TERM SHEET
FOR REAL ESTATE FINANCE
SINGLE PROPERTY DEVELOPMENT TRANSACTIONS

(SENIOR)

[Insert currency and total amount of facility] SINGLE CURRENCY TERM FACILITY FOR [PROJECT] [THE PROPOSED [ACQUISITION AND DEVELOPMENT] BY [insert name of sponsor or principal company] OF [insert description of property]]

[Please note that the terms set out in this term sheet are indicative only and do not constitute an offer to arrange or finance the Facility (as defined below). The provision of the Facility (as defined below) is subject to due diligence, credit committee approval[, the terms and conditions of the Mandate Letter] and satisfactory documentation.]

[DATE]

[NAME[S] OF ARRANGER[S]]

1 This term sheet is suitable for use on senior only development financings.
PART 1
THE SENIOR FACILITY

Facility: Term loan facility.

Amount: [Insert currency and amount of facility] provided that:

(a)(i) the Loan to Value will not exceed [ ] per cent.; and

(b)(ii) the Loan to Cost will not exceed [ ] per cent.

[in each case] immediately following the making of the Loans.

Borrower: [Insert name of borrower]/[A special purpose vehicle company to be incorporated in [ ]], being a wholly-owned Subsidiary of the Shareholder.

Guarantor[s]: [List entities that are to be guarantors.]

In accordance with the Group structure chart.

Arranger[s]: [ ] [and [ ]].

Lenders: As selected by the Arranger[s] [in consultation with the Borrower].

Purpose: To finance or refinance the costs and expenses referred to in the Budgeted Costs [(as set out in the Schedule)] which include:

(a) [the cost of acquisition of the Property];

(b) [the costs of carrying out the Development; and]

(c) [amounts payable under the Finance Documents.]

Property: [ ].
Development: The [demolition of the existing buildings on the Property, the clearance of the Property site and the construction on the Property of [ ], as described in the Specifications.]

Availability Period: [The period from the date of the Agreement to [ ]]/[At any time, the period from the date of the Agreement to the date falling [ ] month[s] before the date on which at that time the Project Monitor estimates that Practical Completion will occur]/[The period from the date of the Agreement to and including the date falling [ ] month[s] after the date on which Practical Completion occurs].

Minimum amount of each Loan: [Insert minimum amount for loans].

Maximum number of Loans: No more than [ ] Loans may be outstanding.

Repayment: [ ].

Termination Date: [ ].

Practical Completion: Practical Completion is expected to occur on [ ]. The date of Practical Completion is the date upon which the certificate of Practical Completion has been issued in accordance with the Building Contract [and the Project Monitor has supplied the Agent with a certificate to that effect]/[the Borrower and the Project Monitor have certified to the Finance Parties that practical completion of the Development has occurred]/[:

(a) the criteria for the issue of the certificate of practical completion have been met;

(b) any costs and expenses incurred by the Borrower in connection with the Development to achieve the issue of that certificate of practical completion have been paid in full; [and]

(c) that certificate of practical completion has been issued in accordance with the Building Contract and the Project Monitor has supplied the Agent with a certificate to that effect]; and

(d) [ ].

2 Lenders may wish to consider if the Availability Period should be linked to Practical Completion.

3 The definition of Practical Completion is likely to vary from transaction to transaction. It is important to consider what the implications of Practical Completion are when determining the appropriate definition.
Milestones: [ ].

Project Monitor: [ ].

4 The concept of milestones will only be appropriate for certain transactions. This is currently drafted in the LMA recommended form of single currency term facility agreement for real estate finance development transactions on the assumption that a Milestone will be the completion of a part of the Development. It could easily be adapted for other types of milestones (e.g. lettings or sales).
PART 2
PRICING

Arrangement Fee: [ ] per cent. flat on the amount of the Facility payable [ ]/[as set out in a fee letter dated [ ]].

Commitment Fee: [ ] per cent. per annum on the unused and uncancelled amount of the Facility for the Availability Period. Accrued commitment fee is payable [quarterly] in arrear during the Availability Period, on the last day of the Availability Period and, if cancelled in full, on the cancelled amount of the Facility at the time that cancellation is effective.

Prepayment [and cancellation] fee from the first utilisation date to (and including) the [first] anniversary of the first utilisation date, [ ] per cent.; after the [first] anniversary, to (and including) the [ ] anniversary of the first utilisation date, [ ] per cent.; and after the [ ] anniversary of the first utilisation date, to (and including) the [ ] anniversary of the first utilisation date, [ ] per cent., in each case on the amount so prepaid [or cancelled].

No prepayment [and cancellation] fee if prepayment/cancellation is as a result of illegality, tax gross-up or increased costs provisions [or [ ]].

Agency Fee: [ ] payable [ ]/[as set out in a fee letter dated [ ]].

Security Agent Fee: [ ] payable [ ]/[as set out in a fee letter dated [ ]].

[Other fees: [Insert any other fees. For example, utilisation fee ]]

Margin: [ ] per cent. per annum.

Interest on Loans: The aggregate of the applicable:

(a) Margin; [and]

(b) [[LIBOR]/[EURIBOR]] set by reference to Reuters [(and, if necessary, the use of linear interpolation)] (and if [LIBOR]/[EURIBOR] is less than zero, [LIBOR]/[EURIBOR] shall be deemed to

5 Users should note that ICE LIBOR (formerly known as BBA LIBOR) is produced for a limited range of tenors and currencies. See the IntercontinentalExchange Group website for more information.

6 Include if currency is euro and interest rate is set by reference to EURIBOR.
be zero]/[Fixed Rate]'; and

(c) Mandatory Cost, if any].

Payment of Interest on Loans:

Unless permitted to be capitalised in accordance with ‘Capitalisation’ below, interest is payable on [], [], [] and [] in each year and on the Termination Date[, with the first interest payment date being []].

Capitalisation

(a) Except as provided below, interest [and commitment fees] payable before [the dating falling [] after ][Practical Completion] will be capitalised and added to the principal amount of the Loan.

(b) Paragraph (a) does not apply:

(i) [in respect of interest only,] to any amount of interest payable equal to any amount payable to the Borrower under any Hedging Agreement;

(ii) if Default is continuing [and the Lenders so direct]; or

(iii) if as a result of capitalisation of interest [and commitments fees]:

(A) the aggregate amount of Loans would exceed the Total Commitments; or

(B) the aggregate amount of interest[, commitment fees] and other finance costs capitalised or otherwise funded under the Facility Agreement would exceed the amount for [finance costs]8 in the Budgeted Costs.

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7 Include if interest rate is fixed (as opposed to floating).

8 If interest/commitment fee is to be capitalised and the amount capitalised is to be limited by a line item in the Budgeted Costs, it is important to confirm that the Budgeted Costs includes an identifiable line item for this purpose.
PART 3
OTHER TERMS

Documentation: The Facility will be made available under a facility agreement (the "Agreement") based on the current recommended form of single currency term facility agreement for real estate finance single property development transactions of the LMA and otherwise in form and substance satisfactory to the Arranger[s][and the Lenders].

Other documentation will include Fee Letters, Security Documents[, Hedging Agreements] and [a Subordination Agreement.

Agent: [ ].

Security Agent: [ ].

Shareholder: [Insert name of parent of the Borrower].

Group: The [] Guarantor[s] and its Subsidiaries for the time being.

Obligors: The Borrower and the Guarantor[s].

Transaction Obligors: An Obligor[, the Shareholder][ or a Subordinated Creditor].

Additional Subordinated Creditors: The Borrower may request that any person becomes a Subordinated Creditor with the prior approval of the Agent and the delivery of appropriate and customary conditions precedent.

Transaction Security: First priority security over the issued share capital of [the Borrower and first priority asset security from [the Borrower/all Obligors], including a first priority mortgage over the Property, a first fixed charge over the Accounts and an assignment by way of security of the Hedging Agreement, the Insurances and the Development Documents. Security over all Subordinated Debt owing by the [Borrower/Obligors].

Guarantee(s) The Guarantor[s] to guarantee:

(a) [all amounts under the Finance Documents/interest and related finance costs;]

(b) [cost overruns]; and

9 Security package to be considered in the light of proposed transaction structure. It may be preferable to list all the specific assets over which security is to be taken.
(c) [completion of the Development]

[Property Protection/Cure] Loans:
A Lender may make a [Property Protection/Cure] Loan, with the consent of the [Agent/Majority Lenders/Lenders] for the purpose of paying amounts due in respect of [a headlease], [insurance], [a Hedging Agreement], [the Development] or to preserve/protect the Transaction Security. Such [Property Protection/Cure] Loan to be on demand and bear default interest.\(^{10}\)

**Drawing requirements:**
Loans may only be advanced if:

(a) [there are no outstanding Cost Overruns that have not been funded;][and]

(b) [Subordinated Debt has been advanced to the Borrower [and/or the Shareholder has subscribed for ordinary shares in the share capital of the Borrower] in an aggregate amount that is not less that [     ] per cent. of the [Loans (including the requested Loan)].\(^{11}\)

Loans to fund Development costs must be accompanied by invoices (or other evidence of cost) and a certificate from the [Architect/Employer’s Agent], approved by the Project Monitor, confirming that it is a Budgeted Cost which has not previously been the subject of a certificate.

**Prepayment and cancellation:**

(a) **Illegality**

A Lender’s Commitment shall be cancelled and its participation in the Loans shall be prepaid.

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\(^{10}\) Inclusion of Property Protection/Cure Loans to be considered on a transaction by transaction basis.

\(^{11}\) On most development financings, the sponsor’s equity (in the Facility Agreement, the Subordinated Debt) will be provided in full as a condition precedent prior to the first Utilisation Date. On some transactions, the equity is provided side by side with the Loans. This wording is to cover the latter scenario.
(b) **Change of control**

Upon a Change of Control, if [the Majority Lenders so require], all Commitments shall be cancelled and all Loans shall be repaid/[a Lender so requires and notifies the Agent [within [ ] days of the Borrower notifying the Agent of the Change of Control], the Commitment of that Lender shall be cancelled and the participation of that Lender in all Loans shall be repaid].

"Change of Control" means [[ ] ceasing to [control the [Borrower/Shareholder]be the beneficial owner (directly or indirectly through wholly-owned Subsidiaries) of the entire issued share capital of the [Borrower/ Shareholder]]/[any person or group of persons acting in concert gaining control of the [Borrower/Shareholder]].

(c) **Mandatory prepayment** - [ ]

[ ].

(d) **Mandatory prepayment - Disposal Proceeds**

The net disposal proceeds of any disposal of a unit of the Property (or the shares in the Borrower) shall be applied in prepayment of the Loans as set out below.

(e) **Mandatory prepayment - Hedging Proceeds**

All amounts payable to the Borrower as a result of termination or closing out under a Hedging Agreement shall be applied in prepayment of the Loans as set out below.

(f) **Mandatory prepayment - Lease Proceeds**

All premia and other amounts paid to the Borrower in respect of any agreement to amend, supplement, extend, waive, surrender or release a Lease Document shall be applied in prepayment of the Loans as set out below.

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12 Consider if change of control should be dealt with as an event of default instead.
13 To cater for any amount (e.g. any cash sweeps) paid into the Deposit Account.
14 Consider for residential/mixed use development.
15 Include for a floating rate loan with hedging by way of an interest rate swap.
(g) **Mandatory prepayment - Insurance Proceeds**

To the extent not applied:

(i) to satisfy a third party liability of an Obligor;

(ii) (for a loss of rent insurance claim) as if the proceeds were Rental Income; or

(iii) in reinstatement of the Property,

the proceeds of any insurance claim shall be applied in prepayment of the Loans as set out below.

(h) **Mandatory prepayment - Compensation Proceeds**

The proceeds of any compensation and/or damages for the compulsory purchase of, or any blight or disturbance affecting, the Property [but excluding any Excluded Compensation Proceeds] shall be applied in prepayment of the Loans as set out below.

(i) **Mandatory prepayment - Recovery Proceeds**

The proceeds of any claim against [the vendor of the shares in the Borrower or] the Property or any of its Affiliates (or any employee, officer or adviser) or any claim against the provider of a Property Report or any other due diligence report (after deducting Excluded Recovery Proceeds and less reasonable expenses and taxes incurred) shall be applied in prepayment of the Loans as set out below.

(j) **Mandatory prepayment – Released Retentions**

Any amount standing to the credit of the Retention Account when no Retentions are any longer payable by the Borrower and which is withdrawn in accordance with the provisions of the Retention Account shall be applied in prepayment of the Loans as set out below.

(k) **Voluntary cancellation**

The Borrower may, on not less than [ ] Business Days' (or such shorter period as the Majority Lenders may agree) prior notice, cancel the whole or any part (being a minimum of [insert minimum amount]) of the Available Facility. Any cancellation shall reduce
the commitment of the Lenders rateably.

(l) Voluntary prepayment

Loans may be prepaid after the last day of the Availability Period on [ ] Business Days' (or such shorter period as the Majority Lenders may agree) prior notice in whole or in part (but, if in part, by a minimum of [insert minimum amount]).

Any voluntary prepayment of a Loan shall be applied pro rata to each Lender’s participation in that Loan.

(m) Increased Costs, Tax Gross-Up and Tax Indemnity

The Borrower may cancel the Commitment, and prepay the participation in the Loans, of any Lender that makes a claim under these provisions.

(n) General

No part of the Facility being prepaid may be redrawn and no amount of the Total Commitments being cancelled may be reinstated.

Any prepayment shall be made with accrued interest on the amount prepaid and, subject to breakage costs[,] [and] [amounts (if any) payable under the Hedging Agreements in connection with that prepayment][16] [and any prepayment [and cancellation] fees payable under the Agreement], without premium or penalty.

The Borrower may not prepay or cancel the facility under paragraphs (k), (l) or (m) above unless the Majority Lenders are satisfied that, after prepayment or cancellation, the Borrower will have adequate funding to achieve Practical Completion.

Application of mandatory prepayment proceeds:

Mandatory prepayment proceeds will be applied in the following order:

(i) in respect of the proceeds referred to under paragraph (c) in “Prepayment and cancellation” above:

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16 Include if interest rate is for a floating rate loan with hedging by way of an interest rate swap.
(A) [ ]; and

(B) [ ];

(ii) in respect of the proceeds referred to in paragraph (d) in “Prepayment and cancellation” above:

(A) first:

1. [ ] per cent. of the allocated loan amount of the Unit in or towards prepayment of the Loan[s]; and

2. in or towards payment of prepayment [and cancellation] fees[, any amount due or that will become due under the Hedging Agreements] and any other amount due or that will become due in accordance with "General" under paragraph (m) above; and

(B) secondly, in payment of any surplus to the General Account;

(iii) in respect of the proceeds referred to in paragraphs (e) to (j) in “Prepayment and cancellation” above:

in:

(A) prepayment of the Loan[s]; and

(B) payment of prepayment [and cancellation] fees[, any amount due or that will become due and payable under the Hedging Agreements] and any other amount due or that will become due in accordance with "General" under paragraph (n)

17 To cater for the application of any amount (e.g. any cash sweeps) paid into the Deposit Account.

18 Include if interest rate is for a floating rate loan with hedging by way of an interest rate swap.

19 For residential/mixed use developments.

20 Include if interest rate is for a floating rate loan with hedging by way of an interest rate swap.
Bank accounts:

The Borrowers will maintain the following bank accounts in their name:

(a) Rent Account;
(b) Deposit Account;
(c) Disposals Account;
(d) Retention Account;
(e) VAT Account; and
(f) General Account.

Each account will be held at [        ], subject to customary exceptions in respect of the replacement of any account bank. No Borrower may maintain any other bank account without the prior consent of the Agent.

The Security Agent will have sole signing rights in respect of the Rent Account, Deposit Account, Disposals Account, Retention Account and VAT Account.

The Borrower will have signing rights in respect of the General Account, subject to customary exceptions.

All Net Rental Income[ and any amounts payable under the Hedging Agreements]21 other than [Hedging Proceeds or]22 Lease Proceeds will be paid into the Rent Account. Payment to be made from the Rent Account on each Interest Payment Date [after [the date falling [    ] after] Practical Completion] in the following order:

(i) Agent/Security Agent/Arranger amounts;

[(ii) interest on [Property Protection/Cure] Loans;

(iii) principal of [Property Protection/Cure] Loans;]

(iv) interest and fees [and periodical payments under the Hedging Agreements];

(v) principal [and termination/close out payments under the Hedging Agreements];23

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21 Include if interest rate is for a floating rate loan with hedging by way of an interest rate swap.

22 Include if interest rate is for a floating rate loan with hedging by way of an interest rate swap.

23 Include for a floating rate loan with hedging by way of an interest rate swap.
(vi) other sums due to Finance Parties;

[(vii) payment of [] into the Deposit Account];\(^{24}\)

(viii) surplus to General Account.

All [Hedging Proceeds,]\(^{25}\) Lease Proceeds, Insurance Proceeds, Compensation Proceeds and Recovery Proceeds will be paid into the Deposit Account.

All Disposal Proceeds will be paid into the Disposals Account.

All Cost Overruns [except to the extent that a Cost Overrun is funded by way of Cost Saving] will be paid into the Deposit Account.

All Loans borrowed to finance Retentions will be paid into the Retention Account.

All VAT recoveries will be paid into the VAT Account.

All Tenant Contributions\(^{26}\), unless held in a trust account in the name of the Managing Agent, and any other amount not specifically required to be paid into any other account will be paid into the General Account.

### Representations:

With agreed repetitions and at agreed times, each Obligor will make representations usual for transactions of this nature (subject to such qualifications as may be agreed) including, without limitation, the following:

1. **(g)(a)** status;
2. **(h)(b)** binding obligations;
3. **(i)(c)** non-conflict with other obligations;
4. **(j)(d)** power and authority;
5. **(k)(e)** validity and admissibility in evidence;
6. **(l)(f)** governing law and enforcement;
7. **(m)(g)** no deduction of tax;\(^{26}\)
8. **(n)(h)** no filing or stamp taxes;

\(^{24}\) To cater for any cash sweeps.

\(^{25}\) Include for a floating rate loan with hedging by way of an interest rate swap.

\(^{26}\) This representation should be considered on a transaction by transaction basis. If tax other than UK tax may be relevant, this should be taken into account.
(i) VAT;
(j) no default;
(k) no misleading information;
(l) original financial statements;
(m) pari passu ranking;
(n) no proceedings pending or threatened;
(o) valuation;
(p) title to property;
(q) information for property reports;
(r) no other business;
(s) centre of main interests and establishments;
(t) ranking;
(u) legal and beneficial ownership of Obligors; and
(v) [others].

Information undertakings:  

**Financial statements, Compliance Certificates and miscellaneous information:** the Borrower shall supply each of the following:

(a) as soon as they become available, but in any event within [ ] days of the end of each of its financial years its audited consolidated financial statements for that financial year together with the audited unconsolidated financial statements of each Obligor;

(b) as soon as they become available, but in any event within [ ] days of the end of each of its financial half years its consolidated financial statements for that financial half year [together with the unconsolidated financial statements of each Obligor];

(c) with each set of audited consolidated financial statements and each set of financial half year consolidated financial statements [after Practical Completion] and with each quarterly monitoring report of the Property, a compliance certificate signed by two directors of the Borrower;

(d) with each set of audited consolidated financial statements and each set of financial half year
consolidated financial statements a certification by a
director of the relevant Obligor that those financial
statements give a true and fair view (if audited) or
fairly represent (if unaudited) its financial condition
at the date at which those financial statements were
drawn up;

(e) copies of all documents dispatched by the Borrower
to its shareholders generally (or any class of them)
or to its creditors generally (or any class of them);

(f) details of any litigation, arbitration or administrative
proceedings or investigations that are current,
pending or threatened and, if adversely determined,
are reasonably likely to have a Material Adverse
Effect;

(g) such other information as any Finance Party may
reasonably request regarding the financial condition,
business and operations of any member of the
Group; and

(h) [others].

**Monitoring of Property:** on or before [five] Business Days
before each Interest Payment Date the Borrower shall
supply in respect of the quarterly period ending [10]
Business Days before that Interest Payment Date a report
providing details in relation to Unit sales.

**Notification of Default:** the Borrower shall promptly notify
the Agent of any Default.

**“Know your customer” checks:** customary undertakings
relating to the provision by the Obligors of information for
any “know your customer” checks required to be carried out
by the Agent and the Lenders shall be included in the
Agreement.

**Financial Covenants:**

[To include, without limitation]:

[**[Historical Interest Cover** – [on and after [the date falling
[  ] after] Practical Completion]**27 received passing
rental as a percentage of finance costs (measured quarterly
on a rolling backward looking [three/six/12] month basis) to

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27 Consider whether commencing an Historical Interest Cover covenant at Practical Completion is appropriate.
be at least [ ] per cent. at all times;\textsuperscript{28}

[\textbf{Projected Interest Cover} – [on and after [the date falling [ ] after]Practical Completion] projected passing rental as a percentage of finance costs (measured quarterly on a rolling forward looking [three/six/nine/12] month basis) (assuming, in respect of any period that would include the Termination Date, that no amounts are due on the Termination Date)] to be at least [ ] per cent. at all times;]

\textbf{Loan to Value} – the Loans [less amount in the Disposals Account to prepay the Loans] as a percentage of the aggregate market value of the Property (determined in accordance with the then most recent Valuation) to not exceed [ ] per cent. at any time; and

[\textbf{Loan to Cost} – the Loans [and Commitments] [less amount in the Disposals Account to prepay the Loans] as a percentage of the latest estimate by the Project Monitor of the costs and expenses specified in the Budgeted Costs (other than Cost Overruns) incurred at that time to not exceed [ ] per cent. at any time.]\textsuperscript{29}

\textbf{General Undertakings:}

Undertakings usual for transactions of this nature (subject to such qualifications and exceptions as may be agreed) in respect of each Obligor including, without limitation, the following:

\begin{enumerate}
\item[(a)] authorisations;
\item[(b)] compliance with laws;
\item[(c)] negative pledge;
\item[(d)] restriction on disposals;
\item[(e)] restriction on Financial Indebtedness;
\item[(f)] restriction on loans or credit;
\item[(g)] restriction on guarantees or indemnities;
\item[(h)] restriction on merger;
\item[(i)] no change of business;
\end{enumerate}

\textsuperscript{28} This definition is for a circumstance where the Parties require a backward looking interest cover calculation. It assumes that the Development will ultimately give rise to a rental income stream and so may be inappropriate for a purely residential Development where the Loans are to be serviced and repaid out of Unit Sales.

\textsuperscript{29} If a Loan to Cost covenant is included, consider whether Compliance Certificates should be delivered during the period prior to Practical Completion.
(j) restriction on acquisitions;
(k) restriction on entering into other agreements;
(l) restriction on issuance of share capital;
(m) subject to permitted payments from moneys in the General Account where no Default is outstanding or would result from the payment, restriction on dividends, distributions and share redemption and payments of Subordinated Debt;
(n) restriction on VAT groups;
(o) taxation; and

(p) people with significant control; and
(q) [others].

Development undertakings

Undertakings usual for transactions of this nature (subject to such qualifications and exceptions as may be agreed) in respect of each Obligor including, without limitation, the following:

(a) Practical Completion to occur by no later than [ ];
(b) [milestones];
(c) conduct of Development;
(d) maintenance of Development authorisations;
(e) Development Documents; 30
(f) [monthly] reporting on the Development;
(g) inspection/meetings and information to Project Monitor;
(h) contractor and consultants, and requirement for Collateral Warranties from Development Parties;
(i) effect of approvals and visits;
(j) [VAT] recoveries and reporting;
(k) procedure for Practical Completion; and

30 This undertaking should be considered after reviewing the Development Documents to determine whether or not there are specific undertakings that should be addressed (e.g. reserved discretions).
Cost Overruns

Cost Overruns to be funded as and when determined. Loans cannot be used to fund Cost Overruns. Contingency [of not less than [ ] per cent.] to be allocated against costs with the prior consent of the Majority Lenders.

A Cost Overrun shall be regarded as "funded" [

(a) to the extent an amount with respect to that Cost Overrun is deposited into the Deposit Account out of the proceeds of Subordinated Debt [or the subscription by the Shareholder of ordinary shares in the share capital of the Borrower] [; or

(a) to the extent there is a Cost Saving that is available to be offset against that Cost Overrun].

"Cost Overrun" means, at any time, the [aggregate of:

(a) the] amount by which [any item of/the aggregate] costs and expenses (other than Contingency) comprised within the Projected Costs exceeds the Budgeted Costs [for that item] at that time[; and

(b) the amount by which [any items of] funding comprised within the Budgeted Costs exceeds the latest estimate by the Agent of the amount of that funding that will be received by the Borrower during the relevant period referred to in the Budgeted Costs].

["Cost Saving" means, at any time, the amount by which the Majority Lenders are satisfied that any item of costs and expenses comprised within the Projected Costs is less than the Budgeted Costs for that item at that time.]

Property undertakings:

Undertakings usual for transactions of this nature (subject to such qualifications and exceptions as may be agreed) in respect of each Obligor including, without limitation, the following:

(a) title;

(b) Occupational Leases;

(c) [Headleases;]

(d) maintenance; Maintenance and energy efficiency improvements;

(e) no other development;
(f) public or local or other authority notices;

(g) investigation of title;

(h) power to remedy failure by a Borrower to perform any obligation under the Finance Documents which affects its Property;

(i) Managing Agents;

(j) Asset Managers;

(k) Insurances (including an undertaking that the Security Agent be named as composite insured in respect of its own separate insurable interest in the Insurances);

(l) environmental matters; and

(m) [others].

Events of Default:

Events of Default usual for transactions of this nature (subject to such qualifications and remedy periods as may be agreed) in respect of each Obligor and where appropriate each Transaction Obligor including, without limitation, the following:

(a) non-payment unless failure to pay is caused by:

(i) administrative or technical error; or

(ii) a Disruption Event, and

[payment is made within [ ] Business Days of its due date (in the case of (i)) or [ ] Business Days of its due date (in the case of (ii))] [in each case payment is made within [ ] Business Days of its due date];

(b) breach of: financial covenant; notification of Default undertaking; general undertakings; Occupational Leases undertaking; [Development completion [and milestones]]; [Headleases undertaking]; or Insurances undertaking [and certain other agreed undertakings];

(c) failure to comply with any other provision of the Finance Documents unless such failure is capable of remedy and is remedied within [ ] Business Days of

\[31\] Whether this should apply to all general undertakings should be considered on a transaction by transaction basis.
the earlier of

(i) the Agent giving notice to the Borrower; and

(ii) any Obligor becoming aware of the failure;

(d) misrepresentation;

(e) cross default;

(f) insolvency;

(g) insolvency proceedings;

(h) creditors’ process;

(i) cessation of business;

(j) unlawfulness and invalidity;

(k) repudiation and rescission of agreements;

(l) [Principal Tenant;]

(m) abandonment of Development for 28 days or more;

(n) compulsory purchase;

(o) Practical Completion does not [or will not in the reasonable opinion of the Project Monitor/Majority Lenders] occur by [                    ];

(p) major damage;

(q) [Headlease;]

(r) change of ownership of Obligors;

(s) material adverse change; and

(t) [others].

Material Adverse Effect:  "Material Adverse Effect" means a material adverse effect on:

(a) [the business, operations, property, condition (financial or otherwise) or prospects of an Obligor;]

(b) the ability of an Obligor to perform its obligations under the Finance Documents;

(c) the validity or enforceability of, or the effectiveness
or ranking of any Security granted or purported to be granted pursuant to any of, the Finance Documents; or

(d) the rights or remedies of any Finance Party under any of the Finance Documents.\(^\text{32}\)

**Hedging:**\(^\text{33}\)

Interest rate hedging will be implemented [by way of an interest rate [swap/cap with premium paid up front]] on or before the [first] Utilisation Date in respect of not less than [ ] per cent. of the amounts outstanding under the Facility for a term ending [on the Termination Date]/[no earlier than the Termination Date and no later than [ ]].

All Hedging Agreements will rank pari passu with the Facility.

Hedging of aggregate notional amounts must not exceed [[ ] per cent. of] the amounts outstanding under the Facility.

**Majority Lenders:**\(^\text{34}\)

[66\(^2/3\)] per cent. of Total Commitments.

**Amendments and waivers:**

Provisions requiring all Lender consent to certain customary amendments and waivers will be included.

**Assignments and transfers by Lenders:**

A Lender may assign any of its rights or transfer by novation any of its rights and obligations to any other person other than an individual\(^\text{35}\).

**Restriction on Debt Purchase Transactions:**

Neither the Borrower nor any other member of the Group may enter into any Debt Purchase Transaction.

Customary provisions in respect of the disenfranchisement of any Sponsor Affiliate that enters into a Debt Purchase Transaction.

**Confidentiality:**

Restriction on disclosure of Confidential Information by the Finance Parties, subject to exceptions detailed in the Agreement.

**Conditions precedent:**

Conditions precedent usual for transactions of this nature in relation to each Transaction Obligor in form and substance satisfactory to the Agent including, without limitation, the

\(^{32}\) To be considered on a transaction by transaction basis.

\(^{33}\) Include if interest rate is for a floating, rate loan with hedging.

\(^{34}\) Consider whether the Hedge Counterparties should be included for certain key decisions such as enforcement or acceleration.

\(^{35}\) Consider whether transfers to members of the Group are to be permitted or restricted and whether any Lender which is a ‘Sponsor Affiliate’ should be disenfranchised.
Consider, on a transaction by transaction basis, whether to include any further conditions precedent (such as business plans, budgets, projected capital expenditure, minimum equity injection, minimum sales etc.).
structural survey(s); and

(d) current energy performance certificate(s) of the Property or evidence that such certificate is not required; and

(d)(e) [others];

Insurance

(a) evidence[, by way of a letter from the Borrower’s insurance broker addressed to the Finance Parties,] that the insurance cover in force in respect of the Property complies with the terms of the Agreement and the necessary premia have been paid;

(b) an insurance valuation of the Property;

(c) evidence of the extent and level of the professional indemnity insurance of:

(i) the Contractor;

(ii) each Consultant; and

(iii) [any sub-contractor]; and

(d) [others];

Property

(a) title documents for the Property;

(b) copies of the Lease Documents in electronic format;

(c) [for a property is in England and Wales, a clear Land Charges Registry search or Land Registry search giving not less than 20 Business Days’ priority and showing no adverse entries;]

(d) [for a property in Scotland, a clear Property and Personal Register search or Land Register Report, together with clear searches against the relevant Obligors and a letter of obligation; in the Register of Inhibitions against the Borrower showing no adverse entries, an advance notice for the Standard Security giving not less than 20 protected Business Days, and no other advance notices;]

(e) [certificate of/report on] title (including the Lease Documents);
(f) overview report on the [certificate of/report on] title;

(g) evidence that existing security will be discharged on or before the [first] Utilisation Date;

(h) all necessary Land Registry application forms together with payment of the applicable fees;

(i) land transaction returns in relation to any stamp duty land taxes together with payment of those taxes and an undertaking from the Company’s solicitors in relation to delivery of the land transaction return certificates;

(j) authorisations in relation to [the transfer of the Property to the Borrowers and] the charging of them in favour of the Security Agent;

(k) [notices to reversioners together with payment of the appropriate registration fees;]

(l) [rent demands for the latest instalments of rent under the Headleases;]

(m) rent authority letters to the tenants;

(n) [sale and purchase agreement for the Property and transfer of the Property;]

(o) [vendor’s completion statement in respect of the Property;]

(p) [a copy of the standard form Unit Disposal Agreement]; and

(q) [others];

**Development Documents**

(a) the Budgeted Costs;

(b) a copy of [the/each] Building Contract and the Specifications;

(c) a copy of each Consultant Appointment;

(d) a Collateral Warranty from [the/each] Contractor and each Consultant;

(e) copies of the Development Consents;

(f) a report on the Development, the Development Documents and ancillary documents (including the
Development Parties, all plans, the Specifications, the Budgeted Costs and the development programme) prepared by the Project Monitor and addressed to the Agent. This report must include confirmation that all Development Consents have been obtained and any applicable judicial review period has passed;

(g)  [a report on the Development Documents prepared by [lawyers] and addressed to the Agent with an overview report prepared by [[ ]/the Security Agent’s solicitors.]

Finance Documents

(h)(a) the Agreement;

(h)(b) the Fee Letters;

(h)(c) the Transaction Security (together with any [duly acknowledged] notices required to be sent and share certificates and stock transfer forms required to be delivered under such Transaction Security and, if applicable, together with completed forms MR01);

(h)(d) the Hedging Agreement[s]; 37

(h)(e) [the Subordination Agreement;] and

(h)(f) [others];

[Managing Agent

(a) appointment of the Managing Agent; and

(b) the relevant Duty of Care Agreement.] 38

Asset Manager

(a) appointment of the Asset Manager; and

(b) the relevant Duty of Care Agreement.

Miscellaneous provisions: The Agreement will contain provisions relating to, among other things, default interest, market disruption, breakage costs, tax gross up and indemnities, FATCA deductions, increased costs, set-off and administration.

37 Include if interest rate is floating, with hedging.

38 Commonly, the Managing Agent would not be appointed until Practical Completion.
Costs and expenses:

All costs and expenses (including legal fees) reasonably incurred by the Arranger[s], the Agent and the Security Agent in connection with the negotiation, preparation, printing, execution, syndication and perfection of the Agreement, any document referred to in the Agreement or in a Security Document and any other Finance Documents executed after the date of the Agreement shall be paid by the Borrower promptly on demand whether or not the Agreement is signed.

Provisions relating to amendment costs, enforcement and preservation costs, monitoring costs, the Agent's management time and the Security Agent's management time and additional remuneration shall also be included.

A Valuation may be requested at any time, and shall be at the cost of the Borrower for the initial valuation, a valuation on Practical Completion, an annual valuation [after Practical Completion], a valuation in connection with a compulsory purchase order or if a Default is outstanding or likely to occur.

Governing law:

English [save where inappropriate for guarantees and Security Documents].

Jurisdiction:

Courts of England and Wales [save where inappropriate for guarantees and Security Documents].

Definitions:

Terms defined in the current recommended form of senior single currency term facility agreement for real estate finance single property development transactions of the LMA have the same meaning in this Term Sheet unless given a different meaning in this section.
[Schedule
[Budgeted Costs]]

[●]

[●]
Appendix
Additional Items to consider if there is no Mandate Letter\(^{39}\)

**Clear Market:** During the period from the date of [the Term Sheet/Mandate Letter] and [the date of the Agreement/close of syndication], the Borrower shall not and shall ensure that no other member of the Group shall raise or attempt to raise finance in the international or domestic loan or capital markets other than the Facility and Mezzanine Facility [without the prior written consent of the Arranger[s]].

**Syndication:** The Borrower [and the other Obligors] shall give such assistance as the Arranger[s] may reasonably require in relation to the syndication of the Facility including giving of presentations by members of their management and assisting in relation to the preparation of an information memorandum.

**Market Flex:** The Arranger[s] shall be entitled [after consultation with the Borrower] to change the pricing, terms and/or structure of the Facility if the Arranger[s] determine[s] that such changes are advisable in order to ensure a successful syndication of the Facility.

**Market Conditions:** The terms set out in the Term Sheet are subject to there being no material adverse change in either: (a) the business or financial condition of any Obligor; or (b) the international or any relevant domestic syndicated loan market, up to the time of [launch of the Facility] / [close of syndication of the Facility].

**Publicity:** Any publicity regarding the Facility to be agreed in advance by the Arranger[s].

**Confidentiality:** The Term Sheet and its content are intended for the exclusive use of the Borrower and shall not be disclosed by the Borrower to any person other than the Company’s legal and financial advisors for the purposes of the proposed transaction unless the prior written consent of the Arranger[s] is obtained.

**Expiry:** The terms set out in the Term Sheet are available for acceptance by the Borrower until 5.00 pm [London time] on [ ] after which time they will expire.

\(^{39}\) These items are included in the LMA Mandate Letter in much more detail. Therefore, they may be deleted if the Term Sheet is used with the LMA Mandate Letter. Consideration should be given to the detail required in these provisions if the LMA Mandate Letter is not used.