs recoverable by the Lender or any Receiver hereunder shall include all costs of the Lender or such Receiver (whether or not allowable on a taxation by the Court on the standard or indemnity basis) of all proceedings for the enforcement of this Deed or for obtaining the payment or discharge of the monies and liabilities hereby secured, all expenditure and costs arising out of the exercise of any power, right or

discretion conferred by this Deed and all costs and losses arising from any default by the Mortgagor in the payment when due of any money or liability hereby secured or in the performance of the Mortgagor's obligations under this Deed.

20. **Avoidance of Payments**

No assurance, security or payment which may be avoided or adjusted under any applicable law, and no release, settlement or discharge given or made by the Lender or any Receiver on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Lender or any Receiver to recover from the Mortgagor (including any moneys which it may be compelled by due process of law to refund pursuant to the provisions of any law relating to liquidation, bankruptcy, insolvency or creditors' rights generally and any costs payable by it to or otherwise incurred in connection with such process) or to enforce the Security to the full extent of the Secured Obligations.

21. **Forbearance and Waiver**

- 21.1 No delay or omission of the Lender in exercising any right, power or privilege hereunder shall operate to impair such right, power or privilege or be construed as a waiver thereof and any single or partial exercise of any right, power or privilege shall not in any circumstances, preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 21.2 The Lender shall be at liberty from time to time to give time for payment of all or any of the monies and liabilities hereby secured or all or any bills of exchange, promissory notes or other securities which may have been discounted for or received on account from the Mortgagor by the Lender or on which the Mortgagor shall or may be liable, whether as drawer, acceptor, maker, endorser or otherwise, as the Lender in its absolute discretion shall think fit without releasing the Mortgagor or affecting the Mortgagor's liability under this Deed.
- 21.3 The powers conferred upon the Lender by this Deed are cumulative.

22. **New Accounts**

The Lender shall, on receiving notice that the Mortgagor have encumbered or disposed of the Mortgaged Property or any part thereof in breach hereof, be entitled to close the Mortgagor's then current account or accounts and to open a new account or accounts with the Mortgagor and (without prejudice to any right of the Lender to combine accounts) no

money paid in or carried to the Mortgagor's credit in any such new account shall be appropriated towards or have the effect of discharging any part of the amount due to the Lender on any such closed account. If the Lender does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice and as from that time all payments made by the Mortgagor to the Lender shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount due from the Mortgagor to the Lender at the time when it received such notice.

**23. Application of monies received by the Lender or Receiver**

23.1 Any money received under the powers hereby conferred shall, subject to the repayment as far as necessary of any claims having priority to this Deed and to the provisions of Clause 23.2 below, be paid or applied in the following order of priority:

- (a) in satisfaction of all costs, charges and expenses properly incurred, and payments properly made, by the Lender and/or Receiver, and of the remuneration of the Receiver;
- (b) in or towards satisfaction of the monies and liabilities outstanding and secured by this Deed in such manner as the Lender may, in its discretion, require; and
- (c) as to surplus (if any) to the person or persons entitled thereto.

23.2 The Lender shall be at liberty, without prejudice to any other rights the Lender may have, at any time and from time to time to place and keep, for such time as the Lender may think prudent, any monies received, recovered or realised under or by virtue of this Deed to or at a separate or suspense account, to the credit of any of the Mortgagor or of the Lender as the Lender shall think fit, without any intermediate obligation on the Lender's part to apply the same or any part thereof in or towards the discharge of any monies or liabilities or other sums hereby secured.

**24. Service of Demands and Notices**

24.1 A demand for payment or any other demand or notice to the Mortgagor under this Deed may be made or given by any manager or officer of the Lender or of any branch of the Lender by letter addressed to the Mortgagor and served on the Mortgagor at the address listed at the beginning of this Deed or such other address(es) as may from time to time be notified in writing to the Lender.

- 24.2 A notice or demand shall be deemed to be duly served on the Mortgagor:
- (a) if delivered by hand, when left at the address referred to above;
  - (b) if sent by prepaid ordinary post to the address referred to above, at noon on the next Business Day following the day of posting and shall be effective notwithstanding that it may be mis-delivered or returned undelivered; or
  - (c) if given or made by facsimile or e-mail, at the time of transmission.
- 24.3 In proving such service it shall be sufficient to prove that personal delivery was made, or that the envelope containing such demand or notice was correctly addressed and posted, or that the facsimile or e-mail was transmitted with the correct facsimile number or e-mail address (as the case may be).
- 24.4 In the case of the death of the Mortgagor (or, where the expression "**Mortgagor**" includes two or more persons, the death of one or more of them), and until the Lender receives notice in writing of the grant of probate of the will or letters of administration in respect of the estate of the deceased and, in each case, an address of communication for his personal representative(s), any notice or demand by the Lender sent as above and addressed to the deceased shall, for all purposes, be deemed to be sufficient notice or demand by the Lender to the deceased and his personal representative(s) and shall be effective as if the deceased were still living.

25. **Evidence**

A certificate in writing from the company secretary of the Lender or from such other person as may from time to time be designated by the Lender to perform similar functions shall be, in the absence of manifest error, conclusive evidence of the following and binding upon the Mortgagor: the date of drawdown of the Loan, the terms and conditions of the Loan Agreement, the due date for repayments of principal or the payment of interest under the Loan Agreement, the interest rate applicable to the Loan, the frequency of payments under the Loan Agreement or the amount of the Secured Obligations, as appropriate.

26. **No Merger**

This Deed shall not operate as a merger or defeasance of any prior security granted to the Lender in relation to the Mortgaged Property.

27. **Multiple Parties**

If two or more persons comprise the “**Mortgagor**” for the purposes of this Deed, the expression the “**Mortgagor**” shall mean and include, throughout this Deed, such two or more parties or any of them and shall, so far as the context so admits or requires, be construed as well as in the plural as in the singular and all covenants, charges, agreements and undertakings expressed or implied in this Deed on the part of the Mortgagor shall be deemed to be joint and several covenants, charges, agreements and undertakings by such parties. In particular, this Deed shall extend and apply to any monies owing or liabilities incurred by any of such parties to the Lender whether solely or jointly with each other or with any other person.

28. **Severability**

If at any time any one or more of the provisions hereof is or becomes invalid, illegal or unenforceable in any respect under any law or regulation, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the remaining provisions or the effectiveness of any of the remaining security constituted by this Deed under such law.

29. **Transfers**

- 29.1 The Mortgagor may not assign or transfer all or any of his rights, benefits or obligations under this Deed.
- 29.2 The Lender may assign and transfer the benefit of this Deed to any person to which it wishes to assign or transfer all its rights in respect of the debts and liabilities hereby secured and all rights conferred upon the Lender by this Deed may be enforced by such person after such transfer to the same extent as if such person had been named in this Deed instead of the Lender.
- 29.3 The Lender may in connection with such assignment or transfer or proposed assignment or transfer disclose to any bank or financial institution any information it may have in its possession relating to the financial position or business affairs of the Mortgagor.
- 29.4 Without prejudice to the foregoing, the Mortgagor agrees that any person to which the Lender may assign or transfer part only of its rights in respect of the debts and liabilities hereby secured shall be entitled to share the benefit of this Deed to the same extent as if this Deed had been given to the Lender as trustee for itself and such person.



### 30. Securitisation

- 30.1 The Mortgagor hereby irrevocably and unconditionally consents to the Lender at any time or times hereafter transferring, assigning, disposing or sub-mortgaging or sub-charging the benefit of the Loan Agreement, this Deed, any collateral or ancillary security (including, without limitation, any insurance policy or policies of life or endowment term assurance) and the Secured Obligations, to any third party, person or body (including, without prejudice to the generality of the foregoing, a subsidiary of the Lender) or to any trust or administrative arrangement entered into by the Lender as part of any loan transfer and/or securitisation scheme on such terms as the Lender may think fit, without any further consent from, or notice to, the Mortgagor or any other person, and to any consequential assurance or reinsurance or release under such scheme whereupon all powers and discretions of the Lender shall be exercisable by the transferee and the Lender may include the benefit of the Loan Agreement, this Deed, any collateral or ancillary security and the secured monies as aforesaid, in the mortgage pool the subject of any such scheme without any further consent of or notice to the Mortgagor.
- 30.2 In the event of any such transfer and/or assignment and/or disposal, the Lender may continue to be responsible, in the ordinary course of business, as agent for any such transferee or assignee, for the setting of the interest rates and the handling of any arrears in respect of the Loan Agreement, subject to the powers and discretions of the transferee. In regard to the setting of interest rates and the handling of arrears, if and for so long as the Lender continues to act as agent of the transferee, the policy of any transferee shall be the same as that of the Lender.
- 30.3 The Mortgagor hereby irrevocably and unconditionally authorises the Lender for the purpose of or in connection with any proposed transfer, assignment, disposal, sub-mortgage, sub-charge, trust or arrangement mentioned in Clauses 30.1 or 30.2 above, to disclose to the proposed transferee and every person (and its and their agents) proposing to participate in or promote or underwrite or manage any such transfer or loan transfer or securitisation scheme and, following the implementation of any such transfer or loan transfer or securitisation scheme, to disclose to every person to whom the Lender is obliged thereunder to make such disclosure details of the Loan Agreement and/or this Deed, including, without prejudice to the generality of the foregoing, the state of the mortgage debt and such other information and documentation in the Lender's possession in relation to the Mortgagor (which may include the disclosure of information, documentation or data in relation to the Mortgagor outside the European Economic Area where the level of data

protection is not as high as in Ireland), the secured monies as aforesaid, and any further loan or loans secured hereby with the Mortgagor's prior written consent and any collateral or ancillary security as aforesaid, as may be required by any such person in connection with such transfer or scheme and so far as such information constitutes personal data within the meaning of the Data Protection Acts, 1988 and 2003, this authority shall be a consent for the purposes of Section 8(h) of the Data Protection Act, 1988 (as amended).

31. **Variation of Terms**

No variation of this Deed shall be considered valid and as constituting part of this Deed unless such variation shall have been made in writing and signed by the Lender and the Mortgagor.

32. **Statutory Consents and Certification by Lender**

32.1 The Mortgagor hereby assents and consents to the registration as burdens on the folio of any registered land of which he is the registered owner or, as applicable, the person entitled to be registered as registered owner and which are referred to in the Schedule, of:

- (a) the first ranking fixed mortgage and charge created by this Deed on the said land; and
- (b) the power of any Receiver appointed under this Deed to charge the said land.

33. **Family Home Protection Act, 1976**

Where the Mortgaged Property is the Mortgagor's Family Home within the meaning of the Family Home Protection Act, 1976 and the Mortgagor's spouse intends to execute the Deed of Confirmation subsequent to the execution by the Mortgagor of this Mortgage, the Mortgagor will give a prior consent thereto for the purposes of Section 3 of that act in the form attached to this Deed.

34. **Governing Law**

This Deed shall be governed and construed in accordance with Irish law.

**IN WITNESS** whereof this Deed has been entered into the day and year first above written.





## **THE SCHEDULE**

**(Details of Property)**

### **Part I**

**Unregistered Land**

### **Part II**

**Registered Land**

**ALL THAT AND THOSE** the property comprised in Folio 20004 County Monaghan and now more commonly known as Knockaconny, Monaghan, Co. Monaghan. Tenure Freehold

## EXECUTION PAGE

### The Mortgagor

**SIGNED, SEALED and DELIVERED**

by CATHERINE MCPHILLIPS

in the presence of:

*Catherine McPhillips*

*Clare Vance*

Witness:

Address: *Monaghan*

Occupation: *Solicitor*

**SIGNED, SEALED and DELIVERED**

by \_\_\_\_\_

in the presence of:

Witness:

Address:

Occupation:

### The Lender

**PRESENT** when the

**COMMON SEAL**

of **SENIORS MONEY MORTGAGES (IRELAND) LIMITED**

was affixed hereto:

**CONSENT TO MORTGAGE**  
**THE FAMILY HOME PROTECTION ACT, 1976**

I  
of  
state that:

I am the lawful spouse of the Mortgagor named in the Deed of Mortgage and Charge of Real Property to which this Consent to Mortgage is appended (the “**Deed**”).

The property listed in the Schedule to the Deed is my Family Home within the meaning of the Family Home Protection Act, 1976 (as amended from time to time, the “**Act**”) (the “Family Home Property”).

I am aware that, by virtue of Section 3 of the Act, the Family Home Property cannot be mortgaged without my prior consent in writing.

I acknowledge that I have been advised of the provisions of the Act as they affect me in relation to the Family Home Property and that I am aware that it is intended that the Family Home Property is to be security for all of the Secured Obligations (as defined in the Deed). I have read and understood the Deed, or it has been explained to me and I understand it.

I understand that my home is at risk and that the Lender (as defined in the Deed) may repossess and sell my family home if payments in relation to the Secured Obligations are not kept up.

I confirm that I have been advised to seek independent legal advice before signing this consent. If I have chosen not to follow that advice, my choice was voluntary.

I hereby fully and freely give my prior consent for the purposes of Section 3 of the Act to the creation of the security constituted by the Deed which is intended to be executed after I execute this consent.

Dated \_\_\_\_\_ 200\_\_\_\_

**SIGNED** by  
in the presence of:

Name of Solicitor:  
Name of Firm:  
Address:

**CONSENT TO DEED OF CONFIRMATION**  
**THE FAMILY HOME PROTECTION ACT, 1976**

I  
of  
state that:

I am the lawful spouse of the Beneficiary named in the Deed of Confirmation of a Deed Mortgage and Charge of Real Property to which this Consent to Deed of Confirmation is appended (the “**Deed**”).

The property listed in the Schedule to the Deed is my Family Home within the meaning of the Family Home Protection Act, 1976 (as amended from time to time, the “**Act**”) (the “**Family Home Property**”).

I am aware that, by virtue of Section 3 of the Act, the Family Home Property cannot be mortgaged without my prior consent in writing.

I acknowledge that I have been advised of the provisions of the Act as they affect me in relation to the Family Home Property and that I am aware that it is intended that the Family Home Property is to be security for all of the Secured Obligations (as defined in the Deed). I have read and understood the Deed, or it has been explained to me and I understand it.

I understand that my home is at risk and that the Lender (as defined in the Deed) may repossess and sell my family home if payments in relation to the Secured Obligations are not kept up.

I confirm that I have been advised to seek independent legal advice before signing this consent. If I have chosen not to follow that advice, my choice was voluntary.

I hereby fully and freely give my prior consent for the purposes of Section 3 of the Act to the creation of the security constituted by the Deed which is intended to be executed after I execute this consent.

Dated \_\_\_\_\_ 200\_\_\_\_

**SIGNED** by  
in the presence of:

Name of Solicitor:  
Name of Firm:  
Address:



## DEED OF CONFIRMATION

### INDEPENDENT LEGAL ADVICE SHOULD BE TAKEN BEFORE SIGNING THIS DOCUMENT

THIS DEED OF CONFIRMATION is made on the \_\_\_\_ day of  
\_\_\_\_\_ 200\_\_\_\_

#### BETWEEN

- (1) \_\_\_\_\_ of \_\_\_\_\_ (the  
“Beneficiary”);
- (2) **SENIORS MONEY MORTGAGES (IRELAND) LIMITED** having  
its principal place of business at Beech House, Beech Hill Office Park,  
Clonskeagh, Dublin 4 (the “Lender”).

#### WHEREAS:

- (A) This Deed of Confirmation is supplemental to the within Deed of Mortgage and Charge of Real Property.
- (B) Arising out of the investigation of the Mortgagor’s title to the Mortgaged Property, it is apprehended that the Beneficiary may have some beneficial estate, right, title or interest in the Mortgaged Property.
- (C) The Beneficiary, at the request of the Mortgagor, has agreed to execute this Deed of Confirmation for the purpose of confirming the Deed of Mortgage and Charge of Real Property and further assuring the Mortgaged Property to the Lender as security for the Secured Obligations.

**NOW THIS DEED** made in pursuance of the above mentioned agreement between the Mortgagor and the Beneficiary and in consideration of the Lender’s agreement to make available the Loan to the Mortgagor **WITNESSES** as follows:

1. The Beneficiary as to all, if any, of the Beneficiary’s beneficial estate, right, title and interest hereby:
  - (a) grants, conveys, transfers and demises to the Lender **ALL THAT AND THOSE** the freehold and leasehold property specified in Part A of the Schedule to the Deed of Mortgage and Charge of Real

Property (and all of the Beneficiary's interest therein) and all buildings, fixtures (including trade fixtures) and works in progress from time to time on such property and all fixed plant and machinery of the Beneficiary both present and future therein or thereon, to hold the same as to so much thereof as is of freehold tenure unto the Lender in fee simple and as to so much thereof as is of leasehold tenure unto the Lender for the residue of the respective terms of years for which the Lender now or, as applicable at the time of acquisition, then holds the same less the last three days of each such term, subject to the proviso for redemption herein contained **PROVIDED** that the Beneficiary hereby declares that it shall henceforth stand possessed of such of the said property as is of leasehold tenure for the last day or respective last days of the term or terms of years for which the same is held by him, and for any further or other interest which he now has or may hereafter acquire or become entitled to in the same or any part thereof by virtue of any Act or Acts of the Oireachtas or otherwise howsoever, in trust for the Lender and to be conveyed, assigned or otherwise dealt with (whether to the Lender or its nominee or otherwise) as the Lender shall direct but subject to the same equity of redemption as may for the time being be subsisting in the said property, and **PROVIDED FURTHER** that the Beneficiary hereby irrevocably confirms the appointment by the Mortgagor of each officer of the Lender from time to time to be his attorney, in his name and on his behalf, and as his act and deed to sign, seal and deliver and otherwise perfect every or any deed of conveyance of the leasehold reversion which may be desired by the Lender, in order to vest in the Lender or in any person or persons in trust as agent for the Lender, subject as aforesaid, or in any purchaser of the said property or any part thereof, the said leasehold reversion and any further or other interest which the Mortgagor or the Beneficiary now has or may hereafter acquire or become entitled to in the said leasehold premises or any part thereof by virtue of any Act or Acts of the Oireachtas or otherwise howsoever;

- (b) as registered owner or, as the case may be, the person entitled to be registered as owner, charges to the Lender by way of first fixed charge **ALL THAT AND THOSE** the freehold and leasehold lands, hereditaments, premises and property registered under the Registration of Title Act, 1964 and specified in Part B of the Schedule together with all buildings, fixtures (including trade fixtures) and works in progress from time to time on such property and all fixed plant and machinery both present and future therein;

- (c) charges to the Lender by way of first fixed charge all the Beneficiary's other estate, right, title or interests (including works in progress) in the lands, hereditaments and premises specified in the Schedule, and all future estate, right, title or interests of the Beneficiary in such lands, hereditaments and premises and/or the proceeds of sale thereof together in all cases, with all fixtures (including trade fixtures), works in progress and all fixed plant and machinery from time to time therein;
- (d) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment the benefit of all present and future leases, licences, permissions, consents and authorisations (statutory or otherwise) held by it in connection with the use of any of the Real Property and the right to recover and receive all compensation which may at any time become payable to it in respect thereof to the extent permitted by the terms of such licences, leases, permissions, consents and authorisations;
- (e) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment all of its present and future rights, interest, title and benefit to and in the proceeds of any policy of insurance in which it may now or hereafter have an interest which relate to the Real Property or any part;
- (f) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment all of its present and future rights, interest, title and benefit to and in the proceeds of any compensation received by it in relation to any compulsory purchase order issued over the Real Property in which it may now or hereafter have an interest or the refusal or grant subject to the conditions of planning permission or approval in respect of the Mortgaged Property or any control or limitation imposed upon or affecting the use of the Mortgaged Property so that the production of the Deed of Mortgage and Charge of Real Property together with this Deed of Confirmation to the person liable to pay such compensation shall be sufficient authority to such person to pay any such moneys to the Lender;
- (g) charges, assigns and agrees to assign to the Lender by way of first fixed charge and assignment:
  - (i) any covenant, agreement or undertaking in relation to the construction of roads, footpaths, utilities and services abutting or serving the Mortgaged Property or charges,

levies or such like in respect of the same or the taking in charge thereof by the local authority and any indemnity in respect thereof;

- (ii) any covenant, agreement, guarantee, bond or indemnity in respect of the construction, maintenance or structural repair of buildings now erected or in the course of erection or after the date of this Deed of Confirmation to be erected on the Mortgaged Property the benefit of which is enjoyed by the Beneficiary;
  - (iii) any covenant, agreement, undertaking, charge, right, remedy or indemnity in relation to the Mortgaged Property and/or securing the payment of any rent or apportioned rent payable in relation thereto or charged thereon;
  - (iv) all rights entitling it to sell merchandise of a particular kind (including intoxicating liquor) on or from the Mortgaged Property or to use the Mortgaged Property for any particular purpose or activity;
  - (v) all rights enjoyed or available to it by virtue of any farming, industrial or other activity carried on or desisted from being carried on in or under the Mortgaged Property; and
  - (vi) any and all other covenants, agreements, guarantees, indemnities, undertakings, goodwill, licences, rights, remedies, charges, easements and privileges appertaining to or enjoyed with or incidental to the ownership of the Mortgaged Property in any manner whatsoever; and
2. Clauses 4 to 34 of the Deed of Mortgage and Charge of Real Property shall apply *mutatis mutandis* to this Deed of Confirmation as if set out herein and, in all respects, the Beneficiary confirms and ratifies the Deed of Mortgage and Charge of Real Property.
  3. The Beneficiary hereby authorises the Lender to release the Deed of Mortgage and Charge of Real Property and this Deed of Confirmation in favour of the Mortgagor or as the Mortgagor may direct and without being obliged to execute a release in favour of the Beneficiary or the person for the time being entitled to such beneficial estate, right, title and interest as the Beneficiary may have in the Mortgaged Property.
  4. The Beneficiary hereby acknowledges that all powers and remedies and rights of the Lender under the provisions of the Deed of Mortgage and

Charge of Real Property or implied by statute into the Deed of Mortgage and Charge of Real Property shall be exercisable by the Lender without notice to the Beneficiary and notwithstanding anything to the contrary contained in this Deed of Confirmation the Beneficiary shall not be deemed to have any rights as a mortgagor in respect of the Mortgaged Property.

**IN WITNESS** whereof this Deed has been entered into the day and year first above written.



## EXECUTION PAGE

### The Beneficiary

**SIGNED, SEALED and DELIVERED**

by \_\_\_\_\_  
in the presence of:

Witness:

Address:

Occupation:

### The Lender

**PRESENT** when the  
**COMMON SEAL**  
of **SENIORS MONEY MORTGAGES (IRELAND) LIMITED**  
was affixed hereto:

## DEED OF RELEASE

This Deed is made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

### BETWEEN

- (1) **SENIORS MONEY MORTGAGES (IRELAND) LIMITED** having its principal place of business at Beech House, Beech Hill Office Park, Clonskeagh, Dublin 4 (together with its assigns, successors or transferees, the “**Lender**”); and
- (2) \_\_\_\_\_ of \_\_\_\_\_ and, if two persons comprise the Mortgagor, \_\_\_\_\_ of \_\_\_\_\_ (including any personal representatives, successors or assigns and any person(s) deriving title under the Mortgagor to the Mortgaged Property, the “**Mortgagor**”).

### WHEREAS

- (A) By the mortgage dated \_\_\_\_\_ between the Mortgagor and the Lender (the “**Mortgage**”), the Mortgagor mortgaged and charged to the Lender the property described therein as the “**Mortgaged Property**”.
- (B) The Mortgagor has requested the Lender to release and discharge the Mortgaged Property from the Mortgage which the Lender has agreed to do in the manner hereinafter appearing. This release and discharge shall release the security created by the Mortgage in favour of the Lender.

In consideration of the premises **WITNESSETH** as follows:

#### 1. Registered Land

The Lender as registered owner of the charge created by the Mortgage over so much of the Mortgaged Property as is Registered Land (particulars of which charge are set out in the Schedule hereto) in respect of the Secured Obligations (as defined in the Mortgage) owing to the Lender hereby requires a note of the **DISCHARGE** of the said charge as a burden on the Mortgaged Property to be entered in the Folio or Folios of the Register on which the Mortgaged Property and the said charge are registered.

#### 2. Unregistered Land

The Lender as mortgagee hereby:

- (a) **ASSIGNS SURRENDERS AND RELEASES** unto the Mortgagor so much of the Mortgaged Property as is of freehold tenure (save for any parts the freehold ownership whereof is Registered Land) comprised in and demised by the Mortgage in favour of the Lender or which is by any means vested in that Lender subject to redemption by virtue of the Mortgage **TO HOLD** the same for all the residue or residues now unexpired of the term of 10,000 years from the date of the Mortgage **TO THE INTENT** that the term or terms of years granted by the Mortgage in favour of the Lender shall forthwith merge in the freehold and inheritance and become extinguished; and
- (b) **ASSIGNS SURRENDERS AND RELEASES** unto the Mortgagor so much of the Mortgaged Property as is of leasehold tenure (save for any parts the leasehold ownership whereof is Registered Land) comprised in and demised by the Mortgage in favour of the Lender or which is by any means vested in the Lender subject to redemption by virtue of the Mortgage **TO HOLD** the same for all the residue or residues now unexpired of the term or terms of years of the lease or leases under which the same are now held **TO THE INTENT** that the term or terms of years granted by the Mortgage in favour of the Lender shall forthwith merge in the term or respective terms of years out of which the same was or were carved and become extinguished,

in each case, so that the Mortgaged Property may henceforth be held by the Mortgagor **freed and discharged** from the Secured Obligations (as defined in the Mortgage) owing to the Lender and from all charges and demands made or to be made by the Lender under the Mortgage.

- 3. The Lender as assignee hereby releases and discharges so much of the Mortgaged Property as is not Real Property from all of the security constituted by the Mortgage and re-assigns to the Mortgagor the benefit thereof to the intent that same shall be henceforth held freed and discharged from such security and from all claims under the Mortgage.

**IN WITNESS** whereof this Deed has been entered into the day and year first above written.

### Schedule

Charge for present and future advances registered on the \_\_\_\_ day of  
\_\_\_\_ 20\_\_ at Entry No. \_\_\_\_ as a burden on  
the property described in Folio \_\_\_\_ of the Register County  
\_\_\_\_\_.

**EXECUTION PAGE**

**EXECUTION PAGE**

**The Lender**

**PRESENT** when the  
**COMMON SEAL**  
of **SENIORS MONEY MORTGAGES (IRELAND) LIMITED**  
was affixed hereto:

**The Mortgagor**

**SIGNED, SEALED and DELIVERED**  
by CATHERINE MCPHILLIPS  
in the presence of:

X Catherine McPhillips

Witness: Bernie McPhillips  
Address: "LAUREL LODGE", HILLSIDE, MONAGHAN  
Occupation: SOLICITOR

**SIGNED, SEALED and DELIVERED**  
by \_\_\_\_\_  
in the presence of:

Witness:  
Address:  
Occupation:



## RECEIPT

(pursuant to Section 18 of the Housing Act, 1988)

**SENIORS MONEY MORTGAGES (IRELAND) LIMITED** hereby acknowledges receipt of all moneys secured by the within Deed of Mortgage and Charge of Real Property.

IN WITNESS whereof the Common Seal of **SENIORS MONEY MORTGAGES (IRELAND) LIMITED** has been affixed hereto this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_.

**PRESENT** when the  
**COMMON SEAL**  
of **SENIORS MONEY MORTGAGES (IRELAND) LIMITED**  
was affixed hereto:

