

DATED

(1) **MONMOUTHSHIRE BUILDING SOCIETY**

(2)

(3)

**DEED OF POSTPONEMENT  
for an individual borrower**

[For use where Monmouthshire Building Society wishes to take a first ranking charge, and another lender has agreed to postpone its charge behind Monmouthshire Building Society's proposed charge]

[Monmouthshire Building Society to take first priority for its proposed lending]

[No provision for postponement to cover any future advances  
by Monmouthshire Building Society]

MORGAN COLE  
LLP Bradley Court  
Park Place Cardiff

This **DEED OF POSTPONEMENT** is dated

## **PARTIES**

(1) **MONMOUTHSHIRE BUILDING SOCIETY** whose Head Office is at Monmouthshire House, John Frost Square, Newport, NP20 1PX (the “**Society**”)

(2) \_\_\_\_\_ (Company Number: \_\_\_\_\_ )  
whose registered office is at (the “**Postponing Mortgagee**”)

(3) \_\_\_\_\_ of (the “**Borrower**”)

## **1 Definitions and Interpretation**

1.1 In this Deed:

(a) “**Business Day**” means a day (not being Saturday or Sunday) on which banks in London are open for general business.

(b) “**Enforcement Date**” means the earlier of the first date on which either of the Lenders appoints a receiver or otherwise enforces its security under the Mortgage or the Postponed Mortgage or the date which is the relevant date for the purposes of Schedule 6 to the Insolvency Act 1986.

(c) “**Lenders**” means the Society and the Postponing Mortgagee.

(d) “**Mortgage**” means the mortgage dated on or around the date of this Deed between the Borrower and the Society.

(e) “**Property**” means the [freehold/leasehold/commonhold] property known as \_\_\_\_\_  
which is registered at HM Land Registry under title number \_\_\_\_\_.

(f) “**Postponed Amount**” means such amount of the Society’s Debt that does not exceed an aggregate principal sum of £ ( \_\_\_\_\_ )  
(or such larger sum as the Lenders may agree in writing) plus interest, commission, charges, and legal and other costs in respect of such debt.

(g) “**Postponed Mortgage**” means the mortgage dated between the Borrower and the Postponing Mortgagee.

(h) “**Securities**” means the Mortgage and the Postponed Mortgage.

(i) “**Society’s Debt**” means the aggregate amount of all principal, interest, commission, charges, legal and other costs and other monies and liabilities now and from time to time remaining owing or incurred by the Borrower to the Society and secured by the Mortgage.

1.2 Words and phrases the definitions of which are contained or referred to in the Insolvency Act 1986 shall be construed as having the meaning attributed to them in such legislation and 'receiver' shall mean both a receiver or receiver and manager of all or part only of the property charged by the Securities.

<sup>1</sup> This will be the amount of the Society’s proposed lending to the Borrower.

1.3 Reference in this Deed to statutes or statutory provisions include that statute and provision as amended modified and re-enacted or replaced from time to time.

1.4 Words in the singular shall include the plural and words in the plural shall include the singular.

1.5 The headings in this Deed are for convenience only and shall not affect the interpretation of any provision of this Deed.

1.6 Reference in this Deed to Clauses shall unless otherwise expressly specified be references to Clauses of this Deed.

1.7 Any reference in this Deed to this Deed or any other document referred to in this Deed shall be construed as a reference to it in force for the time being and as amended, varied, supplemented, restated, substituted or novated from time to time.

## 2 **Property**

2.1 By the Postponed Mortgage the Postponing Mortgagee is the first mortgagee of the Property.

2.2 The Property will be subject to the Mortgage.

## 3 **Consent**

The Lenders consent (so far as consent is required and not already given) to the creation and/or continuation of the Securities.

## 4 **Postponement**

The Postponing Mortgagee postpones the Postponed Mortgage to the Mortgage for the Postponed Amount.

## 5 **Application of Money**

All moneys received after the Enforcement Date by either of the Lenders or by any receiver appointed under the Securities or either of them shall (after payment of every such receiver's remuneration and after providing for all outgoings, costs, charges, expenses and liabilities and other payments ranking in priority) be applied in or towards discharge of monies due to the Lenders under the Securities in accordance with the postponement set out in Clause 4.

## 6 **Insurance**

Any monies received by either of the Lenders prior to the Enforcement Date for any insurance covering any of the Borrower's assets charged to them shall (subject to the rights of any prior encumbrances or lessor) be applied in repairing, replacing or reinstating such assets unless the Society otherwise directs in writing.

## 7 **Continuing Security**

As between each of the Lenders and the Borrower nothing contained in this Deed shall prejudice or affect the relevant Securities or any of their provisions which shall remain a continuing security for all monies and liabilities secured without any limit on the amount recoverable under the Securities.

8     **Disclosure of Information**

During the continuance of the Securities the Lenders shall be at liberty from time to time to disclose to each other information concerning the financial and other affairs of the Borrower in such manner and to such extent as the Lenders shall from time to time desire and the Borrower consents to such disclosure.

9     **Enforcement of Security**

If either Lender takes any steps to appoint a receiver or otherwise enforce its security, it shall notify the other Lender in writing within 10 Business Days of taking such action.

10    **Termination**

This Deed shall continue in full force and effect until either the Mortgage or the Postponed Mortgage has been discharged or until this Deed has been varied or replaced by another deed.

11    **Partial Invalidity**

If at any time any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect, neither the legality, validity or enforceability of the remaining provisions of this Deed nor the legality, validity or enforceability of this Deed shall in any way be affected or impaired by such circumstances.

12    **Production and Delivery**

Each of the Lenders acknowledges the right of the other to the production and delivery of copies of its respective Securities.

13    **The Borrower**

13.

1     The Borrower acknowledges the priorities of the Securities and covenants with the Lenders (and severally with each of them):

(a)     that following the Enforcement Date it will not seek to ensure or to enforce any application of monies relevant and/or available for application under the provisions of this Deed, otherwise than in accordance with its provisions; and

(b)     not in any way to prejudice or affect enforcement of the provisions of this Deed or to do or suffer anything to be done which would be a breach of the terms of this Deed.

13.

2     The Borrower acknowledges that it has joined in this Deed to record its knowledge and agreement to its provisions and it derives no rights under this Deed and its consent is not required to any variation of the arrangements set out in this Deed between the Lenders.

14    **HM Land Registry**

The Lenders apply to the Registrar at HM Land Registry to note in the appropriate manner the priority arrangements agreed in this Deed insofar as they may affect any

property comprised in the Securities the title to which is registered at HM Land Registry.

15     **Notices** Where a notice is to be given to any party to this Deed it may be served by leaving it at the registered office or last known address of that party or by sending it first-class post to the registered office or the last known address of that party when it shall be deemed to have been served at the expiration of forty-eight hours after it has been posted.

16     **Assignment** This Deed shall be binding upon successors in title to its parties.

17     **Applicable Law** This Deed shall be governed by and interpreted in accordance with the laws of England and Wales and each party submits to the non-exclusive jurisdiction of the courts of England and Wales.

18     **Counterparts** This Deed may be executed in two or more counterparts each of which shall constitute an original but when taken together shall constitute one instrument.

This document has been executed as a deed on the date stated above.

**The Society**

The common seal of the **Monmouthshire Building Society** was affixed in the presence of:

\_\_\_\_\_ Director/Secretary

By authority of the Board of Directors

**Postponing Mortgagee**

**EXECUTED AS A DEED BY**     )))  
as Attorney of [**Postponing**     )  
**Mortgagee**] in the presence of :

Name of Witness

Address of Witness \_\_\_\_\_

Signature of Witness \_\_\_\_\_

**OR**

**EXECUTED** as a **DEED** by )  
[*Postponing Mortgagee*] )  
acting by its )

Director \_\_\_\_\_

Director/Secretary \_\_\_\_\_

**OR**

**EXECUTED** as a **DEED** ) by [*Postponing Mortgagee*] ) acting by )  
\_\_\_\_\_ in the presence of : ) Director

Name of Witness \_\_\_\_\_

Address of Witness \_\_\_\_\_

Signature of Witness \_\_\_\_\_

**Borrower**

**EXECUTED** as a **DEED** ) by [*Borrower*] ) \_\_\_\_\_ in  
the presence of:

Name of Witness \_\_\_\_\_

Address of Witness \_\_\_\_\_

Signature of Witness \_\_\_\_\_

**EXECUTED** as a **DEED** ) by [*Borrower*] ) \_\_\_\_\_

in the presence of:

Name of Witness \_\_\_\_\_

Address of Witness \_\_\_\_\_

Signature of Witness \_\_\_\_\_

**EXECUTED** as a **DEED** ) by [*Borrower*] ) \_\_\_\_\_

in the presence of:

Name of Witness \_\_\_\_\_

Address of Witness \_\_\_\_\_

Signature of Witness \_\_\_\_\_

**EXECUTED** as a **DEED** ) by [*Borrower*] ) \_\_\_\_\_

in the presence of:

Name of Witness \_\_\_\_\_

Address of Witness \_\_\_\_\_

Signature of Witness \_\_\_\_\_