



Registration of a Charge

Company name: **YMCA GEORGE WILLIAMS COMPANY**

Company number: **02978406**

Received for Electronic Filing: **30/03/2016**



X53V9WWP

Details of Charge

Date of creation: **18/03/2016**

Charge code: **0297 8406 0004**

Persons entitled: **THE CHARITY BANK LIMITED**

Brief description: **CHARGE OVER CHARITY BANK ACCOUNT**

Contains fixed charge(s).

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: **JOAN DOHERTY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2978406

Charge code: 0297 8406 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th March 2016 and created by YMCA GEORGE WILLIAMS COMPANY was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th March 2016 .

Given at Companies House, Cardiff on 31st March 2016

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



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Dated

18TH MARCH

2016

YMCA George Williams Company

- and -

The Charity Bank Limited

Charge over Charity Bank Account

This Charge is dated

18TH MARCH

2016

Between:

- (1) **YMCA George Williams Company** incorporated and registered in England and Wales with company number 02978406 (registered charity number 1044624) whose registered address is at 199 Freemasons Road, Canning Town, London, E16 3PY ("the Borrower"); and
- (2) **The Charity Bank Limited** incorporated and registered in England and Wales with company number 430018 whose registered office is at Fosse House, 182 High Street, Tonbridge, Kent, TN9 1BE ("the Bank")

Background

- (A) The Bank has agreed pursuant to the Facility Agreement to provide the Borrower with loan facilities on a secured basis.
- (B) This deed provides security which the Borrower has agreed to give the Bank for making the loan facilities available under the Facility Agreement.

Witnesses as follows:

1. Definitions and Interpretations

1.1 In this Charge unless the context otherwise requires:

Deposit	means all monies from time to time standing to the credit of the Security Account together with all other rights and benefits accruing to or arising in connection with the Security Account (including, but not limited to, entitlements to interest)
Event of Default	As defined in the Facility Agreement
Facility Agreement	the facility agreement dated 1 st March, 2016 between the Borrower and the Bank for the provision of the loan facilities secured by this deed
Financial Collateral	means the meaning given to that expression in the Financial Collateral Arrangements (No. 2) Regulations 2003
Receiver	means a receiver appointed under this Charge
Secured Liabilities	means all present and future monies, obligations and liabilities owed by the Borrower to the Bank, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Facility Agreement or this deed (including, without limitation, those arising under , together with all interest (including, without limitation, default interest) accruing in respect

of such monies or liabilities.

Security

means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

Security Account

means account number [REDACTED] in the name of the Borrower with the Bank as that account may be renumbered or re-designated from time to time and all rights of the Borrower in relation to such account

Security Period

means the period starting on the date of this deed and ending on the date on which the Bank is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

- 1.2 References to Clauses and Schedules are to the clauses and schedules to this Charge.
- 1.3 Clause headings are inserted for ease of reference only and are not to affect the interpretation of this Charge.
- 1.4 Except to the extent the context otherwise requires any reference in this document to "this Charge" and any other document referred to in it includes any document expressed to be supplemental to or collateral with or which is entered into pursuant to or in accordance herewith or therewith and shall be deemed to include any instruments amending varying supplementing novating or replacing the terms of any such documents from time to time.
- 1.5 References to a person are to be construed to include corporations firms companies partnerships individuals associations states and administrative and governmental and other entities whether or not a separate legal entity.
- 1.6 References to any person are to be construed to include references to that person's successors transferees and assigns whether direct or indirect.
- 1.7 References to any statutory provision are to be construed as references to that statutory provision as amended supplemented re- enacted or replaced from time to time (whether before or after the date of this Charge) and are to include any orders regulations instruments or other subordinated legislation made under or deriving validity from that statutory provision.
- 1.8 The words "other" and "otherwise" are not to be construed ejusdem generis with any foregoing words where a wider construction is possible.
- 1.9 The words "including" and "in particular" are to be construed as being by the way of illustration or emphasis only and are not to be construed as, nor shall they take effect as, limiting the generality of any foregoing words.

2. Covenant to Pay

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

3. Grant of Security

The Borrower with full title guarantee and as a continuing security for the payment and discharge of the Secured liabilities charges to the Bank by way of first fixed charge the Deposit

4. Deposit

Interest shall accrue on the Deposit at such rates and be payable on such dates and in such manner the Bank may from time to time determine. Provided that if the Borrower is in breach of any provision of this Charge or of any contract or agreement giving rise to or otherwise concerning the Secured Liabilities then any such interest shall be credited to the Security Account and form part of the Deposit.

5. Enforcement

5.1 This deed shall be enforceable if an Event of Default occurs and in any such event (whether or not the event is continuing), without prejudice to any other rights of the Bank, the powers of sale under the Law of Property Act 1925 shall immediately be exercisable and the Bank may, in its absolute discretion, enforce all or any part of the security created by this deed as it sees fit. The parties to this deed agree that the provisions of Schedule 1 shall apply to this deed and shall be binding between them. The rights and powers of the Bank contained in clause 5.1, clause 5.2, clause 5.3 and Schedule 1 shall apply notwithstanding that:

- (a) all or part of the Deposit may have been deposited for a fixed or minimum period or be subject to a period of notice;
- (b) any interest on the Deposit is calculated by reference to a fixed or minimum periods; and/or
- (c) any such fixed or minimum period or period of notice may or may not have been given.

The Borrower irrevocably authorises the Bank at any time after the security constituted by this deed has become enforceable to break or determine the Deposit in whole or in part and/or to renew all or any of the Deposit for such fixed periods as the Bank may, in its absolute discretion, from time to time think fit.

5.2 Power of sale

At any time after the security constituted by this deed has become enforceable, the Bank and any Receiver may (without prejudice to any other right which the Bank or the Receiver may have) without further notice to the Borrower exercise the power to sell or otherwise dispose of the whole or any part of the Deposit.

5.3 Terms of sale

Any sale or disposal under clause 5.2 may be made in such manner, on such terms and for such consideration (whether payable immediately or by instalments) as the Bank or the Receiver, as the case may be, shall in its absolute discretion think fit and without liability for loss.

5.4 Right of appropriation

- (a) To the extent that the Deposit constitutes Financial Collateral and this deed and the obligations of the Borrower hereunder constitute a Security Financial Collateral Arrangement, the Bank shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of that part of the Deposit in or towards the payment and/or discharge of

the Secured Liabilities in such order as the Bank in its absolute discretion may from time to time determine.

- (b) The value of the Deposit appropriated in accordance with this clause shall be, in the case of cash, the amount of cash appropriated.
- (c) The Borrower agrees that the method of valuation provided for in this clause is commercially reasonable for the purposes of the Financial Collateral Regulations.

6. Release

Subject to clause 13, on the expiry of the Security Period (but not otherwise), the Bank shall, at the request and cost of the Borrower, take whatever action is necessary to release the Deposit from the security constituted by this deed.

7. Assignment and Transfer

7.1 Assignment by Bank

- (a) At any time, without the consent of the Borrower, the bank may assign or transfer any or all of its rights and obligations under this deed.
- (b) The Bank may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Deposit and this deed that the bank considers appropriate.

7.2 Assignment by Borrower

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

8. Set-off

8.1 Bank's right of set-off

The Bank may at any time set off any liability of the Borrower to the Bank, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. Any exercise by the Bank of its rights under this clause 8 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

8.2 No obligation to set off

The Bank is not obliged to exercise its rights under clause 8.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

9. Powers of the Bank

9.1 Power to remedy

The Bank shall be entitled (but shall not be obliged) to remedy a breach at any time by the Borrower of any of its obligations contained in this deed and the Borrower irrevocably authorises the Bank and its agents to do all such things as are necessary or desirable for that purpose.

9.2 Exercise of rights

The rights of the Bank under clause 7.1 are without prejudice to any other rights of the Bank under this deed. The exercise of those rights shall not make the Bank liable to account as a mortgagee in possession.

9.3 Prior Security

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

- (a) redeem such or any other prior Security, or procure its transfer to itself; and
- (b) settle and pass any account of the holder of any prior Security.

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower. All monies paid by the Bank to an encumbrancer in settlement of such an account shall, as from its payment by the Bank, be due from the Borrower to the Bank on current account and shall bear interest at the default rate of interest specified in the Facility Agreement and be secured as part of the Secured Liabilities.

9.4 New accounts

- (a) If the Bank receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Deposit, the Bank may open a new account for the Borrower in the Bank's books. Without prejudice to the Bank's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- (b) If the Bank does not open a new account immediately on receipt of the notice or deemed notice referred to in clause 9.4(a), then, unless the Bank gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Bank shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Bank.

9.5 Indulgence

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

10. Representations and Warranties

The Borrower represents and warrants to the Bank that:

1. the Borrower is the legal and beneficial owner of the Deposit;
2. the Deposit is free from any Security other than the Security created by this deed;
3. the Borrower has not received or acknowledged notice of any adverse claim by any person in respect of the Deposit or any interest in it;
4. there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever, which materially adversely affect the Deposit;
5. there is no breach of any law or regulation which materially adversely affects the Deposit;
6. no Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise; and
7. the entry into of this deed by the Borrower does not and will not constitute a breach of any agreement or instrument binding on the Borrower or its assets.

The representations and warranties set out above are made on the date of this deed.

11. Covenants

The Borrower covenants with the Bank as follows:

- 11.1 The Borrower shall not at any time, except with the prior written consent of the Bank:
- (a) create, purport to create or permit to subsist any Security on, or in relation to, the Deposit other than this deed; or
 - (b) sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Deposit; or
 - (c) create or grant (or purport to create or grant) any interest in the Deposit in favour of a third party.
- 11.2 The Borrower shall not:
- (a) withdraw or transfer all or any part of the Deposit until after the Security Period has expired; or
 - (b) do, or permit to be done, any act or thing which would or might depreciate, jeopardise or otherwise prejudice the security held by the Bank or materially diminish the value of the Deposit or the effectiveness of the security created by this deed (including, without limitation, closing the Security Account).
- 11.3 The Borrower shall use its best endeavours to:
- (a) procure the prompt observance and performance by the counterparty to any agreement or arrangement with the Borrower relating to the Deposit; and
 - (b) enforce any rights and institute, continue or defend any proceedings relating to the Deposit which the Bank may require from time to time.

11.4 The Borrower shall promptly on becoming aware of any of the same give the Bank notice in writing of any breach of:

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

11.5 The Borrower, at its own cost, shall prepare and execute such further legal or other mortgages, charges or transfers (containing a power of sale and such other provisions as the Bank may reasonably require) in favour of the Bank as the Bank, in its absolute discretion, requires from time to time over all or any part of the Deposit and give all notices, orders and directions which the Bank may require, in its absolute discretion for perfecting, protecting or facilitating the realisation of its security over the Deposit.

12. Continuing Security

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

13. Discharge Conditional

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

- (a) the Bank or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Deposit, for such period as the Bank deems necessary to provide the Bank with security against any such avoidance, reduction or order for refund; and
- (b) the Bank may recover the value or amount of such security or payment from the Borrower subsequently as if such release, discharge or settlement had not occurred.

14. Consolidation

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

15. Power of Attorney

15.1 By way of security, the Borrower irrevocably appoints the Bank and every Receiver separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:

- (a) the Borrower is required to execute and do under this deed; and/or
- (b) any attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this deed or by law on the Bank or any Receiver.

15.2 The Borrower ratifies and confirms and agrees to ratify and confirm anything which any of its attorneys may do in the lawful and proper exercise or purported exercise of all or any of the powers, authorities and discretions referred to in paragraph 11 of Schedule 1.

16. Further Assurances

Without prejudice to anything else contained in this Charge the Borrower shall at any time at the request of the Bank but at the cost of the Borrower promptly sign seal execute deliver and do all deeds instruments notices documents acts and things in such form as the Bank may from time to time require for perfecting or protecting the security over the whole or any part of the Deposit or for facilitating its realisation.

17. Costs and Indemnity

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

- (a) this deed or the Deposit;
 - (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Bank's or a Receiver's rights under this deed; or
 - (c) taking proceedings for, or recovering, any of the Secured Liabilities,
- together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Borrower) at the rate and in the manner specified in the Facility Agreement.

17.2 Indemnity

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

- (a) the exercise, or purported exercise, of any of the powers, authorities or discretions vested in them under this deed;
- (b) any matter or thing done, or omitted to be done, in relation to the Deposit under those powers; or
- (c) any default or delay by the Borrower in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 17.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

18. Miscellaneous

18.1 A failure or delay by a party to exercise any right or remedy under this Charge or by law shall not constitute a waiver of that right or any other right or remedy or operate as or be taken to be a waiver of it nor shall any single partial or defective exercise of any such right or remedy preclude any other or further exercise under this Charge of that or any other right or remedy.

18.2 The rights and remedies under this Charge are cumulative and not exclusive of any rights or remedies provided by law and may be exercised from time to time and as often as the Bank deems expedient.

18.3 Any waiver of any right or remedy under this deed or by law, or any consent or approval given under this deed, is only effective if given in writing by the waiving or consenting party and not be deemed a

waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

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

18.4 This deed shall be in addition to, and independent of, every other security or guarantee which the Bank may hold for any of the Secured Liabilities at any time. No prior security held by the Bank over the whole or any part of the Deposit shall merge in the security created by this deed. If at any time any provision (or part of a provision) of the Charge is or becomes illegal, invalid or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

18.5 Any statement, certificate or determination of the Bank as to the Secured Liabilities, the Deposit or without limitation any other matter provided for in this Charge shall in the absence of manifest error be conclusive and binding on the Borrower.

19. Clawback

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

20. Communications

20.1 Every notice demand or other communication under this Charge shall be in writing and may be delivered personally or by letter, facsimile or email transmission despatched by the Bank to the Borrower to its address specified at the head of this Charge or to such other address and or facsimile number or email address as may be notified in accordance with this Clause by the Borrower to the Bank for such purpose.

20.2 Every notice demand or other communication shall be deemed to have been received (if sent by post) twenty-four hours after being posted first class postage prepaid (if posted from and to an address within the United Kingdom) and (if delivered personally or by facsimile transmission) at the time of delivery or despatch if during normal business hours on a working day in the place of intended receipt and otherwise at the opening of business in that place on the next succeeding such working day. If sent by email, the email shall be deemed to have been received once the email has been successfully sent.

21. Liability of trustees

In the event that the constitution of the Borrower provides for the trustees of the Borrower to be personally liable and in all other cases the trustees shall be liable (subject as mentioned in the proviso to this clause 21) under the covenants on the part of the Borrower contained in this Charge only to the extent of the assets vested in them or in any other person or persons in trust for or for the benefit of the Borrower and not further or otherwise but nothing contained in this Charge shall affect the powers or remedies of the Bank except as regards the personal liability of the trustees **Provided Always** that in any case where it has been determined by the court that a trustee has been negligent (or has otherwise been in breach of the Charities Acts and personal liability should flow from that court decision) then such trustee shall be personally liable under the covenants on the part of the Borrower contained in this Charge.

22. Governing Law and Jurisdiction

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

22.2 The parties hereto hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales over any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

23. Third Party Rights

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

Two of the trustees of the Borrower are authorised to execute this deed on behalf of the Borrower in pursuance of Section 333 of the Charities Act 2011.

This Charge on Charity Bank Account has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by)
YMCA George Williams Company)
acting by two directors)
)

Director



Director



SCHEDULE 1

ENFORCEMENT

1. POWER OF SALE

The power of sale under this deed (including any statutory power of sale) shall, as between the Bank and a purchaser from the Bank, arise on and be exercisable at any time after the execution of this deed, but the Bank shall not exercise such power of sale until the security constituted by this deed has become enforceable under clause 5.1 of this deed.

2. PROTECTION OF THIRD PARTIES

No purchaser, mortgagee or other person dealing with the Bank or any Receiver shall be concerned:

- (a) to enquire whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged, or whether the power the Bank or a Receiver is purporting to exercise has become exercisable; or
- (b) to see to the application of any money paid to the Bank or any Receiver.

3. NO LIABILITY AS MORTGAGEE IN POSSESSION

Neither the Bank nor any Receiver shall be liable to account as mortgagee in possession in respect of the Deposit, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, the Deposit for which a mortgagee in possession might be liable as such.

4. APPOINTMENT OF RECEIVER

4.1 At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Bank may, without further notice:

- (a) appoint by way of deed, or otherwise in writing, any one or more person or persons to be a receiver of all or any part of the Deposit; and
- (b) from time to time, by way of deed, or otherwise in writing, remove any person appointed to be Receiver and may, in a similar manner, appoint another in his place.

Where more than one person is appointed Receiver, they shall have power to act separately (unless the appointment by the Bank specifies to the contrary).

4.2 The Bank may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the Law of Property Act 1925 and the remuneration of the Receiver shall be a debt secured by this deed which shall be due and payable immediately upon its being paid by the Bank.

5. POWER OF SALE ADDITIONAL

5.1 The powers of sale and appointing a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Bank under the Insolvency Act 1986, the Law of Property Act 1925 or otherwise, and shall be exercisable without the restrictions contained in Sections 103 and 109 of the Law of Property Act 1925 or otherwise.

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

6. AGENT OF THE BORROWER

Any Receiver appointed by the Bank under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for his acts and remuneration, as well as for any defaults committed by him.

7. POWERS OF RECEIVER

Any Receiver appointed by the Bank under this deed shall, in addition to the powers conferred on him by the Law of Property Act 1925 and the Insolvency Act 1986, have the power to do all such acts and things as an absolute owner could do in the management of the Deposit.

8. ORDER OF APPLICATION OF PROCEEDS

All monies received by the Bank or a Receiver in the exercise of any enforcement powers conferred by this deed shall be applied:

- (a) first in paying all unpaid fees, costs and other liability incurred by or on behalf of the Bank (and any Receiver, attorney or agent appointed by it);
- (b) second in paying the remuneration of any Receiver (as agreed between the Receiver and the Bank);
- (c) third in or towards discharge of the Secured Liabilities in such order and manner as the Bank determines; and
- (d) finally in paying any surplus to the Borrower or any other person entitled to it.

9. APPROPRIATION

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

10. SUSPENSE ACCOUNT

All monies received by the Bank or a Receiver under this deed may, at the discretion of the Bank or Receiver, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Bank and the Borrower, and may be held in such account for so long as the Bank or Receiver thinks fit.

11. POWER OF ATTORNEY

By way of security, the Borrower irrevocably appoints the Bank and every Receiver separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:

- (a) the Borrower is required to execute and do under this deed, including execute any document required by the Bank under *paragraph 6 of Schedule 2*; and/or
- (b) any attorney may deem proper or desirable in exercising any of the powers, authorities and discretions conferred by this deed or by law on the Bank or any Receiver.

12. RATIFICATION OF ACTS OF ATTORNEY

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in *paragraph 11 of this Schedule 1*.