



This Declaration of Trust is made .....(date) by Kuflink Security Trustees Limited, company no. 10144602 whose registered office is at 21 West Street, Gravesend, Kent, DA11 0BF.

## **BACKGROUND**

(A) The Trustee is an associated company of the Operator.

(B) The Operator is authorised and regulated by the FCA to run a service via the Website for the purposes of introducing Lenders to Borrowers for the purpose of re-financing via the Novation Process loans to such Borrowers advanced by Kuflink Bridging Limited under Initial Facility Agreements and which have been secured on property or other assets. Operation of the Website is conducted in accordance with the framework in Article 36H, and all Lenders and Borrowers who contract via the Website do so under the terms of an Article 36H Agreement.

(C) Borrowers have entered into Initial Facility Agreements on terms that each Facility may be re-financed through the Novation Process, involving the application of moneys advanced by the Lenders via the Website for the purposes of repayment of typically up to 100% of the principal amount of the given Facility.

(D) Upon entry into an Initial Facility Agreement, the Borrower thereunder will have provided the Security Trustee with a Security over an interest in land in the United Kingdom which the Operator deems to be sufficient to accept the risk associated with the Facility advanced to that Borrower, and such Security shall immediately thereupon be registered in the name of the Trustee at HM Land Registry.

(E) Upon refinance of the Facility in question, the associated Security shall be treated by the Trustee as being held for the benefit of the persons entitled as lenders under the Initial Facility Agreement pursuant to the Novation Process, and all rights to enforce such Security are vested in and enforceable by the Trustee with this beneficial class in mind.

(F) The Trustee provides its services under this Declaration as an unremunerated volunteer, and the Operator is exclusively responsible for the staffing, accommodation, operational expenses and overheads of the Trustee.

## **DECLARATION OF TRUST**

The Trustee shall stand possessed of the Trust Property for the benefit of the persons or classes of person identified herein as beneficiaries. The Trust Property shall be comprised of:

- (1) The sum of £10, settled on the Trustee by the Operator and repayable to the Operator without interest at the end of the Trust Period;
- (2) Each and every Security vested in the Trustee upon the execution of an Initial Facility Agreement; and
- (3) Subject as hereinafter provided, all other assets, rights, interests and cash whatsoever which under the terms of this Declaration constitute the Trust Property at any time hereafter.

**DEFINITIONS**

This Declaration uses the following defined terms:

Advance	An advance of moneys paid into and drawn from the Client Money Account as a contribution to the refinancing of a Facility, which constitutes the provider of those moneys a Lender, and the Facility Borrower a Borrower, under the terms of an Article 36H Agreement contracted via the Website.
Article 36H	Article 36H of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, as amended.
Article 36H Agreement	The composite of Lender Terms entered into by a Lender making Advances and a Deed of Novation in relation to a part of the Initial Facility Agreement novated thereby to the Lender
Borrower	A borrower of moneys under a Facility, who in accordance with the terms of an Initial Facility Agreement enters into a borrowing relationship with one or more Lenders pursuant to the Novation Process.
Client Money Account	The client money account maintained by the Operator.
Deed of Novation	A deed entered into between the Lender, the Borrower and the Operator (and in the case of the lender and the Borrower, by the Operator and by the Facility Provider, respectively, as their lawful attorneys), under which a part of the Facility is novated from the Facility Provider to the Lender
Enforcement	The enforcement (by whatever means) of the Trustee's rights under a Security
Facility	A loan facility made by a Facility Provider under the terms of an Initial Facility Agreement.
Facility Provider	Kuflink Bridging limited, which is affiliated with the Operator and the Trustee
Initial Facility Agreement	The legal documentation under which a Facility Provider has afforded a Facility.
Lender	A person whose moneys in the Client Money Account have been applied towards a Loan.
Lender Terms	the agreement that the lender enters into with the Operator for the purposes of being in a position to make Advances and to participate in the Novation Process (and which, combined with a Deed of Novation represents an Article 36H Agreement in respect of the part of a Facility that is novated under that Deed of Novation)



Novation Process	the process described at clause 5 of the Lender Terms
Operator	Kuflink limited, authorised and regulated by the FCA for the purposes of Article 36H.
Security	A mortgage, legal charge or other form of security over land or assets or any other security provided by or on behalf of a Borrower to comply with its obligations to the Facility Provider under its Initial Facility Agreement and given as a security to the Security Trustee
Trust Property	The property described at the Declaration of Trust above, together with all associated rights in relation thereto
Website	the Operator's website <a href="http://www.kuflink.com">www.kuflink.com</a>

## **OPERATIVE PROVISIONS**

### **1. Duties of the Trustee**

1.1 The Trustee shall take all steps necessary to ensure that each Security of land is registered with HM Land Registry in the sole and exclusive name of the Trustee.

1.2 The Trustee shall keep accurate records that indicate:

1.2.1 the identities of all Lenders whose Advances have been applied for the purposes of refinancing all or any part of a Facility under the Novation Process;

1.2.2 the amounts of principal and interest (as provided for by the Article 36H Agreement contracted via the Website) that are due to each such Lender; and

1.2.3 any residual interest in the Facility of the Facility Provider.

The Trustee shall provide this information on demand to the Operator, and shall at the direction of the Operator provide to any Lender the details of the Advances made by it, the principal and interest due to it in respect thereof and any other information reasonably incidental thereto (provided that no Lender shall be provided with such details in relation to any other Lender).

1.3 If the Trustee is of the reasonable opinion that a Borrower has defaulted, the Trustee shall consult with the Operator with respect to the practicalities of Enforcement and which means or method of Enforcement are most appropriate in the circumstances (provided that if the Operator, after seeking appropriate professional advice, is of the opinion that Enforcement is not a commercially viable option, the Trustee is not obliged to take any Enforcement action at all).



1.4 In relation to each Enforcement, the Trustee shall:

1.4.1 take such legal or other steps as it is advised are appropriate in the circumstances to enforce payment or to procure a sale or other disposal of any charged property at such value or price as is most reasonable in the circumstances; and

1.4.2 upon the proceeds of such enforcement, sale or transfer becoming payable, and after deduction of expenses associated with the enforcement, sale or transfer, arrange for the moneys to be paid to the Client Money Account.:

2. Trustee's status, costs and expenses

2.1 The Trustee is a volunteer, not operating by way of business. Accordingly:

2.1.1 the Trustee is not required to be regulated by the FCA for any purposes; and

2.1.2 the Trustee must not:

2.1.2.1 hold itself out as offering services of any sort (as trustee, nominee or otherwise) to any persons outside the framework of this Declaration;

2.1.2.2 advertise its existence or functions at all; or

2.1.2.3 generate any profit or income from the conduct of its duties under this Declaration.

2.2 The Operator has agreed with the Trustee:

2.2.1 to provide the Trustee at its own expense with such accommodation, staff, services and overheads as the Trustee needs to perform its duties under this Declaration; and

2.2.2 to establish a budget and to meet thereout the Trustee's operating expenses, subject only to clause 2.3.

2.3 In the case of Enforcement, the Trustee is entitled to an indemnity from that part of the Trust Property to which such Enforcement relates for all costs and expenses associated with such Enforcement, including all legal or other professional advice that the Trustee may be required to take. The Trustee shall not be required to account to any person in respect thereof.

2.4 In the event that the Trustee finds that, after defraying all moneys in the manner prescribed elsewhere in this Declaration, it holds any cash, then such cash shall be the property of the Operator.



### 3. Lenders

3.1 Each Lender is beneficially entitled to such proportion of each Facility as represents the Advance he has made (and which is reflected in the associated Deed of Novation), with interest thereon at such rate as is disclosed to him in his Article 36H Agreement.

3.2 No Lender is entitled to take any Enforcement action.

### 4. Trust Period

The trust established by this Declaration shall subsist for 80 years but may be terminated before the expiry of this period if the Operator ceases business.

### 5. Powers of the Trustee

5.1 Subject to any term of this Declaration or any relevant Article 36H Agreement to the contrary, the Trustee shall be entitled (without limitation) to:

5.1.1 take or continue any legal action against a Borrower or any other person in respect of its Facility;

5.1.2 release any Security;

5.1.3 comply with any applicable law relevant to any Facility; and

5.1.4 direct any Borrower to exercise any of the powers included at clauses S.1.1 to 5.1.3

5.2 The Trustee may engage any lawyers, valuers or other professional advisers and may rely on their advice or services and shall not be liable for any damages, costs or losses to any person arising as a result of relying on such advice or services. The Operator meets such costs.

5.3 The Trustee is not obliged to do or omit to do anything if it would, or might in its reasonable opinion, constitute a breach of any applicable law or a breach of a fiduciary duty or duty of confidentiality, or which would require the Trustee to be authorised and regulated by the FCA.

5.4 The rights, powers and discretions conferred upon the Trustee by this Declaration shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Trustee by general law or otherwise.

### 6. Appointment of additional persons as trustees

6.1 The Trustee may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it



6.1.1 if it reasonably considers that appointment to be in the interests of the Lenders generally, or any specific Lender or group of Lenders or

6.1.2 for the purposes of conforming to any legal requirements, restrictions or conditions which the Trustee considers relevant or

6.1.3 for obtaining or enforcing any judgment in any jurisdiction.

6.2 Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Trustee by this Declaration) and shall be bound by the duties and obligations that are conferred or imposed by this Declaration and the instrument of appointment.

6.3 Any such appointment shall be with the concurrence of the Operator, and the costs of such appointment (including, if relevant, fees of the additional trustee) are to be met by the Operator.

## 7. Obligations and limitation of liability

7.1 The Trustee shall have only those duties, obligations and responsibilities specified in this Declaration.

7.2 The Trustee is expressly relieved of any liability to any Lender where it is impossible or legally or commercially impractical for the full repayment of principal and payment of interest due to such Lender under the proviso to clause 1.3 or under clause 1.4 because:

7.2.1 there has been a default in relation to a Facility; and/or

7.2.2 the cost of Enforcement exceeds the value of the relevant Security or is disproportionate to the likely recovery under the Security; and/or

7.2.3 the Trustee deducts from the Trust Property the costs of such Enforcement, which the Lender to which it is entitled under the terms of the Article 36H Agreement =.

7.3 The Trustee may refrain from doing anything which in its opinion will or may be contrary to any applicable law and may do anything which is, in its opinion, necessary to comply with any such applicable law.

7.4 Section 1 of the Trustee Act 2000 shall not apply to the duties of the Trustee in relation to the trusts constituted by this deed. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Declaration, the provisions of this Declaration shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the



Trustee Act 2000, the provisions of this Declaration shall constitute a restriction or exclusion for the purposes of that Act.

8. Winding up

8.1 If the Trustee acting reasonably determines that all amounts owed by Borrowers and all other liabilities secured by Security have been fully and finally discharged:

8.1.1 the trusts set out in this Declaration shall be wound up; and

8.1.2 the Trustee shall release all of its rights under any remaining Security.

9. Law and jurisdiction

English law governs this Declaration and the English courts shall have exclusive jurisdiction in relation to it.

This Declaration has been executed and delivered as a deed on the date shown on the first page

EXECUTED by KUFLINK SECURITY TRUSTEES LTD acting by

a director in the presence of:.....

Witness Signature: .....

Witness Name/Witness Address.....