

DATED

26th January 2017

**PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND
COUNTRY PLANNING ACT 1990 RELATING TO LAND AT FORMER
HEALTH CENTRE, YORKSHIRE STREET, BACUP OL13 9AE**

between

ROSSENDALE BOROUGH COUNCIL

and

KRISHNAN JULIAN SATKUNAM

and

BARCLAYS BANK PLC

THIS DEED is dated 26th January 2017

- (1) ROSSENDALE BOROUGH COUNCIL, The Business Centre, Futures Park, Bacup, Rossendale OL13 0BB (**Council**).
- (2) KRISHNAN SATKUNAM of [REDACTED] (**Owner**).
- (3) BARCLAYS BANK PLC incorporated and registered in England and Wales with company number 1026167 of Barclays Loan Servicing Centre, P.O. Box 299, Birmingham B1 3PF (**Mortgagee**).

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The Owner is the freehold owner of the Property subject to a mortgage in favour of the Mortgagee but otherwise free from encumbrances.
- (C) The Owner has made the Planning Application and is proposing to carry out the Development.
- (D) The Mortgagee is the registered proprietor of the charge dated 17 December 2008 referred to in entry number 2 of the charges register of Title number LA729821 and has agreed to enter into this deed to give its consent to the terms of this deed.
- (E) The Council having regard to the provisions of the Local Plan and to all other material considerations has resolved that Planning Permission should be granted for the Development subject to the prior completion of this deed.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed:

1.1 Definitions:

Base Rate: the higher of 4% and the base rate from time to time of Barclays Bank plc.

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed and for no other purpose, the following operations: demolition works; site clearance; ground investigations; site survey works; temporary access construction works; archaeological investigation; and erection of any fences and hoardings around the Property.

Commence and Commences shall be construed accordingly.

Commencement Date: the date Development Commences.

Public Open Space Contribution: the sum payable in accordance with Schedule 1 of this deed.

Default Interest Rate: 4% per annum above the Base Rate.

Development: the development of the Property authorised by the Planning Permission.

Index: All Items Index of Retail Prices issued by the Office for National Statistics

Plan: the plan attached as Annex A.

Planning Application: the application for outline planning permission registered by the Council on 25 May 2016 under reference number 2016/0035.

Planning Permission: the planning permission to be granted by the Council in respect of the Planning Application.

Property: the land at Former Health Centre, Yorkshire Street, Bacup OL13 9AE shown edged red on the Plan and registered at HM Land Registry with absolute title under title number LA729821.

TCPA 1990: Town and Country Planning Act 1990.

Waste Receptacle Contribution: the sum payable in accordance with Schedule 1 of this deed.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England or Wales.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council the successors to its respective statutory functions.

- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** excludes faxes and e-mail.
- 1.11 A reference to **this deed** or to any other deed or document referred to in this deed is a reference to this deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time.
- 1.12 References to clauses and Schedules are to the clauses and Schedules of this deed.
- 1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

2. STATUTORY PROVISIONS

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972, and any other enabling powers.
- 2.2 The covenants, restrictions and obligations contained in this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns.
- 2.3 The covenants, restrictions and obligations contained in this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

3. CONDITIONALITY

With the exception of clauses 2, 3, 6, 9, 11, 14, 15, 17, 18, 19, 20 and 21 (which take effect immediately), this deed is conditional on the grant and issue of the Planning Permission.

4. COVENANTS TO THE COUNCIL

4.1 The Owner and the Mortgagee covenants with the Council to:

- (a) observe and perform the covenants, restrictions and obligations contained in Schedule 1. Any sum referred to in Schedule 1 shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sums are payable.
- (b) give at least 10 Working Days written notice to the Council of the intended Commencement Date. 4.2 The Owner shall pay to the Council on execution of this Agreement the sum of £400 for the costs incurred in the negotiation, preparation and execution of this Agreement.

5. COVENANTS BY THE COUNCIL

The Council covenants with the Owner to observe and perform the covenants, restrictions and obligations contained in Schedule 2.

6. MORTGAGEE'S CONSENT

6.1 The Mortgagee consents to the completion of this deed and declares that its interest in the Property shall be bound by the terms of this deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Property.

6.2 The Mortgagee shall not be personally liable for any breach of the obligations in this deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Property.

7. RELEASE

No person shall be liable for any breach of a covenant, restriction or obligation contained in this deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.

8. DETERMINATION OF DEED

The obligations in this deed shall cease to have effect if before the Commencement of Development, the Planning Permission:

- (a) expires;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

9. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

10. INTEREST ON LATE PAYMENT

If any sum or amount has not been paid to the Council by the date it is due, the Owner shall pay the Council interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

11. OWNERSHIP

11.1 The Owner warrants that no person other than the Owner and the Mortgagee has any legal or equitable interest in the Property.

11.2 Until the covenants, restrictions and obligations in Schedule 1 have been complied with, the Owner will give to the Council within 10 Working Days, the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Property:

- (a) the name and address of the person to whom the disposition was made; and
- (b) the nature and extent of the interest disposed of.

12. REASONABLENESS

Any approval, consent, direction, authority, agreement or action to be given by the Council under this deed shall not be unreasonably withheld or delayed.

13. CANCELLATION OF ENTRIES

13.1 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged (and subject to the payment of the Council's reasonable and proper costs) the Council will issue a written confirmation of such performance or discharge.

13.2 Following the performance and full satisfaction of all the terms of this agreement or if this deed is determined pursuant to clause 8 (and subject to the payment of the Council's reasonable and proper costs and charges) the Council will on the written

request of the Owner cancel all entries made in the local land charges register in respect of this deed.

14. DISPUTES

Any dispute, controversy or claim arising out of or relating to this deed, including any question regarding its breach, existence, validity or termination or the legal relationships established by this deed, shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:

- (a) the tribunal shall consist of one arbitrator appointed jointly by the parties;
- (b) in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors;
- (c) the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally).

15. NO FETTER OF DISCRETION

Nothing (contained or implied) in this deed shall fetter or restrict the Council's statutory rights, powers, discretions and responsibilities.

16. WAIVER

No failure or delay by the Council to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17. FUTURE PERMISSIONS

Nothing in this agreement shall prohibit or limit the right to develop any part of the Property in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission.

18. AGREEMENTS AND DECLARATIONS

The parties agree that:

- (a) nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and

- (b) nothing in this deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.

19. NOTICES

- 19.1 Any notice or other communication to be given under this deed must be in writing and must be:
 - (a) delivered by hand; or
 - (b) sent by pre-paid first class post or other next working day delivery service.
- 19.2 Any notice or other communication to be given under this deed must be sent to the relevant party at the addresses above or as otherwise specified by the relevant party by notice in writing to each other party.
- 19.3 Any notice or other communication given in accordance with clause 19.1 and clause 19.2 will be deemed to have been received:
 - (a) if delivered by hand, on signature of a delivery receipt or at the time the notice or document is left at the address provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or
 - (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Working Day after posting.
- 19.4 A notice or other communication given under this deed shall not be validly given if sent by e-mail.
- 19.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

20. THIRD PARTY RIGHTS

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

21. GOVERNING LAW

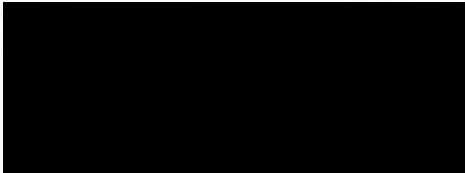
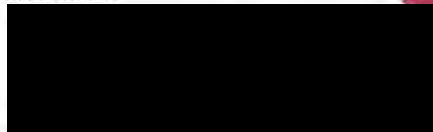
This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

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

No. IN SEAL REGISTER
115314

The common seal of ROSSENDALE BOROUGH COUNCIL was affixed to this document in the presence of:

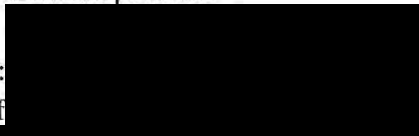
Authorised signatory



Signed as a deed by KRISHNAN JULIAN SATKUNAM in the presence of:

Signature of witness:

Name and address of



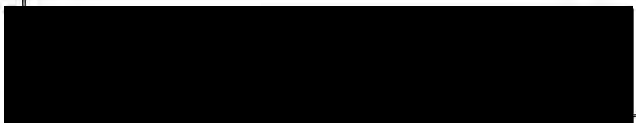
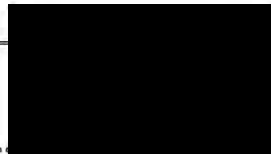
SIGNED for an on behalf of BARCLAYS BANK PLC by

its duly appointed Attorney under a Power of Attorney dated in the presence of:
Witness

Signed as a deed by

PHILLIP BROWN.....

As Attorney for and on behalf of Barclays Bank PLC in the presence of:



NAME

SIGNATURE



Schedule 1 Covenants to the Council

1. PUBLIC OPEN SPACE CONTRIBUTION

On or before the Commencement Date to pay to the Council the sum of £9,873.00 towards the cost of improving public open space at The Wall of History, Newgate Garden, Todmorden Road, Bacup by, but not limited to, restoring and enhancing the features on site, exposing original surfacing and provision of seating and landscaping.

2. WASTE RECEPTACLE CONTRIBUTION

On or before the Commencement Date to pay to the Council the sum of £2546.29 for the provision of waste receptacles at the Development.

Schedule 2 Covenants by the Council

1. PUBLIC OPEN SPACE CONTRIBUTION

- 1.1 To pay the Public Open Space Contribution into a separately identified interest-bearing section of the Council's combined accounts as soon as reasonably practicable.
- 1.2 Not to use any part of the Public Open Space Contribution other than for the purposes for which it was paid (whether by the Council or another party).
- 1.3 In the event that the Public Open Space Contribution has not been spent or committed for expenditure by the Council within 3 years following the date of receipt of the Public Open Space Contribution the Council shall refund to the Owner any part of the Public Open Space Contribution which has not been spent or committed for expenditure, together with any accrued interest.

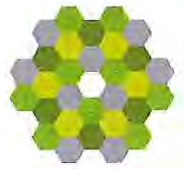
2. WASTE RECEPTACLE CONTRIBUTION

- 2.1 To pay the Waste Receptacle Contribution into a separately identified interest-bearing section of the Council's combined accounts as soon as reasonably practicable.
- 2.2 Not to use any part of the Waste Receptacle Contribution other than for the purposes for which it was paid (whether by the Council or another party).
- 2.3 In the event that the Waste Receptacle Contribution has not been spent or committed for expenditure by the Council within 3 years following the date of receipt of the Waste Receptacle Contribution the Council shall refund to the Owner any part of the Waste Receptacle Contribution which has not been spent or committed for expenditure, together with any accrued interest.

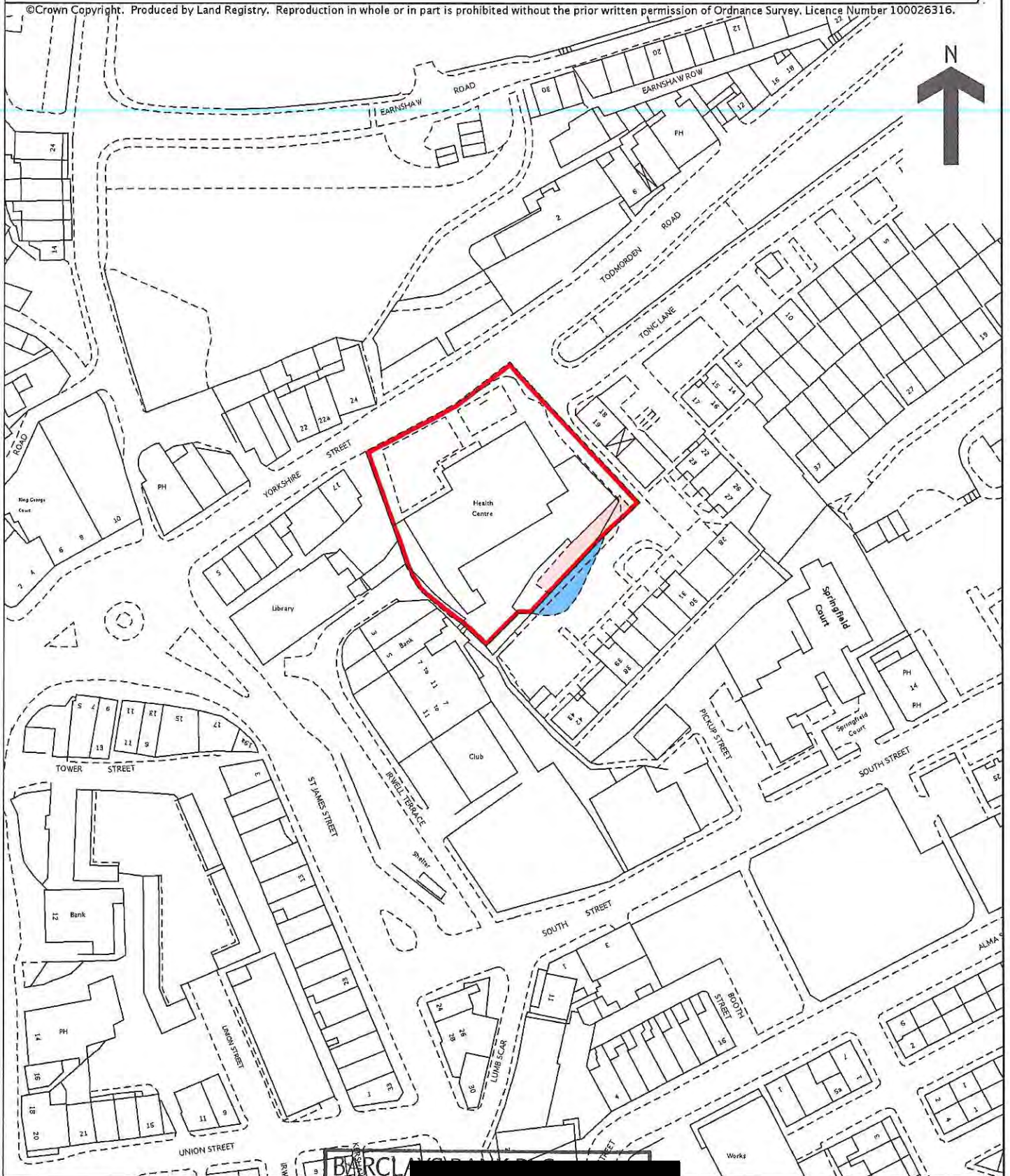
Annex A. Plan

Land Registry Official copy of title plan

Title number **LA729821**
Ordnance Survey map reference **SD8623SE**
Scale **1:1250**
Administrative area **Lancashire : Rossendale**



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BARCLAYS BANK
BUSINESS
PO BOX
BIRMINGHAM
B2 2XE

Annex B. Draft Planning Permission

Application Number: 2016/0035

Application Type: Outline

Development Description: Outline Application for the erection of a three storey building to contain: nursery (Use Class D1), offices (Use Class B1) and 10no. residential apartments (Use Class C3), with details of access, appearance, layout and scale for approval.

Development Address: Former Health Centre Yorkshire Street Bacup OL13 9AE

Ward:

Parish:

Applicant Name: Krinvest Ltd - Dr J Satkunam

Applicant Address: C/O Agent

Agent Name: Krinvest Ltd

Agent Address: [REDACTED]

Officer Name: Miss Lauren Ashworth

Officer Telephone Number: [REDACTED]

Officer Email Address: planning@rossendalebc.gov.uk

Date Received: 03/02/2016

Date Registered: 25/05/2016

Valid Date: 25/05/2016

Committee Date:

Planning Status: Registered

Decision Type:

Decision Date:

By this POWER OF ATTORNEY made by deed on 27 September 2016, we, Barclays Bank PLC, a company incorporated in United Kingdom and registered in England (registered number 1026167), whose registered office is situate at 1 Churchill Place, London, E14 5HP (the "Company") APPOINTS:

Phillip Brown
HEAD OF COLLATERAL
Credit Product Operations
One Snowhill
Queensway
Birmingham
B4 6GN

I certify that this is a true
and complete copy of the
original
FOR
Name
Job
Date

as our true and lawful attorney (the "Attorney") for and in our name and on our behalf (and in any way limiting the actual or ostensible authority of the said attorney) to do and execute the following acts and deeds:

1. to sign and execute all forms of written documents, other than acceptances and endorsements of bills of exchange; and/or
2. to accept and endorse bills of exchange jointly with some other person duly authorised by the Company for that purpose; and/or
3. to sign, execute and deliver all deeds including, without limitation, guarantees, bonds, deeds of easements and indemnities, deeds regulating the priority of mortgages, releases, discharges, transfers of mortgages, re-conveyances and reassignments of real or personal property, mortgaged, charged or assigned by way of security to the Company; and/or
4. to make any declaration, statement, affidavit or proof of any debt due or claimed to be due to the Company in any proceedings taken or hereafter to be taken by or against any person, firm or company under any act for the time being in force in relation to the bankruptcy, insolvency or liquidation of debtors, firms or companies of whatever nature,

relating to work done in the ordinary course of business of Credit Product Operations.

This Deed shall remain in force for twelve consecutive calendar months from the date of this Deed.

This Deed shall be governed and construed in accordance with the laws of England and Wales, to the jurisdiction of whose courts the Company submits by executing this Deed and the Attorney submits by purporting to act under its terms.

This Deed has been, and has been witnessed as, duly executed and delivered on the day and year first written above.

The Common Seal of
Barclays Bank PLC
was affixed in the Execution of this Deed
in the presence of:



[Redacted signature]

Assistant Secretary
Authorised Sealing Officer