



Registration of a Charge

Company name: **LLOYDS BANK PLC**

Company number: **00002065**



X6CGRWA3

Received for Electronic Filing: **09/08/2017**

Details of Charge

Date of creation: **02/08/2017**

Charge code: **0000 2065 0057**

Persons entitled: **SCOTTISH WIDOWS LIMITED**

Brief description: **A FIRST FIXED CHARGE OVER ALL THE AGREEMENTS AND THE RELATED RIGHTS (AS DEFINED IN THE INSTRUMENT)**

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **HERBERT SMITH FREEHILLS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2065

Charge code: 0000 2065 0057

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd August 2017 and created by LLOYDS BANK PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th August 2017 .

Given at Companies House, Cardiff on 11th August 2017

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

SECURITY AGREEMENT

dated 02 August 2017

created by

LLOYDS BANK PLC
as the Chargor

in favour of

SCOTTISH WIDOWS LIMITED
acting as Chargee

Linklaters

Ref: L-261252

Linklaters LLP

CONTENTS

CLAUSE	PAGE
1. Definitions and interpretation	1
2. Covenant to pay.....	4
3. Creation of Security Interests	4
4. Restrictions on dealing with Security Assets	4
5. Further assurance.....	4
6. General undertakings	5
7. Representations and warranties.....	6
8. Enforcement of Security Interests	7
9. Exoneration and Indemnity.....	8
10. Appointment of Receivers	8
11. Rights and liabilities of Chargee and Receivers.....	9
12. Order of application	11
13. Protection of third parties.....	11
14. Saving provisions.....	12
15. Discharge of Security	13
16. Remedies and waivers	14
17. Amounts Payable.....	14
18. Assignment and transfer.....	15
19. Miscellaneous	15
20. Counterparts	16
21. Notices	16
22. Governing law.....	17
23. Enforcement	17

THE SCHEDULES

SCHEDULE	PAGE
SCHEDULE 1 Rights of Receivers	18
SCHEDULE 2 Agreements.....	20

THIS DEED is dated 02 August 2017 and made between:

- (1) **LLOYDS BANK PLC**, with registration number 00002065, as Chargor (the "**Chargor**"); and
- (2) **SCOTTISH WIDOWS LIMITED**, with registration number 03196171 as Chargee (the "**Chargee**").

Background

- (A) On or around the date of this Deed, the Chargor and the Chargee will enter into the Pass Through Swaps (as defined below). In connection with the Pass Through Swaps, the Chargor has agreed to grant certain security in favour of the Chargor.
- (B) The Chargee and the Chargor intend this document to take effect as a deed (even though the Chargee only executes it under hand).

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"Agreements" means all the Chargor's present and future rights, titles and interests from time to time in and to the agreements to which it is a party described in Schedule 2 (*Agreements*) including rights to any sums payable to the Chargor and the full benefit of any Security, options, indemnities, guarantees and warranties in respect of the Agreements and all Related Rights.

"Delegate" means a delegate or sub-delegate appointed by the Chargee or a Receiver in accordance with this Deed.

"Enforcement Event" means the occurrence of any of the following:

- (a) an Event of Default occurs where the Chargor is the Defaulting Party (each such term as defined in the Pass Through Swaps) pursuant to the Pass Through Swaps; or
- (b) failure by the Chargor to pay an Early Termination Amount (as defined in the Pass Through Swaps) which has become due and payable in accordance with the terms of the Pass Through Swaps, if such failure is not remedied on or before the first Local Business Day (as defined in the Pass Through Swaps) after such payment becomes due.

"Insolvency Act" means the Insolvency Act 1986.

"Law of Property Act" means the Law of Property Act 1925.

"Party" means a party to this Deed.

"Pass Through Swaps" means the ISDA Master Agreement between the Chargor and the Chargee entered into on or around the date of this Deed, including the confirmations entered into thereunder.

"Quasi Security" means a transaction under which the Chargor will:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by it;

- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising financial indebtedness or of financing the acquisition of an asset.

"Receiver" means a receiver and manager or other receiver appointed in respect of all or any part of the Security Assets and shall, if allowed by law, include an administrative receiver.

"Related Rights" means, in relation to a Security Asset:

- (a) any proceeds of sale, transfer or other disposal, lease, licence, sub-licence, or agreement for sale, transfer or other disposal, lease, licence or sub-licence, of that Security Asset;
- (b) any moneys or proceeds paid or payable deriving from that Security Asset;
- (c) any rights, claims, guarantees, indemnities, Security or covenants for title in relation to that Security Asset;
- (d) any awards or judgments in favour of the Chargor in relation to that Security Asset; and
- (e) any other assets deriving from, or relating to, that Security Asset.

"Repeating Representations" means the representations set out in Clauses 7.6, 7.9 and 7.10.

"Secured Liabilities" means all present and future liabilities and obligations at any time due, owing or incurred by the Chargor to the Chargee under the Pass Through Swaps, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by the Chargor of a payment, prepayment, repayment, redemption, defeasance or discharge of those liabilities or obligations on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

"Security" means any mortgage, charge, pledge, lien, assignment or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect.

"Security Assets" means the assets which from time to time are, or are expressed to be, the subject of the Security Interests or any part of those assets.

"Security Interests" means all or any of the Security created or expressed to be created in favour of the Chargee by or pursuant to this Deed.

"WWU Documents" means the "Finance Documents" as defined in the master definitions agreement dated 17 November 2014 between, among others, Wales & West Utilitied Limited and Deutsche Trustee Chargor Limited;

1.2 Construction

Any reference in this Deed to:

- (a) the **"Pass Through Swaps"** or any other agreement or instrument is a reference to the Pass Through Swaps or other agreement or instrument as amended, novated, supplemented, extended, restated (however fundamentally and whether or not more onerously) or replaced;
- (b) the singular includes the plural and vice versa;
- (c) the **"Chargee"** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (d) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (e) a provision of law is a reference to that provision as amended or re-enacted;
- (f) a Clause or a Schedule is a reference to a clause of or a schedule to this Deed;
- (g) this Deed shall be construed as references also to any separate or independent stipulation or agreement contained in it;
- (h) references to any form of property or asset shall include a reference to all or any part of that property or asset;
- (i) the word "including" is without limitation; and
- (j) capitalised terms used, but not defined, in this Deed have the meanings given to them in the master definitions agreement dated 17 November 2014 between, among others, Wales & West Utilitied Limited and Deutsche Trustee Chargor Limited.

1.3 Third Party rights

- (a) A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.
- (b) The consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

1.4 Implied covenants for title

The obligations of the Chargor under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.

2. COVENANT TO PAY

2.1 Covenant to pay Secured Liabilities

The Chargor shall, on demand, pay to the Chargee and discharge the Secured Liabilities when they become due.

2.2 Potential invalidity

Neither the covenant to pay in Clause 2.1 (*Covenant to pay Secured Liabilities*) nor the security created by this Deed shall extend to or include any liability or sum which would, but for this Clause 2.2, cause such covenant or security to be unlawful under any applicable law.

3. CREATION OF SECURITY INTERESTS

The Chargor, with full title guarantee and as continuing security for the payment of all Secured Liabilities, charges in favour of the Chargee, by way of first fixed charge, all the Agreements and the Related Rights.

4. RESTRICTIONS ON DEALING WITH SECURITY ASSETS

4.1 Negative pledge

The Chargor shall not create, attempt to create or permit to subsist any Security or Quasi Security over any Security Asset.

4.2 Disposals

The Chargor shall not (and shall not agree to) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer, assign, declare a trust over, create any form of legal or equitable interest over, or otherwise dispose of any Security Asset or grant any Security or Quasi Security over any Security Asset other than as expressly contemplated by the Pass Through Swaps.

5. FURTHER ASSURANCE

5.1 Chargor's obligations

- (a) The Chargor shall promptly do all such acts or execute all such documents (including mortgages, charges, notices and instructions) as the Chargee may reasonably specify (and in such form as the Chargee may reasonably require in favour of the Chargee or its nominee(s)):
- (i) to perfect, maintain or protect the Security created or intended to be created under or evidenced by this Deed (which may include the execution of an assignment, mortgage, charge or other Security over all or any of the assets which are, or are intended to be, the subject of the Security Interests, provided that this is permitted under the WWU Documents) or for the exercise of any rights, powers and remedies of the Chargee provided by or pursuant to the Pass Through Swaps, this Deed or by law; and/or
 - (ii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security Interests; and/or

- (iii) to exercise all powers, authorities and discretions conferred on the Chargee or any Delegate pursuant to this Deed or by law.
- (b) The Chargor shall take all such action as is available to it (including making and assisting with all filings, applications and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Chargee or the Finance Parties by or pursuant to this Deed.
- (c) The Chargor shall, at any time following the occurrence of an Enforcement Event, promptly upon request, execute over all or any of the Security Assets, a charge by way of legal mortgage or legal sub-mortgage or legal assignment, as the case may be, in favour of the Chargee in such form as the Chargee shall require, provided that this is permitted by the WWU Documents.

5.2 Chargor still liable

The Chargor shall remain liable to perform all its obligations under each Agreement. Neither the Chargee, any Receiver nor any Delegate shall be under any obligation or liability to the Chargor or any other person under or in respect of any of the Agreements or be liable to make any payment under or in respect of the Agreements or the Related Rights. Further, the Chargee shall not be obliged to take any steps necessary to preserve the Agreements or any of the Related Rights or enforce against the Chargor or any other person any term of the Agreements, or to make any enquiries as to the nature or sufficiency of any payment received by the Chargor pursuant to the terms of the Agreements.

6. GENERAL UNDERTAKINGS

6.1 Information

The Chargor shall supply to the Chargee promptly such information regarding the Security Assets and its compliance with this Deed as the Chargee may reasonably request.

6.2 No other prejudicial conduct

The Chargor shall not do, or permit to be done, anything which could prejudice the Security Interests.

6.3 Adverse interests

The Chargor shall not take or omit to take any action, the taking or omission of which might adversely affect the interests of the Chargee.

6.4 Notice of default

The Chargor shall notify the Chargee promptly of any default by it or on becoming aware of any default by any other party under the Agreements.

6.5 Notices

The Chargor shall give notice of the Security created by this Deed to Wales & West Utilities Limited ("WWU") as counterparty to the Agreements (in the form agreed between the Chargor and the Chargee) and shall use its reasonable endeavours to ensure that such notice is acknowledged by WWU.

6.6 Compliance with laws

The Chargor shall obtain and maintain in full force and effect all consents, licences, approvals or authorisations of, exemptions by or registrations or declarations with, any governmental or other

authority which may at any time be required with respect to the Agreements and any of the Related Rights.

7. REPRESENTATIONS AND WARRANTIES

The Chargor makes the representations and warranties set out in this Clause 7 to the Chargee on the date of this Deed and in respect of the Repeating Representations only, on each day prior to the discharge in full of the Security hereunder in accordance with Clause 14.

7.1 Status

- (a) It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

7.2 Binding obligations

Subject to any general principles of law limiting its obligations, the obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations.

7.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

7.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

7.5 Validity and admissibility in evidence

All authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed; and
- (b) to make this Deed admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

7.6 Pari passu ranking

Its payment obligations under this Deed rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law.

7.7 Governing law and enforcement

- (a) The choice of English law as the governing law of this Deed will be recognised and enforced in its jurisdiction of incorporation.
- (b) Any judgment obtained in England in relation to this Deed will be recognised and enforced in its jurisdiction of incorporation.

7.8 Agreements

The agreements listed in Schedule 2 (*Agreements*) are correctly described and have not been amended, supplemented, varied, waived, rescinded, cancelled or terminated.

7.9 Status of Security

It is the legal and beneficial owner of the Agreements and the Related Rights free from Security (other than this Deed) and this Deed confers the security it purports to confer over the Agreements and the Related Rights and the Security created under or pursuant to this Deed is not subject to any prior or *pari passu* Security.

7.10 Stamp taxes and registration

No stamp or registration duty or similar tax or charge is payable in its jurisdiction of incorporation in respect of this Deed and it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in that jurisdiction.

8. ENFORCEMENT OF SECURITY INTERESTS

The powers of the Chargee or any Receiver under this Clause 8 shall be subject to any applicable law or regulation as modified (where permitted by such applicable law or regulation) by this Deed.

8.1 When enforceable

The Security Interests shall be immediately enforceable on and at any time after the occurrence of an Enforcement Event.

8.2 Enforcement action

At any time after the Security Interests have become enforceable, the Chargee may in its absolute discretion enforce all or any part of the Security Interests in any manner it sees fit and, whether or not it has appointed a Receiver, exercise all of the powers, authorities and discretions:

- (a) conferred from time to time on mortgagees by the Law of Property Act (as varied or extended by this Deed) or by law; and
- (b) granted to a Receiver by this Deed or from time to time by law;

8.3 Restrictions on consolidation of mortgages

Section 93 of the Law of Property Act shall not apply to this Deed or to any sale made under it. The Chargee shall have the right to consolidate all or any of the security created by or pursuant to this Deed with any other security in existence at any time. Such power may be exercised by the Chargee at any time on or after the occurrence of an Enforcement Event.

8.4 Restrictions on exercise of power of sale

Section 103 of the Law of Property Act shall not apply to this Deed and the power of sale arising under the Law of Property Act shall arise on the date of this Deed (and the Secured Liabilities shall be deemed to have become due and payable for that purpose). The power of sale and other powers conferred by section 101 of the Law of Property Act as varied or extended by this Deed and those powers conferred (expressly or by reference) on a Receiver shall be immediately exercisable by the Chargee at any time on or after the occurrence of an Enforcement Event.

8.5 No Prior Notice Needed

The powers of the Chargee set out in Clauses 8.3 (*Restrictions on Consolidation of Mortgages*) and 8.4 (*Restrictions on Exercise of Power of Sale*) above may be exercised by the Chargee without prior notice to the Chargor.

8.6 Trust

If, following the enforcement of the Security granted under this Deed, the Chargor receives any payment under or in connection with the Agreements or the Related Rights, the Chargor shall hold such monies on trust for the Chargee.

9. EXONERATION AND INDEMNITY

9.1 Exoneration

The Chargee shall not, nor shall any Delegate, by reason of its or the Delegate entering into possession of the Agreements or the Related Rights or any part thereof be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable; but every Delegate duly appointed by the Chargee under this Deed shall for all purposes be deemed to be in the same position as a receiver duly appointed by a mortgagee under the Law of Property Act save to the extent that the provisions of that Act are varied by or are inconsistent with the provisions of this Deed when the provisions hereof shall prevail and every such Delegate and the Chargee shall in any event be entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act on mortgagees and receivers duly appointed under the Law of Property Act.

9.2 Indemnity

The Chargee and any Receiver shall, following the enforcement of the Security granted pursuant to this Deed, be entitled to be indemnified out of the Security Assets or any part of them in respect of all liabilities and expenses incurred by it or him in the execution of any of the powers, authorities or discretions vested in it or him pursuant to this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Security Assets or any part of them. The Chargee and any such Receiver may retain and pay all sums in respect of the same out of any moneys received under the powers hereby conferred.

9.3 Stamp Taxes

The Chargor covenants to pay to the Chargee and any Delegate, attorney, manager, agent or other person appointed by the Chargee under this Deed immediately on demand a sum equal to any liability which the Chargee, that Delegate, attorney, manager, agent or other person appointed by the Chargee under this Deed incurs in respect of stamp duty, registration fees and other taxes which is or becomes payable in connection with the entry into, performance or enforcement of this Deed (including any interest, penalties, liabilities, costs and expenses resulting from any failure to pay or delay in paying any such duty, fee or tax).

10. APPOINTMENT OF RECEIVERS

The powers of the Chargee or any Receiver under this Clause 10 shall be subject to the terms of any applicable law or regulation.

10.1 Appointment of Receivers

If:

- (a) requested by the Chargor; or
- (b) the Security Interests have become enforceable,

without any notice or further notice, the Chargee may, by deed or otherwise in writing signed by the Chargee or any person authorised for this purpose by the Chargee, appoint one or more persons to be a Receiver of all or any part of the Security Assets. The Chargee may similarly remove any Receiver and appoint any person instead of any Receiver. If the Chargee appoints more than one person as Receiver, the Chargee may give those persons power to act either jointly or severally. A Receiver shall be the agent of the Chargor which shall be solely responsible for his acts or defaults and for his remuneration. No Receiver shall at any time act as agent of the Chargee.

10.2 Remuneration of Receivers

The Chargee may determine the remuneration of any Receiver and the maximum rate specified in section 109(6) (*Appointment, powers, remuneration and duties of receiver*) of the Law of Property Act or any other statute or statutory instrument shall not apply. The Chargee may direct payment of that remuneration out of moneys it receives as Receiver. The Chargor alone shall be liable for the remuneration and all other costs, losses, liabilities and expenses of the Receiver.

11. RIGHTS AND LIABILITIES OF CHARGEES AND RECEIVERS

The powers of the Chargee or any Receiver or Delegate under this Clause 11 shall be subject to any applicable law or regulation except (where permitted) as modified by this Deed.

11.1 Rights of Receivers

Any Receiver appointed pursuant to Clause 10 (*Appointment of Receivers*) shall have:

- (a) the rights set out in Schedule 1 (*Rights of Receivers*); and
- (b) the rights, powers, privileges and immunities conferred by law, including the rights, powers, privileges and immunities conferred by the Law of Property Act and the Insolvency Act on receivers or receivers and managers.

11.2 Powers may be restricted

The powers granted to a Receiver pursuant to this Deed may be restricted by the instrument (signed by the Chargee) appointing him but they shall not be restricted by any winding-up or dissolution of the Chargor.

11.3 Rights of Chargee

At any time after the Security Interests have become enforceable, to the fullest extent permitted by law, any rights conferred by law upon a Receiver may be exercised by the Chargee, whether or not the Chargee shall have appointed a Receiver of all or any part of the Security Assets.

11.4 Delegation

The Chargee may delegate in any manner to any person any rights exercisable by the Chargee under this Deed or the Agreements. Any such delegation may be made upon such terms and

conditions (including power to sub-delegate and including the power of attorney) as the Chargee thinks fit and the Chargee may pass confidential information to any such delegate.

11.5 **Power of Attorney: General**

The Chargor hereby irrevocably and by way of security appoints the Chargee and any Delegate severally to be its attorney in its name and on its behalf and as its act and deed:

- (a) to execute and deliver any documents or instruments which the Chargee or such Delegate may reasonably require for perfecting the title of the Chargee to the Security Assets or for vesting the same in the Chargee, its nominee or any purchaser;
- (b) to sign, execute, seal and deliver and otherwise perfect any further security document which the Chargor is required to enter into pursuant to this Deed;
- (c) to do any other thing that the Chargor is obliged to do under this Deed but, following the expiry of any time period permitted for performance, has failed to do (but any third party may assume that the Chargee is appointed hereunder without being concerned to enquire whether such circumstances exist and whether the power granted hereunder has arisen); and
- (d) following the occurrence of an Enforcement Event, otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Chargee or any Delegate under this Deed or which the Chargor is required to do pursuant to this Deed or which may be deemed expedient by the Chargee or a Delegate in connection with any preservation, disposition, realisation or getting in by the Chargee or such Delegate of the Security Assets or any part thereof or in connection with any other exercise of any other power under this Deed.

11.6 **Power of Attorney: Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm all acts and things which any attorney mentioned in this Clause 11 (*Rights and liabilities of Chargee and Receivers*) shall do or purport to do in exercise of the powers granted by this Clause.

11.7 **Financial collateral arrangement**

- (a) To the extent that this Deed constitutes a "financial collateral arrangement" (as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (the "**Financial Collateral Regulations**")) the Chargee shall have the right, at any time after the Security Interests have become enforceable, to appropriate any Security Asset which constitutes "financial collateral" (as defined in the Financial Collateral Regulations ("**Financial Collateral**")) in such manner as it sees fit in or towards satisfaction of the Secured Liabilities in accordance with the Financial Collateral Regulations.
- (b) If the Chargee is required to value any Financial Collateral for the purpose of paragraph (a) above, the value shall be:
 - (i) in the case of cash, its face value at the time of appropriation; and
 - (ii) in the case of financial instruments or other Financial Collateral, their market value at the time of appropriation as determined (after appropriation) by the Chargee by reference to

a public index or other applicable generally recognised source or such other process as the Chargee may select, including a valuation carried out by an independent investment bank, firm of accountants or other valuers appointed by the Chargee,

as converted, where necessary, into the currency in which the Secured Liabilities are denominated at a market rate of exchange prevailing at the time of appropriation selected by the Chargee. The Parties agree that the methods of valuation set out in this paragraph (b) are commercially reasonable for the purpose of the Financial Collateral Regulations.

12. ORDER OF APPLICATION

Any monies received under the powers hereby conferred shall, subject to the repayment of any claims having priority to this Deed, be applied for the following purposes and in the following order of priority:

- (a) in discharging all costs and expenses incurred by the Chargee or any Delegate (including the remuneration of the Receiver) under or in connection with this Deed or in connection with any realisation or enforcement of the Security Interests or any action taken at the request of the Chargee under Clause 5 (*Further assurance*) in such order as the Chargee shall in its absolute discretion decide;
- (b) in discharging any sums owing to the Chargee, any Receiver or any Delegate, including, but not limited to, towards satisfaction of the Secured Liabilities, in such order as the Chargee may in its sole discretion decide;
- (c) if the Chargor is not under any further actual or contingent liability under any Pass Through Swaps, in payment or distribution to any person to whom the Chargee is obliged to pay or distribute in priority to the Chargor; and
- (d) the balance, if any, in payment or distribution to the Chargor,

save that the Chargee may credit any monies received under this Deed to a suspense account for so long and in such manner as the Chargee may from time to time determine and the Chargee may retain the same for such period as he considers expedient.

13. PROTECTION OF THIRD PARTIES

No purchaser or other person dealing with the Chargee, any Receiver or its agents shall be concerned to enquire:

- (a) whether the powers conferred on the Chargee, any Delegate or its agents have arisen;
- (b) whether the powers conferred on the Chargee, any Delegate or its agents have become exercisable;
- (c) as to the propriety or regularity of any exercise of the powers conferred on the Chargee, any Delegate or its agents or of any act purporting or intended to be an exercise of such powers;
- (d) whether any consents, regulations, restrictions or directions relating to such powers have been obtained or complied with;
- (e) whether the Chargee, any Delegate or its agents is acting within such powers;

- (f) whether any money remains due under the Pass Through Swaps;
- (g) as to the propriety or validity of acts purporting or intended to be in exercise of any such powers;
- (h) as to the application of any money paid to the Chargee, any Delegate or its agents; or
- (i) whether any amounts remains secured by this Deed,

and the receipt of the Chargee, any Delegate or its agents shall be sufficient and conclusive discharge to that purchaser or other person.

All the protections to purchasers and persons dealing with receivers contained in sections 104, 107 and 109(4) of the Law of Property Act shall apply to any person purchasing from or dealing with the Chargee or any such Delegate.

14. SAVING PROVISIONS

14.1 Continuing Security

Subject to Clause 15 (*Discharge of Security*), the Security Interests are continuing Security and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

14.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made by the Chargee in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation or otherwise, without limitation, then the liability of the Chargor and the Security Interests will continue or be reinstated as if the discharge, release or arrangement had not occurred.

14.3 Waiver of defences

Neither the obligations of the Chargor under this Deed nor the Security Interests will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under the Pass Through Swaps or any of the Security Interests (without limitation and whether or not known to it or the Chargee) including:

- (a) any time, waiver or consent granted to, or composition with, the Chargor, or any other person;
- (b) the release of the Chargor, or any other person under the terms of any composition or arrangement with any creditor;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;

- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Agreements or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Agreements or any other document or security; or
- (g) any insolvency or similar proceedings.

14.4 **Immediate recourse**

The Chargor waives any right it may have of first requiring the Chargee (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of the Pass Through Swaps to the contrary.

14.5 **Appropriations**

Until all amounts which may be or become payable by the Chargor under or in connection with the Agreements have been irrevocably paid in full, the Chargee (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by the Chargee (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed.

14.6 **New accounts**

If the Chargee receives notice of any subsequent charge or other interest affecting any part of the Security Assets (the date of receipt of such notice being the "Notice Date") it may, without prejudice to its rights under this Deed, open a fresh account or accounts with the Chargor and continue any existing account in the name of the Chargor and may appropriate to any such fresh account any monies paid in, received or realised for the credit of the Chargee after that time without being under any obligation to apply the same or any part of them in discharge of any of the Secured Liabilities. If the Chargee fails to open a fresh account it will be deemed to have done so and any monies received or realised after the Notice Date will not reduce the Secured Liabilities outstanding on the Notice Date.

15. **DISCHARGE OF SECURITY**

15.1 **Final redemption**

Subject to Clause 15.2 (*Retention of security*), if the Chargee is satisfied that all amounts which may be or become payable by the Chargor under or in connection with the Pass Through Swaps have been irrevocably paid in full, the Chargee shall at the request and cost of the Chargor release, reassign or discharge (as appropriate) the Security Assets from the Security Interests, without recourse to, or any representation or warranty by, the Chargee or any of its nominees.

15.2 **Retention of Security**

If the Chargee considers that any amount paid or credited to the Chargee under any Pass Through Swaps is capable of being avoided or otherwise set aside, that amount shall not be considered to have been paid for the purposes of determining whether all the Secured Liabilities have been irrevocably paid.

16. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of the Chargee, any Receiver or Delegate, any right or remedy under any of the Pass Through Swaps shall operate as a waiver of any such right or remedy or constitute an election to affirm any of the Pass Through Swaps. No waiver or election to affirm any of the Agreements on the part of the Chargee, any Receiver or Delegate shall be effective unless in writing. No failure to exercise, or delay in exercising any right, power, privilege or remedy under this Deed, on the part of the Chargee shall operate as a waiver. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed and the Pass Through Swaps are cumulative and not exclusive of any rights or remedies provided by law.

17. **AMOUNTS PAYABLE**

17.1 **No deduction**

All payments to be made by the Chargor under this Deed shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future. If the Chargor is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to the Chargee under this Deed or, if any such withholding or deduction is made in respect of any recovery under this Deed, the Chargor shall pay such additional amount so as to ensure that the net amount received by the Chargee shall equal the full amount due to it under the provisions of this Deed had no such withholding or deduction been made.

17.2 **Currency of payment**

The obligation of the Chargor under this Deed to make payments in any currency shall not be discharged or satisfied by any tender, or recovery pursuant to any judgment or otherwise, expressed in or converted into any other currency, except to the extent that tender or recovery results in the effective receipt by the Chargee of the full amount of the currency expressed to be payable under this Deed.

17.3 **Currency indemnity**

If any sum due from the Chargor under this Deed (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

- (a) making or filing a claim or proof against the Chargor;

- (b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings; or
- (c) applying the Sum in satisfaction of any of the Secured Liabilities,

the Chargor shall, as an independent obligation, within three Business Days of demand, indemnify the Chargee against any cost, loss or liability arising out of or as a result of the conversion, including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to the Chargee at the time of its receipt of that Sum.

The Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency unit other than that in which it is payable.

18. **ASSIGNMENT AND TRANSFER**

The Chargor may not assign any of its rights or transfer of any of its rights or obligations under this Deed. The Chargee may not assign and transfer all or any part of its rights and obligations under this Deed.

19. **MISCELLANEOUS**

19.1 **Additional Security**

This Deed shall be in addition to and not be affected by any other security or guarantee now or hereafter held by the Chargee for all or any part of the Secured Liabilities nor shall any such other security or guarantee of liability to the Chargee of or by any person not a party to this Deed be in any way impaired or discharged by this Deed nor shall this Deed in any way impair or discharge such other security or guarantee.

19.2 **Variation of Security**

This Deed shall not in any way be affected or prejudiced by the Chargee at any time dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any security or guarantee referred to in Clause 19.1 (*Additional Security*) or any rights which the Chargee may at any time have or giving time for payment or granting any indulgence or compounding with any person whatsoever.

19.3 **Redemption of prior incumbrances**

The Chargee may redeem or take a transfer of any prior Security over the Security Assets and may agree the accounts of prior incumbrancers. An agreed account shall be conclusive and binding on the Chargor. Any amount paid in connection with such redemption or transfer (including expenses) shall be paid on demand by the Chargor to the Chargee and until such payment shall form part of the Secured Liabilities.

19.4 **Partial invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, neither the legality, validity or enforceability of the remaining provisions, nor the legality, validity or enforceability of such provision under the law of any other jurisdiction, will in any way be affected or impaired.

19.5 Certificates and determinations

Any certification or determination by the Chargee of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

20. COUNTERPARTS

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

21. NOTICES

21.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by post or fax.

21.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Deed for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below, or any substitute address, fax number or department or officer as a party may notify to the other party by not less than five Business Days' notice.

21.3 Delivery

Any communication or document made or delivered by one person to another under or in connection with the Deed will only be effective:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 21.2 (*Addresses*), if addressed to that department or officer.

Any communication or document to be made or delivered to the Chargee will be effective only when actually received by the Chargee and then only if it is expressly marked for the attention of the department or officer identified with the Chargee's signature below (or any substitute department or officer as the Chargee shall specify for this purpose).

21.4 Electronic communication

Any communication to be made between the Parties to this Deed under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that the parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if the parties:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

Any electronic communication made between the Parties will be effective only when actually received in readable form and in the case of any electronic communication made by the Chargor to the Chargee only if it is addressed in such a manner as the Chargee shall specify for this purpose.

Any electronic communication which becomes effective, in accordance with the paragraph above, after 5.00pm in the place of receipt shall be deemed only to become effective on the following day.

21.5 English language

Any notice given under or in connection with this Deed must be in English.

All other documents provided under or in connection with this Deed must be:

- (a) in English; or
- (b) if not in English, and if so required by the Chargee, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

22. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

23. ENFORCEMENT

23.1 Jurisdiction

Subject to Clause 23.3 (*Chargee's benefit only*), the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").

23.2 Most appropriate and convenient court

Subject to Clause 23.3 (*Chargee's benefit only*), the Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary and will not initiate or pursue any proceedings relating to a Dispute in any jurisdiction other than England.

23.3 Chargee's benefit only

This Clause 23 is for the benefit of the Chargee only. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions, in all cases irrespective of whether proceedings have already been initiated by any party in England. The Chargor irrevocably waives any right it may have to claim that the action has been brought in an inconvenient forum.

This Deed has been delivered on the date stated at the beginning of this Deed.

SCHEDULE 1
RIGHTS OF RECEIVERS

Any Receiver appointed pursuant to Clause 10 (*Appointment of Receivers*) shall have the right, 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 the Receiver thinks fit, and either alone or jointly with any other person, subject always to the terms of the Agreements, the WWU Documents and any applicable law or regulation:

(a) **Deal with Security Assets**

to sell, transfer, assign, exchange, hire out, lend, license or otherwise dispose of or realise all or any part of the Security Assets to any person either by public offer or auction, tender or private contract and for a consideration of any kind (which may be payable or delivered in one amount or by instalments or deferred);

(b) **Rights of ownership**

to manage and use all or any part of the Security Assets and to exercise and do all such rights and things as the Receiver would be capable of exercising or doing if it were the absolute legal and beneficial owner of all or any part of the Security Assets;

(c) **Legal actions**

to bring, prosecute, enforce, defend and abandon actions, suits and proceedings relating to all or any part of the Security Assets;

(d) **Claims**

to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or relating to all or any part of the Security Assets;

(e) **Redemption of Security**

to redeem any Security (whether or not having priority to the Security Interests) over all or any part of the Security Assets and to settle the accounts of any person with an interest in all or any part of the Security Assets;

(f) **Delegation**

to delegate in any manner to any person any rights exercisable by the Receiver under any Agreements, and any such delegation may be made upon such terms and conditions (including power to sub-delegate) as it thinks fit, and to pass confidential information to any such delegate;

(g) **Insolvency Act**

to exercise all powers set out in Schedule 1, Schedule B1 or (in the case of a Scottish Receiver) Schedule 2 to the Insolvency Act as now in force (whether or not in force at the date of exercise and whether or not the Receiver is an administrative receiver) and any powers added to Schedule 1 or Schedule 2, as the case may be, after the date of this Deed;

(h) **Law of Property Act**

to exercise all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the Law of Property Act;

(i) **Receipts**

to give a valid receipt for any moneys and do anything which may be necessary or desirable for realising all or any part of the Security Assets; and

(j) **Other powers**

to do anything else it may think fit for the realisation of all or any part of the Security Assets or incidental to the exercise of any of the rights, powers, functions, authorities and discretions conferred on the Receiver under this Deed, by virtue of any Agreements to which the Chargor is party, the Law of Property Act, the Insolvency Act or by statute or law generally on such terms as the Receiver deems fit (including the bringing or defending of proceedings in the name of, or on behalf of, the Chargee; the collection and/or realisation of Security Assets in such manner and on such terms as the Receiver sees fit; and the execution of documents in the name of the Chargor (whether under hand, or by way of deed or by utilisation of the company seal of the Chargor).

SCHEDULE 2

AGREEMENTS

The ISDA Master Agreement entered into between Lloyds Bank plc and Wales & West Utilities Limited on or around the date of this Deed and the six (6) confirmations entered into thereunder, each dated on or around the date of this Deed.

SIGNED as a **DEED** by **LLOYDS BANK PLC**
acting by DANIEL HANMER an Attorney
in the presence of JACK EDWARDS.

Signature of Attorney



Signature of witness



Name:

JACK EDWARDS



SIGNED as a **DEED** by **SCOTTISH WIDOWS LIMITED** acting by MIKE HARRIS a Director/~~Authorised Signatory~~ in the presence of SARAH LINARD

Signature of Director/~~Authorised~~



Signature of witness



Name: SARAH LINARD

Address: 

Occupation: 