

LOAN AGREEMENT
between
THE SCOTTISH MINISTERS
and
LAR HOUSING TRUST

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LOAN AGREEMENT

between

- (1) **THE SCOTTISH MINISTERS** in terms of the Scotland Act 1998 (the **Scottish Ministers**), Victoria Quay, Leith, Edinburgh EH6 6QQ; and
- (2) **LAR HOUSING TRUST** a Scottish charitable incorporated organisation (Scottish charity number SC044825) having its principal office at Evans Business Centre, 15 Pitreavie Court, Pitreavie Business Park, Dunfermline KY11 8UU (the **Borrower**).

WHEREAS

It is intended that the Scottish Ministers will provide certain credit facilities to the Borrower and that pursuant to the Declaration of Trust the Security Trustee will hold the Security Property on trust for the Finance Parties.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

Account means each bank account held by the Borrower from time to time;

Account Charge means the assignation in security in relation to an Account in the form set out in Part 1 of the Schedule;

Agreement means this agreement (including the Schedule);

Assignation in Security means an assignation in security of the rights or assets specified therein (substantially in the form of the Account Charge) granted or to be granted by the Borrower in favour of the Security Trustee in accordance with the provisions of Clause 12.4;

Available Facility means the sum of fifty five million pounds (£55,000,000) sterling to the extent not cancelled or reduced under this Agreement;

Availability Period means the period from and including the date of this Agreement to and including 30th June 2019;

Business Day means a day (other than a Saturday) on which banks are open for business in Edinburgh;

Business Plan means:

- (a) prior to the submission by the Borrower to the Scottish Ministers of the first business plan to be submitted by the Borrower to the Scottish Ministers under Clause 11.1.12, the business case submitted to the Housing, Regeneration and Welfare directorate of the Scottish Ministers by SFT on 11th February 2014 as amended and updated by the supplementary information, revisions and replacement data and clarifications identified in Part 2 of the Schedule; and thereafter
- (b) the business plan for the relevant period submitted by the Borrower to the Scottish Ministers under Clause 11.1.12.

Commercial Rate means 5.02% per annum (being the reference rate applicable to the Loan, calculated in accordance with the Reference Rate Communication);

Declaration of Trust means the declaration of trust by Prudential Trustee Company Limited dated on or around the date of this Agreement;

Deed of Entrustment means the deed of entrustment between the Scottish Ministers and the Borrower dated of even date with the date of this Agreement;

Default Rate means the Prevailing Rate plus 2% per annum;

Disposal means any sale, transfer or other form of disposal of any Property;

Event of Default means each of the events listed in Clause 14;

Facility means the term loan facility made available to the Borrower under this Agreement as described in Clause 2;

Final Repayment Date means, subject to the terms of this Agreement, 1st September 2040;

Finance Documents means (to the extent that they have been executed by the respective parties at the relevant time and remain in force) this Agreement, the Declaration of Trust, the Intercreditor Agreement and the Security Documents;

Finance Parties has the meaning assigned to that expression in the Declaration of Trust; and **Finance Party** shall be construed accordingly;

Financial Indebtedness means any indebtedness for or in respect of:

- (a) monies borrowed other than any borrowed pursuant to this Agreement;
- (b) any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with GAAP, be treated as a finance or capital lease;
- (e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- (f) any amount raised under any other transaction (including any forward sale or purchase agreement) of a type not referred to in any other paragraph of this definition having the commercial effect of a borrowing;
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of any derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account);
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- (i) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (h) above;

Financial Information means the financial projections of the Borrower as set out in the relevant Business Plan;

Financial Year means the period between 1 April in one calendar year and 31 March in the immediately following calendar year;

Headlease means any lease by which the Borrower has right to occupy a Property for any period in excess of one year;

Initial Sum means the sum of £1,500,000.00;

Insurances mean contracts of insurance required under the Finance Documents;

Intercreditor Agreement means any intercreditor agreement to be entered into among, *inter alia*, the Scottish Ministers, the Security Trustee and the Borrower in pursuance of Clause 13;

Lease means each occupational letting, tenancy or other right by which a third party occupies a Property;

Loan means each loan made or to be made under the Facility or (as the context requires) the principal amount outstanding for the time being of that loan;

Material Adverse Effect means a material adverse effect on:

- (a) the business, operations, assets, condition (financial or otherwise) or prospects of the Borrower; or
- (b) the ability of the Borrower to perform its obligations under the Finance Documents; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or purported to be granted pursuant to any of, the Finance Documents; or
- (d) the rights or remedies of the Security Trustee under any of the Finance Documents;

Obligations means the obligations and liabilities of the Borrower set out in:

- (a) the Deed of Entrustment;
- (b) Part 3 of the Schedule; and
- (c) the Security Documents;

OSCR means the Office of the Scottish Charity Regulator established under the Charities and Trustee Investment (Scotland) Act 2005;

Permitted Security Right(s) means:-

- (a) liens and rights of set-off securing obligations which are not overdue beyond their standard payment dates, arising by operation of law in the ordinary and usual course of trading;
- (b) Security arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired in the ordinary and usual course of trading; and
- (c) Security granted in terms of the Finance Documents or with the prior written approval of the Scottish Ministers;

PSO has the meaning ascribed to it in the Deed of Entrustment;

Potential Event of Default means an event which, with the giving of notice, the lapse of time or the making of any determination, would constitute an Event of Default;

Prevailing Rate means;

- (a) during the period when the interest rate prescribed by paragraph 5.1.1 applies, 0.1% per annum;
- (b) during any period when the interest rate prescribed by paragraph 5.1.3 applies, the Commercial Rate;

Property means a heritable property owned by the Borrower (including any part of that property) and **Properties** shall be interpreted accordingly;

Property Report means each certificate of title in the form set out in Appendix 2 of Part 4 of the Schedule in relation to a Property addressed to, *inter alia*, the Security Trustee in accordance with the Standing Instructions to Solicitors;

Reconciliation Report means a report by the Borrower in the form set out in Part 6 of the Schedule;

Reference Rate Communication means the Communication from the Commission on the revision of the method for setting the reference and discount rates (2008/C 14/02);

Representations and Warranties means those representations and warranties made by the Borrower in terms of Clause 10 of this Agreement;

RICS means the Royal Institution of Chartered Surveyors or its successor;

Schedule means the schedule (comprising 7 Parts) annexed to this Agreement (which is deemed to form part of this Agreement);

SFT means Scottish Futures Trust Limited, incorporated under the Companies Acts (registered number SC348382) and having its registered office at 1st Floor, 11-15 Thistle Street, Edinburgh EH2 1DF;

Secured Obligations means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Borrower to any Finance Party under each Finance Document;

Security means a mortgage, charge, assignation in security, standard security, pledge, lien (other than a lien arising solely by operation of law in the normal course of business, the aggregate amount of which is not material), deposit, undertaking, guarantee, indemnity or any other security agreement or arrangement having a similar effect;

Security Document means any Account Charge, Assignation in Security or Standard Security;

Security Period means the period starting on the last date of execution of this Agreement and ending on the date on which all Secured Obligations of the Borrower to the Scottish Ministers have been unconditionally and irrevocably paid and discharged in full;

Security Property has the meaning assigned to that expression in the Declaration of Trust;

Security Trustee has the meaning assigned to that expression in the Declaration of Trust;

Semi-Annual Days means 30 March and 30 September in each year and **Semi-Annual Day** shall be interpreted accordingly;

Standard Security means a standard security over a Property in the form set out in Part 5 of the Schedule;

Standing Instructions to Solicitors means the standard instructions in the form set out in Part 4 of the Schedule;

Statement of Annual Surplus means a financial statement prepared in accordance with the template and notes as set out in Part 1 of the Schedule to the Deed of Entrustment, to be delivered by the Borrower to the Scottish Ministers in accordance with the terms of Clause 6.2;

Subsidiary means a subsidiary within the meaning of section 1159 of the Companies Act 2006;

Surplus means any cash surplus in any Financial Year as disclosed by the Statement of Annual Surplus;

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

Utilisation means a drawdown of the Facility on a relevant Utilisation Date during the Availability Period;

Utilisation Date means the last Business Day of each calendar month during the Availability Period;

Utilisation Request means a notice substantially in the form set out in Part 6 of the Schedule;

Valuation means a valuation of a Property, or as the context requires, the Properties by the Valuer, prepared on the basis of the then current statements of asset valuation practice and guidance notes issued by RICS;

Valuer means a surveyor or valuer registered as such with RICS; and

VAT means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

- 1.2 In this Agreement, words denoting the singular number only include the plural and vice versa and words denoting any gender include all genders and words denoting persons include firms and corporations and vice versa.
- 1.3 Headings are used in this Agreement for convenience only and shall not affect its construction or interpretation.
- 1.4 In this Agreement, unless otherwise specified, references to Clauses and to the Schedule (and Parts of the Schedule) are to Clauses of and the Schedule (and Parts of the Schedule) to this Agreement.
- 1.5 In this Agreement, a reference to this Agreement or to any other document means this Agreement or that document as supplemented, amended or varied from time to time.
- 1.6 A reference in any way to any party to this Agreement shall be construed so as to include its successors in title, permitted assignees and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Security Trustee, any person for the time being appointed as Security Trustee in accordance with the Declaration of Trust.
- 1.7 The expression "party" means (without prejudice to the provisions of clause 1.6) each or any of the parties from time to time to this Agreement, so long as they remain a party.
- 1.8 Where the words "include(s)" or "including" are used, they are illustrative and shall not limit the scope of the words preceding them.
- 1.9 Any notice, instruction, notification, direction, request, consent or approval contemplated in this Agreement shall be made or given in writing.
- 1.10 A "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other entity (whether or not having separate legal personality).
- 1.11 A "regulation" includes any regulation, rule or official directive having the force of law.
- 1.12 A provision of law is a reference to that provision as amended or re-enacted.

2. AMOUNT, NATURE AND PURPOSE OF THE LOAN

- 2.1 Subject to the terms of this Agreement, the Scottish Ministers agree to make available to the Borrower a term loan facility in an aggregate amount not exceeding the amount of the Available Facility.
- 2.2 The Borrower must apply all amounts borrowed by it under the Facility only towards performing the PSO (subject to the flexibility provided by clause 7.3 of the Deed of Entrustment) which shall include (for the avoidance of doubt):
- (a) financing or refinancing the fees, costs and expenses i) of acquiring each Property, ii) of carrying out the development of a Property and any accesses thereto, ancillary areas or other incidental facilities, iii) of up-grading, managing, maintaining, letting and selling a Property, iv) performing the Obligations and v) up to a maximum amount of £1,500,000.00, funding its working capital; and
 - (b) paying sums due under the Finance Documents.
- 2.3 The Scottish Ministers will not be bound to monitor or verify the application of any amount borrowed pursuant to this Agreement.

3. CONDITIONS OF UTILISATION

- 3.1 Subject to Clause 3.2, the Scottish Ministers will only be obliged to comply with their obligations under this Clause 3 provided that the Scottish Ministers have received at least 10 Business Days prior to the intended Utilisation Date a signed and completed Utilisation Request. Each Utilisation Request in respect of month n (i) will be accompanied by a Reconciliation Report for month n-2 (save as specified in clause 3.5) and (ii) may be accompanied by (at the Borrower's option) such evidence as is available to the Borrower relating to, *inter alia*, activities which the Borrower intends to undertake during the month succeeding that Utilisation Date.
- 3.2 The first drawing of the Facility shall be the Initial Sum which shall be advanced to the Borrower as part of the Facility within 5 Business Days of the last date of execution of this Agreement for its working capital purposes.
- 3.3 Notwithstanding the provisions of Clause 3.1, the Borrower may in exceptional circumstances only submit a Utilisation Request at any time.
- 3.4 The Borrower may draw down the remainder of the Facility in such number of Utilisations as it may determine (having regard to its funding requirements in the month succeeding each Utilisation Date), not exceeding in aggregate the balance of the Available Facility.
- 3.5 Save in respect of the first two months of the Availability Period, the Borrower shall submit to the Scottish Ministers at least 10 Business Days prior to each Utilisation Date (whether or not a Utilisation Request has been or will be made for that month) a monthly Reconciliation Report showing how the sums previously drawn down in month n-2 have been expended by the Borrower and accompanied by evidence of expenditure including receipts from third parties of any sums paid to them. Any sums drawn down under the previous Utilisation Request and unused by the date of submission of the succeeding Utilisation Request shall be reconciled by the Borrower as part of the succeeding Utilisation Request and the amount which would otherwise have been drawn down under the succeeding Utilisation Request shall be reduced accordingly.
- 3.6 The Borrower shall deliver to the Scottish Ministers a final Reconciliation Report within 56 days of the date of the last Utilisation Request, which will certify and contain evidence of the expenditure for the full amount of the Facility drawn down to the extent such expenditure has not already been evidenced by previous Reconciliation Reports.

3.7 Subject to Clause 3.3 and there being no Potential Event of Default nor an Event of Default having occurred which is continuing unwaived on the intended Utilisation Date and subject to the Borrower submitting to the Scottish Ministers a signed and completed Utilisation Request and a Reconciliation Report complying with the terms of this Clause 3, the Scottish Ministers shall advance each Loan on the Utilisation Date specified in the Utilisation Request.

3.8 In the event that the Borrower has not provided the requisite evidence with a Reconciliation Report as set out in Clause 3.5, then the Scottish Ministers will not be obliged to comply with their obligations in Clause 3.1 until such evidence has been provided.

4. CANCELLATION OF FACILITY

Any amounts of the Facility which, at that time, are not utilised shall be immediately cancelled at the end of the Availability Period.

5. INTEREST

5.1 Interest is payable:

5.1.1 on the Loan (unless and until notice is given to the Borrower by the Scottish Ministers, in circumstances where they are entitled under the Deed of Entrustment to do so, under clause 16.2.1 of the Deed of Entrustment) at a fixed rate of 0.1% per annum, payable six monthly in arrears on each Semi-Annual Day, on the date of any early repayment, cancellation or prepayment and on the Final Repayment Date; and

5.1.2 on any overdue sum at the Default Rate from time to time, from the due date up to and including the actual date of payment;

5.1.3 on the Loan, as from the date on which notice is given to the Borrower by the Scottish Ministers (in circumstances where they are entitled under the Deed of Entrustment to do so) under clause 16.2.1 of the Deed of Entrustment, at the Commercial Rate, payable six monthly in arrears on each Semi-Annual Day.

6. REPAYMENT AND PREPAYMENT

6.1 The Loan shall be repaid in full on the Final Repayment Date.

6.2 The Borrower shall deliver the Statement of Annual Surplus to the Scottish Ministers, within 120 days after the expiry of each Financial Year.

6.3 The Borrower shall, within 14 days of a written request by the Scottish Ministers, supply such supporting calculations and information as the Scottish Ministers may reasonably request to enable the Scottish Ministers to verify the amount of the Surplus set out in each Statement of Annual Surplus delivered by the Borrower to the Scottish Ministers in pursuance of Clause 6.2.

6.4 If the Borrower and the Scottish Ministers have failed to agree the amount of Surplus which is available in respect of a given Financial Year within 60 days after the relevant Statement of Annual Surplus was given to the Scottish Ministers in pursuance of Clause 6.2, either party may refer the matter for determination to an independent chartered accountant, to be appointed (failing agreement as to the appointee) by the President (or other senior executive deputising for or replacing the President) at the time of the Institute of Chartered Accountants of Scotland and his/her determination (including as to how the associated costs are to be borne) shall be final and binding on the parties.

6.5 Within 30 days after the amount of Surplus which is available in respect of a given Financial Year has been agreed or determined in pursuance of Clauses 6.2 to 6.4, the Borrower shall pay that amount (or, if less, the outstanding balance of the Loan) to the Scottish Ministers by way of repayment or part repayment of the Loan.

6.6 The Scottish Ministers shall provide annually a statement specifying the amount of the Loan still outstanding.

- 6.7 The Borrower may at any time, upon giving not less than 90 days' prior written notice to the Scottish Ministers (which shall be irrevocable and shall oblige the Borrower to prepay the relevant amount on the date specified) prepay the Loan in whole or in part without penalty.
- 6.8 If it becomes unlawful for the Scottish Ministers to perform any of its obligations as contemplated by this Agreement or to fund or maintain its participation in any Loan then upon the Scottish Ministers notifying the Borrower, the Available Facility will be immediately cancelled and the Borrower shall repay the Loans made to it on a date agreed between the parties which failing on the first Semi-Annual Date occurring after such notification.
- 6.9 Any notice of cancellation or prepayment given by either party under this Clause 6 shall be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the amount of that cancellation or prepayment. Any prepayment under this Agreement shall be made together with accrued interest on the amount prepaid. The Borrower shall not repay or prepay all or any part of the Loans or cancel all or any part of the Available Facility except at the times and in the manner expressly provided for in this Agreement. No amount of the Available Facility cancelled under this Agreement may be subsequently reinstated. Amounts repaid or prepaid shall not be available for re-borrowing.

7. FEES AND EXPENSES

All costs and expenses, (including legal fees) incurred by each of the parties in connection with the preparation and implementation of this Agreement shall be borne by the party incurring them. Subject to the foregoing provisions, all costs charges and expenses (including legal expenses on a full indemnity basis and any VAT) of the Scottish Ministers incurred directly in connection with the enforcement or preservation of any rights under this Agreement will be paid on demand by the Borrower.

8. PAYMENTS AND TAX

- 8.1 All payments by the Borrower under this Agreement shall be made without set-off or counterclaim in same day funds to such account of the Scottish Ministers in such place as the Scottish Ministers shall notify to the Borrower from time to time.
- 8.2 All payments due to be made by the Borrower under this Agreement, whether of principal, interest or otherwise, shall be made free and clear of and without deduction for any present or future Taxes (including any penalty or interest payable in connection with any failure to pay or any delay in paying the same). If the Borrower is compelled by law to deduct or withhold any Tax it will ensure that such deduction or withholding does not exceed the minimum liability therefor and will promptly pay to the Scottish Ministers such additional amount as is necessary to ensure that the net amount received by the Scottish Ministers is equal to the amount payable by the Borrower had there been no deduction or withholding.
- 8.3 The Borrower shall within twenty Business Days of demand pay to the Scottish Ministers an amount equal to the loss, liability or cost which the Scottish Ministers determine will be or has been (directly or indirectly) suffered for or on account of Tax by the Scottish Ministers in respect of any Finance Document.
- 8.4 All amounts expressed to be payable under a Finance Document by the Borrower to the Scottish Ministers which (in whole or in part) constitute the consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly if VAT is or becomes chargeable on any supply made by the Scottish Ministers to the Borrower under a Finance Document and the Scottish Ministers are required to account to the relevant tax authority for the VAT, the Borrower shall pay to the Scottish Ministers (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of that VAT (and the Scottish Ministers must promptly provide an appropriate VAT invoice to the Borrower).
- 8.5 If any payment under this Agreement would otherwise be due to be made on a day which is not a Business Day, it shall be made on the preceding Business Day.

9. VALUATIONS

- 9.1 The Scottish Ministers may request a Valuation following the occurrence of any Event of Default.
- 9.2 In the event that at any time a Valuation is prepared at the request or for the purposes of any third party, the Borrower shall procure that a copy thereof is delivered to the Scottish Ministers promptly and, in any event within twenty Business Days of the date of its production.

10. REPRESENTATIONS AND WARRANTIES

- 10.1 The Borrower makes each of the representations and warranties set out in this Clause 10.
- 10.2 The rights and remedies of the Scottish Ministers in respect of any misrepresentation or breach of warranty on the part of the Borrower shall not be prejudiced or affected by any investigation of the Borrower or any other person by or on behalf of the Scottish Ministers or (without limitation) any other matter which but for this provision would or might prejudice or affect any such rights or remedies.
- 10.3 The representations and warranties set out in this Clause 10 are deemed (except insofar as that would be inconsistent with the wording of such representations and warranties) to be made by the Borrower by reference to the facts and circumstances then existing on each day during the Security Period.
- 10.4 The Borrower is a limited liability body, duly incorporated and validly existing under the laws of Scotland, has the power to own its assets and carry on its business as it is being conducted.
- 10.5 There have been no changes to the terms of the constitution of the Borrower, (as such document is listed in Part 2 of the Schedule) which have not been supplied to the Scottish Ministers in accordance with Clause 11.1.1;
- 10.6 The Borrower has the power (and all necessary corporate authorisations have been obtained) to enter into the Finance Documents and to perform its obligations under the Finance Documents and the Borrower has complied with all material statutory and other material legal requirements relative to its business.
- 10.7 No limit on the Borrower's powers will be exceeded as a result of the borrowing or grant of securities contemplated by the Finance Documents.
- 10.8 On execution by the Borrower (and, where applicable, the other party or parties to them), each of the Finance Documents:
 - 10.8.1 will constitute legal, valid and binding obligations of the Borrower enforceable in accordance with its terms;
 - 10.8.2 does not and will not breach any law or regulation applicable to the Borrower;
 - 10.8.3 does not and will not breach the Borrower's constitution; and
 - 10.8.4 does not and will not breach any agreement or instrument by which the Borrower is bound, or constitute a default or termination event (however described) under any such agreement or instrument or breach any judgment, decree, judicial order or determination of any court or applicable national or supranational judicial or governmental authority.
- 10.9 All authorisations required or desirable to enable the Borrower lawfully to enter into, exercise its rights and comply with its obligations under each Finance Document and to make each Finance Document admissible in evidence in Scotland have been obtained or effected and are in full force and effect.
- 10.10 All authorisations necessary for the conduct of the business of the Borrower have been obtained or effected and are in full force and effect.

- 10.11 As at the date of this Agreement, the Borrower has not carried on any trade or business since the date of its incorporation other than the business as it is being conducted and the Borrower is not party to any material agreements other than the Finance Documents and the Deed of Entrustment.
- 10.12 As at the date of this Agreement, the Borrower does not have any Subsidiaries.
- 10.13 As at the date of this Agreement, the Borrower is not required to make any deduction for or on account of tax from any payment it may make under any Finance Document.
- 10.14 Under the laws of Scotland it is not necessary that any of the Finance Documents be registered, filed, recorded or enrolled with any court or other authority in Scotland or that any stamp, registration or similar tax be paid on or in relation to any of the Finance Documents except registration of the Standard Securities in the Land Register of Scotland and payment of the associated fees, which registrations and fees will be made and paid in each case promptly after the date of the relevant Standard Security.
- 10.15 The Borrower is not, as at the date of this Agreement, a member of a group for VAT purposes.
- 10.16 To the extent that the same are unsecured or any security taken in respect of the same is insufficient, the obligations of the Borrower to the Scottish Ministers will rank at least *pari passu* with all other existing and future unsecured and unsubordinated obligations (including contingent obligations) of the Borrower.
- 10.17 No litigation, arbitration or administrative proceedings is/are pending nor, to the Borrower's knowledge after due enquiry, threatened against the Borrower or any of its assets which could or might have a Material Adverse Effect.
- 10.18 The Borrower is not (nor would, with the giving of notice or passing of time or both, be) in default in respect of any indebtedness and the borrowing and repayment by the Borrower of the Loans will not contravene any existing applicable law or regulation or any contractual or other restriction or limitation binding on the Borrower.
- 10.19 No Event of Default is continuing or might reasonably be expected to result from the drawing of any part of the Loans or the entry into, or the performance of, the Finance Documents or any transaction contemplated by the Finance Documents.
- 10.20 No other 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 any of the above) would constitute, a default or a termination event (however described) under any other agreement or instrument which is binding on the Borrower or to which any of the assets of the Borrower are subject which could or might have a Material Adverse Effect.
- 10.21 The financial projections contained in the Financial Information represent a fair and reasonable assessment of the anticipated future performance of the Borrower based on the assumptions stated in the Financial Information.
- 10.22 So far as the Borrower is aware having made due enquiry, the Financial Information did not omit any information which, if disclosed, might reasonably be expected to adversely affect the decision of a person considering whether to provide financial assistance to the Borrower.
- 10.23 The Borrower has not taken any corporate action, nor so far as the Borrower is aware, have any steps been taken, or legal proceedings started or threatened against the Borrower for its winding up or dissolution, or for the appointment of a trustee in sequestration or similar officer of it or all or any part of its assets or revenues.
- 10.24 So far as the Borrower is aware, all information supplied by it or on its behalf to the Valuer for the purposes of each Valuation and for the purposes of each Property Report 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. So far as the Borrower is aware, the Borrower has not omitted to supply any information which, if disclosed, would adversely affect the Valuation or the Property Report.

- 10.25 Any financial projections contained in the Financial Information have been prepared as at their date, on the basis of reasonable assumptions.
- 10.26 Except as disclosed in the relevant Property Report, the Borrower is or will:
- 10.26.1 (subject to registration of the relevant transfer under the Land Registration etc. (Scotland) Act 2012 be the legal and beneficial owner of each Property; and
 - 10.26.2 have good and marketable title to each Property,
- in each case free from Security (other than those created by or pursuant to the Security Documents) and restrictions and onerous title conditions (other than those set out in the Property Report).
- 10.27 In respect of each Property and except as disclosed in the relevant Property Report:
- 10.27.1 no breach of any law, regulation or undertaking is outstanding which adversely affects or might reasonably be expected to adversely affect the value, saleability or use of the Property;
 - 10.27.2 there is no covenant, agreement, stipulation, reservation, condition, interest, right, servitude or other matter whatsoever adversely affecting the Property;
 - 10.27.3 there are no encumbrances (as that term is defined in the Land Registration etc. (Scotland) Act 2012 affecting the Property;
 - 10.27.4 all facilities necessary for the enjoyment and use of the Property (including those necessary for the carrying on of its business at the Property) are enjoyed by the Property;
 - 10.27.5 none of the facilities referred to in Clause 10.27.4 above are enjoyed on terms entitling any person to terminate or curtail its use of the Property or which conflict with or restrict its use of the Property; and
 - 10.27.6 the Borrower has not received any notice of any adverse claim by any person in respect of the ownership of the Property or any interest in it which might reasonably be expected to be determined in favour of that person, nor has any acknowledgement been given to any such person in respect of the Property.
- 10.28 All deeds and documents necessary to show good and marketable title to the Borrower's interests in the Property will from the date of the Borrower's acquisition of a Property be:
- 10.28.1 in possession of the Security Trustee; or
 - 10.28.2 undergoing registration at the Registers of Scotland; or
 - 10.28.3 held to the order of the Security Trustee by a firm of solicitors approved by the Security Trustee for that purpose.
- 10.29 Nothing has occurred since the date of any information referred to in Clause 10.23 above which, if disclosed, would make that information untrue or misleading in any material respect.
- 10.30 For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "Regulation"), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in Scotland and it has no "establishment" (as that term is used in Article 2(h) of the Regulations) in any other jurisdiction.
- 10.31 The security conferred by each Security Document constitutes a first priority security interest of the type described, over the assets referred to, in that Security Document and those assets are not subject to any prior or pari passu Security.

11. UNDERTAKINGS BY THE BORROWER

11.1 The Borrower undertakes to the Scottish Ministers that throughout the Security Period it shall:

- 11.1.1 supply to the Scottish Ministers a copy of any changes to the Borrower's constitution;
- 11.1.2 supply to the Scottish Ministers promptly upon becoming aware of them, details of any litigation, arbitration or administrative proceedings from tenants or otherwise which are current, threatened or pending, and which might, if adversely determined, have a Material Adverse Effect;
- 11.1.3 immediately upon becoming aware of it, inform the Scottish Ministers of the occurrence of an Event of Default or Potential Event of Default (and the steps, if any, being taken to remedy it);
- 11.1.4 not form any Subsidiaries without the prior written consent of the Scottish Ministers (such consent not to be unreasonably withheld);
- 11.1.5 not enter into any partnership or joint venture with any party without the prior written consent of the Scottish Ministers (such consent not to be unreasonably withheld);
- 11.1.6 operate each Account and any other bank account held by it in accordance with the Financial Transparency (EC) Regulations 2009;
- 11.1.7 procure that each Account held by it is held at a Scottish branch of its bank;
- 11.1.8 ensure that its obligations under the Security Documents at all times rank in priority to all other claims from creditors unless (i) statutorily preferred or (ii) otherwise required in order to give effect to the terms of any Intercreditor Agreement;
- 11.1.9 not lend or give credit to, or issue an indemnity or guarantee in respect of the obligations or liabilities of, any other person(s) (excluding for this purpose any loan or credit given to a tenant occupying a Property);
- 11.1.10 comply with its monetary and material obligations under each Lease and Headlease;
- 11.1.11 comply with the Obligations, under declaration that in the event of there being any conflict or inconsistency between the terms of Part 3 of the Schedule and the terms of any Standard Security, the terms of the Standard Security shall prevail;
- 11.1.12 supply to the Scottish Ministers as soon as the same are available and in any event within 120 days of the end of each Financial Year, (a) its audited accounts for that Financial Year (b) its annual business plan for the following Financial Year (including financial projections for the following Financial Year, information regarding the investment strategy for the following Financial Year in respect of acquisition/development of units and/or (as applicable) sale of units, and setting out the anticipated Surplus for that following Financial Year and (in respect of the Financial Year in which the Final Repayment Date falls) for the period from the commencement of that Financial Year to the Final Repayment Date), and (c) a copy of the annual report that it submits to the Office of the Scottish Charity Regulator;
- 11.1.13 advise the Scottish Ministers at the earliest opportunity if circumstances emerge which, in the opinion of the Borrower (acting reasonably) create a significant risk that any of the events specified in Clauses 14.1. to 14.10 inclusive will occur.

11.2 Where any Financial Indebtedness is to be secured over all or any of the assets of the Borrower, the terms of Clause 13 shall apply; but otherwise the terms of such Financial Indebtedness will be at the discretion of the Borrower.

12. SECURITY

The parties agree that the following security arrangements shall apply in relation to the Loan:

- 12.1 on the date of and as a precondition to the first Utilisation, the Borrower shall grant in favour of the Security Trustee, in security of the payment and discharge of the Secured Obligations, an Account Charge in respect of each Account then held by it;
- 12.2 on each occasion on which the Borrower opens another Account, the Borrower shall grant in favour of the Security Trustee, in security of the payment and discharge of the Secured Obligations, an Account Charge in respect of each such Account;
- 12.3 on each occasion on which the Borrower proposes to acquire any Property, the Borrower shall:-
 - 12.3.1 (i) engage a solicitor to act on its behalf in connection with the Borrower's acquisition of the Property, and that solicitor will have simultaneously been instructed to act on behalf of the Security Trustee and the Finance Parties in accordance with the Standing Instructions to Solicitors (ii) grant in favour of the Security Trustee, in security of the payment and discharge of the Secured Obligations, a Standard Security over that Property; and (iii) provide a Property Report on the relevant Property (including all relevant search and other reports);
 - 12.3.2 ensure that the solicitor engaged to act on its behalf and the authors of any Certificate of Title (as referred to in the Standing Instructions to Solicitors) each hold professional indemnity insurance at a level and on terms satisfactory to the Borrower; and
 - 12.3.3 in relation to any matters which are disclosed to it in accordance with the Standard Instructions to Solicitors and narrated in the Property Report (each such matter being a "Disclosed Matter") it will send details thereof, together with copies of any advice received in relation to the Disclosed Matter, to the Scottish Ministers who will be entitled acting reasonably, having regard to the nature of the Disclosed Matter and the interests of the Borrower and of the Scottish Ministers, to instruct the Borrower not to proceed with the acquisition of the Property in respect of which a Disclosed Matter has been disclosed to it and if the Scottish Ministers request further information or professional advice in relation to the Disclosed Matter, the Borrower shall procure the delivery to the Scottish Ministers of that information or professional advice and as quickly as may be practicable;
 - 12.3.4 investigate any requirement for any title indemnity or other insurance policy (an "Insurance Policy") in relation to the title, condition, stability, use or construction of a Property (which will be deemed to be a Disclosed Matter) and in the event that an Insurance Policy exists or is required in respect of any Property, the Scottish Ministers will be entitled acting reasonably, having regard to the requirement for and the terms of the Insurance Policy and the interests of the Borrower and of the Scottish Ministers, to instruct the Borrower not to proceed with the acquisition of the Property in respect of which an Insurance Policy exists or is required and if the Scottish Ministers request further information or professional advice in relation to thereto, the Borrower shall procure the delivery to the Scottish Ministers of that information or professional advice and as quickly as may be practicable;
 - 12.3.5 not proceed with the acquisition of the Property concerned if any Disclosed Matter or rationale for the requirement of an Insurance Policy is not resolved to the satisfaction of the Scottish Ministers acting reasonably.
 - 12.3.6 In this clause 12.3, the Scottish Ministers will be deemed to be acting reasonably if a Disclosed Matter or the reasons for or the terms of any Insurance Policy are such that it or they would not be in compliance with Part 1 (Scotland) of the Council of Mortgage Lenders Handbook.

- 12.4 on each occasion on which the Borrower proposes to carry out any development in respect of a Property, the Borrower shall grant in favour of the Security Trustee, in security of the payment and discharge of the Secured Obligations, an Assignment in Security in respect of all rights relating to that development which may reasonably be required (in accordance with normal practice at the time) to protect the interests of the Finance Parties in respect of such development.

13. INTERCREDITOR AGREEMENT

When the circumstances set out in Clause 11.2 arise, the Scottish Ministers shall enter into an Intercreditor Agreement with the Borrower, the Security Trustee and the lender of the indebtedness referred to in said Clause; the terms of such Intercreditor Agreement shall be subject to the prior written consent of the Scottish Ministers which consent will not be withheld if the principles in relation to the terms of the Intercreditor Agreement set out in Part 7 of the Schedule are met.

14. EVENTS OF DEFAULT

If any of the following events shall occur:

- 14.1 any sum owing under this Agreement is not paid within 5 Business Days after it falls due; or
- 14.2 the Facility is used for a purpose other than that specified in Clause 2.2, without the prior written consent of the Scottish Ministers; or
- 14.3 notice is given by the Scottish Ministers to the Borrower (in circumstances where they are entitled under the Deed of Entrustment to do so) in pursuance of clause 16.2.2 or 17.1 of the Deed of Entrustment; or
- 14.4 the Borrower defaults under any other provision of this Agreement and such default has a Material Adverse Effect and, if capable of remedy, the default is not remedied within 21 days after notice to the Borrower requesting the Borrower to remedy the same; or
- 14.5 any representation or warranty of the Borrower made in or deemed made pursuant to any provision of this Agreement proves to have been incorrect in a material respect; or
- 14.6 an encumbrancer takes possession or a trustee in sequestration or similar officer is appointed of the whole or any part of the undertaking, property, assets or revenues of the Borrower; or
- 14.7 the Borrower enters into any composition or arrangement with its creditors or proceedings are commenced in relation to the Borrower under any law, regulation or procedure relating to reconstruction or re-adjustment of debts; or
- 14.8 the Borrower is adjudicated or found bankrupt or insolvent or any order is made by any competent court or any petition is presented for the winding-up or dissolution of, or for the appointment of a trustee in sequestration or similar officer of, the Borrower or of a substantial part of its assets save for the purposes of amalgamation or reorganisation (not involving insolvency) the terms of which shall have been previously approved in writing by Scottish Ministers; or
- 14.9 the Borrower ceases or threatens to cease to carry on business or a substantial part of the business, properties or assets of the Borrower is seized or appropriated; or
- 14.10 the Borrower is removed from the register of Scottish charities by OSCR;

then on the occurrence of any of those events for so long as the relevant event is continuing the Scottish Ministers may:

14.10.1 charge interest on the outstanding amounts of the Loan at the Default Rate; and/or

14.10.2 cancel the Facility whereupon it shall immediately be cancelled; and/or

14.10.3 declare that all or part of the Loan, together with accrued interest, and all other amounts accrued or outstanding under the Finance Documents be immediately due and payable, whereupon they shall become immediately due and payable; and/or

14.10.4 declare that all or part of the Loan be payable on demand, whereupon the Loan or the relevant part of the Loan shall immediately become payable on demand by the Borrower; and/or

14.10.5 exercise or direct the Security Trustee to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents.

15. INDEMNITY

The Borrower shall indemnify the Scottish Ministers against any loss or expense which the Scottish Ministers sustain or incur:

15.1 as a consequence of any default in repayment of the Loan on the due date; or

15.2 as a consequence of the occurrence of any other Event of Default.

16. DISCLOSURE OF INFORMATION

16.1 Subject to Clauses 16.2 and 16.3, each party shall treat the other party's Confidential Information as confidential, and shall not disclose it to any other person without the owner's prior written consent.

16.2 Clause 16.1 shall not apply to the extent that:

16.2.1 such disclosure is a requirement of law placed upon the party making the disclosure;

16.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

16.2.3 such information was obtained from a third party without obligation of confidentiality;

16.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

16.2.5 such information was independently developed without access to the other party's Confidential Information.

16.3 Nothing in this Agreement shall prevent either party from disclosing the other party's Confidential Information:

16.3.1 to any consultant, contractor or other person engaged by the Borrower or the Scottish Ministers; or

16.3.2 for the purpose of the examination and certification of the Borrower's accounts.

16.4 In this Clause 16:

16.4.1 **Confidential Information** means information that ought to be considered as confidential and may include information whose disclosure would or would be likely to prejudice the commercial interests of any person, trade secrets, intellectual property rights, or know-how of any party; and

16.4.2 **FOISA** means the Freedom of Information (Scotland) Act 2002 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Scottish Information Commissioner or relevant government department in relation to such legislation;

16.4.3 **EISR** means the Environmental Information (Scotland) Regulations 2004 together with any guidance and/or codes of practice issued by the Scottish Information Commissioner or relevant government department in relation to such legislation; and

16.4.4 Information has the meaning given in section 73 of FOISA.

16.5 The Borrower acknowledges that Scottish Ministers are subject to the requirements of the FOISA and the EISR and the Borrower shall assist and cooperate with the Scottish Ministers to enable them to comply with their information disclosure obligations.

16.6 The Scottish Ministers shall be responsible for determining in their absolute discretion whether Information is exempt from disclosure in accordance with the provisions of the FOISA or the EISR.

16.7 For the avoidance of doubt, the Borrower shall be entitled to disclose the terms of the Finance Documents to any commercial lender which is giving consideration to the provision of loan finance to the Borrower.

17. ASSIGNATION AND FURTHER ASSURANCE

17.1 The Borrower may not may assign or transfer its rights and/or obligations under this Agreement or any of the Finance Documents.

17.2 The Scottish Ministers may assign or transfer their rights and/or obligations under this Agreement or any of the Finance Documents at will.

18. MISCELLANEOUS

18.1 Every notice under this Agreement shall be in writing and may be given by hand, post or e-mail to the Borrower or the Scottish Ministers at their respective addresses given above (or to such other address as either party may intimate to the other party in writing from time to time as being the appropriate address for service of notices) and, in the case of an e-mail, to any e-mail address which either party may intimate to the other party in writing from time to time as being the appropriate address for this purpose. Every notice shall be deemed to have been received, in the case of an e-mail, at the time of despatch (provided that if the date of despatch is not a working day, it shall be deemed received on the next such working day) and in the case of a letter at the time of its delivery if delivered personally or four days after its posting if sent by mail.

18.2 No failure or delay by the Scottish Ministers in exercising any right or remedy under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy. The rights and remedies herein are cumulative and not exclusive of any rights and remedies provided by law.

18.3 No variation of this Agreement shall be effective unless it is effected by way of a written agreement, duly executed by the Scottish Ministers and by the Borrower.

18.4 For the avoidance of doubt, nothing in this Agreement will infer any obligation on the Scottish Ministers to provide any further assistance to the Borrower.

19. LAW AND JURISDICTION

This Agreement is governed by and shall be construed in accordance with the laws of Scotland and the Borrower irrevocably submits to the exclusive jurisdiction of the Scottish Courts:

IN WITNESS WHEREOF this Agreement consisting of this and the preceding 16 pages, together with the Schedule annexed, is executed as follows:

Signed for and on behalf of Scottish Ministers by:

.... Authorised Signatory

..... Full Name

At Edinburgh on the 11 day of September 2015

In the presence of:

Witness:

Full Name:

Address: VICTORIA QUAY

EDINBURGH

EH6 6QQ

Signed for and on behalf of LAR Housing Trust by:

Charity trustee

Full Name

At _____ on the _____ day of September 2015

In the presence of:

Witness: ..

Full Name:

Address: 120 BOTHWELL ST.

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This is the Schedule in 7 parts referred to in the preceding Agreement between the Scottish Ministers and the Borrower

Schedule

Part 1 – Form of Account Charge

ASSIGNATION

by

- (1) **LAR HOUSING TRUST**, a Scottish charitable incorporated organisation (Scottish charity number SC044825) having its principal office at Evans Business Centre, 15 Pitreavie Court, Pitreavie Business Park, Dunfermline KY11 8UU (the "Chargor");

In favour of

- (2) [●] **LIMITED**, a company incorporated under the Companies Acts with registered number [●] and having its registered office at [●] as security trustee for the Finance Parties pursuant to the terms of the Declaration of Trust as defined below (the "Security Trustee", which expression shall include its successors and assignees as trustee foresaid from time to time).

CONSIDERING THAT:

- A. pursuant to a Loan Agreement (the "Loan Agreement") dated [●] between the Chargor as Borrower and The Scottish Ministers (as amended, varied, novated or supplemented from time to time), the Scottish Ministers have agreed to make credit facilities available to the Borrower;
- B. one of the conditions precedent to the availability of the facilities referred to in paragraph (A) above is that the Chargor grants to the Security Trustee this assignment; and
- C. this Assignment is a Finance Document.

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Assignment, unless the context otherwise requires:

Account means the bank account no 18072516 with the Account Bank, (sort code 83-06-08), (as the same may be re-designated, re-numbered, transferred to another branch or re-constituted from time to time and all rights of the Chargor in relation to such account);

Account Bank means The Royal Bank of Scotland plc;

Assigned Rights means the assets and rights assigned or to be assigned in security by or pursuant to this Assignment;

Balances means all monies from time to time standing to the credit of the Account together with all entitlements to Interest and other rights and benefits accruing to or arising in connection therewith and all rights and claims, present and future, of the Chargor against the Account Bank or any other person to account to it for such monies or otherwise in relation to such monies and the operation of the Account;

"Declaration of Trust" means the declaration of trust dated on or around the date hereof between the Chargor, the Security Trustee and the Scottish Ministers;

"Finance Documents" shall have the meaning ascribed to it in the Declaration of Trust; and Finance Document shall be construed accordingly;

"Finance Parties" shall have the meaning ascribed to it in the Declaration of Trust; and Finance Party shall be construed accordingly;

Schedule means the Schedule in two parts annexed as relative to this Assignment;

Secured Obligations means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Chargor to any Finance Party under each Finance Document; and

Security Period means the period starting on the last date of execution of this Assignment and ending on the date on which all Secured Obligations of the Chargor to the Scottish Ministers have been unconditionally and irrevocably paid and discharged in full.

1.2 Interpretation

In this Assignment, terms defined in the Loan Agreement shall, unless otherwise defined herein, have the same meaning herein

References to.-

- (a) statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, Instruments or other subordinate legislation made under the relevant legislation,
- (b) "including" shall not be construed as limiting the generality of the words preceding it;
- (c) words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- (d) this Assignment and to any provisions of it or to any other document referred to in this Assignment shall be construed as references thereto as amended, varied, supplemented, restated, substituted or novated from time to time and in however fundamental a manner;
- (e) any person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- (f) any person are to be construed to include that person's (and any subsequent person's) successors in title and any permitted assignees or transferees (whether direct or indirect) in accordance with their respective interests,
- (g) clause headings are for ease of reference only and are not to affect the interpretation of this Assignment;
- (h) clauses and sub-clauses are references to clauses and sub-clauses in this Assignment unless otherwise indicated.

2 OBLIGATION TO PAY

The Chargor undertakes to the Security Trustee as trustee for the Finance Parties that it will pay or discharge to the Security Trustee all the Secured Obligations when the Secured Obligations become due for payment or discharge (whether by acceleration or otherwise).

3 ASSIGNATION IN SECURITY AND ENFORCEMENT

The Chargor hereby, as continuing security for the payment and discharge of the Secured Obligations, assigns absolutely to the Security Trustee (subject to a right of retrocession and re-assignment in accordance with Clause 8 (Retrocession)) all its whole right, title and interest in and to the Account and to each Balance and the debts represented thereby

4 PERFECTION OF SECURITY

- 4.1 The Chargor undertakes to intimate this Assignment forthwith to the Account Bank following its execution of this Assignment in the form of Part 1 of the Schedule and to provide the Account Bank with a copy of this Assignment and shall use its reasonable endeavours to procure that the Account Bank forthwith acknowledges such intimation to the Security Trustee in the form of Part 2 of the Schedule or in such other form as the Security Trustee may reasonably require.
- 4.2 The Chargor binds and obliges itself to take all steps as are within its power as the Security Trustee may reasonably request to perfect under any appropriate law the security hereby intended to be granted or any security interest constituted pursuant to this Assignment in respect of all or any of the Assigned Rights or for the purposes of protecting such security or facilitating the realisation of the Assigned Rights or the exercise of the Security Trustee's rights hereunder.
- 4.3 The Chargor shall execute an assignment or assignments in substantially the same terms *mutatis mutandis* as this Assignment (each a "Further Assignment") relative to the balances under any further, additional or renewal bank account in the name of the Chargor, where such account is with a branch of the relevant account bank in Scotland, each such account being a "Further Account") and shall deliver the same to the Security Trustee forthwith and in any event by no later than 14 days from the date any such Further Account is opened by the Chargor or within such shorter timescale as the Security Trustee may require.
- 4.4 The Chargor acknowledges and declares that no exercise of any one or more of the powers contained in this Assignment shall render the Security Trustee liable as security holder in possession. In respect of the Assigned Rights nor liable for any loss upon realisation or for any neglect of any nature whatsoever in connection with the Assigned Rights for which a security holder in possession may be liable.
- 4.5 No obligation shall be assumed by the Security Trustee under the Account or any agreement in relation thereto by virtue of the execution and delivery of this Assignment and no liability shall fall upon Security Trustee by virtue thereof in consequence of any failure by the Chargor to perform its obligations thereunder.
- 4.6 The Chargor shall not grant or purport to grant any assignment of the Chargor's entitlement to the Account and/or the Balances and/or any analogous sums receivable pursuant to any Further Accounts (or any part of any of them) (whether before or after the intimation hereof).
- 4.7 The Chargor shall (if requested by the Security Trustee) deposit with the Security Trustee, and the Security Trustee during the Security Period shall be entitled to hold, all deeds and documents which would otherwise be in the Chargor's custody or control and which relate to the Assigned Rights.
- 4.8 Until the occurrence of an Event of Default which is continuing, the Chargor shall be entitled to operate the Account in accordance with, and subject to, the terms of the Loan Agreement.

5 ENFORCEMENT

- 5.1 At any time after the occurrence of an Event of Default which is continuing, the Security Trustee shall be entitled, without notice to the Chargor either in its own name or in the name of the Chargor or otherwise and in such manner and upon such terms and conditions as it thinks fit, to realise and/or deal with the Account as follows:
- 5.1.1 to withdraw and/or appropriate or apply the Balances in whole or part in or towards payment or satisfaction of the Secured Obligations;

- 5.1.2 to instruct or permit the Account Bank to combine or consolidate the Account with any other account(s) of the Chargor with the Account Bank;
 - 5.1.3 to instruct or permit the Account Bank to set off or apply the Balances in or towards payment or satisfaction of the Secured Obligations, and
 - 5.1.4 generally, without prejudice to the other provisions of this Clause, to exercise all the rights powers and discretions in respect of the Assigned Rights as it would be entitled to exercise If it were the absolute owner of the Assigned Rights, and to do all acts and things it may consider necessary or expedient for the realisation of the Balances and their appropriation or application in or towards payment or satisfaction of the Secured Obligations, or as may be incidental to the exercise of any of the rights, powers and discretion conferred on the Security Trustee under this Assignment.
- 5.2 For the avoidance of doubt, prior to the occurrence of an Event of Default, the Chargor shall be entitled to operate the Account as it sees fit.

6 REPRESENTATIONS AND WARRANTIES

The Chargor represents and warrants that:

- 6.1 it is the sole, legal and beneficial owner of the Assigned Rights free and clear from any mortgage, charge, assignment by way of security, pledge, lien, hypothecation, right of set-off, reservation of title arrangement, preferential right or other arrangement for the purpose of and having a similar effect to the granting of security, or other security Interest of any kind;
- 6.2 it has not disposed of, or granted any rights over, any of the Assigned Rights or any interest therein or released or agreed to release, any of its rights in or to any of the Assigned Rights;
- 6.3 none of the Assigned Rights is the subject of any claim, assertion, infringement, right, action or other restriction or arrangement of whatever nature which does or may impinge upon the validity, enforceability or ownership of the Assigned Rights by the Chargor or their utilisation by the Chargor; and
- 6.4 this Assignment has been validly made in accordance with the constitutional documents of the Chargor and all necessary corporate action has been taken to authorise the making, execution and performance of this Assignment

7 UNDERTAKINGS

- 7.1 The Chargor undertakes to the Security Trustee that it will, unless the Security Trustee agrees otherwise in writing:
 - 7.1.1 remain liable to and shall perform and comply in all material respects with all Its obligations pursuant to the Account and the Balances and any other obligations to be performed by the Chargor concerning the Account and the Balances;
 - 7.1.2 not amend, vary, supplement, replace, release, novate, waive, surrender, determine, discharge, rescind or avoid the Assigned Rights nor compound, grant any time or other indulgence or otherwise deal with the Assigned Rights nor purport to do so,
 - 7.1.3 not assign, transfer, dispose of or otherwise encumber any of the Assigned Rights other than pursuant to this Assignment;
 - 7.1.4 not exercise any right or power conferred on it to terminate any Account unless with the prior approval of the Security Trustee so to do; and
 - 7.1.5 provide the Security Trustee with all such information as it may from time to time request or require in relation to the Account and will notify the Security Trustee of any breach or alleged breach of the same.

8 RETROCESSION

Upon the expiry of the Security Period (but not otherwise) the Security Trustee shall at the request and cost of the Chargor retrocess and re-assign to the Chargor (or as the Chargor may direct) its whole right, title interest and benefit in and to the Assigned Rights.

9 PROTECTION OF SECURITY

- 9.1 The security created by, and any security interest constituted pursuant to, this Assignment shall be a continuing security and will extend to the ultimate balance of all the Secured Obligations notwithstanding any settlement of account or other matter or thing whatsoever, and regardless of any Intermediate payment or discharge of the Secured Obligations, in whole or in part.
- 9.2 The security created by, and any security interest constituted pursuant to, this Assignment shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which may now or at any time hereafter be held by any Finance Party for any of the Secured Obligations.
- 9.3 No failure on the part of the Security Trustee to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Assignment or any other document relating to or securing all or any part of the Secured Obligations will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Assignment and any such other document are cumulative and not exclusive of any right or remedies provided by law.
- 9.4 Each of the provisions in this Assignment shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
- 9.5 If a Finance Party receives, or is deemed to be affected by, notice, whether actual or constructive of any subsequent security, charge or other interest affecting any part of the Assigned Rights, such Finance Party may open a new account or accounts with the Chargor. If such Finance Party does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice. As from that time all payments made to the Finance Party will be credited or be treated as having been credited to the new account and will not operate to reduce any amount for which this Assignment is security
- 9.6 Neither the security created by, nor any security interest constituted pursuant to, this Assignment nor the rights, powers, discretions and remedies conferred upon the Security Trustee by this Assignment or by law shall be discharged, impaired or otherwise affected by reason of.
- 9.6.1 any present or future security, guarantee, indemnity or other right or remedy held or available in security of the Secured Obligations being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Security Trustee or any other party from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or
- 9.6.2 the Security Trustee or any Finance Party compounding with, discharging or releasing or varying the liability of, or granting any time, Indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or
- 9.6.3 anything done or omitted which but for this provision might operate to exonerate the Chargor from the Secured Obligations; or

- 9.6.4 any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.
- 9.7 The Security Trustee shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Assignment or by law, to:
- 9.7.1 take any action or obtain judgment or decree in any Court against the Chargor;
- 9.7.2 make or file any claim to rank in a winding-up or dissolution of the Chargor; or
- 9.7.3 enforce or seek to enforce any other security taken, or exercise any right or plea available in respect of any of the Chargor's obligations under the Finance Documents.

10 FURTHER ASSURANCE

The Chargor shall, at its own expense, take whatever action and execute and do all such assurances, acts, and things as the Security Trustee may reasonably require for perfecting or protecting the security created or intended to be created by or pursuant to this Assignment or for facilitating the realisation of such rights and the exercise of all powers, authorities and discretions vested or intended to be vested in the Security Trustee and shall, in particular, execute all further fixed securities, assignments, transfers, dispositions and assurances of the Assigned Rights whether to the Security Trustee or to its nominee(s) or otherwise and give all notices, orders and directions and make any registration which in any such case, the Security Trustee may think expedient.

11 ATTORNEY

- 11.1 The Chargor hereby irrevocably appoints the Security Trustee to be its attorney for it and on its behalf and in its name or otherwise to take any action which the Chargor is obliged to take under this Assignment after the same becomes enforceable including, without limitation, those under Clause 10 (Further Assurance).
- 11.2 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do or purport to do pursuant to its appointment under this Clause 11.

12 INDEMNITY

- 12.1 Subject to Clause 12.2, the Security Trustee and every attorney, manager, agent or other person appointed by the Security Trustee in connection with this Assignment shall be entitled to be indemnified and kept indemnified in respect of all costs, and expenses (including legal fees) incurred by them or him in connection with this Assignment (including any failure or delay in paying the same) and/or the execution of any of the powers, authorities or discretions vested in them or him pursuant hereto and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in anyway relating to the Assigned Rights, and the Security Trustee may retain and pay all sums in respect of the same out of any moneys received under the powers hereby conferred.
- 12.2 Nothing in Clause 12.1 shall entitle the Security Trustee and every attorney, manager, agent or other person appointed by the Security Trustee in connection with this Assignment to be indemnified where the relevant liabilities, costs and/or expenses have been incurred or suffered as a result of the fraud, gross negligence or wilful misconduct of any such party.

13 NOTICES

All notices, requests, demands and other communications to be given under this Assignment shall be given and/or be deemed to be given in the same manner as notices to be given under the Loan Agreement, and the terms of the Loan Agreement shall apply *mutatis mutandis* to this Assignment as though such Clause were set out in full herein.

14 GOVERNING LAW AND JURISDICTION

- 14.1 This Assignment shall be construed and governed in all respects in accordance with the law of Scotland
- 14.2 For the benefit of the Security Trustee and each Finance Party, the Chargor irrevocably agrees that the Court of Session in Edinburgh is to have jurisdiction to settle any disputes which may arise out of or in connection with this Assignment and that, accordingly, any suit, action or proceedings arising out of in connection with this Assignment ("Proceedings") may be brought in that Court and for those purposes the Chargor irrevocably prorogates the jurisdiction of that Court. The Chargor irrevocably waives any objection to Proceedings in that Court on the grounds of venue or on the ground that the Proceedings have been brought in an inconvenient forum.
- 14.3 Nothing in this Clause 14 shall affect any right any person may have to take Proceedings in any other jurisdiction nor shall the taking of Proceedings in any jurisdiction preclude any person from taking Proceedings in any other jurisdiction.
- 14.4 The Chargor irrevocably consents to any process in any Proceedings anywhere being served where permitted by law by mailing a copy by registered or certified prepaid post to it in accordance with the terms of Clause 13 above. Nothing shall affect the right to serve process in any other manner permitted by law.

15 CERTIFICATE

A Certificate signed by an authorised officer of the Security Trustee shall, in the absence of manifest error, conclusively determine the Secured Obligations at any relevant time: IN WITNESS WHEREOF these presents consisting of this and the preceding eight pages and the Schedule are executed as follows:

IN WITNESS WHEREOF:

SIGNED on behalf of **LAR HOUSING TRUST** by [Name], [Charity Trustee/Authorised Signatory] at [] on [Date] in the presence of:

Witness:

Full Name:

Address:

.....

This is the schedule referred to in the preceding Assignment
by LAR Housing Trust in favour of [●] Limited as Security Trustee

Schedule

Part 1

Intimation of Assignment to Account Bank

To: The Royal Bank of Scotland plc

2015

Re: account number 18072516 with the Account Bank (sort code 83-06-08)
(the "Account")

We refer to our Account with you.

We hereby intimate to you that by an assignment dated 2015 (the Assignment) we have assigned absolutely to [●] Limited as security trustee for the Finance Parties referred to in the Assignment (the "Security Trustee") all our rights title and interest in and to all monies from time to time standing to the credit of the Account together with all entitlements to interest and other rights and benefits accruing to or arising in connection therewith.

We enclose a certified true copy of the Assignment.

We irrevocably instruct and authorise you from time to time and at any time without reference to or further authority from us and without any enquiry by you as to the justification for any such matter:

- (a) to disclose to the Security Trustee such information relating to the Account as the Security Trustee may request you to disclose to it;
- (b) following receipt by you of a notice from or on behalf of the Security Trustee that an Event of Default (as referred to in the Assignment) has occurred and is continuing, to permit the Security Trustee to operate the Account in accordance with clause 5.1 of the Assignment and you should then;
 - (i) hold all sums of money (whether representing principal or interest) standing to the credit of the Account to the order of the Security Trustee; and
 - (i) pay or release all or any part of the sums (whether representing principal or interest) standing to the credit of the Account in accordance with the written instructions of the Security Trustee.

These instructions are not to be revoked or varied without the prior written consent of the Security Trustee.

This letter is governed by the law of Scotland.

Please confirm your agreement to the above by sending the attached acknowledgment to the Security Trustee with a copy to ourselves.

Yours faithfully

for and on behalf of
LAR Housing Trust

Part 2 (of Part 1)

Acknowledgement

To: *[Insert Security Trustee name and address]*

Attention:

Date: 2015

Dear Sirs

Re: LAR Housing Trust (Scottish charity number SC044825) (the "Chargor")

We acknowledge receipt of an intimation of assignment dated 2015 (the "Intimation") referring to an assignment in your favour dated 2015 (the "Assignment") of all the Chargor's rights, title and interest in and to certain monies which may now or in the future be held by us in its name in the following account (the "Account") and the rights which the Chargor has against us in relation to the Accounts:

account number 18072516 with us (sort code 83-06-08)

We also acknowledge receipt of a copy of the Assignment.

Words defined in the Assignment shall have the same meaning in this letter.

We confirm that:

- (a) we accept the instructions and authorisations contained in the intimation and we undertake to act in accordance and comply with the terms of the Intimation;
- (b) following receipt by us of a notice from or on behalf of the Security Trustee that an Event of Default (as referred to in the Assignment) has occurred and is continuing, we shall not permit the whole or any part of the Balances on the Account to be withdrawn except on your written instructions or with your prior written consent,
- (c) we have not received notice of any right or interest of any third party in the Account, the sums standing to the credit of the Account or the debt represented by the Account and we shall but without incurring any liability in respect of such obligation forthwith give you notice of any such actual or potential right or interest of which we become aware, and
- (d) we have neither claimed or exercised nor will claim or exercise any security interest, set-off, counterclaim or other rights in respect of the Account, the sums standing to the credit of the Account or the debt represented by the Account.

We are aware that you are relying on this letter in connection with your rights under the above-mentioned assignment.

This letter is governed by the law of Scotland

Yours faithfully
for and on behalf of The Royal Bank of Scotland plc

Part 2

List of documents updating/supplementing the Business Case in the form originally submitted to Scottish Ministers

- LAR updated Business Case dated 6.6.14 and 4.8.14;
- OSCR application form, paper apart and letter to OSCR, sent by SFT to Scottish Ministers on 27.8.14 at 16.20;
- "LAR (OSCR response) final SFT" sent by SFT to Scottish Ministers on 8.7.14 at 17.41
- LAR constitution showing all amendments up to and including those made by written resolution dated 26.8.15

Part 3

Borrower's obligations

1. Insurance

- 1.1 The Borrower must ensure that at all times Insurances are maintained in full force and effect which insure the Borrower in respect of its interests in each Property (including the plant and machinery, fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed, together with all related fees and demolition costs) and (subject to availability in the general insurance market on reasonable commercial terms) to:

1.1.1 provide cover against loss or damage by fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage;

1.1.2 provide cover for site clearance, shoring or propping up, professional fees and VAT together with adequate allowance for inflation;

1.1.3 provide cover against acts of terrorism, including any third party liability arising from such acts;

1.1.4 (where the Property is let under a SAT) provide cover for an amount equal to the loss of rent under the SAT for six months or such longer period as the Security Trustee may reasonably require) including provision for any increases in rent during the period of insurance;

1.1.5 include property owners' public liability and third party liability insurance;

1.1.6 insure such other risks as a prudent company in the same business as the Borrower would insure;

in each case in an amount, and in form, and with an insurance company or underwriters, acceptable at all times to the Security Trustee acting reasonably.

- 1.2 The Borrower must procure that the Security Trustee (as agent and trustee for the Finance Parties) is named as co-insured under each of the Insurances (other than public liability and third party liability insurances) but without liability on the part of the Security Trustee or any other Finance Party for any premium in relation to those Insurances.

- 1.3 The Borrower must procure (subject to availability in the general insurance market on reasonable commercial terms) that the Insurances comply with the following requirements:

1.3.1 Each of the Insurances should contain:

- (a) non-invalidity and non-vitiating clause under which the Insurances will not be vitiated or avoided as against any insured party as a result of any circumstances beyond the control of that insured party or any misrepresentation, non-disclosure, or breach of any policy term or condition, on the part of any insured party or any agent of any insured party;
- (b) a waiver of the rights of subrogation of the insurer as against the Security Trustee, the Finance Parties and the tenants of each Property; and
- (c) a loss payee clause in such terms as the Security Trustee may reasonably require in respect of insurance claim payments otherwise payable to the Borrower;

1.3.2 the insurers must give at least 30 days' notice to the Security Trustee if any insurer

proposes to repudiate, rescind or cancel any Insurance, to treat it as avoided in whole or in part, to treat it as expired due to non-payment of premium or otherwise decline any valid claim under it by or on behalf of any insured party and must give the opportunity to rectify any such non-payment of premium within the notice period; and

- 1.3.3 the Borrower must be free to assign all amounts payable to it under each of its Insurances and all its rights in connection with those amounts in favour of the Security Trustee.
- 1.4 The Borrower must use all reasonable endeavours to ensure that the Security Trustee receives copies of the Insurances, receipts for the payment of premiums for insurance and any information in connection with the insurances and claims under them which the Security Trustee may reasonably require.
- 1.5 The Borrower must promptly notify the Security Trustee of:
 - 1.5.1 the proposed terms of any future renewal of any of the Insurances;
 - 1.5.2 any amendment, supplement, extension, termination, avoidance or cancellation of any of the Insurances made or, to its knowledge, threatened or pending; and
 - 1.5.3 any claim, and any actual or threatened refusal of any claim, under any of the Insurances; and
 - 1.5.4 any event or circumstance which has led or may lead to a breach by the Borrower of any term of this Clause.
- 1.6 The Borrower must:
 - 1.6.1 comply with the terms of the Insurances;
 - 1.6.2 not do or permit anything to be done which may make void or voidable any of the Insurances; and
 - 1.6.3 comply with all reasonable risk improvement requirements of its insurers.
- 1.7 The Borrower must ensure that:
 - 1.7.1 each premium for the Insurances is paid promptly and in any event prior to the commencement of the period of insurance for which that premium is payable; and
 - 1.7.2 all other things necessary are done so as to keep each of the Insurances in force.
- 1.8 If the Borrower fails to comply with any term of this paragraph 1, the Security Trustee may, at the expense of the Borrower, effect any insurance and generally do such things and take such other action as the Security Trustee may reasonably consider necessary or desirable to prevent or remedy any breach of this paragraph 1.

2. General Obligations

- 2.1 The Borrower shall, unless it has received the prior written consent of the Scottish Ministers to the contrary:
 - 2.1.1 notify the Scottish Ministers in writing of any actual or threatened claim against the Borrower in respect of an alleged breach of Environmental Law or remedial obligation or liability under such law which could, if well-founded, have a Material Adverse Effect;
 - 2.1.2 not create or attempt to create or allow to be created or to exist any security, charge (whether fixed or floating) or lien of any kind over any Property (except in favour of the Security Trustee) without the prior written consent of the Scottish Ministers, other than a Permitted Security Right;
 - 2.1.3 not make any Disposal (or agree to do so) without the prior written consent of the

Scottish Ministers (such consent not to be unreasonably withheld) subject to the qualification that none of the following shall require the consent of the Scottish Ministers:

- 2.1.3.1 the grant of any SAT;
- 2.1.3.2 the grant of any licence to occupy in connection with any works carried out, or proposed to be carried out, in respect of a Property;
- 2.1.3.3 the grant of any wayleaves, servitudes or other rights in favour of utility providers;
- 2.1.3.4 the grant of any temporary rights to any neighbouring proprietor, tenant or occupier to facilitate works to be carried out in respect of neighbouring subjects;
- 2.1.3.5 any agreement to take any of the steps referred to in paragraphs 2.1.3.1 to 2.1.3.4;
- 2.1.4 allow the Scottish Ministers and any person authorised by the Scottish Ministers to enter the Property at all reasonable hours in the daytime following reasonable prior written notice (and subject to compliance with all restrictions and obligations imposed on the landlord under any SAT relating to the relevant unit or units) to examine the state and condition of any Property and to leave at the Property notice in writing of all defects and repairs which the Scottish Ministers or that person reasonably considers need to be carried out to the Property to avoid a material reduction in the value of the security held by the Security Trustee;
- 2.1.5 as soon as reasonably practicable after receiving such notice, to carry out all works stipulated in such notice;
- 2.1.6 immediately upon receipt pass on to the Scottish Ministers a copy of any notice received by the Borrower from any person (including the landlord if the relevant Property is held on long lease) and at the Borrower's expense to take all such actions (including legal proceedings) as the Scottish Ministers may reasonably require to avoid a material reduction in the value of the security held by the Security Trustee and if the Borrower fails to take such actions, the Scottish Ministers shall be entitled to take such action (including legal proceedings) as it thinks fit in connection with such notice, whether or not in the name of the Borrower, and any money so spent by the Scottish Ministers shall be payable by the Borrower to the Scottish Ministers on demand;
- 2.1.7 if a Property is held on a long lease, immediately upon acquiring any extended lease or the legal title to the Property, whether under any Act of Parliament or by any other means, the Borrower will:
 - (i) deliver (as the case may be) such extended lease or the title deeds to the Property to the Scottish Ministers; and
 - (ii) if required by the Scottish Ministers execute at the Borrower's cost a Standard Security over such extended lease or title to the Property as security for the Secured Liabilities;
- 2.1.8 not create or permit to arise any encumbrance (as defined in Section 9 of the Land Registration etc. (Scotland) Act 2012) affecting the Property (or any part thereof);
- 2.1.9 not deal with any claim for compensation, however arising, in respect of all or part of the Property other than in accordance with the requirements of the Scottish Ministers, acting reasonably;
- 2.1.10 if a Property has the benefit of any rights under any agreement with the National House-Building Council or other similar body or under any arrangement giving similar rights not to deal with any claim under such agreement other than in accordance with

the reasonable requirements of the Scottish Ministers.

3. Property Management

The Borrower agrees that it will:

- 3.1 if reasonably so required by the Scottish Ministers on the grounds of failure by the Borrower in the performance of its duties as landlord under the SATs relating to the Properties, appoint such firm as the Scottish Ministers may reasonably approve to manage the Properties and to collect the Rental Income or remove any firm so acting and appoint another firm instead on terms reasonably approved by the Scottish Ministers;
- 3.2 immediately if called upon to do so by the Scottish Ministers, at the Borrower's cost to deliver such particulars as to the amount and nature of the Rental Income (including, without limitation, the identity and addresses of the lessees, sub-lessees, tenants or licensees) as the Scottish Ministers may from time to time require;
- 3.3 not without the prior written consent of the Scottish Ministers (such consent not to be unreasonably withheld):
 - (a) save in the case of a SAT, grant or agree to grant any lease or licence to occupy the whole or any part of any Property;
 - (b) grant or accept the surrender of any lease or tenancy (other than a SAT) of all or part of any Property; or
 - (c) give any consent to the assignation, transfer or sub-let of any such lease or tenancy (excluding, for the avoidance of doubt, a SAT);
 - (d) give up the possession of all or any part of any Property or grant any licence or right to occupy all or any part of any Property (other than a SAT or any right of a nature referred to in paragraphs 2.1.3.2 , 2.1.3.3 and 2.1.3.4; or
 - (e) agree to do any of such things.

4. Power of Attorney

- 4.1 Subject to clause 4.2, the Borrower irrevocably and by way of security appoints the Scottish Ministers as the attorney of and for it and in its name and on its behalf, to execute and deliver and otherwise perfect any deed, assurance, agreement, Security or act which may be required of the Borrower under this Agreement or may be required or deemed proper in the exercise of any rights or powers conferred on the Scottish Ministers under the Agreement or otherwise for any of the purposes of the Agreement.
- 4.2 The powers of the Scottish Ministers under clause 4.1 shall be exercisable only for so long as an Event of Default is subsisting.

5. Development Obligations

- 5.1 The Borrower shall, save with the prior written consent of the Scottish Ministers, such consent not to be unreasonably withheld:-
 - 5.1.1 use reasonable endeavours to procure that the design, construction and supervision of each Development is carried out and completed:-
 - (a) in accordance with the terms of the Development Documents, the Development Programme, the Necessary Consents, and the CDM Regulations;
 - (b) in a good and workmanlike manner with due diligence and all

reasonable skill and care;

- (c) in accordance with good building practice and utilising good and suitable materials;
- (d) without infringement of any material rights, reservations, restrictions, stipulations or other encumbrances on or affecting the relevant Property;
- (e) without using any techniques, practices, materials or substances for the time being not approved or not recommended by the then current British Standards and Codes of Practice;
- (f) free from any materials which are known to be deleterious, unsatisfactory or of unsuitable quality; and
- (g) by the scheduled date for completion under the Development Programme;

5.1.9 deliver to the Scottish Ministers a certified copy of the Certificate of Practical Completion within four weeks after the date of its issue and apply to the relevant building authority for a completion certificate under the applicable Building Acts within one month of that issue date;

5.1.10 ensure that (insofar as available in the market on reasonable commercial terms) each dwellinghouse comprised in the Development is covered by the NHBC 10 year Building Protection Scheme or some other comparable warranty scheme.

5.2 Save with the prior written consent of the Scottish Ministers (such consent not to be unreasonably withheld):-

5.2.1 the Borrower shall not enter into any:-

- (a) planning, roads or other agreement affecting any Property or any Development; or
- (b) bonding arrangements, agreements with any statutory undertakers or any other arrangements

which (in the opinion of the Scottish Ministers) are likely to effect a material reduction in the value of the security held by the Security Trustee;

5.2.2 the Borrower shall have and maintain all licences and authorisations necessary under any law or regulation affecting the conduct of its business and each Development, including the Necessary Consents; and

5.2.3 the Borrower shall comply with all Statutory Controls and promptly give to the Scottish Ministers a copy of any notice concerning compliance with them where non-compliance would have a material effect on the value of the security held by the Security Trustee.

6. Definitions and Interpretation

In this Part 3 of the Schedule:

- (a) words and expressions defined in the Agreement shall bear the same respective meanings; and
- (b) **Building Acts** means the Building (Scotland) Acts and all other relevant statutes and regulations;

Certificate of Practical Completion means, in relation to each Development, the

certificate to be issued under the Development Documents stating that the Development is in a state of Practical Completion;

Dangerous Substances means any substances capable of causing harm to man or any other living organism or damaging the environment;

Development means works carried out by the Borrower by way of development or substantial refurbishment of a Property;

Development Document means, in relation to each Development, each building contract and consultant appointment relating to that Development;

Development Programme means, in relation to each Development, the programme prepared by the Borrower in relation to that Development, setting out the key stages in relation to the Development and the anticipated start and completion dates for each stage;

Environmental Law means all laws, regulations, directives, codes of practice, circulars, guidance notices and court decisions (whether in the UK or elsewhere) concerning the protection of human health or welfare or the environment or the conditions of the work place or the generation, transportation, storage, treatment or disposal of Dangerous Substances;

Necessary Consents means, in relation to each Development, the Planning Permission and all other development permits, licences, consents, approvals, permissions and others under the relevant Planning Acts and any other statute, regulation, order or bye-law or from any third party as are necessary to enable the Development to be carried out in accordance with the Development Programme and for the Development to be occupied and used for its intended purpose including all title and superior landlord consents, building warrants and all roads authority approvals;

Planning Acts means the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997, the Planning (Consequential Provisions) (Scotland) Act 1997, the National Parks (Scotland) Act 2000 and the Planning, etc. (Scotland) Act 2006, together with any other statutes governing or controlling the use or development of land, buildings or property;

Planning Permission means, in relation to each Development, the planning permission issued for that Development in terms of the Planning Acts;

Practical Completion has the meaning ascribed to that term in the relevant Development Documents;

SAT means a short assured tenancy.

Part 4 - Standing Instructions to Solicitors

Dear Sirs

[] ("THE SECURITY TRUSTEE")
LAR HOUSING TRUST ("LAR")
[] ("THE PROPERTY")

You have been instructed by LAR in the acquisition of the Property.

LAR receives certain credit facilities from the Scottish Ministers in accordance with the terms of a facility agreement between LAR and the Scottish Ministers and other finance documents ("the Facility"). In accordance with the terms of the Facility, from the date of acquisition the Property will be secured to the Security Trustee acting as security trustee for the Finance Parties (being Scottish Ministers or their successors as lender to LAR and *[other lender to be detailed]*) by a standard security ("the Standard Security").

LAR therefore requires that:

- 1 You also act on behalf of the Security Trustee in connection with the grant of the Standard Security; and
- 2 You follow the standard instructions to solicitors detailed in the schedule annexed to this letter ("the Standard Instructions").

Although the Standard Instructions are intended to be comprehensive they are not exhaustive and it is likely that circumstances will arise where the Security Trustee and the Finance Parties will require to rely on your professional skill and guidance to deal with situations which are not specifically addressed and consequently you have a duty of care to each of those parties.

Note that you may satisfy yourself on any of the points 1 – 20 by way of a Certificate of Title in a form approved by LAR, granted by the seller's solicitor and addressed to both LAR and the Security Trustee. In this case, reference in the Standard Instructions to investigations and searches to be carried out and obtained by you will be deemed to be references to disclosures made in the Certificate of Title.

Nothing in these instructions lessens your duties to LAR, the Finance Parties or the Security Trustee.

For the avoidance of doubt, the Security Trustee will hold the Standard Security in trust for the Finance Parties and you will be deemed to owe a duty of care to each body which may from time to time fall within the definition of the Finance Parties as well as to LAR and to the Security Trustee. Each of such bodies (as well as LAR and the Security Trustee) shall have rights of legal recourse against you accordingly, in the event of any breach of your duty of care and/or any failure by you to comply with the Standard Instructions.

Yours faithfully

.....

Schedule
Standard Instructions to Solicitors

1. Interpretation

In these instructions:

- a. any reference to any regulation, legislation or legislative provision shall be construed as a reference to that regulation, legislation or legislative provision as amended, re-enacted or extended at the relevant time; and
- b. any reference to the "2012 Act" is a reference to the Land Registration etc. (Scotland) Act 2012.

2. Good and marketable title

- a. The title to the property must be good and marketable, and free of any burdens, restrictions, servitudes, charges or encumbrances which, at the time of settlement, might reasonably be expected to materially adversely affect the value of the property or its future marketability (other than any matters covered by indemnity insurance and which may be accepted by LAR, the requirements in respect of indemnity insurance are set out below).
- b. Following registration of the disposition in favour of LAR in the Land Register of Scotland, there is no reason why LAR would not hold a good and marketable title to its interest in the property, and be registered proprietor of such interest without exclusion or limitation of warranty; and
- c. Following registration of the standard security in favour of the Security Trustee, there is no reason why the Security Trustee would not hold a valid first ranking Standard Security over the Property and be registered as heritable creditor of the property without exclusion or limitation of warranty.

3. Valuation of the property

- a. You must take reasonable steps to verify that there are no discrepancies between the description of the property as valued and the title and other documents which a reasonably competent conveyancer should obtain and, if there are, you must tell LAR immediately.
- b. You should take reasonable steps to verify that the assumptions stated by the valuer about the title in the valuation report are correct. If they are not, please let LAR know as soon as possible as it will be necessary for LAR to check with the valuer whether the valuation needs to be revised. LAR is not expecting you to assume the role of valuer. LAR is simply trying to ensure that the valuer has valued the property based on correct information.

4. Compliance

The registration of the disposition in favour of LAR and the Standard Security in favour of the Security Trustee shall be carried out in full compliance with the terms of the 2012 Act.

5. Searches and enquiries

- a. In carrying out your investigation, you must make all usual and necessary searches and enquiries, taking into account the locality and other features of the particular property including (but not limited to) searches in the Land Register, Personal Register, the Register of Charges and Company File. In addition, a Property Enquiry Certificate, Coal Authority Report and appropriate Plans Report should be obtained. Any material disclosure made in any search and/or enquiry should be reported to LAR

(however reports should not be forwarded to LAR unless LAR specifically requests in writing that you do so).

- b. LAR accepts searches from private firms in the Land Register of Scotland, Register of Inhibitions and Adjudications, Register of Companies and Register of Insolvencies. LAR accepts Property Enquiry Certificates from private firms. You must take reasonable steps to check that private firms carry adequate indemnity cover.

6. Inhibitions and insolvency

- a. You must obtain a clear personal search against each proprietor, or each person selling to LAR if other than the proprietor, and LAR as at a date not more than three days prior to the date of completion. You must fully investigate any entries revealed by your personal search against each proprietor or person selling to LAR and LAR to ensure that they do not relate to them.
- b. Where an entry is revealed against the name of the proprietor, the person selling to LAR or LAR:
 - i. you must be satisfied that in your professional opinion the entry does not relate to the proprietor, the person selling to LAR or LAR if you are able to do so from your own knowledge or enquiries (for example in the Register of Insolvencies); or
 - ii. if, after enquiry, you are unable to certify that the entry does not relate to the proprietor, the person selling to LAR or LAR you must report this to LAR even if, in the case of an inhibition, it pre-dates the person selling to LAR's acquisition of the property.
- c. If you are aware that any transfer of the title to the property may be open to challenge as a gratuitous alienation or an unfair preference, then you must be satisfied that LAR and the Security Trustee will acquire their interests in good faith and that the Security Trustee will be protected under the relevant statutory and common law provisions against its security being set aside. You must also obtain clear personal searches against all parties to any such transfer. If in your professional opinion you are not satisfied on any such matter you must arrange indemnity insurance for an amount sufficient to protect the interests of LAR and the Security Trustee.
- d. Advance notices - You must apply to the Keeper for an Advance Notice for the disposition in favour of LAR and the standard security in favour of the Security Trustee to be either (i) entered on the application record for the property; or (ii) recorded in the Register of Sasines no earlier than 5 working days prior to the completion of the acquisition of the property.

7. Environmental Matters

- a. You must ensure that there are no actions, claims or proceedings (whether actual or potential), and no notice or information has been received by the seller which implies any liability arising under any environmental law or at common law in respect of the activities of the seller or their predecessors in ownership of the property or any adjoining properties which could give rise to any costs, liabilities or other obligations binding on LAR or its successors in ownership of the property.
- b. The property should not be subject to a green deal plan as defined in Section 1 of the Energy Act 2011.

8. Coal mining

You must obtain an appropriate Coal Authority Report, which must not be more than six months old at settlement, where it is reasonable to believe that the property could be affected by underground workings. You should advise LAR of any material disclosures. You should not simply send LAR a copy of the mining search.

9. Planning and building regulations

- a. You must by making appropriate searches and enquiries take all reasonable steps to ensure that:
 - a. the property has the benefit of any necessary planning and building regulation consents;
 - b. there is no evidence of any breach of the conditions of those consents or any other consent or certificate affecting the property; and
 - c. no matter is revealed which would preclude the property from being used as a residential property or indicate that the property may be the subject of enforcement action.
- b. If there is such evidence and the seller is not providing a sufficient undertaking to satisfy those outstanding conditions post settlement, then this must be reported to LAR. Copies of planning permissions, building warrants and other consents or certificates should not be sent to LAR.
- c. If the property will be subject to any enforceable restrictions, for example under an agreement (such as an agreement under section 75 of the Town and Country Planning (Scotland) Act 1997) or in a planning permission which, at the time of settlement, might reasonably be expected materially to affect its value or its future marketability, you should report this to LAR.

10. Title conditions

- a. You must examine the title to the property.
- b. You must enquire whether the property has been built, altered or is currently used in breach of a title condition. LAR and the Security Trustee will rely on you to take reasonable steps to check that such a condition is not enforceable. If in your professional opinion you believe that there is a risk of enforceability you must ensure (subject to below) that indemnity insurance is in place at settlement.
- c. LAR will not insist on indemnity insurance:
 - i. if you are satisfied that there is no risk to the interests of LAR and the Security Trustee;
 - ii. the breach has continued for more than 20 years; and
 - iii. there is nothing to suggest that any action is being taken or is threatened in respect of the breach.
- c. Where the property comprises a flat, the cost of maintenance of the foundations and roof must be borne by the owners of the building of which the flat forms part in equitable proportions in terms of the title.
- d. You must enquire whether there are any material restrictions on the use of the property which are contrary to LAR's intended use. If there are any such restrictions, you must report details to LAR .

11. Boundaries

These must be clearly defined by reference to a suitable plan compliant with the 2012 Act. They must also accord with the information given in the valuation report. You should ensure that the plan or the description accords with LAR's understanding of the extent of the property to be secured by the Standard Security. You must report to LAR if there are any discrepancies and an appropriate Plans Report should be obtained and any material discrepancies reported to LAR.

12. Servitudes

- a. You must ensure that the property has the benefit of all servitudes necessary for its full use and enjoyment. This would include, for example, rights of way (both vehicular and pedestrian), the use of services and any necessary rights of entry for repair. All such rights must be enforceable by LAR and LAR's successors in title. If they are not, you must report to LAR.
- b. If the seller owns adjoining land over which LAR requires right to access the property or in respect of which services are provided to the property, the land over which such access is to be taken or over or through which such services are to be provided must be included in the Standard Security.

13. Roads and sewers

- a. If the roads serving the property are not adopted or maintained at public expense, but it is intended that they should be so, there must be a road bond in existence where required by statutory regulation, or you must make an appropriate retention from the purchase price, which must be reported to LAR.
- b. The property must be served by a public sewer or by private sewerage arrangements which have the necessary approvals from the sewerage authority or you must report to LAR.

14. Rights of pre-emption and restrictions on resale

You must ensure that there are no rights of pre-emption, restrictions on resale, options or similar arrangements in existence at settlement which will affect the Standard Security. If there are, please report this to LAR.

15. Improvement and repair grants

Where the property is subject to an improvement or repair grant which will not be discharged or waived on settlement, you must report this matter to LAR.

16. Other occupiers/Employees

You must ensure that:

- a. there are no occupancy rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981 as amended or the Civil Partnership Act 2004 or any similar such legislation which will have priority over the Standard Security. Any deed required for this purpose must be executed prior to settlement;
- c. no liferent has been created which could result in the Security Trustee not obtaining vacant possession in the event of it enforcing the Standard Security against LAR;
- d. the seller has not received any notification in respect of the property pursuant to the provisions of section 45 (Notification of prescriptive applications) of the 2012 Act; and
- e. there are no persons to whom the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply in relation to (i) the sale of the property to LAR; and (ii) the creation or cessation of any contractual relationship consequent to such sale, with the effect of such person's employment (or liability for it and its termination) being deemed to transfer to LAR.

17. New properties – building standards indemnity schemes

- a. If the property is newly built and to be occupied for the first time, you must ensure that it was built under the following:
 - iii. the National House Building Council (NHBC) Buildmark scheme;
 - iv. the Zurich Municipal Newbuild scheme;
 - v. the Premier Guarantee for Private Housing and Completed Housing; or
 - vi. any other new home warranty or insurance schemes which LAR has confirmed in writing as being acceptable.
- b. If the property will not have the backing of a new home warranty or insurance scheme but the seller has indicated that a professional consultant's certificate will be provided as an alternative, LAR may be willing to accept such a certificate if it is satisfied with the details of the proposed certificate including the period of time it will subsist for and the professional indemnity insurance of the consultant, and provided that the Security Trustee will be given the benefit of the certificate and will be able to place reliance upon it.
- c. You must obtain by settlement a copy of a new home warranty provider's cover note from the developer. The cover note must confirm that the warranty provider has carried out a final/pre-handover inspection and that the new home warranty will be provided. The warranty documentation should be sent to LAR after settlement.

18. Insurance

You must:

- a. report to LAR if the property is not insured in accordance with the requirements as set out in the Standard Security;
- b. ensure that the insurance cover starts from no later than the date of settlement;
- c. check that the buildings insurance cover is for the full reinstatement value and is index linked;
- d. ensure that the excess does not exceed £500 (five hundred pounds sterling), except in claims for subsidence, ground heave or landslip where a maximum of £1,000 (one thousand pounds sterling) would apply (if the property is to be insured on a block policy which relates to a larger building of which the property forms part, the foregoing figures are the maximum permitted relative to the property's share or interest in the block policy) ; and
- e. confirm that all the following risks are covered in the insurance policy:
 - i. fire;
 - ii. lightning;
 - iii. aircraft;
 - iv. explosion;
 - v. earthquake;
 - vi. storm;
 - vii. flood;
 - viii. escape of water or oil;
 - ix. riot;
 - x. malicious damage;
 - xi. theft or attempted theft;
 - xii. falling trees and branches and aerials;
 - xiii. subsidence;
 - xiv. heave;
 - xv. landslip;
 - xvi. collision;
 - xvii. accidental damage to underground services;
 - xviii. professional fees, demolition and site clearance costs; and
 - xix. public liability to anyone else.

19. Indemnity insurance

If you identify that the taking out of an indemnity insurance policy is a course required to ensure that the property has a good and marketable title at settlement, you must first tell LAR and only if it agrees should you then take steps to take out suitable insurance. The draft policy should not be sent to the Security Trustee, although the policy must be sent to the Security Trustee after settlement. Where indemnity insurance is affected you must approve the terms of the policy on the Security Trustee's behalf and ensure that:

- a. the limit of indemnity must meet LAR's requirements [*Note: this limit to be specified in each Instruction*];
- b. you must ensure that the insurance cover starts from no later than the date of settlement;
- c. the policy must be effected without cost to LAR or the Security Trustee;
- d. you must disclose to the insurer all relevant information which you have obtained;
- e. you must make sure that the policy does not contain conditions which you know would make it void or prejudice the interests of LAR and the Security Trustee;
- f. you must provide a copy of the policy to LAR and explain to LAR why the policy was effected and that a further policy may be required if there is further lending against the security of the property;

- g. you must explain to LAR that it will need to comply with any conditions of the policy and that LAR should notify the Security Trustee of any notice or potential claim in respect of the policy; and
- h. the policy should always be for the Security Trustee's benefit and, for the benefit of LAR and any subsequent proprietor or heritable creditor of the property.

20. Powers of attorney

If any document is being executed under power of attorney, you must see an extract registered power of attorney, the original or a certified copy, and ensure that it is, on its face, properly drawn up, that it is adequate for the transaction contemplated, that it appears to be properly executed by the granter and that the attorney knows of no reason why such power of attorney will not be subsisting at settlement.

21. Safeguards

If you are not familiar with the seller's solicitors you must verify that they appear in a legal directory or that they are currently on record with the Law Society of Scotland or other supervisory body as practising at the address shown on their notepaper.

22. Reporting back to LAR

- a. LAR, the Security Trustee and the Finance Parties are placing full reliance upon you to act for LAR and the Security Trustee in a proper and professional manner in accordance with these instructions.
- b. Where you are required to report matters to LAR in terms of these instructions you should at first instance address your correspondence to [] or such other person as LAR may notify to you in writing making reference to the subject heading under which the matter to be reported upon falls and setting out clearly why it is necessary to report back to LAR under these instructions. Whilst LAR may, on occasion, decide to discuss the matter with the legal advisers acting in other aspects of the transaction all correspondence on matters which you are required under these instructions to report to LAR should be drafted on the basis that it will not do so and that it will rely purely on your firm's advice and recommendation.

23. The documentation

a. Solicitor's Form 1

- i. You must accurately complete and return to LAR the Solicitor's Form 1 in the form set out in Appendix 1 to these Standing Instructions to Solicitors as soon as you are in a position to do so. You should note that the Solicitor's Form 1 must be completed and returned before submitting the certificate referred to in paragraph b below.
- ii. You should accurately complete the title description in the Standard Security and ensure that the Standard Security is properly executed by LAR prior to settlement, and that LAR is properly designed.

b. Certificate

- i. Not later than 3 working days prior to completion of the acquisition of the Property you should forward to the Security Trustee a certificate ('Certificate') in the form set out in Appendix 2 to these Standing Instructions.
- ii. You should note that although the Certificate will be addressed to the Security Trustee, (a) the Security Trustee holds the Standard Security in trust for the Finance Parties (as defined in the Standard Security) and (b) the Security Trustee may at some time transfer its interest in the security. The persons falling from time to time within the definition of the Finance Parties, and (where the Security Trustee transfers its interest in the security, the Security

Trustee's successors in title to the security and persons deriving title under or through the security, will also rely on your Certificate.

24. After settlement

You must forthwith after settlement:

- a. register the disposition in favour of LAR and the Standard Security in the Land Register. Before making your application for registration, you must place on your file certified copies of the Land Certificate/Title Sheet (if any), the disposition or other conveyance in favour of LAR, the Standard Security and any discharge from a previous heritable creditor. Following registration, you must check the Title Sheet for accuracy, and ensure there is no exclusion or limitation of warranty or other adverse entry.
- b. If the purchase is notifiable to Revenue Scotland for LBTT purposes, submit to Revenue Scotland either a completed and signed LBTT return in paper form or the equivalent online electronic LBTT return, and arrange for the payment to Revenue Scotland of the LBTT (if any), payable in relation to the purchase within the statutory time limits.
- c. Copies of all title deeds, searches, enquiries, consents, requisitions and documents relating to the property must be held to the Security Trustee's order and you must not create or exercise any lien over them.

25. Your transaction file

- a. For evidential purposes you must keep your file in respect of this transaction for at least six years from the date of settlement. Microfiche or data imaging is suitable compliance with this requirement.
- b. Where you are processing personal data (as defined in the Data Protection Act 1998) on the Security Trustee's behalf you must: take such security measures as are required to enable you to comply with obligations equivalent to those imposed on the Security Trustee by the Data Protection Act 1998; and process such personal data only in accordance with the Security Trustee's instructions. In addition, you must allow the Security Trustee to conduct such reasonable audit of your information security measures as it requires to ensure your compliance with your obligations in this paragraph.
- c. Subject to any right of lien or any overriding duty of confidentiality, you should treat documents comprising your file as if they are owned by the Security Trustee and you should not part with them without its consent. You should on request supply certified copies of documents on the file or a certified copy of the microfiche to the Security Trustee, and may make a reasonable charge for copying and certification.

26. Payment of fees

You must not allow non-payment of fees or outlays to delay the completion and submission of a Land and Business Transaction Tax Return (with Land and Business Transaction Tax if applicable), or registration of the disposition and standard security in the Land Register of Scotland.

APPENDIX 1

SOLICITOR'S FORM 1

To: the Security Trustee

From: Solicitor's reference: [●]
[Insert details of solicitor]

Dear Sirs

PROPERTY: Property being purchased [INSERT DETAILS]

We confirm that we have been instructed to act on behalf of LAR Housing Trust, a Scottish charitable incorporated organisation (Scottish charity number SC044825) having its principal office at 1st Floor, 11-15 Thistle Street, Edinburgh EH2 1DF in connection with the purchase of the Property.

We confirm that:-

- 1 we will act on your behalf in connection with the grant of a standard security over the Property in favour of you;
- 2 we will comply with the Standing Instructions to Solicitors dated [] that have been supplied to us;
- 3 the Full Purchase Price of the Property is [£[●]]; and
- 4 the anticipated completion date is [specify date].

Yours faithfully

[Date and insert details of solicitor signing report]

[The Solicitor's Form 1 must be returned unamended (save for the words in square brackets)]

APPENDIX 2

FORM OF CERTIFICATE OF TITLE

To the Security Trustee and Finance Parties

Dear Sirs

LAR Housing Trust ("LAR")

Address of Property: [] (the "Property")

With refer to the Standing Instructions to Solicitors dated []. We hereby confirm:

1. we have fully complied with the terms of the Standing Instructions to Solicitors;
2. in our opinion, subject to (i) any matter disclosed to you in this Property Report; and (ii) due registration in the Land Register of the right of LAR in the Property created by the [disposition] [assignment] from the seller to LAR, LAR has a good and marketable title to the Property and does not hold the Property in trust for any other party, and we know of no reason why LAR should not be registered as proprietor without exclusion or limitation of warranty;
3. in our opinion, subject to (i) any matter disclosed to you in this Property Report; and (ii) due registration in the Land Register of the standard security in favour of the Security Trustee, we know of no reason why the Security Trustee should not obtain a valid first ranking standard security over the Property and be duly registered as heritable creditor in such standard security without exclusion or limitation of warranty.

Yours faithfully

Part 5

Form of Standard Security

STANDARD SECURITY

By

- (1) **LAR HOUSING TRUST**, a Scottish charitable incorporated organisation (Scottish charity number SC044825) having its principal office at Evans Business Centre, 15 Pitreavie Court, Pitreavie Business Park, Dunfermline KY11 8UU (the "**Chargor**")

in favour of

- (2) [●] **LIMITED**, a company incorporated under the Companies Acts with registered number [●] and having its registered office at [●] as Security Trustee for the Finance Parties as defined in the Deed of Trust referred to below (the "**Security Trustee**", which expression shall include its successors and assignees as trustee foresaid from time to time).

CONSIDERING THAT:

- (i) pursuant to a facility agreement (the "**Facility Agreement**") dated [●] between the Chargor as borrower and The Scottish Ministers (as amended, varied, novated or supplemented from time to time), the Scottish Ministers have agreed to make credit facilities available to the Chargor;
- (ii) one of the conditions precedent to the availability of the facilities referred to in paragraph (i) above is that the Chargor grants to the Security Trustee this Standard Security.
- (iii) this Standard Security is a Finance Document.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Standard Security:

"**Declaration of Trust**" means the declaration of trust dated [●] among the Chargor, The Scottish Ministers and the Security Trustee;

"**Finance Parties**" has the meaning given to it in the Declaration of Trust;

"**Secured Liabilities**" means all present and future obligations and liabilities of the Chargor to the Finance Parties (or any of them), whether actual, contingent, sole, joint and/or several or otherwise, including, without prejudice to the foregoing generality, all obligations to indemnify the Finance Parties (or any of them);

"**Security Subjects**" means ALL and WHOLE [●]; and

"**Schedule**" means the Schedule to this Standard Security

1.2 Construction

References to.-

- (a) statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation,
- (b) "including" shall not be construed as limiting the generality of the words preceding it;

- (c) words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- (d) this standard security and to any provisions of it or to any other document referred to in this Standard Security shall be construed as references thereto as amended, varied, supplemented, restated, substituted or novated from time to time and in however fundamental a manner;
- (e) any person are to be construed to include references to a corporation, firm, company, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- (f) any person are to be construed to include that person's (and any subsequent person's) successors in title and any permitted assignees or transferees (whether direct or indirect) in accordance with their respective interests,
- (g) clause headings are for ease of reference only and are not to affect the interpretation of this Standard Security;
- (h) clauses and sub-clauses are references to clauses and sub-clauses in this Standard Security unless otherwise indicated.

2 BOND

- 2.1 The Chargor undertakes to the Security Trustee for itself and as trustee for the Finance Parties that it will pay or discharge to the Security Trustee all of the Secured Liabilities when the Secured Liabilities become due for payment or discharge (whether by acceleration or otherwise).
- 2.2 The Chargor will at all times comply with the obligations, undertakings, restrictions and others set out in the Schedule.

3 CHARGE

The Chargor hereby in security of the Secured Liabilities grants a standard security in favour of the Security Trustee over the Security Subjects.

4 STANDARD CONDITIONS

The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, and any lawful variation thereof operative for the time being, shall apply and the Chargor agrees that the Standard Conditions shall be varied:

- 4.1 by the terms of Part A of the Schedule and (in any case where the Chargor is carrying out a Development, as defined in the Schedule) Part B of the Schedule; and
- 4.2 to the effect that upon the occurrence of an Event of Default and the Security Trustee giving notice to the Chargor that this Standard Security is enforceable:
 - 4.2.1 the Chargor shall be held to be in default within the meaning of Standard Condition 9(1)(b) of the Standard Conditions; and
 - 4.2.2 the Security Trustee shall be able to take warrant of summary ejection against the Chargor, for the purposes of obtaining possession of the Security Subjects.

5 NOTICE OF SUBSEQUENT CHARGE

If the Security Trustee or any other Finance Party receives notice of any subsequent charge or other interest affecting all or any part of the Security Subjects, the Security Trustee and each other Finance Party may open a new account or accounts in the name of the Chargor and, if or insofar as the Security Trustee or such other Finance Party does not open a new account or

accounts, it shall nevertheless be treated as if it had done so at the time when it receives such notice and as and from that time all payments made by the Chargor to the Security Trustee (whether in its capacity as trustee or otherwise) or to another Finance Party shall, notwithstanding any instructions by the Chargor to the contrary, be credited or treated as having been credited to the new account or accounts and shall not operate to reduce the amount due by the Chargor to the Security Trustee or such Finance Party at the time the notice was received.

6 APPLICATION OF ENFORCEMENT PROCEEDS

Nothing contained in this Standard Security shall limit the right of the Security Trustee (and the Chargor acknowledges that the Security Trustee is so entitled) if and for so long as the Security Trustee, in its discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of the security interest hereby granted or any security created pursuant to this Standard Security into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Liabilities.

7 ASSIGNATION

- 7.1 The Security Trustee may assign all of its rights and obligations under this Standard Security without the consent of the Chargor.
- 7.2 The Chargor may not assign any of its rights or transfer any of its rights or obligations under this Standard Security without the prior written consent of the Security Trustee.

8 EXPENSES AND INDEMNITY

The Chargor must:

- 8.1 immediately on demand pay all costs and expenses (including legal fees) incurred in connection with this Standard Security by the Security Trustee and any attorney, manager, agent or other person appointed by the Security Trustee under this Standard Security including any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise; and
- 8.2 keep each of them indemnified against any failure or delay in paying those costs or expenses.

9 NOTICES

All notices, requests, demands and other communications to be given under this Standard Security shall be given and/or be deemed to be given in the same manner as notices to be given under the Declaration of Trust and the terms of clause [xx] (Notices) of the Declaration of Trust shall apply *mutatis mutandis* to this Standard Security as though that clause were set out in full in this Standard Security.

10 GOVERNING LAW AND JURISDICTION

This Standard Security shall be governed by, and construed in all respects in accordance with, the law of Scotland and, for the benefit of the Security Trustee, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish Courts but without prejudice to the ability of the Security Trustee to proceed against the Chargor in any other appropriate jurisdiction.

11 WARRANTICE AND CONSENT TO REGISTRATION

- 11.1 The Chargor hereby grants warrantice.
- 11.2 A certificate signed by any official, manager or equivalent account officer of the Security Trustee shall, in the absence of manifest error, conclusively determine the Secured Liabilities at any relevant time and shall constitute a balance and charge against the Chargor, and no suspension of a charge or of a threatened charge for payment of the balance so constituted shall pass nor any sist of execution thereon be granted except on consignment.

11.3 The Chargor hereby consents to the registration of this Standard Security and of any such certificate for preservation and execution: IN WITNESS WHEREOF these presents consisting of this and the preceding [xx] pages together with the Schedule hereto are executed as follows:

THE CHARGOR

SUBSCRIBED for and on behalf of
the said **LAR HOUSING TRUST**

at

on

by

Print Full Name

Charity Trustee

before this witness

Print Full Name

Witness

Address

SCHEDULE

This is the Schedule referred to in the preceding standard security by LAR Housing Trust in favour of [●] as security trustee

For the purpose of this Schedule:

"Account" means the account in the name of the Chargor with the Royal Bank of Scotland plc, account no 18072516, sort code 83-06-08

"Account Charge" means the fixed security over the Account granted or to be granted by the Chargor in favour of the Security Trustee.

"Assignment in Security" means an assignment in security of the rights or assets specified therein granted or to be granted by the Chargor in favour of the Security Trustee.

Building Acts means the Building (Scotland) Acts and all other relevant statutes and regulations;

Certificate of Practical Completion means, in relation to each Development, the certificate to be issued under the Development Documents stating that the Development is in a state of Practical Completion;

"Dangerous Substances" means any substances capable of causing harm to man or any other living organism or damaging the environment.

"Development" means works carried out by the Chargor by way of development or substantial refurbishment of the Security Subjects;

"Development Document" means, in relation to each Development, each building contract and consultant appointment relating to that Development;

Development Programme means, in relation to each Development, the programme prepared by the Chargor in relation to that Development, setting out the key stages in relation to the Development and the anticipated start and completion dates for each stage;

Disposal means any sale, transfer or other form of disposal of the Security Subjects;

"Environmental Law" means all laws, regulations, directives, codes of practice, circulars, guidance notices and court decisions (whether in the UK or elsewhere) concerning the protection of human health or welfare or the environment or the conditions of the work place or the generation, transportation, storage, treatment or disposal of Dangerous Substances.

"Finance Documents" means (to the extent that they have been executed by the respective parties at the relevant time), the Facility Agreement, the Deed of Trust, the Intercreditor Agreement, and the Security Documents;

Insurances mean contracts of insurance required under the Finance Documents

"Material Adverse Effect" means in the reasonable opinion of the Security Trustee a material adverse effect on:

- (a) the business, operations, assets, property, condition (financial or otherwise) or prospects of the Chargor; or
- (b) the ability of the Chargor to perform its obligations under the Finance Documents; or

- (c) the validity or enforceability of, or the effectiveness or ranking of any Security Document; or
- (d) the rights or remedies of the Security Trustee under any of the Finance Documents.

"Necessary Consents" means, in relation to a Development, the Planning Permission and all other development permits, licences, consents, approvals, permissions and others under the relevant Planning Acts and any other statute, regulation, order or bye-law or from any third party as are necessary to enable the Development to be carried out in accordance with the Development Documents and Development Programme and for the Development to be occupied and used for its intended purpose including all title, and (if applicable) superior landlord, consents, building warrants and all highway department approvals.

Permitted Security Right(s) means:-

- (a) liens and rights of set-off securing obligations which are not overdue beyond their standard payment dates, arising by operation of law in the ordinary and usual course of trading;
- (b) Security arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired in the ordinary and usual course of trading; and
- (c) Security granted in terms of the Finance Documents or with the prior written approval of the Security Trustee;

"Planning Acts" means the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997, the Planning (Consequential Provisions) (Scotland) Act 1997, the National Parks (Scotland) Act 2000 and the Planning, etc. (Scotland) Act 2006, together with any other statutes governing or controlling the use or development of land, buildings or property.

"Planning Permission" means, in relation to each Development, the detailed planning permission relative to that Development;

"Rental Income" means the rents receivable under the Short Assured Tenancies in force from time to time in respect of the Security Subjects;

"Security Document" means this Standard Security, each Account Charge, Assignment of Rent, Assignment in Security, and any other document classified as such by the Security Trustee;

"Security Subjects" means ALL and WHOLE [●]

"Security Trustee" has the meaning given to that expression in the Standard Security;

"SAT" means a tenancy which falls within the definition of "short assured tenancies" under the Housing (Scotland) Act 1988;

"Standard Security" means this Standard Security;

A. OBLIGATIONS

1. The Chargor's Obligations

The Chargor shall, unless it has received prior written consent of the Security Trustee to the contrary:

- 1.1 notify the Security Trustee in writing of any actual or threatened claim against the Chargor in respect of an alleged breach of Environmental Law or remedial obligation or liability under such law which could, if well-founded, have a Material Adverse Effect;
- 1.2 not create or attempt to create or allow to be created or to exist any security, charge (whether fixed or floating) or lien of any kind over the Security Subjects (except in favour of the Security Trustee) without the prior written consent of the Security Trustee other than a Permitted Security Right;
- 1.3 not make any Disposal of all or any part of or interest in the Security Subjects, or agree to do so, without the prior written consent of the Security Trustee (which consent shall not be unreasonably withheld), subject to the qualification that none of the following steps shall require the consent of the Security Trustee:
 - 1.3.1 the grant of any SAT;
 - 1.3.2 the grant of any licence to occupy in connection with any works carried out, or proposed to be carried out, in respect of the Security Subjects;
 - 1.3.3 the grant of any wayleaves, servitudes or other rights in favour of utility providers;
 - 1.3.4 the grant of any temporary rights to any neighbouring proprietor, tenant or occupier to facilitate works to be carried out in respect of neighbouring subjects;
 - 1.3.5 any agreement to take any of the steps referred to in paragraphs 1.3.1 to 1.3.4.
- 1.4 allow the Security Trustee and any person authorised by the Security Trustee to enter the Security Subjects at all reasonable hours in the daytime following reasonable prior written notice (and subject to compliance with all restrictions and obligations imposed on the landlord under any Short Assured Tenancy relating to the relevant unit or units) to examine the state and condition of the Security Subjects and to give to the Chargor notice in writing of all defects and repairs which that person reasonably considers need to be carried out to the Security Subjects to avoid a material reduction in the value of the Security Trustee's security;
- 1.5 as soon as reasonably practicable after receiving such notice, carry out all works stipulated in such notice;
- 1.6 immediately upon receipt, pass on to the Security Trustee a copy of any notice received by the Chargor from any person (including the landlord if the Security Subjects are held on long lease) and at the Chargor's expense to take all such actions (including legal proceedings) as the Security Trustee may reasonably require in connection with such notices to avoid a material reduction in the value of the Security Trustee's security and if the Chargor fails to take such actions, the Security Trustee shall be entitled to take such action (including legal proceedings) as it thinks fit in connection with such notice, whether or not in the name of the Chargor, and any money so spent by the Security Trustee shall be payable by the Chargor to the Security Trustee on demand;
- 1.7 if the Security Subjects are held on long lease, immediately upon acquiring any extended lease or the legal title to the Security Subjects, whether under any Act of Parliament or by any other means, the Chargor shall:
 - (a) deliver (as the case may be) such extended lease or the documents evidencing its legal title to the Security Subjects to the Security Trustee; and

- (b) if required by the Security Trustee execute at the Chargor's cost a standard security in favour of the Security Trustee in the same form mutatis mutandis as the Standard Security over such extended lease or title to the Security Subjects (as the case may be) as security for the Secured Liabilities.

- 1.8 not create or permit to arise any encumbrance (as defined in Section 9 of the Land Registration etc. (Scotland) Act 2012) affecting the Property (or any part thereof);
- 1.9 not deal with any claim for compensation, however arising, in respect of all or part of the Security Subjects other than in accordance with the requirements of the Security Trustee (acting reasonably); and
- 1.10 if the Security Subjects have the benefit of any rights under any agreement with the National House-Building Council or other similar body or under any arrangement giving similar rights, not deal with any claim under such agreement other than in accordance with the reasonable requirements of the Security Trustee.

2. Assignment of Rents and Property Manager

If the whole or any part of the Security Subjects is, now or at any time while the Standard Security is in force, let, leased or licensed, the Chargor agrees with the Security Trustee that it will:

- 2.1 if reasonably so required by the Security Trustee on the grounds of failure by the Chargor in the performance of its duties as landlord under the SATs relating to the Security Subjects, appoint such firm as the Security Trustee may reasonably approve to manage the Security Subjects and to collect the Rental Income or remove any firm so acting and appoint another firm instead on terms reasonably approved by the Security Trustee;
- 2.2 immediately if called upon to do so by the Security Trustee, at the Chargor's cost to deliver such particulars as to the amount and nature of the Rental Income (including, without limitation, the identity and addresses of the lessees, sub-lessees, tenants or licensees) as the Security Trustee may from time to time require; and
- 2.3 at the option of the Security Trustee, instead of requiring the appointment of a firm to manage the Security Subjects pursuant to paragraph 2.1, if called upon to do so by the Security Trustee, at the Chargor's cost, to serve written notice on the lessees, sub-lessees, tenants or licensees of the Security Subjects requiring them to pay all rents payable by them in the future in relation to the Security Subjects, to the Security Trustee or as the Security Trustee may direct.

3. Insurance

- 3.1 The Chargor must ensure that at all times Insurances are maintained in full force and effect which insure the Chargor in respect of its interests in the Security Subjects (including the plant and machinery, fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed, together with all related fees and demolition costs) and (subject to availability in the general insurance market on reasonable commercial terms) to:
 - 3.1.1 provide cover against loss or damage by fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage;
 - 3.1.2 provide cover for site clearance, shoring or propping up, professional fees and VAT together with adequate allowance for inflation;
 - 3.1.3 provide cover against acts of terrorism, including any third party liability arising from such acts;
 - 3.1.4 (where the Security Subjects are let under a SAT) provide cover for an amount equal to the loss of rent under the SAT for six months or such longer period as the Security

Trustee may reasonably require) including provision for any increases in rent during the period of insurance;

3.1.5 include property owners' public liability and third party liability insurance;

3.1.6 insure such other risks as a prudent company in the same business as the Chargor would insure;

in each case in an amount, and in form, and with an insurance company or underwriters, acceptable at all times to the Security Trustee acting reasonably.

3.2 The Chargor must procure that the Security Trustee (as agent and trustee for the Finance Parties) is named as co-insured under each of the Insurances (other than public liability and third party liability insurances) but without liability on the part of the Security Trustee or any other Finance Party for any premium in relation to those Insurances.

3.3 The Chargor must procure (subject to availability in the general insurance market on reasonable commercial terms) that the Insurances comply with the following requirements:

3.3.1 Each of the Insurances should contain:

(a) non-invalidity and non-vitiation clause under which the Insurances will not be vitiated or avoided as against any insured party as a result of any circumstances beyond the control of that insured party or any misrepresentation, non-disclosure, or breach of any policy term or condition, on the part of any insured party or any agent of any insured party;

(b) a waiver of the rights of subrogation of the insurer as against the Security Trustee, the Finance Parties and the tenants of the Security Subjects; and

(c) a loss payee clause in such terms as the Security Trustee may reasonably require in respect of insurance claim payments otherwise payable to the Chargor;

3.3.2 the insurers must give at least 30 days' notice to the Security Trustee if any insurer proposes to repudiate, rescind or cancel any Insurance, to treat it as avoided in whole or in part, to treat it as expired due to non-payment of premium or otherwise decline any valid claim under it by or on behalf of any insured party and must give the opportunity to rectify any such non-payment of premium within the notice period; and

3.3.3 the Chargor must be free to assign all amounts payable to it under each of its Insurances and all its rights in connection with those amounts in favour of the Security Trustee.

3.4 The Chargor must use all reasonable endeavours to ensure that the Security Trustee receives copies of the Insurances, receipts for the payment of premiums for insurance and any information in connection with the insurances and claims under them which the Security Trustee may reasonably require.

3.5 The Chargor must promptly notify the Security Trustee of:

3.5.1 the proposed terms of any future renewal of any of the Insurances;

3.5.2 any amendment, supplement, extension, termination, avoidance or cancellation of any of the Insurances made or, to its knowledge, threatened or pending; and

3.5.3 any claim, and any actual or threatened refusal of any claim, under any of the Insurances; and

3.5.4 any event or circumstance which has led or may lead to a breach by the Chargor of any term of this Clause.

3.6 The Chargor must:

- 3.6.1 comply with the terms of the Insurances;
 - 3.6.2 not do or permit anything to be done which may make void or voidable any of the Insurances; and
 - 3.6.3 comply with all reasonable risk improvement requirements of its insurers.
- 3.7 The Chargor must ensure that:
- 3.7.1 each premium for the Insurances is paid promptly and in any event prior to the commencement of the period of insurance for which that premium is payable; and
 - 3.7.2 all other things necessary are done so as to keep each of the Insurances in force.
- 3.8 If the Chargor fails to comply with any term of this paragraph 3, the Security Trustee may, at the expense of the Chargor, effect any insurance and generally do such things and take such other action as the Security Trustee may reasonably consider necessary or desirable to prevent or remedy any breach of this paragraph 3.

4. The Chargor's Leasing Powers

The Chargor will not without the prior written consent of the Security Trustee (such consent not to be unreasonably withheld):

- (f) save in the case of a SAT, grant or agree to grant any lease or licence to occupy the whole or any part of the Security Subjects;
- (g) grant or accept the surrender of any lease or tenancy (other than a SAT) of all or part of the Security Subjects; or
- (h) give any consent to the assignation, transfer or sub-let of any such lease or tenancy (excluding, for the avoidance of doubt, a SAT);
- (i) give up the possession of all or any part of the Security Subjects or grant any licence or right to occupy all or any part of the Security Subjects (other than a SAT or any right of a nature referred to in paragraph 1.3.2, 1.3.3 or 1.3.4); or
- (j) agree to do any of such things.

5. Power Of Attorney

The Chargor irrevocably and by way of security appoints the Security Trustee as the attorney of it, for the Chargor and in the Chargor's name and on its behalf, to execute and deliver and otherwise perfect any deed, assurance, agreement, standard security or act which may be required of the Chargor under this Standard Security or may be required or deemed proper in the exercise of any rights or powers conferred on the Security Trustee under the Standard Security or otherwise for any of the purposes of the Standard Security. The powers of the Security Trustee under the preceding provisions of this paragraph 5 shall, however, be exercisable only for so long as an Event of Default is subsisting.

B. DEVELOPMENT OBLIGATIONS

- 1.** The Chargor shall, save with the prior written consent of the Security Trustee (such consent not to be unreasonably withheld):-
 - 1.1** use reasonable endeavours to procure that the design, construction and supervision of the Development is carried out and completed:-
 - 1.1.1** in accordance with the terms of the Development Documents, the Development Programme, the Necessary Consents, and the CDM Regulations;
 - 1.1.2** in a good and workmanlike manner with due diligence and all reasonable skill and care;
 - 1.1.3** in accordance with good building practice and utilising good and suitable materials;
 - 1.1.4** without infringement of any material rights, reservations, restrictions, stipulations or other encumbrances on or affecting the Security Subjects;
 - 1.1.5** without using any techniques, practices, materials or substances for the time being not approved or not recommended by the then current British Standards and Codes of Practice;
 - 1.1.6** free from any materials which are known to be deleterious, unsatisfactory or of unsuitable quality; and
 - 1.1.7** by the scheduled date for completion under the Development Programme;
 - 1.2** deliver to the Security Trustee a certified copy of the Certificate of Practical Completion within four weeks after the date of its issue and apply to the relevant building authority for a completion certificate under the applicable Building Acts within one month of that issue date;
 - 1.3** ensure (insofar as available at the time in the market on reasonable commercial terms) that each dwellinghouse comprised in the Development is covered by the NHBC 10 year Building Protection Scheme or some other comparable home warranty scheme.
- 2.** Save with the prior written consent of the Security Trustee (such consent not to be unreasonably withheld):-
 - 2.1** the Chargor shall not enter into any:-
 - 2.1.1** planning, roads or other agreement affecting the Security Subjects or the Development; or
 - 2.1.2** bonding arrangements, agreements with any statutory undertakers or any other arrangementswhich are likely to effect a material reduction in the value of the Security Trustee's security;
 - 2.2** the Chargor shall have and maintain all licences and authorisations necessary under any law or regulation affecting the conduct of its business and the Development, including the Necessary Consents; and

- 2.3 comply with all Statutory Controls and promptly give to the Security Trustee a copy of any notice concerning compliance with them where non-compliance would have a material effect on the value of the Security Trustee's security.

Charity Trustee

Part 6 - Form of Utilisation Request and Reconciliation Report

From: LAR Housing Trust, a Scottish charitable incorporated organisation (Scottish charity number SC044825) having its principal office at []
("Borrower")

To: [Scottish Ministers] ("Lender")

Date:

A, Utilisation Request

in terms of a Loan Agreement dated [] between the Borrower and the Lender ("Agreement"). This is a Utilisation Request. Terms defined in the Agreement have the same meaning in this Utilisation Request unless given a different meaning in this Utilisation Request.

| Project | 1. Total contracted purchase cost (as per Missives etc.) | 2. Professional fees | 3. Other development costs | 4. VAT / LBT / registration dues, etc. | Total contracted costs (A=1+2+3+4) | Total finance drawn down to- date (B) | Total paid under contracts to-date (C) | Forecast monthly payments (D) | Net Utilisation Request amount (E = D-(B-C) | Remaining financing requirement (F= A-B-E) | Notes |
|---|--|----------------------|----------------------------|--|--|--|---|----------------------------------|--|---|-------|
| e.g. Project A – purchase of xxx units at yyy road, Aberdeen | | | | | | | | | | | |
| e.g. Project B | | | | | | | | | | | |
| e.g. Project C | | | | | | | | | | | |
| Totals | | | | | e.g. £55m | e.g. £10m | e.g. £9m | e.g. £5m | e.g. £4m | e.g. £41m | |

Total to be advanced [take from total of E above] should be credited to [account] by [date – to be the Utilisation Date].

We hereby certify that this Utilisation Request is true and correct and in compliance with the terms of the Agreement and that all sums advanced under this Utilisation Request (i) are pursuant to and in line with the Borrower's investment strategy and (ii) will be supported by invoices or other appropriate supporting documentation with the Reconciliation Report for month n+2 (to the extent such invoices and/or supporting documentation are not included herewith:

.....
Chief Executive/Trustee,
For and on behalf of LAR Housing Trust

B. Reconciliation Report

Period:

in terms of a Loan Agreement dated [] between the Borrower and the Lender ("Agreement"). This is a Reconciliation Report. Terms defined in the Agreement have the same meaning in this Reconciliation Report unless given a different meaning in this Reconciliation Report.

| Row\column | A | B | C |
|--|--|---|-------------------------------------|
| Project | Total down previous Utilisation Request (column E of previous Utilisation Request) | Total paid under contract during last month | Total carried forward to next month |
| e.g. Project A – purchase of xxx units at yyy road, Aberdeen | | | |
| e.g. Project B | | | |

| | | | |
|-------------------|--|--|--|
| e.g. Project C | | | |
| Totals | | | |

1. We confirm that missives for the following developments have been concluded:

[development name, value]

[development name, value]
 2. We confirm that the attached Property Reports have been given to the Security Trustee in respect of the following developments in accordance with clause 12.3 of the Agreement and that those developments have been purchased by the Borrower:

[development name, value]

[development name, value]
 3. [The purchase price for each of the sites/properties referred to above is not greater than the professional valuation which we have received in respect of that site/property.]
 4. We attach invoices/receipts and other evidence as listed overleaf for the remainder of the sums noted under column B in the above table.
- Total value evidenced by 1, 2, 3, 4 and 5 above: £**

.....

Chief Executive/Trustee,

For and on behalf of LAR Housing Trust

Part 7 – Heads of Terms for Intercreditor Agreement

Parties

The Borrower, the lender (the “**Senior Lender**”) advancing the loan to the Borrower, and the Scottish Ministers (the “**Junior Lender**”)

Purpose of debt

All loans provided by the Senior Lender and the Junior Lender are together to be used to fund delivery of the Public Service Obligations (PSO) as set out in the Deed of Entrustment.

Ranking of debt

First all present and future liabilities owed by the Borrower to the Senior Lender, plus all associated interest, fees and costs (the “**Senior Debt**”); and second , all present and future liabilities owed by the Borrower (including any liability for repayment of any over compensation) to the Junior Lender, plus all associated interest, fees and costs (the “**Junior Debt**”)

Borrower’s undertakings

The Borrower shall:

- agree the final terms of the Intercreditor Agreement with both the Junior Lender and the Senior Lender. This agreement will follow the principles set out in this Schedule;
- not pay or prepay any of the Junior Debt nor the Senior Debt, nor pay interest on the Junior Debt or on the Senior Debt except as permitted by the provisions outlined below;
- not subsequently amend any of the terms of the loan agreement with the Senior Lender in any manner which would cause significant prejudice to the interests of the Junior Lender, without the prior written consent of the Junior Lender (such consent not to be unreasonably withheld); and
- not grant any security otherwise than in favour of the Security Trustee.

Junior Lender’s undertakings

The Junior Lender shall not, without the prior consent of the Senior Lender:

- require or accept payment/repayment of any of the Junior Debt or interest on the Junior Debt (except as permitted by the provisions outlined below);
- increase the amount of the Available Facility under the Loan Agreement;
- amend the terms of the Loan Agreement in such a way as may prejudice the Senior Lender;
- require immediate repayment of any Junior Debt (whether on the occurrence of an Event of Default or otherwise);
- take any security for the Junior Debt other than in favour of the Security Trustee; and
- claim in any sequestration of the Borrower in competition with the Senior Lender.

Senior Lender’s undertakings

The Senior Lender shall not inhibit delivery of the PSO by the Borrower and/or compliance by the

Borrower with the other terms of the Deed of Entrustment other than through exercise of the rights available to the Senior Lender under the loan agreement relating to the Senior Debt.

In the event that the Borrower fails to deliver the PSO interest on the Loan will apply at the Commercial Rate as provided for in the Deed of Entrustment.

The Senior Lender shall not:

- require or accept payment/repayment of any of the Senior Debt or interest on the Senior Debt nor seek enforcement of the Senior Debt except in accordance with the terms of the loan agreement relating to the Senior Debt;
- amend the terms of the loan agreement in any manner which would cause significant prejudice to the interests of the Junior Lender without the prior written consent of the Junior Lender (such consent not to be unreasonably withheld);
- lend or agree to lend to the Borrower any sums in excess of £110 million;
- take any security other than in favour of the Security Trustee.

Permitted payments

The Borrower must pay (and the Junior Lender must receive):

- payments of interest (including, where applicable, interest at the Commercial Rate) under the Loan Agreement; and
- repayments by the Borrower falling due under the Loan Agreement (as calculated under the Deed of Entrustment),

providing (in each such case) all payments which have fallen due in respect of the Senior Debt have first been paid in full and sufficient cash has been retained by the Borrower to meet financial covenants in respect of the Senior Debt.

Borrower's Obligations under the Loan Agreement

For so long as the Borrower is complying with its obligations under the loan documentation relating to the Senior Debt, the Borrower will be deemed to be complying with its obligations under the Loan Agreement, (but for the avoidance of doubt, that principle shall not apply so as to infer deemed compliance with the terms of the Deed of Entrustment including where applicable any obligation to pay interest at the Commercial Rate).

Junior Lender – accounting for payments received

If the Junior Lender receives any payment or distribution in respect of the Junior Debt which is not permitted under the principles set out under the heading of "Permitted payments" above, it must hold the relevant sum in trust for the Senior Lender and shall pay the sum over to the Senior Lender for application towards the Senior Debt.

Subordination on insolvency

If the Borrower becomes subject to any insolvency proceedings, the Senior Lender will be entitled to file claims etc. on behalf of the Junior Lender and receive all distributions in respect of the Junior Debt for application towards the Senior Debt.

Enforcement of securities

No one other than the Senior Lender (as Controlling Creditor) shall be entitled to require the Security Trustee to take any action in connection with the Security Documents.

Application of proceeds from realisation of securities etc.

All enforcement proceeds (whether arising from enforcement of the Security Documents or otherwise) shall be paid to the Security Trustee and applied in the following order:

- first, in payment of costs and expenses incurred by the Security Trustee and its agents, and the remuneration of the Security Trustee;
- second, in payment of the costs and expenses of the Senior Lender in respect of enforcement;
- third, in payment of all sums due to the Senior Lender (both capital and interest);
- fourth, in payment of all costs and expenses of the Junior Lender in respect of enforcement;
- fifth, in payment of all sums due to the Junior Lender (both capital and interest);
- sixth, in payment of the surplus (if any) to the Borrower.

Assignment

The Senior Lender will be entitled to assign its interest under the Inter-creditor Agreement in conjunction with the assignment of its rights in respect of the Senior Debt. There will be no restriction on the ability of the Junior Lender to assign the Junior Debt providing that the proposed assignee also accepts the terms of the Inter-creditor Agreement.

