Companies House

MR01(ef)

Registration of a Charge

Company name: **RBMHO TRUST CORPORATION LIMITED**

Company number: **11400081**

Received for Electronic Filing: **03/02/2020**

X8Y272M4

Details of Charge

Date of creation: **03/02/2020**

Charge code: **1140 0081 0003**

Persons entitled: **THE BAPTIST UNION CORPORATION LIMITED**

Brief description: **THE LAND THAT IS KNOWN AS 43 BUZZARD ROAD, WHITCHURCH, TAVISTOCK PL19 9FZ AS REGISTERED AT HM LAND REGISTRY UNDER TITLE NUMBER DN556612**

Chargor acting as a bare trustee for the property.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **GRACE CARNEGIE**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11400081

Charge code: 1140 0081 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 3rd February 2020 and created by RBMHO TRUST CORPORATION LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd February 2020 .

Given at Companies House, Cardiff on 4th February 2020

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

Companies House

THE OFFICIAL SEAL OF THE REGISTRAR OF COMPANIES

Dated 3rd February 2020

Legal Charge

Retired Baptist Ministers Housing Organisation

and

RBMHO Trust Corporation Limited

and

The Baptist Union Corporation Limited

Anthony Collins Solicitors LLP
134 Edmund Street
Birmingham B3 2ES
Tel: 0121 200 3242
www.anthonycollins.com

TABLE OF CONTENTS

1. DEFINITIONS AND INTERPRETATION 2
2. COVENANT TO PAY 7
3. GRANT OF SECURITY 7
4. PERFECTION OF SECURITY 8
5. LIABILITY OF THE OBLIGORS 9
6. REPRESENTATIONS AND WARRANTIES 9
7. GENERAL COVENANTS 11
8. PROPERTIES COVENANTS 13
9. POWERS OF THE LENDER 17
10. WHEN SECURITY BECOMES ENFORCEABLE 19
11. ENFORCEMENT OF SECURITY 19
12. RECEIVERS 22
13. POWERS OF RECEIVER 23
14. DELEGATION 26
15. APPLICATION OF PROCEEDS 26
16. COSTS AND INDEMNITY 27
17. FURTHER ASSURANCE 28
18. POWER OF ATTORNEY 28
19. RELEASE 29
20. ASSIGNMENT AND TRANSFER 29
21. SET-OFF 29
22. AMENDMENTS, WAIVERS AND CONSENTS 30
23. SEVERANCE 30
24. COUNTERPARTS 31
25. THIRD PARTY RIGHTS 31
26. FURTHER PROVISIONS 31
27. NOTICES 32
28. GOVERNING LAW AND JURISDICTION 33

Schedule 1 - Properties 35

Schedule 2 – the Borrower's Trustees 36

THIS DEED IS DATED 3rd February **2020**

BETWEEN

(1) **RETIRED BAPTIST MINISTERS HOUSING ORGANISATION** incorporated and registered in England and Wales as a charitable incorporated organisation with number 1177649 whose registered office is at Baptist House, 129 Broadway, Didcot, Oxon, OX11 8RT (the **Borrower**);

(2) **RBMHO TRUST CORPORATION LIMITED** incorporated and registered in England and Wales as a private company limited by guarantee with number 11400081 whose registered office is at Baptist House, 129 Broadway, Didcot, Oxon, OX11 8RT (the **Trust Corporation**); and

(3) **BAPTIST UNION CORPORATION LIMITED** incorporated and registered in England and Wales as a charitable company limited guarantee with number 32743 whose registered office is at Baptist House, 129 Broadway, Didcot, Oxon, OX11 8RT (the **Lender**).

BACKGROUND

(A) The Lender has agreed, under the Facility Agreement, to provide the Borrower with loan facilities on a secured basis.

(B) The Trust Corporation holds the legal title to the Properties for the benefit of the Borrower who holds the beneficial interest in the Properties.

(C) The charity trustees of the Borrower (the **Charity Trustees** as defined at clause 26.5.1) and the Trust Corporation declare that the Property is held by or in trust for a charity which charity is not an exempt charity and the charge hereby created is not one falling within section 124(9) of the Charities Act 2011, so the restrictions imposed by section 124 of that Act apply.

(D) Under this deed, the Trust Corporation and the Borrower (each an **Obligor** and collectively known as the **Obligors** as defined at clause 1.1) provides security to the Lender for the loan facilities made or to be made available under the Facility Agreement.

AGREED TERMS

1. **DEFINITIONS AND INTERPRETATION**

1.1 **DEFINITIONS**

Terms defined in the Facility Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed:

Business Day a day other than a Saturday, Sunday or public holiday in England

	when banks in London are open for business.
Certificate of Title	any report on or certificate of title relating to the Property supplied to the Lender by the Obligors (or on their behalf).
Charged Assets	all the assets, property and undertaking of each of the Obligors, which are, or are intended to be, subject to the Security created by, or pursuant to, this deed (and references to the Charged Assets shall include references to any part of them).
Delegate	any person appointed by the Lender or any Receiver under clause 14 and any person appointed as attorney of the Lender, Receiver or Delegate.
Environment	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
Environmental Law	all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.
Environmental Licence	any authorisation, permit or licence necessary under Environmental Law in respect of any of the Charged Assets.
Event of Default	has the meaning given to that expression in the Facility Agreement.
Facility Agreement	the facility agreement dated the date of this deed between the Borrower and the Lender for the provision of the loan facilities secured by this deed.
Financial Collateral	has the meaning given to that expression in the Financial Collateral Regulations.
Financial Collateral Regulations	the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226).
Insurance Policy	each contract and policy of insurance effected or maintained by the Borrower from time to time relating to the Properties.

LPA 1925	the Law of Property Act 1925.
Obligors	the Borrower and the Trust Corporation and each an Obligor.
Properties	the freehold or leasehold properties owned by the Obligors described in Schedule 1 (and **Property** shall mean any one of them).
Receiver	a receiver or receiver and manager appointed by the Lender under clause 12.
Secured Liabilities	all present and future obligations and liabilities of each of the Obligors to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Agreement or this deed (including, without limitation, those arising under clause 26.3.2), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.
Security	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.
Security Financial Collateral Arrangement	has the meaning given to that expression in the Financial Collateral Regulations.
Security Period	the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.
Valuation	any valuation relating to the Properties supplied to the Lender by the Obligors (or on its behalf).
VAT	value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 **INTERPRETATION**

In this deed:

1.2.1 clause and Schedule headings shall not affect the interpretation of this deed;

1.2.2 a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);

1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;

1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;

1.2.5 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;

1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;

1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;

1.2.8 a reference to **writing** or **written** does not include email;

1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;

1.2.10 a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;

1.2.11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;

1.2.12 any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;

1.2.13 a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amend** and **amended** shall be construed accordingly);

1.2.14 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;

1.2.15 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;

1.2.16 a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;

1.2.17 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and

1.2.18 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 CLAWBACK

If the Lender considers that an amount paid by an Obligor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of each Obligor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

1.4 NATURE OF SECURITY OVER REAL PROPERTIES

A reference in this deed to a **charge or mortgage of or over the Properties** includes:

1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Properties at any time;

1.4.2 the proceeds of the sale of any part of any Property and any other monies paid or payable in respect of or in connection with that Property;

1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of an Obligor in respect of the Properties, and any monies paid or payable in respect of those covenants; and

1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of the Properties.

1.5 LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Facility Agreement and of any side letters between any parties in relation to the Facility Agreement are incorporated into this deed.

1.6 **PERPETUITY PERIOD**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

1.7 **SCHEDULES**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

2. **COVENANT TO PAY**

Each Obligor shall, on demand, pay to the Lender and discharge the Secured Liabilities: when they become due.

3. **GRANT OF SECURITY**

3.1 **LEGAL MORTGAGE AND FIXED CHARGES**

As a continuing security for the payment and discharge of the Secured Liabilities:

3.1.1 the Trust Corporation with full title guarantee charges to the Lender by way of a first legal mortgage, the legal interest in the Properties;

3.1.2 the Borrower with full title guarantee charges to the Lender by way of first legal mortgage, the beneficial interest in the Properties; and

3.1.3 each Obligor with full title guarantee charges to the Lender by way of a first fixed charge:

(a) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy to the extent not effectively assigned under clause 3.2;

(b) the benefit of all other contracts, guarantees, appointments and warranties relating to the Charged Assets and other documents to which each Obligor is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of the Charged Assets or otherwise relating to the Charged Assets (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them); and

(c) all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business carried on at the Properties or the use of any Charged Asset, and all rights in connection with them.

3.2 ASSIGNMENT

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Lender absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, provided that nothing in this clause 3.2 shall constitute the Lender as mortgagee in possession.

4. PERFECTION OF SECURITY

4.1 REGISTRATION OF LEGAL MORTGAGE AT THE LAND REGISTRY

Each Obligor consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to the Properties:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of The Baptist Union Corporation Limited referred to in the charges register or their conveyancer."

4.2 FURTHER ADVANCES

The Lender covenants with the Borrower that it shall perform its obligations to make advances under the Facility Agreement (including any obligation to make available further advances).

4.3 CAUTIONS AGAINST FIRST REGISTRATION AND NOTICES

Whether or not title to any Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against an Obligor's title to the relevant Property, that Obligor shall immediately provide the Lender with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, that Obligor shall immediately, and at its own expense, take such steps as the Lender may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5. LIABILITY OF THE OBLIGORS

5.1 LIABILITY NOT DISCHARGED

Each Obligor's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

5.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;

5.1.2 the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

5.1.3 any other act or omission that, but for this clause 5.1, might have discharged, or otherwise prejudiced or affected, the liability of that Obligor.

5.2 IMMEDIATE RECOURSE

Each Obligor waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against that Obligor.

6. REPRESENTATIONS AND WARRANTIES

6.1 TIMES FOR MAKING REPRESENTATIONS AND WARRANTIES

Each Obligor makes the representations and warranties set out in this clause 6 to the Lender on the date of this deed and the representations and warranties contained in clauses 6.2 to 6.13 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

6.2 OWNERSHIP OF CHARGED ASSETS

The Trust Corporation is the legal owner of the Charged Assets and the Borrower is the beneficial owner of the Charged Assets and each Obligor has good, valid and marketable title to their respective interest in the Properties.

6.3 NO SECURITY

The Charged Assets are free from any Security other than the Security created by this deed.

6.4 NO ADVERSE CLAIMS

Neither Obligor has received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Assets or any interest in them.

6.5 **NO ADVERSE COVENANTS**

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever that materially and adversely affect the Charged Assets.

6.6 **NO BREACH OF LAWS**

There is no breach of any law or regulation that materially and adversely affects the Charged Assets.

6.7 **NO INTERFERENCE IN ENJOYMENT**

No facility necessary for the enjoyment and use of the Charged Assets is subject to terms entitling any person to terminate or curtail its use.

6.8 **NO OVERRIDING INTERESTS**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in the Properties.

6.9 **NO PROHIBITIONS OR BREACHES**

There is no prohibition on either Obligor assigning its rights in any of the Charged Assets referred to in clause 3.2 and the entry into of this deed by each Obligor does not, and will not, constitute a breach of any policy, agreement, document, instrument or obligation binding on each Obligor or its assets.

6.10 **ENVIRONMENTAL COMPLIANCE**

Each Obligor has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

6.11 **INFORMATION FOR VALUATIONS AND CERTIFICATES OF TITLE**

6.11.1 All written information supplied by each Obligor or on its behalf for the purpose of each Valuation and Certificate of Title was true and accurate in all material respects at its date or at the date (if any) on which it was stated to be given.

6.11.2 The information referred to in clause 6.11.1 was, at its date or at the date (if any) on which it was stated to be given, complete and the relevant Obligor did not omit to supply any information that, if disclosed, would adversely affect the Valuation or Certificate of Title.

6.11.3 In the case of the first Valuation and Certificate of Title only, nothing has occurred since the date the information referred to in clause 6.11.1 was supplied and the date of this deed that would adversely affect such Valuation or Certificate of Title.

6.12 **AVOIDANCE OF SECURITY**

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of each Obligor or otherwise.

6.13 **ENFORCEABLE SECURITY**

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

7. **GENERAL COVENANTS**

7.1 **NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

Neither Obligor shall at any time, except with the prior written consent of the Lender:

7.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Charged Asset other than any Security created by this deed; or

7.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Charged Assets; or

7.1.3 create or grant (or purport to create or grant) any interest in the Charged Assets in favour of a third party (other than letting any Properties to individuals in accordance with their day to day business).

7.2 **PRESERVATION OF CHARGED ASSETS**

Neither Obligor shall do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender or materially diminish the value of any of the Charged Assets or the effectiveness of the security created by this deed.

7.3 **COMPLIANCE WITH LAWS AND REGULATIONS**

7.3.1 Neither Obligor shall, without the Lender's prior written consent, use or permit the Charged Assets to be used in any way contrary to law.

7.3.2 Each Obligor shall:

(a) comply with the requirements of any law or regulation relating to or affecting the Charged Assets or the use of them or any part of them;

(b) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Assets or their use or that are necessary to preserve, maintain or renew any Charged Asset; and

(c) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Charged Assets.

7.4 ENFORCEMENT OF RIGHTS

Each Obligor shall use its best endeavours to:

7.4.1 procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with each Obligor; and forming part of the Charged Assets of the covenants and other obligations imposed on such counterparty; and

7.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Assets that the Lender may require from time to time.

7.5 NOTICE OF MISREPRESENTATION AND BREACH

Each Obligor shall, promptly on becoming aware of any of the same, notify the Lender in writing of:

7.5.1 any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and

7.5.2 any breach of any covenant set out in this deed.

7.6 TITLE DOCUMENTS

Each Obligor shall, on the execution of this deed, deposit with the Lender and the Lender shall, for the duration of this deed, be entitled to hold:

7.6.1 all deeds and documents of title relating to the Charged Assets that are in the possession or control of each Obligor (and if these are not within the possession or control of the Obligors, each Obligor undertakes to obtain possession of all these deeds and documents of title); and

7.6.2 each Insurance Policy.

7.7 NOTICES TO BE GIVEN BY THE BORROWER

7.7.1 The Borrower shall within five days of the execution of this deed give notice to the relevant insurers of the assignment of the Borrower's rights and interest in and under each Insurance Policy under clause 3.2 (including the proceeds of any claims under that Insurance Policy) and procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Lender.

7.7.2 The Borrower shall obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause 7.7.

8. PROPERTIES COVENANTS

8.1 REPAIR AND MAINTENANCE

8.1.1 Each Obligor shall keep all premises, and fixtures and fittings on the Properties, in:

(a) good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings that have become worn out or otherwise unfit for use with others of a like nature and equal value; and

(b) such repair and condition as to enable the Properties to be let in accordance with all applicable laws and regulations.

8.2 NO ALTERATIONS

8.2.1 Each Obligor shall not, without the prior written consent of the Lender:

(a) pull down or remove the whole or any part of any building forming part of the Properties nor permit the same to occur; or

(b) make or permit to be made any material alterations to any Property or sever or remove, or permit to be severed or removed, any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 8.1 (*Repair and Maintenance*)).

8.2.2 Each Obligor shall promptly give notice to the Lender if the premises or fixtures or fittings forming part of any Property are destroyed or damaged.

8.3 DEVELOPMENT RESTRICTIONS

Each Obligor shall not, without the prior written consent of the Lender:

8.3.1 make or, in so far as it is able, permit others to make any application for planning permission or development consent in respect of any Property; or

8.3.2 carry out, or permit or suffer to be carried out, on any Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit, or suffer to be changed, the use of any Property.

8.4 INSURANCE

8.4.1 The Borrower shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Charged Assets against:

(a) loss or damage by fire or terrorist acts, including any third-party liability arising from such acts;

(b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and

(c) any other risk, perils and contingencies as the Lender may reasonably require.

8.4.2 Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender and must include property owners' public liability and third party liability insurance and be for not less than the replacement value of the relevant Charged Asset (meaning, in the case of any premises on any Property, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for shoring or propping up, demolition, site clearance and reinstatement with adequate allowance for inflation) and loss of rents payable by the tenants or other occupiers of any Property for a period of at least three years, including provision for increases in rent during the period of insurance.

8.4.3 The Borrower shall, if requested by the Lender, produce to the Lender each policy, certificate or cover note relating to any insurance required by clause 8.4.1 (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Obligors is entitled to obtain from the landlord under the terms of the relevant lease).

8.4.4 The Borrower shall, if requested by the Lender, procure that a note of the Lender's interest is endorsed on each Insurance Policy (other than public liability and third party liability insurances) effected or maintained by it or any person on its behalf in accordance with clause 8.4.1 but without the Lender having any liability for any premium in relation to those Insurance Policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy.

8.5 **INSURANCE PREMIUMS**

The Borrower shall:

8.5.1 promptly pay all premiums in respect of each Insurance Policy required by clause 8.4.1 and do all other things necessary to keep that policy in full force and effect; and

8.5.2 (if the Lender so requires) give to the Lender copies of the receipts for all premiums and other payments necessary for effecting and keeping up each Insurance Policy required by clause 8.4.1 (or where, in the case of leasehold property, insurance is effected by the landlord, such evidence of the payment of premiums as the is entitled to obtain from the landlord under the terms of the relevant lease).

8.6 **NO INVALIDATION OF INSURANCE**

The Borrower shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any Insurance Policy required by clause 8.4.1.

8.7 **PROCEEDS FROM INSURANCE POLICIES**

All monies payable under any Insurance Policy required by clause 8.4.1 shall (whether or not the security constituted by this deed has become enforceable) be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or, after the security constituted by this deed has become enforceable and, if the Lender so directs, in or towards discharge or reduction of the Secured Liabilities.

8.8 **LEASES AND LICENCES AFFECTING THE PROPERTIES**

Neither Obligor shall, without the prior written consent of the Lender (which consent, in the case of clause 8.8.4, is not to be unreasonably withheld or delayed):

8.8.1 grant any licence or tenancy affecting the whole or any part of any Property, or exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925) other than those Properties let at the time of entry into this deed;

8.8.2 in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of any Property (or agree to dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of any Property);

8.8.3 let any person into occupation, or share occupation, of the whole or any part of any Property other than to individuals in accordance with their day to day business[1]; or

8.8.4 grant any consent or licence under any lease or licence affecting any Property.

[1] ACS Comment: please confirm that this works operationally for you?

8.9 **NO RESTRICTIVE OBLIGATIONS**

Neither Obligor shall, without the prior written consent of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of any Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property.

8.10 **PROPRIETARY RIGHTS**

Each Obligor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Property, without the prior written consent of the Lender.

8.11 **COMPLIANCE WITH AND ENFORCEMENT OF COVENANTS**

Each Obligor shall:

8.11.1 observe and perform all covenants, stipulations and conditions to which a Property, or the use of it, is or may be subject and (if the Lender so requires) produce to the Lender evidence sufficient to satisfy the Lender that those covenants, stipulations and conditions have been observed and performed; and

8.11.2 diligently enforce all covenants, stipulations and conditions benefiting any Property and shall not (and shall not agree to) waive, release or vary any of the same.

8.12 **NOTICES OR CLAIMS RELATING TO THE PROPERTIES**

8.12.1 Each Obligor shall:

(a) give full particulars to the Lender of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a **Notice**) that specifically applies to a Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Notice; and

(b) (if the Lender so requires) immediately, and at the cost of the Obligors, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Lender in making, any objections or representations in respect of that Notice that the Lender thinks fit.

8.12.2 Each Obligor shall give full particulars to the Lender of any claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to any Property.

8.13 PAYMENT OF RENT AND OUTGOINGS

The Obligors shall:

8.13.1 where any Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and

8.13.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on any Property or on its occupier.

8.14 ENVIRONMENT

Each Obligor shall in respect of the Properties:

8.14.1 comply in all material respects with all the requirements of Environmental Law; and

8.14.2 obtain and comply in all material respects with all Environmental Licences.

8.15 INSPECTION

Each Obligor shall permit the Lender, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice.

9. POWERS OF THE LENDER

9.1 POWER TO REMEDY

9.1.1 The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by any Obligor of any of its obligations contained in this deed.

9.1.2 Each Obligor irrevocably authorises the Lender and its agents to do all things that are necessary or desirable for that purpose.

9.1.3 Any monies expended by the Lender in remedying a breach by the Obligors of an Obligor of its obligations contained in this deed shall be reimbursed by the relevant Obligor to the Lender on a full indemnity basis and shall carry interest in accordance with clause 16.1.

9.1.4 In remedying any breach in accordance with this clause 9.1, the Lender, its agents and their respective officers, agents and employees shall be entitled to enter onto any Property and to take any action as the Lender may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

9.2 **EXERCISE OF RIGHTS**

The rights of the Lender under clause 9.1 are without prejudice to any other rights of the Lender under this deed. The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

9.3 **LENDER HAS RECEIVER'S POWERS**

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Charged Assets whether or not it has taken possession of any Charged Asset and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

9.4 **CONVERSION OF CURRENCY**

9.4.1 For the purpose of, or pending, the discharge of any of the Secured Liabilities, the Lender may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 9.4) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.

9.4.2 Any such conversion shall be effected at Barclays Bank UK Plc then prevailing spot selling rate of exchange for such other currency against the existing currency.

9.4.3 Each reference in this clause 9.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

9.5 **NEW ACCOUNTS**

9.5.1 If the Lender receives, or is deemed to have received, notice of any subsequent Security or other interest, affecting all or part of the Charged Assets, the Lender may open a new account for each Obligor in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of an Obligor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

9.5.2 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, referred to in clause 9.5.1, then, unless the Lender gives express written notice to the contrary to the Obligors, all payments made by the Obligors to the Lender shall be treated as having been credited to a new account of the Obligors and not as having been applied in reduction of the Secured

Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender.

9.6 INDULGENCE

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

10. WHEN SECURITY BECOMES ENFORCEABLE

10.1 SECURITY BECOMES ENFORCEABLE ON EVENT OF DEFAULT

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs and continues.

10.2 DISCRETION

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Charged Assets.

11. ENFORCEMENT OF SECURITY

11.1 ENFORCEMENT POWERS

11.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.

11.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 10.1.

11.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

11.2 EXTENSION OF STATUTORY POWERS OF LEASING

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Lender and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of any of the Obligors, to:

11.2.1 grant a lease or agreement for lease;

11.2.2 accept surrenders of leases; or

11.2.3 grant any option in respect of the whole or any part of any Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of any of the Obligors, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender), as the Lender or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

11.3 **REDEMPTION OF PRIOR SECURITY**

11.3.1 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lender may:

(a) redeem any prior Security over any Charged Asset;

(b) procure the transfer of that Security to itself; and

(c) settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on each Obligor).

11.3.2 Each Obligor shall pay to the Lender immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this deed as part of the Secured Liabilities.

11.4 **PROTECTION OF THIRD PARTIES**

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or any Delegate shall be concerned to enquire:

11.4.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;

11.4.2 whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or

11.4.3 how any money paid to the Lender, any Receiver or any Delegate is to be applied.

11.5 **PRIVILEGES**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

11.6 **NO LIABILITY AS MORTGAGEE IN POSSESSION**

Neither the Lender nor any Receiver or Delegate shall be liable, by reason of entering into possession of a Charged Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Charged Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

11.7 **RELINQUISHING POSSESSION**

If the Lender, any Receiver or Delegate enters into or takes possession of a Charged Asset, it or he/she may at any time relinquish possession.

11.8 **CONCLUSIVE DISCHARGE TO PURCHASERS**

The receipt of the Lender, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Assets or in making any acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

11.9 **RIGHT OF APPROPRIATION**

11.9.1 To the extent that:

(a) the Charged Assets constitute Financial Collateral; and

(b) this deed and the obligations of any Obligor under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Charged Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Lender may, in its absolute discretion, determine.

11.9.2 The value of any Charged Assets appropriated in accordance with this clause shall be, in the case of cash, the amount standing to the credit of the Rent Account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised.

11.9.3 Each Obligor agrees that the method of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

12. RECEIVERS

12.1 APPOINTMENT

At any time after the security constituted by this deed has become enforceable, or at the request of any of the Obligors, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Charged Assets.

12.2 REMOVAL

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

12.3 REMUNERATION

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925 and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

12.4 POWER OF APPOINTMENT ADDITIONAL TO STATUTORY POWERS

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

12.5 POWER OF APPOINTMENT EXERCISABLE DESPITE PRIOR APPOINTMENTS

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Charged Assets.

12.6 AGENT OF THE OBLIGORS

Any Receiver appointed by the Lender under this deed shall be the agent of each Obligor and each Obligor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the relevant Obligor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

13. POWERS OF RECEIVER

13.1 POWERS ADDITIONAL TO STATUTORY POWERS

13.1.1 Any Receiver appointed by the Lender under this deed shall, in addition to the rights, powers and discretions conferred on him/her by statute, have the rights, powers and discretions set out in clause 13.2 to clause 13.20.

13.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether he/she is an administrative receiver or not.

13.1.3 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.

13.1.4 Any exercise by a Receiver of any of the powers given by clause 13 may be on behalf of each Obligor, the directors of each Obligor or himself/herself.

13.2 REPAIR AND DEVELOP THE PROPERTIES

A Receiver may undertake or complete any works of repair, alteration, building or development on any Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

13.3 GRANT OR ACCEPT SURRENDERS OF LEASES

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting any Property on any terms, and subject to any conditions, that he/she thinks fit.

13.4 EMPLOY PERSONNEL AND ADVISERS

13.4.1 A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he/she thinks fit.

13.4.2 A Receiver may discharge any such person or any such person appointed by an Obligor.

13.5 MAKE AND REVOKE VAT OPTIONS TO TAX

A Receiver may make, exercise or revoke any VAT option to tax as he/she thinks fit.

13.6 **CHARGE FOR REMUNERATION**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him/her) that the Lender may prescribe or agree with him/her.

13.7 **TAKE POSSESSION**

A Receiver may take immediate possession of, get in and realise any Charged Asset.

13.8 **MANAGE OR RECONSTRUCT AN OBLIGOR'S BUSINESS**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of an Obligor carried out at any Property.

13.9 **DISPOSE OF CHARGED ASSETS**

A Receiver may grant options and licences over all or any part of the Charged Assets, grant any other interest or right over, sell, exchange, assign or lease (or concur in granting options and licences over all or any part of the Charged Assets, granting any other interest or right over, selling, exchanging, assigning or leasing) all or any of the Charged Assets in respect of which he/she is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he/she thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Charged Assets to be disposed of by him/her.

13.10 **SEVER FIXTURES AND FITTINGS**

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of any Obligor.

13.11 **GIVE VALID RECEIPTS**

A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Assets.

13.12 **MAKE SETTLEMENTS**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of an Obligor or relating in any way to any Charged Asset.

13.13 **BRING LEGAL ACTION**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Assets as he/she thinks fit.

13.14 **INSURE**

A Receiver may, if he/she thinks fit, but without prejudice to the indemnity in clause 16.2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by an Obligor under this deed.

13.15 **FORM SUBSIDIARIES**

A Receiver may form a subsidiary of an Obligor and transfer to that subsidiary any Charged Asset.

13.16 **BORROW**

A Receiver may, for whatever purpose he/she thinks fit, raise and borrow money either unsecured or on the security of all or any of the Charged Assets in respect of which he/she is appointed on any terms that he/she thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

13.17 **REDEEM PRIOR SECURITY**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on each Obligor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

13.18 **DELEGATION**

A Receiver may delegate his/her powers in accordance with this deed.

13.19 **ABSOLUTE BENEFICIAL OWNER**

A Receiver may, in relation to any of the Charged Assets, exercise all powers, authorisations and rights he/she would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do in the ownership and management of all or any part of the Charged Assets.

13.20 **INCIDENTAL POWERS**

A Receiver may do any other acts and things that he/she:

13.20.1 may consider desirable or necessary for realising any of the Charged Assets;

13.20.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or

13.20.3 lawfully may or can do as agent for each Obligor.

14. DELEGATION

14.1 DELEGATION

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it or him/her by this deed (including the power of attorney granted under clause 18.1).

14.2 TERMS

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it or he/she thinks fit.

14.3 LIABILITY

Neither the Lender nor any Receiver shall be in any way liable or responsible to an Obligor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

15. APPLICATION OF PROCEEDS

15.1 ORDER OF APPLICATION OF PROCEEDS

All monies received or recovered by the Lender, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Lender's right to recover any shortfall from an Obligor):

15.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed and of all remuneration due to any Receiver under or in connection with this deed;

15.1.2 in or towards payment of the Secured Liabilities in any order and manner that the Lender determines; and

15.1.3 in payment of the surplus (if any) to the Obligors or other person entitled to it.

15.2 APPROPRIATION

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

15.3 **SUSPENSE ACCOUNT**

All monies received by the Lender, a Receiver or a Delegate under this deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):

15.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to a suspense account;

15.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Obligors; and

15.3.3 may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

16. **COSTS AND INDEMNITY**

16.1 **COSTS**

Each Obligor shall, promptly on demand, pay to, or reimburse, the Lender and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with:

16.1.1 this deed or the Charged Assets;

16.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed; or

16.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment, liquidation, winding-up or administration of an Obligor) at the rate and in the manner specified in the Facility Agreement.

16.2 **INDEMNITY**

16.2.1 Each Obligor shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

(a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Charged Assets;

(b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or

(c) any default or delay by an Obligor in performing any of its obligations under this deed.

16.2.2 Any past or present employee or agent may enforce the terms of this clause 16.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

17. FURTHER ASSURANCE

Each Obligor shall promptly, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

17.1 creating, perfecting or protecting the security created or intended to be created by this deed;

17.2 facilitating the realisation of any Charged Asset; or

17.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Charged Asset,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Charged Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Lender may consider necessary or desirable.

18. POWER OF ATTORNEY

18.1 APPOINTMENT OF ATTORNEYS

By way of security, each Obligor irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of the relevant Obligor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

18.1.1 the relevant Obligor is required to execute and do under this deed; or

18.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate.

18.2 **RATIFICATION OF ACTS OF ATTORNEYS**

Each Obligor confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 18.1.

19. **RELEASE**

Subject to clause 26.3, at the end of the Security Period, the Lender shall, at the request and cost of each Obligor, take whatever action is necessary to:

19.1 release the Charged Assets from the security constituted by this deed; and

19.2 reassign the Charged Assets to the relevant Obligor.

20. **ASSIGNMENT AND TRANSFER**

20.1 **ASSIGNMENT BY LENDER**

20.1.1 At any time, without the consent of an Obligor, the Lender may assign or transfer any or all of its rights and obligations under this deed.

20.1.2 The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to an Obligor, the Charged Assets and this deed that the Lender considers appropriate.

20.2 **ASSIGNMENT BY OBLIGORS**

Neither Obligor may assign any of its rights, or transfer any of its rights or obligations, under this deed.

21. **SET-OFF**

21.1 **LENDER'S RIGHT OF SET-OFF**

The Lender may at any time set off any liability of an Obligor to the Lender against any liability of the Lender to that Obligor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 21.1 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

21.2 **NO OBLIGATION TO SET OFF**

The Lender is not obliged to exercise its rights under clause 21.1. If, however, it does exercise those rights it must promptly notify the relevant Obligor of the set-off that has been made.

21.3 EXCLUSION OF OBLIGORS'S RIGHT OF SET-OFF

All payments made by an Obligor to the Lender under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

22. AMENDMENTS, WAIVERS AND CONSENTS

22.1 AMENDMENTS

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

22.2 WAIVERS AND CONSENTS

22.2.1 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

22.2.2 A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing.

22.3 RIGHTS AND REMEDIES

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

23. SEVERANCE

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

24. COUNTERPARTS

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

25. THIRD PARTY RIGHTS

25.1 Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

25.2 The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person.

26. FURTHER PROVISIONS

26.1 INDEPENDENT SECURITY

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Charged Assets shall merge in the security created by this deed.

26.2 CONTINUING SECURITY

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

26.3 DISCHARGE CONDITIONAL

Any release, discharge or settlement between an Obligor and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

26.3.1 the Lender or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Charged Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and

26.3.2 the Lender may recover the value or amount of such security or payment from an Obligor subsequently as if the release, discharge or settlement had not occurred.

26.4 **CERTIFICATES**

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed and the Facility Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.

26.5 **CHARITIES ACT 2011**

26.5.1 In this deed the Charity Trustees means those persons having day to day control and management of the administration of the Borrower which, as at the date of this deed, are those persons named at Schedule 2 acting by their authorised representatives pursuant to Section 333 of the Charities Act 2011.

26.5.2 The Trust Corporation and the Charity Trustees certify that they have power under the trusts which the Property is held to effect the charge created under this deed and have obtained and considered such advice as is mentioned section 124 (2) of the Charities Act 2011, so that the provisions of s124 (2) have been complied with so far as applicable to this deed.

26.6 **CONSOLIDATION**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

27. **NOTICES**

27.1 **DELIVERY**

Any notice or other communication given to a party under or in connection with this deed shall be:

27.1.1 in writing;

27.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service; and

27.1.3 sent to:

(a) Retired Baptist Ministers Housing Organisation at:

Baptist House, 129 Broadway, Didcot, Oxon, OX11 8RT

Attention: Stewart Green

E-mail address: sgreen@rbmhs.org.uk

(b) RBMHO Trust Corporation Limited at:

Baptist House, 129 Broadway, Didcot, Oxon, OX11 8RT

Attention: Stewart Green

E-mail address: sgreen@rbmhs.org.uk

(c) Baptist Union Corporation Limited at:

Baptist House, 129 Broadway, Didcot, Oxon, OX11 8RT

Attention: Richard Wilson

E-mail address: supportservices@baptist.org.uk

or to any other address or e-mail address as is notified in writing by one party to the other from time to time.

27.2 **RECEIPT BY OBLIGORS**

Any notice or other communication that the Lender gives to an Obligor shall be deemed to have been received:

27.2.1 if delivered by hand, at the time it is left at the relevant address; and

27.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting.

A notice or other communication given as described in clause 27.2.1 or clause 27.2.2 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

27.3 **RECEIPT BY LENDER**

Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

27.4 **SERVICE OF PROCEEDINGS**

This clause 27 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

28. **GOVERNING LAW AND JURISDICTION**

28.1 **GOVERNING LAW**

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

28.2 **JURISDICTION**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against an Obligor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

28.3 **OTHER SERVICE**

Each Obligor irrevocably consents to any process in any legal action or proceedings under clause 28.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

This agreement has been entered into as a deed on the date stated at the beginning of it.

Schedule 1- Properties

FREEHOLD PROPERTIES

43 Buzzard Road, Whitchurch, Tavistock PL19 9FZ registered at HM Land Registry under title number DN556612

LEASEHOLD PROPERTIES

None

Schedule 2 – the Borrower's Trustees

1.1 Timothy John Walker

1.2 Reverend Philip Andrew Jump

1.3 John David Levick

1.4 Francis William Johnston

1.5 Reverend Gordon Edward Hindmarch

1.6 John Fleet

1.7 Reverend Mark Clay Cambridge

1.8 Reverend Lynn Margaret Green

1.9 Reverend Nicholas Lear

1.10 Richard Ian Wilson

1.11 Reverend David Harvey

1.12 Reverend Peter Wortley

1.13 Roger Barnett

EXECUTION PAGE

EXECUTED as a **DEED** by the

Charity Trustees of the RETIRED BAPTIST MINISTERS

HOUSING ORGANISATION acting by their authorised Representatives

pursuant to section 333 of the Charities Act 2011

SIGN .....

Authorised Representative (1)

PRINT NAME FRANCIS WILLIAM JOHNSTON

SIGN .....

Authorised Representative (2)

PRINT NAME PETER J WORTLEY

in the presence of:

Signature of witness .....

Name (in BLOCK CAPITALS) PETER DUNSTAN ..... TIMOTHY MARK BINGLE

Address 3 MOINER CLOSE AYLESBURY HP21 8UT ..... 68A CHALFONT RD SOUTH GREEN BOURNSFIELD Bucks HP9 2QP

EXECUTED as a **DEED** by

RBMHO TRUST CORPORATION LIMITED

(a company limited by guarantee)

acting by two directors:

SIGN ..... Director

PRINT NAME FRANCIS WILLIAM JOHNSTON

SIGN ..... Director

PRINT NAME STEWART GREEN

EXECUTED as a **DEED** on behalf of

THE BAPTIST UNION CORPORATION LIMITED

acting by a director:

SIGN .....

PRINT NAME

in the presence of:

Signature of witness .....

Name (in BLOCK CAPITALS) .....

Address .....