THE BOARD OF THE Pension Protection Fund

FORM OF CONTINGENT ASSET

type B(ii)S: security over land IN SCOTLAND

VERSION: 6.0 (JANUARY 2021)

NOTE:

Please refer to the Pension Protection Fund guidance on contingent assets and other documentation on the Pension Protection Fund website www.ppf.co.uk. However, it is your responsibility to obtain legal advice before using the Pension Protection Fund’s standard documentation – you should not rely on the guidance note or on other documentation published by the Pension Protection Fund. The Board accepts no responsibility to trustees/managers or any other person for the efficacy of the standard documentation or for any legal effects that such documentation may have if used in any circumstances.

If the secured property is located in England and Wales or Northern Ireland, please use standard form document B(ii)EW or B(ii)NI respectively in place of this document.

This cover page should be deleted before using the document.

**STANDARD SECURITY**

**by**

**[ ] [LIMITED]**

**in favour of**

**THE TRUSTEES OF THE [** ⚫ **PENSION SCHEME]**

|  |
| --- |
| **Subjects [ ].** |

**TABLE OF CONTENTS**

**Clause Heading Page No.**

1 INTERPRETATION 1

2 OBLIGATION TO PAY 8

3 CREATION OF SECURITY 8

4 PAYMENTS 11

5 CHARGOR REPRESENTATIONS 11

6 OBLIGATIONS 15

7 DEFAULT 22

8 WHEN SECURITY BECOMES ENFORCEABLE 23

9 EXPENSES AND INDEMNITY 23

10 FURTHER ASSURANCES 25

11 APPOINTMENT OF ATTORNEY 25

12 PRESERVATION OF SECURITY 25

13 CHANGES TO THE PARTIES 28

14 AMENDMENTS 28

15 RELEASE WHERE OVERSECURED 31

16 SUBSTITUTION OF PROPERTY 32

17 SET-OFF 32

18 SEVERABILITY, REMEDIES AND WAIVERS 32

19 CERTIFICATES AND DETERMINATIONS 33

20 NOTICES 33

21 LANGUAGE 33

22 GOVERNING LAW 34

23 ENFORCEMENT 34

24 WARRANDICE 35

25 CONSENT TO REGISTRATION 35

**STANDARD SECURITY**

by

(1) ⚫[ ⚫ ] (Registered Number ⚫[ ⚫ ]) (the **Chargor**)

in favour of

(2) ⚫[ ⚫ ] and ⚫[ ⚫ ] as trustees of the [⚫[ ⚫ ] pension scheme] and any other person or persons who is or are for the time being a trustee of the [⚫[ ⚫ ] pension scheme] (each a **Trustee** and together the **Trustees**).

**IT IS AGREED AS FOLLOWS**

1. INTERPRETATION
	1. Definitions

In this Standard Security:

**Act** means the Conveyancing and Feudal Reform (Scotland) Act, 1970 and any lawful variation thereof operative for the time being.

**Business Day** means a day (other than a Saturday or a Sunday) on which banks are open for general business in [London].

**Certificate of Title** means any certificate of title on the Security Subjects addressed to and provided at the request of the Trustees before the date of execution of this Standard Security.

**Companies** means the companies listed in Part 1 of the Schedule (Companies) as such Schedule may be amended from time to time.

**Creditors’ Process** means, in relation to a person, any expropriation, attachment, sequestration, distress or execution (or any analogous event in any jurisdiction) which affects [any] [a material part] of the assets of that person, and is not discharged within fourteen (14) days.

**Demand** means any demand made on the Chargor by the Trustees under Clause 2 (Obligation to pay) in relation to the Secured Scheme Liabilities of a Company.

**Environmental Approval** means any consent, approval, authorisation, permission or licence required by any Environmental Law.

**Environmental Claim** means any action or claim by any person in connection with:

* + - * 1. a breach, or alleged breach, of an Environmental Law;
				2. a liability, or alleged liability, under Environmental Law;
				3. a failure to comply with any Environmental Approval;
				4. any accident, fire, explosion or other event of any type involving an emission or substance which is capable of causing harm to any living organism or the environment; or
				5. any other environmental contamination.

**Environmental Law** means any law or regulation concerning:

* + - * 1. the protection of health and safety;
				2. the environment; or
				3. any emission or substance which is capable of causing harm to any living organism or the environment.

**Event of Default** means an event specified as such in Clause 7 (Default).

**Fixtures** means all fixtures and fittings and fixed plant and machinery on the Security Subjects.

**Headlease** means a lease under which the Security Subjects may be held by the Chargor.

**Implementation Date** has the meaning given to it in Clause 14 (Amendments).

**Insolvency Event** means in respect of any Company:

* + - * 1. an 'insolvency event' as defined in Section 121 of the Pensions Act 2004 or regulations made from time to time thereunder; or
				2. the receipt by the Pension Protection Fund of an application or notification from the Trustees or the Pensions Regulator that such Company is unlikely to continue as a going concern, which is purported to be made in accordance with Section 129 of the Pensions Act 2004 or regulations made from time to time thereunder.

**Insolvency Proceedings** means in respect of any person:

* + - * 1. any procedure or step is taken with a view to a moratorium or a composition, assignment or similar arrangement with any of its creditors;
				2. a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for, to petition for or to file documents with a court or any registrar for, its winding-up, administration, dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise), or any such resolution is passed;
				3. any person presents a petition, or files documents with a court or any registrar, for its winding-up, administration, dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);
				4. any Security Interest is enforced by any person over [any]/[a material part] of its assets;
				5. an order for its winding-up, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) is made;
				6. any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or [any]/[a material part] of its assets;
				7. its shareholders, directors or other officers or that person itself request(s) or apply/ies to court for the appointment of, or give(s) notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer; or
				8. any other analogous step or procedure is taken in any jurisdiction.

**Leases** means the leases detailed in Part 5 of the Schedule (Leases**).**

**Insured Property Assets** means the Premises and all the Chargor's other assets of an insurable nature in or on the Security Subjects.

**Material Adverse Effect** means a material adverse effect on:

* + - * 1. the ability of the Chargor to perform its payment obligations under this Standard Security;
				2. the business, operations, property, assets or financial condition of the Chargor or any of its Subsidiaries;
				3. the validity or enforceability of, or the effectiveness, making or ranking of, this Standard Security; or
				4. the validity or enforceability, or the effectiveness or ranking of any right or remedy of the Trustees under this Standard Security.

**Net Enforcement Proceeds** means, in relation to the Security Subjects:

(a) the proceeds of sale or enforcement; and/or

(b) any Rental Income,

collected or received by the Trustees arising from the Security Subjects following the enforcement of this Standard Security less all costs, expenses, remuneration and other items relating thereto.

**Occupational Lease** means any lease, agreement for lease, licence or other occupational interest subject to which the Chargor's interest in a Security Subject is held, now or in the future, including any guarantee and rent deposit arrangements entered into under the terms of them.

**Party** means a party to this Standard Security.

**Pension Protection Fund** means the Board of the Pension Protection Fund as established under Part 2 of the Pensions Act, 2004.

**Pensions Regulator** means the body of that name and referred to as the "Regulator" in the Pensions Act 2004.

**Premises** means all buildings and erections (including the Fixtures) on the Security Subjects.

**Proposal Date** has the meaning given to it in Clause 14 (Amendments).

**Proposals** has the meaning given to it in Clause 14 (Amendments).

**Release Request** has the meaning given to it in Clause 15 (Release where oversecured) of this Standard Security.

1. **Rental Income** means the aggregate of all amounts paid or payable to or for the account or benefit of the Chargor in connection with the letting, use or occupation of the whole or any part of the Security Subjects, including each of the following amounts:
	* + - 1. rent, licence fees and equivalent amounts paid or payable;
				2. any sum received or receivable from any deposit held as security for performance of a tenant's obligations;
				3. a sum equal to any apportionment of rent allowed in favour of the Chargor;
				4. any other moneys paid or payable in respect of occupation and/or usage of the Security Subjects and any fixture and fitting on the Security Subjects including any fixture or fitting on the Security Subjects for display or advertisement, on licence or otherwise;
				5. any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent;
				6. any sum paid or payable, or the value of any consideration given, for the grant, surrender or variation of any Occupational Lease;
				7. any sum paid or payable in respect of a breach of covenant or dilapidations under any Occupational Lease and/or for expenses incurred in relation to any such breach;
				8. any service charge payments;
				9. any contribution to a sinking fund paid by an occupational tenant under an Occupational Lease;
				10. any contribution by an occupational tenant of the Security Subjects to ground rent due under any Headlease; and
				11. any sum paid or payable by any guarantor of any occupational tenant under any Occupational Lease;
				12. any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by another person) by the Chargor; and
				13. any amount that represents VAT chargeable in respect of any such sum.

**Reservations** means**:**

* + - * 1. the limitation on enforcement as a result of laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws affecting the rights of creditors generally;
				2. the statutory time-barring of claims;
				3. defences of set off or counterclaim;
				4. rules against penalties and similar principles;
				5. the possibility that an undertaking to assume liability for, or indemnify a person against, non-payment of stamp duty may be void;
				6. the fact that a court may refuse to give effect to a purported contractual obligation to pay costs imposed upon another person in respect of costs of an unsuccessful litigation brought against that person or may not award by way of costs all of the expenditure incurred by a successful litigant in proceedings brought before that court or that a court may stay proceedings if concurrent proceedings based on the same grounds and between the same parties have previously been brought before another court; and/or
				7. any steps for perfection not required by the terms of this Standard Security to be taken,

and any other reservations or qualifications of law contained in any legal opinion delivered to the Trustees in respect of this Standard Security.

**Schedule** means the Schedule in 7 Parts annexed and executed as relative hereto.

**Scheme** means the [⚫ pension scheme](registration number ⚫).[[1]](#footnote-1)

**Secured Liabilities** means the Secured Scheme Liabilities and all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally and in any capacity whatsoever) of the Chargor under this Standard Security.

**Secured Scheme Liabilities** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally and in any capacity whatsoever) of each Company to make payments to the Scheme.

**Security Period** means the period beginning on the date of this Standard Security and ending on the date on which all Secured Liabilities which may be or become due have been unconditionally and irrevocably paid and discharged in full.

**Security Subjects** means the interest in land more particularly described in Part 2 of the Schedule (Security Subjects) together with all fixtures and fittings and fixed plant and machinery therein and thereon, the whole rights in common, mutual and exclusive effeiring thereto and the Chargor’s whole right, title and interest, present and future therein and thereto.

**Subsidiary** means:

* + - * 1. a subsidiary within the meaning of Section 1159 of the Companies Act 2006; and
				2. unless the context otherwise requires, a subsidiary undertaking within the meaning of Section 1162 of the Companies Act 2006.

**Substitute Property** means a property approved by the Trustees pursuant to Clause 16 (Substitution of Property) in their absolute discretion and in relation to which the conditions set out in Part 6 of the Schedule (Conditions precedent to substitution) have been satisfied.

**Substitute Standard Security** means a standard security in favour of the Trustees substantially in the form of this Standard Security in respect of any Substitute Property.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**Tax Deduction** means a deduction or withholding for or on account of Tax from a payment under this Standard Security.

**Valuation** means a valuation of the Chargor's interest in the Security Subjects by the Valuer, addressed to the Trustees and prepared on the basis of the market value as that term is defined in the then current Statements of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors.

**Valuer** means [⚫] or any other surveyor or valuer appointed by the Trustees.

* 1. Construction
		+ - 1. In this Standard Security unless the contrary intention appears, a reference to:

the **Chargor,** the Trustees and the **Scheme** includes their respective successors in title, permitted assignees and permitted transferees;

**assets** includes present and future properties, revenues and rights of every description and includes uncalled capital;

an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;

disposal means a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary, and dispose will be construed accordingly;

a **person** includes any individual, firm, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;

a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which persons to which it applies are accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department of any regulatory, self-regulatory or other authority or organisation;

**Sterling** or **£** is a reference to the lawful currency for the time being of the United Kingdom;

a **provision of law** is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;

a Clause, a Subclause, a Paragraph, a Subparagraph or a Schedule is a reference to a clause, a subclause, a paragraph or a subparagraph of, or a schedule to, this Standard Security;

a Party or any other person includes its successors in title, permitted assigns and permitted transferees and this Standard Security shall be binding on and enforceable by any person who is for the time being a trustee of the Scheme including any person who succeeds or replaces a trustee of the Scheme (and this Subparagraph (x) shall be in addition to, and not affect, the provisions of the Trustee Act dealing with transfers of assets and liabilities from one trustee to another);

this Standard Security (or any specified provision of it) or any other document shall be construed as a reference to this Standard Security, that provision or that document as in force for the time being and as amended, restated, varied, supplemented or novated from time to time;

**including** shall not be construed narrowly but be taken as reading **including without limitation**;

 a **time of day** is a reference to London time; and

words importing the singular shall include the plural and vice versa.

* + - * 1. Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on one (1) day in a calendar month and ending on the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:

if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);

if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and

notwithstanding Subparagraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.

* + - * 1. The headings in this Standard Security do not affect its interpretation.
				2. Any obligation of the Chargor under this Standard Security (other than a payment obligation) remains in force during the Security Period.
				3. If the Trustees consider that an amount paid to them under this Standard Security is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Standard Security.
1. OBLIGATION TO PAY

The Chargor undertakes to the Scheme that it will pay or discharge all the Secured Liabilities on demand following the occurrence of any Insolvency Event, when the Secured Scheme Liabilities become due for payment or discharge.

1. CREATION OF SECURITY
	1. Standard Security
		* + 1. We the Chargor HEREBY in security of the payment, discharge and performance of the Secured Liabilities, GRANT a standard security in favour of the Trustees over ALL and WHOLE the Security Subjects: the standard conditions specified in Schedule 3 to the Act and any lawful variation thereof operative for the time being, shall apply.
				2. [The Chargor shall indemnify and keep the Trustees indemnified from and against all actions, charges, claims, costs, damages, proceedings and other liabilities occasioned by any breach of any covenants or other obligations of the Chargor to the Trustees.][[2]](#footnote-2)
				3. The payment obligations of the Chargor under this Standard Security shall survive the enforcement of the whole or any part of the Security Subjects.
	2. Variation of Standard Conditions

The Standard Conditions specified in Schedule 3 to the Act are hereby varied by the following provisions of this Standard Security which shall apply in addition to the provisions contained in said Schedule 3. To the extent that the following provisions of this Standard Security are inconsistent with the provisions contained in the said Schedule 3, the said following provisions shall prevail.

* 1. Rental Assignation[[3]](#footnote-3)

We the Chargor Do Hereby ASSIGN to and in favour of the Trustees the Chargor's whole rights, interests and title in and to the Rental Income in security for the Secured Liabilities and subject to our obligation to re-assign and retrocess the same upon expiry of the Security Period.

* 1. *[Drafting Note: Parties must select either (i) Rider 1 containing fixed cap options for pre-insolvency and post-insolvency events or (ii) Rider 2 containing Section 179 or Section 75 only caps]*
1. PAYMENTS
	1. Funds

Payments under this Standard Security to the Trustees must be made for value on the due date at such times and in such funds as the Trustees may specify to the Chargor[s] as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

* 1. Currency

Any amount payable under this Standard Security is payable in Sterling.

* 1. No set-off or counterclaim

All payments made by the Chargor under this Standard Security shall be calculated and must be made without (and be free and clear of any deduction for) set-off or counterclaim.

* 1. Business Days

If a payment under this Standard Security is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

1. CHARGOR REPRESENTATIONS
	1. Representations

The representations set out in this Clause 5 are made by the Chargor to the Trustees.

* 1. Status[[4]](#footnote-4)
		+ - 1. [It is a [limited company] [limited liability partnership] [limited partnership] duly [incorporated] [established] and existing under the laws of its jurisdiction of [original] incorporation, it possesses the capacity to sue and be sued in its own name.]
				2. Each of its Subsidiaries is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of [original] incorporation.
				3. It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.
	2. Powers and authority

It has the power to enter into and perform, and has taken all necessary action to authorise the entry into and performance of, this Standard Security and the transactions contemplated by this Standard Security.

* 1. Legal validity

Subject to the Reservations, the obligations expressed to be assumed by it in this Standard Security constitute legal, binding, valid and enforceable obligations.

* 1. Non-conflict

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

* + - * 1. conflict with any law, regulation, directive, or any judgement, order or decree of any court applicable to it or any of its Subsidiaries;
				2. require any government consent in order to be effective;
				3. conflict with its or any of its Subsidiaries' constitutional documents; or
				4. conflict with any document which is binding upon it or any of its Subsidiaries or any of its or its Subsidiaries' assets or constitute a default or termination event (howsoever described) under any such document.
	1. No insolvency

No Insolvency Proceedings or Creditors’ Process have been taken or threatened in relation to it and no Insolvency Event applies to any Company.

* 1. No default

No event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of the foregoing, would constitute) a default or termination event (howsoever described) under any document which is binding on it or any of its Subsidiaries or any of its or its Subsidiaries' assets to an extent or in a manner which has or is reasonably likely to have a Material Adverse Effect.

* 1. Authorisations

All authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Standard Security have been obtained or effected (as appropriate) and are in full force and effect, including any consent required under any Headlease.

* 1. Litigation

No litigation, arbitration or administrative proceedings are current or, to its knowledge, pending or threatened against it or any of its Subsidiaries, which have or, if adversely determined, are reasonably likely to have a Material Adverse Effect.

* 1. Nature of security
		+ - 1. This Standard Security creates a valid and enforceable standard security over the Security Subjects [and, upon intimation, a valid and enforceable assignation over the Rental Income and neither the security constituted by the standard security nor the said Assignation (if intimated prior to liquidation or administration) is liable to be amended or otherwise set aside on the liquidation or administration of the Chargor or otherwise.][[5]](#footnote-5)
				2. The standard security created by this Standard Security constitutes a first ranking Standard Security over the Security Subjects and is not subject to any prior or pari passu Standard Security.
	2. Information for Certificate of Title
		+ - 1. The information provided to the lawyers who prepared any Certificate of Title for the purpose of that Certificate of Title was true in all material respects at the date it was expressed to be given.
				2. The information referred to in Paragraph (a) above was at the date it was expressed to be given complete and did not omit any information which, if disclosed would make that information untrue or misleading in any material respect.
				3. As at the date of the Chargor’s execution of this Standard Security, nothing has occurred since the date of any information referred to in Paragraph (a) above which renders that information untrue or misleading in any respect and which, if disclosed, would make that information untrue or misleading in any material respect.
	3. Title

Except as disclosed in any Certificate of Title:

* + - * 1. it is the legal owner of the Security Subjects and the Rental Income;
				2. no breach of any law or regulation is outstanding which affects or might affect materially the value of the Security Subjects;
				3. there are no obligations, agreements, stipulations, reservations, title burdens, conditions, interests, rights or other matters whatsoever affecting the Security Subjects;
				4. nothing has arisen or has been created or is subsisting which would be an overriding interest as defined in Section 28(1) of the Land Registration (Scotland) Act, 1979;
				5. no facilities necessary for the enjoyment and use of the Security Subjects are subject to the right of any person to terminate or curtail their enjoyment and use;
				6. it has received no notice of any adverse claims by any person in respect of the Security Subjects or any interest in the Security Subjects, nor has any acknowledgement been given to any person in respect of the Security Subjects; and
				7. the Security Subjects are held by it free from any standard security or other security or any tenancies or licences or third party rights of occupation.
	1. Valuation
		+ - 1. All information supplied by it or on its behalf to the Valuer for the purposes of each Valuation was true and accurate as at its date or (if appropriate) as at the date (if any) at which it is stated to be given;
				2. any financial projections contained in the information referred to in Paragraph (a) above have been prepared as at their date, on the basis of recent historical information and assumptions believed by it to be fair and reasonable;
				3. it has not omitted to supply any information which, if disclosed, would reasonably be expected to adversely affect the Valuation; and
				4. nothing has occurred since the date information referred to in Paragraph (a) above was supplied which, if it had occurred prior to the Valuation, would adversely affect the Valuation.
	2. Environmental matters
		+ - 1. The Chargor is in compliance with Subclause 6.8 (Environmental matters) and no circumstances have occurred which would prevent such compliance in a manner or to an extent which has or is reasonably likely to have a Material Adverse Effect.
				2. No Environmental Claim has been commenced or is threatened against the Chargor.
				3. No dangerous substance has been used, disposed of, generated, stored, dumped, released deposited, buried or emitted at, on, from or under the Security Subjects.
	3. Centre of main interest and establishments

For the purposes of the Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast) as amended by the Insolvency (Amendment) (EU Exit) Regulations 2019 SI 2019/146 and for the purposes of The Cross-Border Insolvency Regulations 2006, SI 2006/1030 (the “**UNCITRAL Implementing Regulations**”), the Chargor has its "centre of main interests" in [Scotland][[6]](#footnote-6) and it has no "establishment", as that term is used in the UNCITRAL Implementing Regulations, in any other jurisdiction.

* 1. Times for making representations
		+ - 1. The representations set out in this Standard Security are made by the Chargor on the date of execution hereof.
				2. The representations set out in this Clause 5 are deemed to be repeated by the Chargor on 31 March and 1 April of each year during the Security Period.
				3. When a representation is repeated, it is applied to the circumstances existing at the time of repetition.
1. OBLIGATIONS
	1. General

The Chargor agrees to be bound by the obligations set out in this Clause 6 so long as any Secured Liabilities are outstanding.

* 1. Notification of breach

The Chargor must notify the Trustees of any breach of any of the provisions of this Standard Security promptly upon becoming aware of its occurrence.

* 1. Authorisations

The Chargor must promptly obtain, maintain and comply with the terms of any authorisation required under any law or regulation to enable it to perform its obligations under, or for the validity or enforceability of, this Standard Security.

* 1. Compliance with laws

The Chargor must comply in all respects with all laws to which it is subject where failure to do so has or is reasonably likely to have a Material Adverse Effect.

* 1. Pari passu ranking

The Chargor must ensure that its payment obligations under this Standard Security rank at least pari passu with all its other present and future unsecured payment obligations, except for obligations mandatorily preferred by laws of general application to companies.

* 1. Disposals and negative pledge

The Chargor must not:

* + - * 1. create, purport to create or permit to subsist any security over the Security Subjects or the Rental Income or any part thereof (other than this Standard Security); or
				2. sell, assign, transfer, licence, lease or otherwise dispose of in any manner (or purport to do so) all of any part of, or any interest in, the Security Subjects [or the Rental Income] or any part thereof.
	1. [Lease Obligations
		+ - 1. The Chargor undertakes to the Trustees to use all reasonable endeavours to procure payment of the Rental Income on the due dates under the Leases and to take all reasonable and proper steps to obtain payment of the same and any interest thereon as soon as possible thereafter.
				2. The Chargor binds and obliges itself to validly execute an assignation in the same terms mutatis mutandis as this Instrument (“Further Deed”) relative to any further, additional or renewal lease of the Security Subjects or any part thereof (“Further Lease”) and to deliver the same to the Trustees on or before the date of entry of the tenant thereunder.
				3. The Chargor binds and obliges itself that upon the occasion of any permitted assignation or other permitted devolution of the tenant’s interest in the Leases and/or in any Further Lease the Chargor shall forthwith intimate the same to the Trustees with full details of the transferee and shall grant such further deeds or documents as the Trustees may reasonably require to procure that such transferee shall as the case may be either continue to pay to the Trustees that part of the Rental Income due under the relevant Leases and/or the analogous sums due under any Further Lease and all instalments thereof as provided for herein or be obliged to do so forthwith upon the intimation to it of this Instrument (or the relevant Further Deed).
				4. The Chargor undertakes to deliver to the Trustees within a reasonable period following upon a written demand a validly executed assignation of the benefit of any guarantee granted to the Chargor in respect of the obligations of any of the tenants under the Lease (and/or of the obligation of the tenant under any Further Lease), to the extent that such guarantee is assignable.
				5. The Chargor undertakes not to grant or purport to grant any assignation of its entitlement to receive Rental Income and/or any analogous sums receivable pursuant to any Further Lease (or any part of any of them) (whether before or after the intimation hereof) without having first received the written consent of the Trustees.][[7]](#footnote-7)
	2. Environmental matters
		+ - 1. The Chargor must:

obtain all Environmental Approvals required to be obtained by it;

comply in all material respects with any Environmental Approval or Environmental Law applicable to it;

ensure that the Trustees do not incur any liability by reason of any breach by the Chargor of any Environmental Law or Environmental Approval; and

promptly upon becoming aware notify the Trustees of:

(A) any Environmental Claim current or, to its knowledge, pending or threatened; or

(B) any circumstances reasonably likely to result in an Environmental Claim.

* + - * 1. The Chargor must indemnify each Trustee against any loss or liability which:

that Trustee incurs as a result of any actual or alleged breach of any Environmental Law or Environmental Approval by any person; and

which would not have arisen if this Standard Security had not been entered into,

unless it is caused by that Trustee's gross negligence or wilful misconduct.

* 1. Repair

The Chargor must keep:

* + - * 1. the Premises and all fixed and movable plant, machinery, fixtures, fittings, cables, wires, drains, pipes and sanitary, water and other services comprised in them (in so far as the same are owned by the Chargor or their maintenance and repair is the responsibility of the Chargor) in good and substantial repair and condition and in good working order and adequately and properly painted and decorated and not, without the prior written consent of the Trustees (such consent not to be unreasonably withheld or delayed), alter, pull down, remove or dispose of any of the same except in the ordinary course of repair, maintenance or improvement; and
				2. the Fixtures and all plant and machinery owned by it and which are in or on the Premises in a good state of repair and in good working order and condition,

[and the Chargor must:

* + - * 1. [duly complete with reasonable expedition any building operations commenced at any time by it on any Security Subject; and][[8]](#footnote-8)
				2. if the Security Subjects is now or in the future used for the purposes of agriculture or forestry, maintain the Security Subjects in accordance with the prevailing standards of good husbandry from time to time.][[9]](#footnote-9)]
	1. Insurance
		+ - 1. The Chargor must insure the Insured Property Assets against:

loss or damage by fire;

other risks normally insured against by persons carrying on the same class of business as that carried on by it; and

any other risks which the Trustees may reasonably require.

* + - * 1. Any insurance must be in a sum or sums not less than the replacement value of the Insured Property Assets. For this purpose, **replacement value** means the total cost of entirely rebuilding, reinstating or replacing those Insured Property Assets in the event of their being completely destroyed, together with architects', surveyors' fees and any other professional fees which would be considered reasonably necessary in the circumstances.
				2. Any insurance required under this Subclause 6.10 must be:

in an amount and form acceptable to the Trustees; and

with an insurance company or underwriter that is acceptable to the Trustees.

* + - * 1. If the Trustees give notice to the Chargor that the insurance company or underwriter has ceased to be acceptable to them, the Chargor shall put in place replacement insurances in accordance with this Subclause 6.10 with an insurance company or underwriter that is acceptable to the Trustees by the date which is the earlier of the date of the expiry of the relevant policy and the date falling sixty (60) days after the date of the notice from the Trustees.
				2. All moneys received or receivable under any insurance in respect of the Insured Property Assets must be applied:

in replacing, restoring or reinstating the Insured Property Assets destroyed or damaged or in any other manner which the Trustees may agree; or

after an Event of Default has occurred, if the Trustees so direct and the terms of the relevant insurances allow, in or towards satisfaction of the Secured Liabilities.

* + - * 1. The Chargor must procure that the Trustees are named as co-insured on all insurance policies in respect of the Premises and are named as first loss payee in respect of all claims under such insurance policies.
				2. The Chargor must ensure that each insurance policy contains:

a standard mortgagee clause under which the insurance will not be vitiated or avoided as against the Trustees as a result of any misrepresentation, act or neglect or failure to disclose on the part of any insured party or any circumstances beyond the control of an insured party; and

terms providing that it will not, so far as the Trustees are concerned, be invalidated for failure to pay any premium due without the insurer giving to the Trustees not less than fourteen (14) days' notice in writing.

* + - * 1. The Chargor must not do or permit anything to be done which may make void or voidable any policy of insurance in connection with any Insured Property Asset.
				2. The Chargor must promptly pay all premiums and do all other things necessary to keep each policy of insurance in respect of the Insured Property Assets in force.
				3. The Chargor must, immediately on demand by the Trustees, produce to the Trustees the policy, certificate or cover note relating to any insurance policy in respect of the Premises and the receipt for the payment of any premium for any such insurance policy as the Trustees may request.
	1. Valuations
		+ - 1. The Chargor must, on or before the date of this Standard Security, provide a Valuation to the Trustees.
				2. The Trustees may request any additional Valuation at any time.
				3. The Chargor must on demand by the Trustees pay the costs of any Valuation requested by the Trustees.

annually; or

at any time when an Event of Default is outstanding.

* + - * 1. The Chargor must supply to the Trustees a copy of any valuation of the Security Subjects it obtains, promptly upon obtaining it.
	1. No structural alterations

The Chargor shall ensure that neither it nor any other person makes any structural alteration to the Security Subjects which materially and adversely affects the value of the Security Subjects without the prior written consent of the Trustees.

* 1. Title undertakings

The Chargor shall procure that all material undertakings, agreements, obligations, stipulations and conditions now or at any time:

* + - * 1. affecting the Security Subjects or their use or enjoyment (so far as the same subsist and are capable of being enforced) shall be observed and performed; and
				2. benefiting the Security Subjects shall be diligently enforced and such obligations shall not be waived, varied or released, or any agreement made to do the same,

including those contained in any Headlease and/or those contained in any agreements, assignments, contracts, conveyances, grants and other deeds and documents for the time being binding on the Chargor or affecting the Security Subjects or the use or enjoyment of the Security Subjects and the Chargor shall not take or omit to take any action of any kind whereby any interest or estate in the Security Subjects may be adversely affected.

* 1. Pay outgoings

The Chargor shall:

* + - * 1. punctually pay or procure to be paid all rates, rents, taxes, levies, charges, duties, assessments, impositions and outgoings and other sums payable out of or in respect of the Security Subjects or any carbon dioxide emissions associated with it and provide to the Trustees, when required, proof of such payment; and
				2. indemnify, or procure the indemnification of, the Trustees on demand against all existing and future rents, taxes, duties, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever,

whether imposed by deed or by statute or otherwise and whether in the nature of capital or revenue and even though of a wholly novel character which now or at any time during the Security Period payable in respect of the Security Subjects or any part of the Security Subjects.

* 1. Compliance with leases

The Chargor must:

* + - * 1. perform all the terms on its part contained in any Occupational Lease and enforce those on the part of the occupational tenant;
				2. perform all the terms on its part contained in any Headlease and enforce those on the part of the landlord; and
				3. not do or allow to be done any act as a result of which any Headlease may become liable to irritancy or otherwise be terminated.
	1. Compliance with applicable laws and regulations

The Chargor must:

* + - * 1. perform all its obligations under any law or regulation in any way related to or affecting the Security Subjects;
				2. not suffer to be done on the Security Subjects anything which shall cause, constitute or contribute to any breach of the Town and Country Planning (Scotland) Act 1997 and any other legislation relating to town and country planning in force from time to time or any orders or regulations made under them; and
				3. not apply for any planning consent for development or change of use of the Security Subjects or any part of it without the Trustees' prior consent (such consent not to be unreasonably withheld or delayed).
	1. Notices

The Chargor must, within fourteen (14) days after the receipt by the Chargor of any application, requirement, order or notice served or given by any public or local or any other authority with respect to the Security Subjects (or any part of it):

* + - * 1. deliver a copy to the Trustees; and
				2. inform the Trustees of the steps taken or proposed to be taken to comply with the relevant requirement.
	1. Leases

The Chargor must not without the consent of the Trustees (such consent not to be unreasonably withheld or delayed) grant or agree to grant (whether in exercise or independently of any statutory power) or vary or agree to vary any Occupational Lease or any part of it or accept a surrender of any Occupational Lease or confer upon any person any contractual licence or right to occupy the Security Subjects.

* 1. Minimum Energy Efficiency Standards

The Chargor must:

* + - * 1. provide to the Trustees copies of all energy performance certificates and recommendation reports from time to time prepared or obtained by or on behalf of the Chargor that relate to the Security Subjects;
				2. comply with all reasonable requirements of the Trustees in relation thereto.
	1. Access

The Chargor must permit (or procure the permission of any tenant in possession of the Security Subjects) the Trustees and any person nominated by them at all reasonable times to enter any part of the Security Subjects and view the state of it.

* 1. Investigation of title

The Chargor must grant the Trustees or their lawyers on request all facilities within the power of the Chargor to enable the Trustees or their lawyers (at the expense of the Chargor) to:

* + - * 1. carry out investigations of title to the Security Subjects; and
				2. make such enquiries in relation to any part of the Security Subjects as a prudent heritable creditor might carry out.
	1. Certificate of title

The Chargor must, as soon as practicable after a request by the Trustees, provide the Trustees with a Certificate of Title of the Chargor to the Security Subjects concerning those items which may properly be sought to be covered by a prudent heritable creditor in a lawyer's report of this nature.

* 1. Power to remedy

If the Chargor fails to perform any obligation in this Clause 6 affecting the Security Subjects, the Chargor must allow the Trustees or their agents and contractors:

* + - * 1. to enter any part of the Security Subjects;
				2. to comply with or object to any notice served on the Chargor in respect of the Security Subjects; and
				3. to take any action as the Trustees may reasonably consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice.

The Chargor must immediately on request by the Trustees pay the costs and expenses of the Trustees or their agents and contractors incurred in connection with any action taken by them under this Subclause.

* 1. Notices to tenants and landlords

[The Chargor must:

* + - * 1. immediately serve a letter of intimation of Assignation of Rents, substantially in the form of Part 3 of the Schedule (Letter of intimation of Assignation of Rental Income), on each tenant of the Security Subjects; and
				2. use its best endeavours to ensure that each such tenant acknowledges that notice, substantially in the form of Part 4 of the Schedule (Acknowledgement of Occupational Tenant); and
				3. where required under the terms of any Headlease, give notice to the landlord of the Security Subjects of the completion of this Standard Security.][[10]](#footnote-10)
	1. Notifiable events
		+ - 1. The Chargor shall promptly notify the Trustees upon becoming aware that:

any event has occurred in respect of [a]/[the] Company or the Chargor which would (or would if [the]/[that] Company or the Chargor were an employer in relation to the Scheme within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) which would require notification to the Pensions Regulator in accordance with Section 69 of the Pensions Act 2004 and any regulations and directions made thereunder;

any representation made or deemed to be made by the Chargor under this Standard Security proves to be incorrect or misleading when made or deemed to be made;

any representation when made by the Chargor under this Standard Security would be (if it were deemed to be repeated at any time) incorrect or misleading when made or deemed to be made.

* + - * 1. If on or about 31 March of each year, the Chargor is aware that any representation which is to be repeated under Subclause 5.16(b) (Time for making representations) will be or is reasonably likely to be incorrect or misleading when repeated pursuant to Subclause 5.16(b) (Time for making representations), the Chargor shall promptly notify the Trustees.
1. DEFAULT
	1. Events of Default

Each of the events set out in this Clause 7 is an Event of Default and shall be in addition to those grounds specified in Standard Condition 9 of said Schedule 3 to the Act (each of which shall also be deemed to be an Event of Default).

* 1. Breach of this Standard Security

The Chargor does not comply with any term of this Standard Security unless the non-compliance is capable of remedy and:

* + - * 1. in the case of a failure to pay caused by an administrative or technical error and payment is made within (3) three Business Days of its due date; or
				2. in any other case, is remedied within fourteen (14) days of the earlier of: (1) the Trustees giving notice; and (2) the Chargor becoming aware of the non-compliance.
	1. Misrepresentation

A representation made or repeated by the Chargor in this Standard Security is incorrect or misleading in any material respect when made or deemed to be repeated, unless the circumstances giving rise to the misrepresentation:

* + - * 1. are capable of remedy; and
				2. are remedied within (14) fourteen days of the earlier of the Trustees giving notice and the Chargor becoming aware of the circumstances giving rise to the misrepresentation.
	1. Insolvency

An Insolvency Event occurs in respect of a Company or the Chargor.

* 1. Insolvency proceedings
		+ - 1. Except as provided in Paragraph (b) below, any Insolvency Proceeding occurs in respect of the Chargor.
				2. Paragraph (a) above does not apply to a petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out prior to being advertised and in any event within fourteen (14) days.
	2. Creditors' process

Any Creditors' Process occurs and affects any assets of any Company or the Chargor.

* 1. Cessation of business

A Company or the Chargor ceases, or threatens to cease, to carry on business.

* 1. Effectiveness of this Standard Security
		+ - 1. It is or becomes unlawful for the Chargor to perform any of its obligations under this Standard Security.
				2. This Standard Security is not effective in accordance with its terms or is alleged by the Chargor to be ineffective in accordance with its terms for any reason.
				3. The Chargor repudiates this Standard Security or evidences an intention to repudiate this Standard Security.
	2. Material adverse change

Any event or series of events occurs which, in the opinion of the Trustees, has or is reasonably likely to have a Material Adverse Effect.

1. WHEN SECURITY BECOMES ENFORCEABLE
	1. Event of Default

This Standard Security and the rights of the Trustees hereunder will become immediately enforceable if an Event of Default occurs.

* 1. Discretion

After this Standard Security has become enforceable, the Trustees may in their absolute discretion but subject to the provisions of the Act enforce all or any part of this Standard Security and their rights hereunder in any manner they see fit.

1. EXPENSES AND INDEMNITY
	1. Amendment costs

If the Chargor requests an amendment, waiver or consent, or delivers any Proposals, the Chargor shall, within three (3) Business Days of demand, reimburse the Trustees for the amount of all costs and expenses (including legal fees) reasonably incurred by the Trustees in responding to, evaluating, negotiating or complying with that request or those Proposals.

* 1. Enforcement and preservation costs

The Chargor shall, within three (3) Business Days of demand, pay to the Trustees the amount of all costs and expenses (including legal fees) incurred by the Trustees in connection with the enforcement of or the preservation of any rights under this Standard Security and any proceedings instituted in any jurisdiction by or against the Trustees as a consequence of taking, holding or enforcing this Standard Security.

* 1. Stamp taxes and fees

The Chargor shall pay and, within three (3) Business Days of demand, indemnify the Trustees against any cost, loss or liability that the Trustees incur in relation to all land and buildings transaction tax, stamp duty, stamp duty land tax, registration and other similar Tax and fees payable in respect of this Standard Security.

* 1. Chargor default

The Chargor shall, within three (3) Business Days of demand, indemnify the Trustees against any cost, expense, loss or liability incurred by the Trustees as a result of:

* + - * 1. the occurrence of any Event of Default in relation to the Chargor;
				2. investigating any event which it reasonably believes is an Event of Default in relation to the Chargor;
				3. the use or occupation by any person of the Security Subjects (including any Environmental Claim); or
				4. any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Standard Security.
	1. Value added taxes
		+ - 1. Any amount payable under this Standard Security by the Chargor is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Chargor must pay to the Trustees (in addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.
				2. If the Chargor is required by this Standard Security to reimburse or indemnify the Trustees for any cost or expense, the Chargor shall reimburse or indemnify (as the case may be) the Trustees for the full amount of such cost or expense, including such part thereof as a value added tax or any other Tax of a similar nature, save to the extent that the Trustees reasonably determine that they are entitled to a credit or repayment in respect of such Tax from the relevant tax authority.
	2. Tax gross-up
		+ - 1. The Chargor must make all payments to be made by it under this Standard Security without any Tax Deduction, unless a Tax Deduction is required by law.
				2. If the Chargor is aware or becomes aware that it must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must promptly notify the Trustees.
				3. If a Tax Deduction is required by law to be made by the Chargor or the Trustees, the amount of the payment due from the Chargor will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
				4. If the Chargor is required to make a Tax Deduction, the Chargor must make the minimum Tax Deduction required by law and must make any payment required in connection with that Tax Deduction within the time allowed by law.
				5. Within thirty (30) days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Chargor must deliver to the Trustees evidence satisfactory to them (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.
1. FURTHER ASSURANCES

The Chargor must, at its own expense, take whatever action the Trustees may require for:

* + - * 1. creating, perfecting or protecting any security intended to be created by this Standard Security; or
				2. facilitating the realisation of the Security Subjects, or the exercise of any right, power or discretion exercisable, by the Trustees in respect of the Security Subjects.

Including:

the execution of any transfer, conveyance or assignation of any property, whether to the Trustees or to their nominee; or

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

which, in any such case, the Trustees may think expedient.

1. APPOINTMENT OF ATTORNEY
	1. The Chargor hereby irrevocably and by way of security appoints the Trustees as its attorney and mandatory for all purposes which the Trustees may in its absolute discretion consider expedient for the purposes of:
		* + 1. collecting and receiving the Rental Income;
				2. giving the notice referred to in Subclause 7.9 (Material Adverse Change) in the event the Chargor defaults or delays in giving the same;
				3. perfecting or protecting or enforcing this Standard Security;
				4. demanding, suing for and giving effectual receipts and discharges for the monies due to be paid to the Chargor or its agents pursuant to the monies and others secured hereunder; or
				5. taking such action and giving such instructions and executing all such further instruments and documentation as the Trustees may, in its absolute discretion, consider necessary for protecting or perfecting any of its interests hereunder.
2. PRESERVATION OF SECURITY
	1. Continuing security
	2. The security constituted by this Standard Security:
		* + 1. is continuing and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge of part only of the Secured Liabilities; and
				2. will remain binding on the Chargor notwithstanding any amalgamation, reconstruction, reorganisation, merger, sale or transfer by or involving the Chargor or its assets.
	3. Reinstatement
		* + 1. If any discharge, release or arrangement is made by the Trustees in whole or in part on the faith of any payment, security or other disposition which is avoided, set aside, refunded or reduced under any applicable law or proves to have been invalid or must be restored in insolvency, liquidation, administration or otherwise without limitation, the liability of the Chargor under this Standard Security will continue as if the discharge, release or arrangement had not occurred.
				2. The Trustees may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.
	4. Waiver of defences

The liabilities and obligations of the Chargor under this Standard Security shall remain in full force and effect and will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this Standard Security (without limitation and whether or not known to the Chargor or any Trustee) including:

* + - * 1. any time, waiver, consent or other accommodation granted to, or composition with, any person;
				2. any release of any person under the terms of any composition or arrangement;
				3. the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
				4. any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
				5. any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
				6. any variation, amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous and of whatsoever nature) or replacement of this Standard Security and Secured Liability or any other document or security including any agreement or document relating to the Scheme; or
				7. any unenforceability, illegality, invalidity or non-provability of any obligation under this Standard Security or any other document or security; or
				8. any insolvency or similar proceedings.
	1. Chargor intent

Without prejudice to the generality of Subclause 12.4 (Waiver of defences) the Chargor expressly confirms that it intends that this Standard Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Secured Liabilities.

* 1. Immediate recourse

The Chargor waives any right it may have of first requiring any Trustee (or any trustee, agent or appointee on its behalf) to proceed against or enforce any other right or security or claim payment from any person before claiming from the Chargor under this Standard Security. This waiver applies irrespective of any law to the contrary.

* 1. Appropriations

Each Trustee (or any trustee, agent or appointee on its behalf) may at any time during the Security Period without affecting the liability of the Chargor under this Standard Security:

 (a) (i) refrain from applying or enforcing any other moneys, security or rights held or received by that Trustee (or any trustee, agent or appointee on its behalf) in respect of those amounts; or

(ii) apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and

 (b) hold in an interest bearing suspense account any Net Enforcement Proceeds and any moneys received from the Chargor or on account of the Chargor’s liability under this Standard Security including, without prejudice to the generality of the foregoing, until an Insolvency Event has occurred in relation to any Company.

* 1. Non-competition

Unless:

* + - * 1. the Security Period has expired; or
				2. the Trustees otherwise direct,

the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Standard Security or by reason of any amount being payable, or liability arising, under this Standard Security:

be subrogated to any rights, security or moneys held, received or receivable by any Trustee;

to claim any contribution or indemnity from any other guarantor of any Company’s obligations or liabilities to make payments to the Scheme or in respect of any payment made or moneys received on account of the Chargor’s liability under this Standard Security;

to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Trustees in respect of any Company’s obligations or liabilities to make payments to the Scheme, or under or pursuant to any other guarantee or security taken by the Trustees pursuant to or in connection with such obligations or liabilities of any Company;

to bring legal or other proceedings for an order requiring any Company to make any payment, or perform any obligation, in respect of any Secured Liability;

to exercise any right of set-off against any Company; and/or

to claim, rank, prove or vote as a creditor of any Company, or its estate in competition with the Trustees (or any trustee or agent on their behalf).

If the Chargor receives any payment, distribution, benefit or security in relation to such rights it shall hold that payment, distribution, benefit or security on trust for the Trustees and immediately pay or transfer the same to the Trustees or in accordance with any directions given by the Trustees.

* 1. Additional security

This Standard Security is in addition to and is not in any way prejudiced or affected by, and shall not merge with any other judgment, guarantee, security, right or remedy now or subsequently obtained or held by the Trustees.

1. CHANGES TO THE PARTIES
	1. Assignations and transfers by the Chargor

The Chargor may not assign or transfer any of its rights and obligations under this Standard Security.

* 1. Assignations and transfers by the Trustees
		+ - 1. The Chargor acknowledges that:

the rights and obligations of the Trustees under this Standard Security may be transferred in whole or in part to the Pension Protection Fund as a result of the operation of Section 161 of and Schedule 6 to the Pensions Act 2004; and

the rights and obligations under this Standard Security shall be binding upon and enure for the benefit of any person who is for the time being a trustee of the Scheme including any person who succeeds or replaces a trustee of the Scheme.

* + - * 1. Each Trustee may at any time and from time to time (without consent of or notice to the Chargor) assign and/or transfer any or all of its rights and/or obligations under this Standard Security to any person or persons.
1. AMENDMENTS
	* 1. Any amendment of this Standard Security shall be in writing and signed by, or on behalf of, each Party.
		2. Notwithstanding Paragraph (c) below, the Parties may agree any amendments of any kind to this Standard Security (including to Subclause 3.4 [or to Subclause 3.5]), or to release the Chargor from this Standard Security, provided any such amendment or release is in writing and signed by, or on behalf of, each Party.
		3. ***[Drafting Note:*** *The Parties may agree any version or amendments to paragraphs (c) onwards or leave these provisions out entirely. If the Parties require the options for amending paragraphs (c) onwards to be more prescriptive, Rider 3 sets out more detailed amendment and release options which may be inserted at paragraphs (c) onwards]*
2. [At any time while this Standard Security remains in force [but not more than [once] in any [12 month period]], the Chargor may submit to the Trustees a written proposal (each a **Proposal**) to release the Chargor from its obligations, or to amend Subclause 3.4 [and/or Subclause 3.5].
3. The consent of the Trustees to a Proposal must not be unreasonably withheld or delayed [and, without prejudice to the generality of the foregoing, the Parties shall take into account the following:

⚫[ ⚫ ][[11]](#footnote-11).]

1. Subject to Paragraph (d) above, upon notice of consent being delivered by the Trustees to the Chargor, the Parties shall (at the Chargor's expense pursuant to Subclause 9.1 (Amendment costs)) promptly take all steps and execute all documents reasonably specified by the Trustees to implement such Proposal.]
2. RELEASE WHERE OVERSECURED
	1. The Chargor may, at any time, submit to the Trustees a request (the Release Request) that the whole or part of the Security Subjects be released from this Standard Security.
	2. The Chargor must, at the same time that it submits a Release Request to the Trustees, also provide the Trustees with:
		* + 1. an Eligible Valuation in respect of:

the assets and liabilities of the Scheme; and

the Security Subjects; and

* + - * 1. evidence of the amount of Deficit-Reduction Contributions made since the date of the most recent Eligible Valuation of the assets and liabilities of the Scheme.
	1. The Trustees must, subject always to Subclause 15.5 below, consent to a Release Request if (but only to the extent that) the value of the Security Subjects as at the date of that Release Request (as set out in the relevant Eligible Valuation) exceeds the Deemed Value of this Standard Security at that time.
	2. If the Trustees are satisfied that the value of the Security Subjects (as set out in the relevant Eligible Valuation) as at the date of the Release Request exceeds the Deemed Value of this Standard Security at that time then the Chargor and the Trustees shall, to the extent practicable, take whatever action is necessary to release the Security Subjects (or the relevant part thereof) from this Standard Security to the extent that the value of the Security Subjects as at the date of the Release Request exceeds the Deemed Value of this Standard Security.
	3. Subclauses 15.3 and 15.4 above shall not apply if this Security has become enforceable.
	4. At the end of the Security Period, the Trustees must, at the request and cost of the Chargor, grant a discharge of this Standard Security (including a retrocession of the Assignation of Rental Income incorporated herein).
1. SUBSTITUTION OF PROPERTY
	1. The Chargor may, at any time, submit to the Trustees a request that there be substituted for any property forming part of the Security Subjects another property of not materially less value (the Substitute Property).
	2. The Chargor shall supply such information in relation to the proposed Substitute Property as the Trustees shall request for the purpose of considering the Chargor's request. If the Trustees in their absolute discretion consent to the proposed substitution then, subject to receipt by the Trustees of the documents and other items listed in Part 6 of the Schedule (Conditions precedent to substitution) in form and substance satisfactory to the Trustees the property forming part of the Security Subjects for which the Substitute Property is to be substituted, shall be released from this Standard Security.
	3. This Clause 16 shall not apply if this Security has become enforceable.
2. SET-OFF

A Trustee may set off any matured obligation owed to it by the Chargor under this Standard Security (to the extent beneficially owned by that Trustee) against any obligation (whether or not matured) owed by that Trustee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Trustee may convert either obligation at a market rate of exchange selected by it (acting reasonably) for the purpose of the set-off.

1. SEVERABILITY, REMEDIES AND WAIVERS
	1. If a term of this Standard Security is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that shall not affect:
		* + 1. the legality, validity or enforceability in that jurisdiction of any other term of this Standard Security; or
				2. the legality, validity or enforceability in other jurisdictions of that or any other term of this Standard Security.
		1. No failure to exercise, nor any delay in exercising, on the part of any Trustee, any right or remedy under this Standard Security shall operate as a waiver of any such right or remedy or constitute an election to affirm this Standard Security. No election to affirm this Standard Security on the part of any Trustee shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Standard Security are cumulative and not exclusive of any rights or remedies provided by law.
2. CERTIFICATES AND DETERMINATIONS
	1. Any certification or determination by the Trustees of an amount under this Standard Security is, in the absence of manifest error, conclusive evidence of the matters to which it relates.
3. NOTICES
	1. In writing
		* + 1. Any communication in connection with this Standard Security must be in writing and, unless otherwise stated, may be given in person, by post or fax.
				2. Unless it is agreed to the contrary, any consent or agreement required under this Standard Security must be given in writing.
	2. Contact details
		* + 1. The contact details of the Chargor for this purpose are:

Address: [ADDRESS]

Fax number: [FAX]

Attention: [ATTENTION].

* + - * 1. The contact details of the Trustees are:

Address: [ADDRESS]

Fax number: [FAX]

Attention: [ATTENTION].

* 1. Effectiveness
		+ - 1. Except as provided below, any communication in connection with this Standard Security will be deemed to be given as follows:

if delivered in person, at the time of delivery;

if posted, five (5) days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and

if by fax, when received in legible form.

* + - * 1. A communication given under Paragraph (a) above but not received on a Business Day or after 5 p.m. on a Business Day will only be deemed to be given on the next Business Day.
1. LANGUAGE

Any notice given in connection with this Standard Security must be in English.

1. GOVERNING LAW

This Standard Security is governed by Scots law.

1. ENFORCEMENT
	1. Jurisdiction

*[Drafting note: the parties must select either OPTION 1 (non-exclusive jurisdiction of the Scottish courts) or OPTION 2 (exclusive jurisdiction of the Scottish courts).]*

OPTION 1

* + - * 1. The Scottish courts have non-exclusive jurisdiction to settle any dispute in connection with this Standard Security (including a dispute relating to the existence, validity or termination of this Standard Security or any non-contractual obligation arising out of or in connection with this Standard Security).
				2. The Scottish courts are the most appropriate and convenient courts to settle any such dispute.
				3. Notwithstanding Paragraph (a) above, no Trustee shall be prevented from taking proceedings relating to any such dispute in any other courts with jurisdiction. To the extent allowed by law, any Trustee may take concurrent proceedings in any number of jurisdictions.

OPTION 2

* + 1. The Scottish courts have exclusive jurisdiction to settle any dispute in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed).
		2. The Parties agree that the Scottish courts are the most appropriate and convenient courts to settle any such dispute and accordingly no Party will argue to the contrary.
	1. Waiver of immunity

The Chargor irrevocably and unconditionally:

* + - * 1. agrees not to claim any immunity from proceedings brought by a Trustee against it in relation to this Standard Security and to ensure that no such claim is made on its behalf;
				2. consents generally to the giving of any relief or the issue of any process in connection with those proceedings;
				3. waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:

the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and

the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues; and

* + - * 1. agrees that in any proceedings in England this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of the English State Immunity Act 1978.
1. WARRANDICE

The Chargor grants warrandice but excepting therefrom the Leases.

1. CONSENT TO REGISTRATION

The Chargor and the Trustees consent to the registration hereof for preservation:

IN WITNESS WHEREOF these presents on this and the [ ⚫ ] preceding pages and the Schedule in seven parts annexed are executed as follows:

Chargor

|  |  |  |  |
| --- | --- | --- | --- |
| SUBSCRIBEDfor and on behalf of [] by [two directors][a director and the secretary] on the [⚫date] day of [⚫month][⚫year] at [⚫place of subscription]: | ))))) | Signature |  |
|  |  |  |  |
|  |  | Name (block capitals) |  |
|  |  |  | Director |
|  |  |  |  |
|  |  | Signature |  |
|  |  |  |  |
|  |  | Name (block capitals) |  |
|  |  |  | [Director] [Secretary][[12]](#footnote-12) |

**Trustees**

|  |  |  |  |
| --- | --- | --- | --- |
| SUBSCRIBEDfor and on behalf of [] as Trustee of the ⚫[ ⚫ ] pension scheme | ))))) | Signature |  |
|  |  |  |  |
|  |  | Name (block capitals) |  |
|  |  |  |  |
|  |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| SUBSCRIBEDfor and on behalf of [] as Trustee of the ⚫[ ⚫ ] pension scheme | ))))) | Signature |  |
|  |  |  |  |
|  |  | Name (block capitals) |  |
|  |  |  |  |
|  |  |  |  |

This is the Schedule IN 7 PARTS referred to in the foregoing Standard Security by [ ] in favour of [ ]

DATED [ ]

Part 1
COMPANIES

|  |  |  |
| --- | --- | --- |
| Company Name | Registration Number | Address |
|  |  |  |

Part 2
SECURITY SUBJECTS

|  |  |
| --- | --- |
| Property Description | Title Number |
|  |  |

Part 3
LETTER OF INTIMATION OF ASSIGNATION OF RENTAL INCOME

to Occupational Tenant

1. **[On the letterhead of the Chargor]**
2. To: [Occupational tenant]
3. [Date]
4. Dear Sirs,
5. Re: [Property]
6. **Assignation of Rents by [Chargor] in favour of**

 **[⚫] and [⚫] as trustees of the [⚫ pension scheme] (**the **Assignation)**

1. We refer to the lease dated [⚫] and made between [⚫] and [⚫] (the **Lease**).
2. This letter constitutes notice to you that by the Assignation we have assigned by way of security to [⚫] and [⚫] as trustees of the [⚫ pension scheme] (the **Trustees**) all our rights under the Lease.
3. We irrevocably instruct and authorise you to pay any rent payable by you under the Lease to the following account at [⚫], Account No. [⚫], Sort Code [⚫] (the **Rent Account**).
4. The instructions in this letter apply until you receive notice from the Trustees to the contrary and notwithstanding any previous instructions given by us.
5. The instructions in this letter may not be revoked or amended without the prior written consent of the Trustees.
6. This letter is governed by Scots law.
7. Please confirm your agreement to the above by signing the attached acknowledgement and returning it to the Trustees at [⚫] with a copy to ourselves.
8. Yours faithfully,

For

[CHARGOR]

Part 4
Acknowledgement of Occupational Tenant

1. To: [⚫] and [⚫] as trustees of the [⚫ pension scheme]
2. Attention: [⚫]
3. [Date]
4. Dear Sirs,
5. Re: [Property]
6. **Assignation of Rents by [Chargor] in favour of**

 **[⚫] and [⚫] as trustees of the [⚫ pension scheme] (**the **Assignation)**

1. We confirm receipt from [Chargor] (the Chargor) of a notice dated [⚫] (the Notice) in relation to the Lease (as defined in the Notice).
2. We accept the instructions contained in the Notice and agree to comply with the Notice.
3. We confirm that we:
	* + - 1. have not received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the Chargor under or in respect of the Lease (as defined in the Notice); and
				2. must pay all rent and all other monies payable by us under the Lease into the Rent Account (as defined in the Notice); and
				3. must continue to pay those monies into the Rent Account until we receive your written instructions to the contrary.
4. This letter and any non-contractual obligations arising out of or in connection with it are governed by Scots law.
5. Yours faithfully,

………………………….

For

[                          ]

Part 5
LEASES

Part 6
conditions precedent to substitution

1. A Substitute Standard Security in relation to the Substitute Property.
2. A legal opinion in relation to the Substitute Standard Security.
3. A Certificate of Title in relation to the Substitute Property.
4. A Valuation in relation to the Substitute Property.

Rider 1

1. **Fixed Caps**

Parties may agree to limit the amounts recovered under this Standard Security by selecting one of the fixed cap options for pre insolvency and post-insolvency events and amending this document as follows:

1. Insert the following definition into Subclause 1.1(Definitions):

**Reference Year** means any period of 12 months ending on [\*\*\*date and month\*\*\*] of each year.[[13]](#footnote-13)

1. Insert a new Subclause 3.4 (Limit on amount recoverable pre Insolvency Event) and

select one of options A, B or C.

**3.4**  **Limit on amount recoverable pre Insolvency Event**

[[14]](#footnote-14)OPTION A

Prior to the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:

* + 1. recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or
		2. applied by the Trustees against any Company's Secured Scheme Liabilities from Net Enforcement Proceeds,

 shall be unlimited.

* 1. OPTION B

Prior to the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:

(a) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or

(b) applied by the Trustees against any Company's Secured Scheme Liabilities from any Net Enforcement Proceeds,

* 1. shall not exceed [●][[15]](#footnote-15)% of the amount specified in Subclause 3.5(a)(iii)[(II)] (Limit on amount recoverable post Insolvency Event).
	2. OPTION C
	3. Prior to the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:

(a) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or

(b) applied by the Trustees against any Company's Secured Scheme Liabilities from any Net Enforcement Proceeds,

in relation to Secured Scheme Liabilities arising in any Reference Year shall not exceed [●][[16]](#footnote-16)% of the total contributions [in respect of any deficit (as required by Section 226 of the Pensions Act 2004) and ongoing accrual of benefits][[17]](#footnote-17) payable and/or paid to the Scheme by the Companies during that Reference Year under the terms of the Schedule of Contributions (as defined in Section 227 of the Pensions Act 2004) [or in accordance with the Scheme's rules][[18]](#footnote-18).

1. Insert a new Subclause 3.5 (Limit on amount recoverable post Insolvency Event) with the following:

**3.5 Limit on amount recoverable post Insolvency Event**

(a) Following the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:

(i) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or

(ii) applied by the Trustees against any Company's Secured Scheme Liabilities from any Net Enforcement Proceeds,

shall not exceed:**[[19]](#footnote-19)**

OPTION 1:

(iii) £[⚫].

OPTION 2:

(iii) an amount equal to the lower of:

(I) an amount equal to the sum which, if added to the assets of the Scheme, would (on the reference date) result in the Scheme being [⚫] per cent. funded, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted at, or as at, the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)); and

(II) £[⚫].

OPTION 3:

(iii) an amount equal to the lower of:

(I) an amount equal to the entire aggregate liability (on the reference date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)) or, in either case if earlier, on the calculation date for debt due under Section 75 of the Pensions Act 1995 as nominated by the Trustees following the start of the winding up of the Scheme; and

 (II) £[⚫].

(b) Any payment by the Chargor pursuant to any Demand and/or any application of Net Enforcement Proceeds (including as contemplated by Paragraph 12.7(b) (Appropriations)), where such payment or application is made after the occurrence of an Insolvency Event in relation to any Company, shall reduce the amount referred to in Paragraph (a)(iii) [(II)][[20]](#footnote-20) above.

[(c) Any Demand, and/or payment by the Chargor pursuant to any Demand, and/or any application of Net Enforcement Proceeds (including as contemplated by Paragraph 12.7(b) (Appropriations)) shall not alter the manner in which the amount referred to in Paragraph (a)(iii)(I) above will be calculated at any time.

(d) The Trustees shall determine (acting reasonably) at the cost of the Chargor, using such legal, actuarial, financial, accounting, pensions or other professional adviser(s) as the Trustees may select, the amount referred to in Paragraph (a)(iii)(I) above by reference to Section [179 of the Pensions Act 2004] [75 of the Pensions Act 1995] and shall notify the Chargor of such determination. The Chargor shall on demand reimburse the Trustees for any costs and expenses incurred by the Trustees in relation to such determination.][[21]](#footnote-21)

RIDER 2

**Fluctuating Caps**

Parties may agree to limit the amounts recovered under this document by selecting one the fluctuating cap options for demands and amending this document as follows:

1. Insert a new Subclause 3.4 (Limit on amount recoverable) and select one of options 1 or 2.

3.4 Limit on amount recoverable

(a) The total amount which may be:

(i) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or

(ii) applied by the Trustees against any Company's Secured Scheme Liabilities from any Net Enforcement Proceeds,

shall not exceed:

OPTION 1:

(iii) an amount equal to the sum which, if added to the assets of the Scheme, would (on the reference date) result in the Scheme being [\*\*\*] per cent. funded, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted at, or as at, the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)).

OPTION 2:

(iii) an amount equal to the entire aggregate liability (on the reference date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on the reference date (where reference date means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)) or, in either case if earlier, on the calculation date for debt due under Section 75 of the Pensions Act 1995 as nominated by the Trustees following the start of the winding up of the Scheme.

 (b) Any Demand, and/or payment by the Chargor pursuant to any Demand, and/or any application of Net Enforcement Proceeds (including as contemplated by Paragraph 12.7(b) (Appropriations)) shall not reduce the amount referred to in Paragraph (iii) above.

(c) The Trustees shall determine (acting reasonably) at the cost of the Chargor, using such legal, financial, accounting, pensions or other professional adviser(s) as the Trustees may select, the amount referred to in Paragraph (i) above by reference to Section [179 of the Pensions Act 2004] [75 of the Pensions Act 1995] and shall notify the Chargor of such determination. The Chargor shall on demand reimburse the Trustees for any costs and expenses incurred by the Trustees in relation to such determination.

Rider 3

Where the Parties require Clause 14 (Amendments) to include prescriptive options setting out the manner in which amendments to this document or a release of the Chargor may be considered, this document may be amended as follows:

1. Where the options in Rider 1 (Fixed Caps) and have been selected and Subclause 3.4 (Limit on amount recoverable pre Insolvency Event) and Subclause 3.5 (Limit on amount recoverable post Insolvency Event) have been inserted, (Subparagraph (c) onwards shall be inserted at Clause 14 (Amendments):
	* 1. At any time while this Standard Security remains in force [but no more than [once] in any [12] month period] the Chargor may submit to the Trustees a written proposal (each a **Proposal**) to:
			1. amend Subclause 3.5 (Limit on amount recoverable Post Insolvency) so that, following the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:

(A) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or

(B) applied by the Trustees against any Company's Secured Scheme Liabilities from any Net Enforcement Proceeds,

shall not exceed:

a fixed amount; or

the lower of (I) an amount equal to the sum which, if added to the assets of the Scheme, would (on the reference date) result in the Scheme being [\*\*\*] per cent. funded, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted at, or as at, the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)) and (II) a fixed amount; or

the lower of (I) an amount equal to the entire aggregate liability (on the reference date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)) or, in either case if earlier, on the calculation date for debt due under Section 75 of the Pensions Act 1995 as nominated by the Trustees following the start of the winding up of the Scheme; and (II) a fixed amount; or

* + - 1. delete Subclause 3.4 (Limit on amount recoverable Pre Insolvency) and amend Subclause 3.5 (Limit on amount recoverable Post Insolvency), so that the total amount which may be:

(A) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or

(B) applied by the Trustees against any Company's Secured Scheme Liabilities from Net Enforcement Proceeds,

shall not exceed:

an amount equal to the sum which, if added to the assets of the Scheme, would (on the reference date) result in the Scheme being [\*\*\*] per cent. funded, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted at, or as at, the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)); or

an amount equal to the entire aggregate liability (on the reference date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)) or, in either case if earlier, on the calculation date for debt due under Section 75 of the Pensions Act 1995 as nominated by the Trustees following the start of the winding up of the Scheme; or

* + - 1. release the obligations of the Chargor under this Standard Security in full.
		1. A Proposal may include the matters set out in Paragraph 2 of Schedule 5 (Amendment and Release Criteria) but must specify a date (the **Implementation Date**) with effect from which, if approved by the Trustees, the Proposal is to be implemented. The Implementation Date shall be not less than 30 and not more than forty-five (45) Business Days after the date on which the Trustees receive the Proposal (the **Proposal Date**).
		2. If the Trustees determine (acting reasonably) that a Proposal satisfies the criteria set out in Paragraph 3 of Part 7 of the Schedule (Amendment and Release Criteria), the Trustees shall promptly notify their consent in writing to the Chargor, save they may withhold their consent if they consider that there are reasonable grounds to do so.
		3. Upon notice of consent being delivered by the Trustees to the Chargor as contemplated by Paragraph (e) above, the Parties shall (at the Chargor's expense pursuant to Subclause 9.1 (Amendment costs)) promptly take all steps and execute all documents reasonably specified by the Trustees to implement the Proposal so that it is effective from the Implementation Date.
1. Where the options in Rider 2 (Fluctuating Caps) have been selected and Subclause 3.4 (Limit on amount recoverable) has been inserted, the following Subparagraph (c) onwards shall be inserted at Clause 19 (Amendments):

OPTION A

* + 1. At any time while this Standard Security remains in force [but no more than [once] in any [12] month period] the Chargor may submit to the Trustees a written proposal (each a **Proposal**) to:
			1. amend Subclause 3.4 (Limit on amount recoverable) so that the total amount which may be:
1. recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or
2. applied by the Trustees against any Company's Secured Scheme Liabilities from Net Enforcement Proceeds,

shall not exceed:

an amount equal to the sum which, if added to the assets of the Scheme, would (on the reference date) result in the Scheme being [⚫] per cent. funded, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted at, or as at, the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)); or

an amount equal to the entire aggregate liability (on the reference date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on the reference date (where **reference date** means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations) or, in either case if earlier, on the calculation date for debt due under Section 75 of the Pensions Act 1995 as nominated by the Trustees following the start of the winding up of the Scheme); or

* + - 1. release the obligations of the Chargor under this Standard Security in full.
		1. A Proposal may include the matters set out in Paragraph 2 of Part 7 of the Schedule (Amendment and Release Criteria) but must specify a date (the **Implementation Date**) with effect from which, if approved by the Trustees, the Proposal is to be implemented. The Implementation Date shall be not less than 30 and not more than forty-five (45) Business Days after the date on which the Trustees receive the Proposal (the **Proposal Date**).
		2. If the Trustees determine (acting reasonably) that a Proposal satisfies the criteria set out in Paragraph 3 of Part 7 of the Schedule (Amendment and Release Criteria), the Trustees shall promptly notify their consent in writing to the Chargor, save they may withhold their consent if they consider that there are reasonable grounds to do so.
		3. Upon notice of consent being delivered by the Trustees to the Chargor as contemplated by Paragraph (e) above, the Parties shall (at the Chargor's expense pursuant to Subclause 9.1 (Amendment costs)) promptly take all steps and execute all documents reasonably specified by the Trustees to implement the Proposal so that it is effective from the Implementation Date.

[[22]](#footnote-22)OPTION B

* + 1. At any time while this Standard Security remains in force [but no more than [once] in any [12] month period] the Chargor may submit to the Trustees a written proposal (each a **Proposal**) amend Subclause 3.4 (Limit on amount recoverable) so that:
			1. prior to the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:
1. recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or
2. applied by the Trustees against any Company's Secured Scheme Liabilities from Net Enforcement Proceeds
	1. shall:

not exceed the amount specified in Subclause (ii)[(I)/(II)(II)/(III)(II)] below; or

in relation to Secured Scheme Liabilities arising in any Reference Year not exceed the total contributions [in respect of any deficit (as required by Section 226 of the Pensions Act 2004) and ongoing accrual of benefits] payable and/or paid to the Scheme by the Companies during that Reference Year under the terms of the Schedule of Contributions (as defined in Section 227 of the Pensions Act 2004) or in accordance with the Scheme's rules; and/or

* + - 1. following the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:
1. recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or
2. applied by the Trustees against any Company's Secured Scheme Liabilities from Net Enforcement Proceeds
	1. shall be

a fixed amount; or

the lower of (I) an amount equal to the sum which, if added to the assets of the Scheme, would (on the reference date) result in the Scheme being [⚫] per cent. funded, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted at, or as at, the reference date (where reference date means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)) and (II) a fixed amount; or

the lower of (I) an amount equal to the entire aggregate liability (on the reference date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on the reference date (where reference date means the date of the Insolvency Event to which (1) the relevant Demand relates or (as the case may be) (2) the relevant application of Net Enforcement Proceeds relates (including as contemplated by Paragraph 12.7(b) (Appropriations)) or, in either case if earlier, on the calculation date for debt due under Section 75 of the Pensions Act 1995 as nominated by the Trustees following the start of the winding up of the Scheme and (II) a fixed amount.

* + 1. A Proposal may include the matters set out in Paragraph 2 of Schedule 5 (Amendment and Release Criteria) but must specify a date (the **Implementation Date**) with effect from which, if approved by the Trustees, the Proposal is to be implemented. The Implementation Date shall be not less than 30 and not more than forty-five (45) Business Days after the date on which the Trustees receive the Proposal (the **Proposal Date**).
		2. If the Trustees determine (acting reasonably) that a Proposal satisfies the criteria set out in Paragraph 3 of Part 7 of the Schedule (Amendment and Release Criteria), the Trustees shall promptly notify their consent in writing to the Chargor, save they may withhold their consent if they consider that there are reasonable grounds to do so.
		3. Upon notice of consent being delivered by the Trustees to the Chargor as contemplated by Paragraph (e) above, the Parties shall (at the Chargor's expense pursuant to Subclause 9.1 (Amendment costs)) promptly take all steps and execute all documents reasonably specified by the Trustees to implement the Proposal so that it is effective from the Implementation Date.
1. A new Part 7 of the Schedule shall be inserted in the form set out below:

Amendment and release criteria

1. Definitions
2. In this Schedule:

**C0** means the amount of any Eligible Deficit-Reduction Contributions as at a Reference Date.

**C1** means the amount of any Eligible Deficit-Reduction Contributions as at an Implementation Date.

* 1. **Deemed Value** as at a Measurement Date means:

(a) in respect of a Pension Protection Fund Recognised Arrangement which provides for a person to enter into a guarantee (other than a bank guarantee or letter of credit issued by a Regulated Entity) or for security to be granted, in each case in favour of the Trustees, the amount set opposite the description of that arrangement in the table below or (in the case of security only) the value of the assets which are subject to that security as set out in the most recent Eligible Valuation of those assets, if lower:

|  |  |
| --- | --- |
| * + 1. **Description of arrangement**
 | **Deemed Value** |
| * + 1. Guarantee or security where the liability of the guarantor or chargor, or the amount recoverable from the guarantor or chargor (or the charged assets), is expressed to be limited to a fixed amount (and where a distinction is made between pre-insolvency and post-insolvency recoveries, the fixed amount associated with post-insolvency recoveries shall be relevant).
 | * + 1. That fixed amount.
 |
| * + 1. Guarantee or security where the liability of the guarantor or chargor, or the amount recoverable from the guarantor or chargor (or the charged assets), is expressed to be limited to either (A) an amount equal to the sum which, if added to the assets of the Scheme, would (on a specified date) result in the Scheme being funded to at least a specified percentage, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted on or as at that date or to (B) the lower of the amount referred to in (A) and a fixed amount (“**F**”) (and where a distinction is made between pre-insolvency and post-insolvency recoveries, (F) shall be the fixed amount associated with post-insolvency.)
 | * + 1. The amount equal to the sum which, if added to the assets of the Scheme, would (on the Measurement Date) result in the Scheme being funded to at least that percentage, calculated on the basis set out in Section 179 of the Pensions Act 2004, based on the assets and liabilities of the Scheme as set out in the most recent Eligible Valuation prior to the Measurement Date and adding any Eligible Deficit-Reduction Contributions as at that Measurement Date or, where (B) applies, the lower of such amount and F.
 |
| * + 1. Guarantee or security where the liability of the guarantor or chargor, or the amount recoverable from the guarantor or chargor (or the charged assets), is expressed to be limited to either (A) an amount equal to the entire aggregate liability (on a specified date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on that date or to (B) the lower of the amount referred to in (A) and a fixed amount (“**F**”) (and where a distinction is made between pre-insolvency and post-insolvency recoveries, (F) shall be the fixed amount associated with post-insolvency.).
 | * + 1. The amount equal to the sum which, if added to the assets of the Scheme, would (on the Measurement Date) result in the Scheme being funded to at least 125 per cent., calculated on the basis set out in Section 179 of the Pensions Act 2004, based on the assets and liabilities of the Scheme as set out in the most recent Eligible Valuation prior to the Measurement Date and adding any Eligible Deficit-Reduction Contributions as at that Measurement Date or, where (B) applies, the lower of such amount and F.
 |

(b) in respect of a Pension Protection Fund Recognised Arrangement which is a letter of credit or a bank guarantee issued by a Regulated Entity the undrawn and unexpired portion of that letter of credit or bank guarantee.

**Deficit-Reduction Contributions** means deficit-reduction contributions made to the Scheme calculated on the basis specified by the Pension Protection Fund in its most recently published policies.

1. **Eligible Deficit-Reduction Contributions** as at a Measurement Date means any Deficit-Reduction Contributions made or to be made to the Scheme between:
	* 1. the date of the most recent Eligible Valuation prior to the Measurement Date; and
		2. the Measurement Date, provided that:

the Eligible Deficit-Reduction Contributions as at a Reference Date shall only include Deficit-Reduction Contributions which were validly certified to the Pension Protection Fund in accordance with its policies no later than six (6) days after that Reference Date; and

the Eligible Deficit-Reduction Contributions as at an Implementation Date shall comprise all Deficit-Reduction Contributions certified by the Scheme Actuary pursuant to Paragraph 2(b) below.

1. **Eligible Valuation** means:
	* 1. in relation to the assets or liabilities of the Scheme, either:
			1. a valuation of those assets and liabilities carried out on the basis set out in Section 179 of the Pensions Act 2004 and which has been provided to the Pension Protection Fund in accordance with Section 179 of the Pensions Act 2004; or
			2. a statement provided to the Trustees by the Scheme Actuary, setting out prudent approximations of the asset and liability figures which would have resulted if the Scheme Actuary had conducted a valuation on the basis set out in Section 179 of the Pensions Act 2004 as at a specific date; and
		2. in relation to an asset charged in favour of the Trustees, a valuation of that asset which complies with all requirements published by the Pension Protection Fund (whether in relation to the date or method of the valuation or otherwise) for the recognition of security over such an asset for the purposes of calculating the risk-based levy in accordance with Part 2 of the Pensions Act 2004 and which has been certified to the Pension Protection Fund in accordance with those requirements,
	1. and references to "the most recent Eligible Valuation prior to" a date shall mean the Eligible Valuation which was so provided or certified on or prior to, and whose effective date is closest to, that date.
	2. **L0** means the total liabilities of the Scheme as set out in the most recent Eligible Valuation prior to a Reference Date.
	3. **L1** means the total liabilities of the Scheme as set out in the most recent Eligible Valuation prior to an Implementation Date.

**M0** means the aggregate Deemed Value as at a Reference Date of all Pension Protection Fund Recognised Arrangements which are guarantees in respect of which the Scheme benefited as at that Reference Date, including this Standard Security but excluding bank guarantees or letters of credit issued by Regulated Entities.

**M1** means the aggregate Deemed Value immediately prior to an Implementation Date of all Pension Protection Fund Recognised Arrangements which are guarantees in respect of which the Scheme benefited immediately prior to that Implementation Date, excluding bank guarantees or letters of credit issued by Regulated Entities.

**M2** means the aggregate Deemed Value as at an Implementation Date of all Pension Protection Fund Recognised Arrangements which are guarantees in respect of which the Scheme will benefit on and following that Implementation Date, excluding bank guarantees or letters of credit issued by Regulated Entities.

**Measurement Date** means the date on which any of the variables in this Schedule is measured.

1. **N0** means the aggregate Deemed Value as at a Reference Date of all Pension Protection Fund Recognised Arrangements which comprise:
	* 1. security over assets; or
		2. bank guarantees or letters of credit issued by Regulated Entities,
	1. in respect of which the Scheme benefited as at that Reference Date.
2. **N1** means the aggregate Deemed Value immediately prior to an Implementation Date of all Pension Protection Fund Recognised Arrangements which comprise:
	* 1. security over assets; or
		2. bank guarantees or letters of credit issued by Regulated Entities,
3. in respect of which the Scheme benefited immediately prior to that Implementation Date.
4. **N2** means the aggregate Deemed Value as at an Implementation Date of all Pension Protection Fund Recognised Arrangements which comprise:
	* 1. security over assets; or
		2. bank guarantees or letters of credit issued by Regulated Entities,
	1. in respect of which the Scheme will benefit on and following that Implementation Date.
5. **Pension Protection Fund Recognised Arrangement** means an arrangement constituted by an agreement in Pension Protection Fund Standard Form which satisfies all criteria specified by the Pension Protection Fund for recognition as a contingent asset for the purposes of calculating the risk-based levy in accordance with Part 2 of the Pensions Act 2004 and which has been the subject of a valid certification to the Pension Protection Fund in Pension Protection Fund Standard Form.
	1. **Pension Protection Fund Standard Form** means, in relation to an agreement or a certificate, the standard form of that agreement or certificate most recently published by the Pension Protection Fund prior to the date on which that agreement was entered into or that certificate was given.
	2. **Reference Date** means the 1 April immediately preceding any Proposal Date.
	3. **Regulated Entity** means an entity which satisfies all criteria specified by the Pension Protection Fund for the issuer of a letter of credit or bank guarantee which will be recognised as a contingent asset for the purposes of calculating the risk-based levy in accordance with Part 2 of the Pensions Act 2004.

**S0** means the assets of the Scheme as set out in the most recent Eligible Valuation prior to a Reference Date.

**S1** means the assets of the Scheme as set out in the most recent Eligible Valuation prior to an Implementation Date.

* 1. **Scheme Actuary** means the actuary to the Scheme.
1. Content of Proposals
	* 1. In addition to the matters referred to in Subparagraph 14(c) (Amendments), the Proposal may include details of any new Pension Protection Fund Recognised Arrangement(s) that are proposed to come into force on or prior to the relevant Implementation Date.
		2. As part of the Proposal, the Chargor may require the Trustees to take into account any contributions made or to be made to the Scheme between:

(i) the date of the most recent Eligible Valuation prior to the relevant Implementation Date; and

(ii) the relevant Implementation Date.

In such circumstances the Trustees shall obtain, at the Chargor's expense and prior to the relevant Implementation Date, a statement from the Scheme Actuary as to the amount of such contributions which qualify as Deficit-Reduction Contributions. Without prejudice to Subparagraph 14(c) (Amendments), the Trustees shall not be required to implement the Proposal unless all the contributions on which such statement is based are actually received in full by the Scheme no later than the relevant Implementation Date.

1. Criteria
	* 1. The Proposal must satisfy both of requirements (i) and (ii) below:
			1. 

OR

* + 1. 
		2. OR
		3. 
			1. 

OR



OR

* + 1. 
		2. OR
		3. 
		4. For the avoidance of doubt, where the criteria set out in Paragraph (a) above would be satisfied if the Deemed Value of this Standard Security on and following the relevant Implementation Date were zero, then the Proposal may include the release of the Chargor from its obligations under this Standard Security in full with effect from the relevant Implementation Date (without prejudice to any obligations and liabilities of the Chargor which may have accrued as at the Implementation Date).
1. References to "Scheme" will need to be amended appropriately where the document relates to one section only of a sectionalised scheme. [↑](#footnote-ref-1)
2. Parties to consider if this indemnity is required/appropriate [↑](#footnote-ref-2)
3. Parties consider whether to include an assignation in security of rental income. The timing of Companies House registrations to be considered together with intimation of assignation on tenants. [↑](#footnote-ref-3)
4. This clause will require amendment where the Chargor is not a limited company. [↑](#footnote-ref-4)
5. If the assignation in security of Rental Income is included, this representation should be discussed. The security interest is only created on intimation and so it may be challengeable if intimated close to insolvency. [↑](#footnote-ref-5)
6. Where a Chargor has its centre of main interests in a jurisdiction other than Scotland, this warranty will need to be amended. [↑](#footnote-ref-6)
7. If the assignation of Rental Income is not included, clause 6.7 can be deleted. [↑](#footnote-ref-7)
8. Can be deleted unless the land is in the course of development or likely to be developed/have major works carried out on it. [↑](#footnote-ref-8)
9. Can be deleted if not applicable. [↑](#footnote-ref-9)
10. Clause 6.24 only requires to be included if the assignation of rental income is included in Clause 3.3 [↑](#footnote-ref-10)
11. The parties may include the words in brackets if they have, at the time of singing the document, identified future circumstances which they agree would be relevant to any decision by the Trustees following a proposal from the Chargor. [↑](#footnote-ref-11)
12. Ensure Chargor also signs at end of the Schedule. [↑](#footnote-ref-12)
13. This definition is relevant where the Parties choose to limit the Pre-Insolvency Cap pursuant to Option C in Rider 1 and/or Option B in Rider 3. The Parties should choose a suitable date for the scheme in question. [↑](#footnote-ref-13)
14. Trustees may choose not to have a liability cap before an Insolvency Event and if so choose Option A. [↑](#footnote-ref-14)
15. This amount must be 100% or higher. Note that the pre and post insolvency caps are independent of each other and so a reduction of the amount available under the cap pre-insolvency would not reduce the amount available under the cap set for a post insolvency scenario [↑](#footnote-ref-15)
16. This amount must be 100% or higher. [↑](#footnote-ref-16)
17. Text in square brackets optional. [↑](#footnote-ref-17)
18. Text in square brackets optional. [↑](#footnote-ref-18)
19. Choose one of the three options for the chargor's maximum liability under the deed. In the case of a non-associated scheme/section, only Option 1 (a fixed monetary cap) may be used. [↑](#footnote-ref-19)
20. This is a reference to the fixed amount element in Paragraph (a)(iii) above. Remove [II] if Option 1 is selected. [↑](#footnote-ref-20)
21. Include these paragraphs (c) and (d) in all cases except where Option 1 is selected. [↑](#footnote-ref-21)
22. This option enables the Trustees to amend the document from allowing floating caps to fixed caps. The amendments to the definitions set out in paragraph 1 of Rider 1 will require consideration for the proposed amendment. [↑](#footnote-ref-22)