

DRAFT PRIORITY 2 – BI

This draft priority agreement is only for use in the following circumstances:

1. There are either:
 - charges in favour of the Bank and a land charge in favour of the Lender, both covering only the property in question; or
 - a land charge and a debenture in favour of the Bank (select the option ‘and a debenture (but only to the extent that it relates to the Property) dated [INSERT DATE]’) and a land charge in favour of the Lender.

If one or more charges to either Barclays or the other Lender also covers other assets, save for a Debenture in favour of the Bank, the appropriate alternative draft priority deed should be used.

2. The charge (and debenture, if there is one) in favour of Barclays is dated after the charge to the other Lender but the Barclays’ charge (and debenture, if there is one) is to have unlimited first priority, over the other Lender’s charge.
3. The priority deed when executed by both the Bank and the lender should be registered at the Land Registry and if the borrower is an English or Welsh company, with Companies House.

THIS DEED OF PRIORITY is made on

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BETWEEN Barclays (as defined below), the Lender (as defined below) and the Borrower (as defined below) in which the Lender and Barclays have agreed that the priority of the Barclays' Charge (as defined below) and the Lender's Charge (as defined below) shall be regulated as follows:

DEFINITIONS

“Barclays”	Barclays Bank PLC of 1 Churchill Place London E14 5HP but whose address for service is Lending Operations, P O Box 299, Birmingham, B1 3PF
“Barclays' Charge”	A legal charge dated [INSERT DATE] [OPTION: <i>insert if Barclays has debenture as well as a land charge</i>] and a debenture (but only to the extent that it relates to the Property) dated [INSERT DATE] in which the Borrower charged the Property as security for the payment to Barclays of the moneys and liabilities as set out in that document.
“Barclays' Debt”	The aggregate amount of the principal and interest charges and other money and liabilities from time to time due owing or outstanding by the Borrower to Barclays and secured by the Barclays' Charge
“Barclays Group”	Barclays PLC and any of its subsidiary undertakings as defined in the Companies Act 2006.
“Borrower”	[INSERT COMPANY NAME][INSERT COMPANY NUMBER (if applicable)][INSERT REGISTERED OFFICE and/or ADDRESS FOR SERVICE]
“Lender”	[INSERT COMPANY NAME][INSERT COMPANY NUMBER (if applicable)][INSERT REGISTERED OFFICE and/or ADDRESS FOR SERVICE]
“Lender's Charge”	A legal charge dated [INSERT DATE] in which the Borrower charged the Property as security for the payment to the Lender of the moneys and liabilities as set out therein
“Lender's Debt”	The aggregate amount of the principal and interest charges and other money and liabilities from time to time due owing or outstanding by the Borrower to the Lender and secured by the Lender's Charge
“Lender's Group”	The Lender and any of its subsidiary undertakings as defined in the Companies Act 2006.
“Property”	[INSERT PROPERTY DESCRIPTION] (Title No) [INSERT TITLE NUMBER]

In this Deed:

- (a) references to statutory provisions are to the provisions of English statutes and include references to amended, extended or re-enacted versions; and
 - (b) references to Barclays, the Lender and Borrower shall include references to their respective successors and permitted assigns.
1. The Lender and Barclays agree and declare that, notwithstanding the date of each of the Barclays' Charge and the Lender's Charge and the respective date that each was registered at H M Land Registry, the Barclays' Charge and the Lender's Charge and the money and liabilities secured by them shall rank in the following order of priority:
 - 1.a. first, the Barclays' Charge in or towards the settlement of the Barclays' Debt; and
 - 1.b. second, the Lender's Charge in or towards the settlement of the Lender's Debt.
 2. The priority in this Deed shall not be affected by any fluctuations in the amounts secured by the Barclays' Charge or by the existence at any time of a nil or credit balance on any current or other account.
 3. Barclays and the Lender consent to the creation and registration of the Lender's Charge and the Barclays' Charge respectively insofar as such consent is required.
 4. Barclays and the Lender apply to each of the registrar of companies and H M Land Registry or any other appropriate registry to note on the relevant register in the appropriate manner the postponement set out in this Deed.
 5. If the Lender has registered a restriction or notice at H M Land Registry the Lender irrevocably consents to the registration of the Barclays' Charge and any sale of the Property by Barclays pursuant to the Barclays' Charge and the registration of the purchaser's title free of the Lender's Charge and any restriction or notice the Lender may have registered at H M Land Registry.
 5. Each of the parties to this Deed confirms that it has had the opportunity to take independent legal advice before executing this Deed.
 6. The Borrower agrees that it will pay the costs of each of the other parties in relation to the drafting, preparation, negotiation and execution of this Deed on an indemnity basis.
 7. The Lender acknowledges the right of Barclays to the production and delivery of copies of the Lender's Charge.
 8. Barclays acknowledges the right of the Lender to the production and delivery of copies of the Barclays' Charge.
 9. The Borrower agrees that Barclays and the Lender may share any information, obtained at any time, from whatever source relating to the Borrower, its subsidiaries, any underlying facilities and any guarantees and securities to:
 - (a) the Borrower or any of its subsidiaries;
 - (b) the Barclays Group and any of its or their officers, directors, employees, professional advisers, auditors and any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;
 - (c) the Lender's Group and any of its or their officers, directors, employees, professional advisers, auditors and any delegate, agent, manager, administrator, nominee, attorney, trustee or custodian;
 - (d) any credit reference or rating agency;

- (e) anyone Barclays considers to be or likely to be involved in an assignment or transfer or possible assignment or transfer of all or any of its rights and/or obligations in respect of the Deed, in whole or in part, including any person or persons (i) in connection with a securitisation of all or any part of the loan assets of any member of the Barclays Group from time to time or (ii) who may otherwise enter into contractual relations with any member of the Barclays Group in connection with the Deed;
 - (f) anyone the Lender considers to be or likely to be involved in an assignment or transfer or possible assignment or transfer of all or any of its rights and/or obligations in respect of the Deed, in whole or in part, including any person or persons (i) in connection with a securitisation of all or any part of the loan assets of any member of the Lender's Group from time to time or (ii) who may otherwise enter into contractual relations with any member of the Lender's Group in connection with the Deed;
 - (g) anyone to whom information is required or requested to be disclosed by any court of competent jurisdiction or governmental, banking, taxation or other regulatory authority or similar body; and
 - (h) anyone to whom information is required or requested to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes.
10. The Borrower or the Lender may not assign or transfer all or any of its rights and/or obligations in respect of this Deed. Barclays may assign or transfer all or any of its rights and/or obligations in respect of this Deed, in whole or in part, to any person or persons including any actual or prospective assignee or transferee or to any other person (i) in connection with a securitisation of all or any part of the loan assets of any member of the Barclays Group from time to time or (ii) who may otherwise enter into contractual relations with any member of the Barclays Group in relation to the Deed.
11. The Borrower joins in this Deed for the purpose of acknowledging the arrangements effected by this Deed and undertakes with each of Barclays and the Lender to observe the provisions of this Deed at all times and not in any way to prejudice or affect the enforcement of those provisions.
12. This Deed forms the entire agreement between the parties relating to the priority of their respective securities and the application of the proceeds of realisation of the securities and supersedes all earlier discussions, correspondence, emails, facsimile transmissions, letters and communications, and arrangements of any kind dealing with the priorities of the securities.
13. A person who is not a party to this Deed has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefits of this Deed.
14. This Deed shall be governed by and construed and interpreted in accordance with the laws of England and the parties submit for the benefit of Barclays to the non-exclusive jurisdiction of the courts of England.
15. This Deed may be executed in any number of counterparts each of which shall be an original but such counterparts shall together constitute one and the same Deed.

IN WITNESS, the parties have executed and delivered this Deed on the date shown at the beginning of this Deed

BARCLAYS
EXECUTED AS A DEED
by
NAME

SIGNATURE _____

AS ATTORNEY OF BARCLAYS BANK
PLC

in the presence of
WITNESS NAME _____
SIGNATURE _____

LENDER

[OPTION: *if Lender is a corporate*

EXECUTED AS A DEED by

[INSERT LENDER NAME]

acting by

_____ Director

_____ Print Name

[_____ Director/Secretary

_____ Print Name]

[in the presence of
SIGNATURE OF WITNESS _____

NAME OF WITNESS _____

ADDRESS _____

OCCUPATION _____]]

[OPTION: *if Lender is an LLP*

EXECUTED AS A DEED by

[INSERT LENDER NAME]

acting by

_____ Member

_____ Print Name

[_____ Member

_____ Print Name]

[in the presence of
SIGNATURE OF WITNESS _____

NAME OF WITNESS _____

ADDRESS _____

OCCUPATION _____]]

[OPTION: if Lender is an LLP or corporate entity where the above signature blocks are not relevant

EXECUTED AS A DEED by

[INSERT LENDER NAME]

acting by

_____ Authorised Signatory

_____ Print Name

[_____ Authorised Signatory

_____ Print Name]

[in the presence of
SIGNATURE OF WITNESS _____

NAME OF WITNESS _____

ADDRESS _____

OCCUPATION _____]]

[If the Lender is a different legal entity type e.g. partnership which is not an LLP refer to the Barclays legal team for guidance]

BORROWER

[OPTION: if Borrower is a corporate

EXECUTED AS A DEED by

[INSERT BORROWER NAME]

acting by

_____ Director

_____ Print Name

*[*_____ Director/Secretary

_____ Print Name*]*

*[*in the presence of
SIGNATURE OF WITNESS _____

NAME OF WITNESS _____

ADDRESS _____

OCCUPATION _____*]]*

[OPTION: if Borrower is an LLP

EXECUTED AS A DEED by

[INSERT BORROWER NAME]

acting by

_____ Member

_____ Print Name

*[*_____ Member

_____ Print Name*]*

*[*in the presence of
SIGNATURE OF WITNESS _____

NAME OF WITNESS _____

ADDRESS _____

OCCUPATION _____*]]*

[OPTION: if Borrower is an LLP or corporate entity where the above signature blocks are not relevant

EXECUTED AS A DEED by
[INSERT BORROWER NAME]
acting by

_____ Authorised Signatory

_____ Print Name

[_____ Authorised Signatory

_____ Print Name]

[in the presence of
SIGNATURE OF WITNESS _____

NAME OF WITNESS _____

ADDRESS _____

OCCUPATION _____]]

[OPTION: *for non-corporate or LLP Borrower*
EXECUTED AS A DEED by
[INSERT BORROWER NAME]
acting by

_____ Signatory

in the presence of
SIGNATURE OF WITNESS _____

NAME OF WITNESS _____

ADDRESS _____

OCCUPATION _____]