



Registration of a Charge

Company Name: **ROBERT HITCHINS LIMITED**

Company Number: **00686734**



XB5WMMCG

Received for filing in Electronic Format on the: **10/06/2022**

Details of Charge

Date of creation: **01/06/2022**

Charge code: **0068 6734 0119**

Persons entitled: **DAVID HENRY SPENCER
MARTIN DOUGLAS SPENCER
WINSTON FRANCIS SPENCER**

Brief description: **THE FREEHOLD PROPERTY SOUTH OF JACKSON'S LANE, CHIPPENHAM
AND SHOWN EDGED RED ON THE PLAN ATTACHED TO THE CHARGE
BEING PART OF THE PROPERTY REGISTERED AT HM LAND REGISTRY
WITH TITLE ABSOLUTE UNDER TITLE NUMBER WT156933**

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED
AS PART OF THIS APPLICATION FOR REGISTRATION IS A
CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **CHARLOTTE DOOLING**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 686734

Charge code: 0068 6734 0119

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st June 2022 and created by ROBERT HITCHINS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th June 2022 .

Given at Companies House, Cardiff on 14th June 2022

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

THRINGS

SOLICITORS

DATED

10th June

2022

LEGAL CHARGE

in relation to Land South of Jackson's Lane, Chippenham

We hereby certify this to be a true copy
of the original document

Thrings LLP 6/6/22

Thrings LLP Solicitors
Queen Square, Bath, BA1 2HQ

thrings.com

BATH BRISTOL LONDON ROMSEY SWINDON

THIS DEED IS DATED

1st June

2022

PARTIES

- (1) ROBERT HITCHINS LIMITED incorporated and registered in England and Wales with company number 00686734 whose registered office is at The Manor, Boddington, Cheltenham, Gloucester, GL51 0TJ (the Chargor).
- (2) DAVID HENRY SPENCER, MARTIN DOUGLAS SPENCER and WINSTON FRANCIS SPENCER trading as J D Spencer & Sons of Manor Farm, Langley Burrell, Chippenham, Wiltshire SN15 4LL (the Chargee).

BACKGROUND

- (A) The Chargee has agreed to sell the Property to the Chargor pursuant to the terms of the Sale Agreement, entered into on or around the date of this deed.
- (B) The Purchase Price (as defined in the Sale Agreement) was split into an Initial Payment (as defined in the Sale Agreement), payable on the Completion Date (as defined in the Sale Agreement) and a Deferred Payment (as defined in the Sale Agreement), payable on the 12-month anniversary of the Completion Date.
- (C) The Chargor has agreed to charge its assets to the Chargee as security for the Deferred Payment, in accordance with this deed.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 DEFINITIONS

The following definitions apply in this deed:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Charged Assets: all the assets, property and undertaking of the Chargor, which are, or are intended to be, subject to the Security created by, or pursuant to, this deed (and references to the Charged Assets shall include references to any part of them).

Delegate: any person appointed by the Chargee or any Receiver under clause 13 and any person appointed as attorney of the Chargee, Receiver or Delegate.

Event of Default: has the meaning given in Schedule 2.

Sale Agreement: the contract for the sale of the Property with vacant possession dated 1st June 2022 and made between the Chargor and the Chargee.

LPA 1925: the Law of Property Act 1925.

Property: the freehold property owned by the Chargor and defined at Schedule 1.

Plan: the plan of the Property appended to this deed at Schedule 1.

Receiver: a receiver or receiver and manager appointed by the Chargee under clause 11.

Secured Liabilities: all present and future obligations and liabilities of the Chargor to the Chargee, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Sale Agreement or this deed (including, without limitation, those arising under clause 22.3(b)), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.

Security: any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

Security Period: the period starting on the date of this deed and ending on the date on which the Chargee is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

VAT: value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 INTERPRETATION

In this deed:

- (a) clause and Schedule headings shall not affect the interpretation of this deed;
- (b) a **person** includes an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) a reference to **writing** or **written** includes fax and email;
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (j) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (k) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (l) 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;
- (m) a reference to an **amendment** includes a novation, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- (n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;

- (o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration or resolution;
- (p) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;
- (q) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and
- (r) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 CLAWBACK

If the Chargee considers that an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

1.4 NATURE OF SECURITY OVER REAL PROPERTY

A reference in this deed to a **charge or mortgage of or over the Property** includes:

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time;
- (b) the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property (in each case, other than those due to the Chargee in accordance with the terms of the Sale Agreement);
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Chargor in respect of the Property, and any monies paid or payable in respect of those covenants; and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

1.5 LAW OF PROPERTY (MISCELLANEOUS PROVISIONS) ACT 1989

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Sale Agreement are incorporated into this deed.

1.6 SCHEDULES

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

2. COVENANT TO PAY

The Chargor shall, on demand, pay to the Chargee and discharge the Secured Liabilities when they become due under the Sale Agreement or under this deed (as applicable).

3. GRANT OF SECURITY


3.1 LEGAL MORTGAGE AND FIXED CHARGES

As a continuing security for the payment and discharge of the Secured Liabilities, the Chargor with full title guarantee charges to the Chargee by way of a first legal mortgage, the Property.

4. PERFECTION OF SECURITY

4.1 REGISTRATION OF LEGAL MORTGAGE AT THE LAND REGISTRY

The Chargor consents to an application being made by the Chargee to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

 "No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated ~~DATE~~ *11 Nov 2012* in favour of DAVID HENRY SPENCER, MARTIN DOUGLAS SPENCER and WINSTON FRANCIS SPENCER trading as J D Spencer & Sons of Manor Farm referred to in the charges register or their conveyancer."

5. LIABILITY OF THE CHARGOR

5.1 LIABILITY NOT DISCHARGED

The Chargor's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Chargee that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- (b) the Chargee renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission that, but for this clause 5.1, might have discharged, or otherwise prejudiced or affected, the liability of the Chargor.

5.2 IMMEDIATE RECOURSE

The Chargor waives any right it may have to require the Chargee to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Chargor.

6. REPRESENTATIONS AND WARRANTIES

6.1 TIMES FOR MAKING REPRESENTATIONS AND WARRANTIES

The Chargor makes the representations and warranties set out in this clause 6 to the Chargee on the date of this deed and they are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

6.2 OWNERSHIP OF CHARGED ASSETS

The Chargor is the sole legal and beneficial owner of the Property.

6.3 NO SECURITY

The Charged Assets are free from any Security other than the Security created by this deed.

7. GENERAL COVENANTS

7.1 NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS

The Chargor shall not at any time, except with the prior written consent of the Chargee:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Charged Asset other than any Security created by this deed;
- (b) sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Charged Assets; or
- (c) create or grant (or purport to create or grant) any interest in the Charged Assets in favour of a third party.

7.2 PRESERVATION OF CHARGED ASSETS

The Chargor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Chargee or materially diminish the value of any of the Charged Assets or the effectiveness of the security created by this deed.

8. POWERS OF THE CHARGE

8.1 CHARGE HAS RECEIVER'S POWERS

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Chargee in relation to any of the Charged Assets whether or not it has taken possession of any Charged Asset and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

9. WHEN SECURITY BECOMES ENFORCEABLE

9.1 SECURITY BECOMES ENFORCEABLE ON EVENT OF DEFAULT

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

9.2 DISCRETION

After the security constituted by this deed has become enforceable, the Chargee may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Charged Assets.

10. ENFORCEMENT OF SECURITY

10.1 ENFORCEMENT POWERS

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
- (b) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 9.1.

- (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

10.2 EXTENSION OF STATUTORY POWERS OF LEASING

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Chargee and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Chargor, to:

- (a) grant a lease or agreement for lease;
- (b) accept surrenders of leases; or
- (c) grant any option in respect of the whole or any part of the Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Chargor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender), as the Chargee or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

10.3 REDEMPTION OF PRIOR SECURITY

- (a) At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Chargee may:
 - (i) redeem any prior Security over any Charged Asset;
 - (ii) procure the transfer of that Security to itself; and
 - (iii) settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Chargor).
- (b) The Chargor shall pay to the Chargee immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this deed as part of the Secured Liabilities.

10.4 PROTECTION OF THIRD PARTIES

No purchaser, mortgagee or other person dealing with the Chargee, any Receiver or any Delegate shall be concerned to enquire:

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (b) whether any power the Chargee, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
- (c) how any money paid to the Chargee, any Receiver or any Delegate is to be applied.

10.5 PRIVILEGES

Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

10.6 EXCLUSION OF LIABILITY

Neither the Chargee, nor any Receiver or Delegate, shall be liable to the Chargor or any other person:

- (a) (by reason of entering into possession of a Charged Asset, or for any other reason) to account as mortgagee in possession in respect of all or any of the Charged Assets;
- (b) for any loss on realisation, or for any act, default or omission for which a mortgagee in possession might be liable; or
- (c) for any expense, loss or liability:
 - (i) relating to the enforcement of, or any failure to enforce or delay in enforcing, any security constituted by or pursuant to this deed;
 - (ii) relating to an exercise of rights, or by any failure to exercise or delay in exercising, rights under this deed; or
 - (iii) arising in any other way in connection with this deed,

except that this does not exempt the Chargee or any Receiver or Delegate from liability for losses caused by the gross negligence, fraud or wilful misconduct of the Chargee or the relevant Receiver or Delegate.

10.7 RELINQUISHING POSSESSION

If the Chargee, any Receiver or Delegate enters into or takes possession of a Charged Asset, it or he/she may at any time relinquish possession.

10.8 CONCLUSIVE DISCHARGE TO PURCHASERS

The receipt of the Chargee, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Assets or in making any acquisition in the exercise of their respective powers, the Chargee, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

11. RECEIVERS

11.1 APPOINTMENT

At any time after the security constituted by this deed has become enforceable, or at the request of the Chargor, the Chargee may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Charged Assets.

11.2 REMOVAL

The Chargee may, without further notice, from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

11.3 REMUNERATION

The Chargee may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925 and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

11.4 POWER OF APPOINTMENT ADDITIONAL TO STATUTORY POWERS

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Chargee under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

11.5 POWER OF APPOINTMENT EXERCISABLE DESPITE PRIOR APPOINTMENTS

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Chargee despite any prior appointment in respect of all or any part of the Charged Assets.

11.6 AGENT OF THE CHARGOR

Any Receiver appointed by the Chargee under this deed shall be the agent of the Chargor and the Chargor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Chargee.

12. POWERS OF RECEIVER

12.1 POWERS ADDITIONAL TO STATUTORY POWERS

- (a) Any Receiver appointed by the Chargee under this deed shall, in addition to the rights, powers and discretions conferred on him/her by statute, have the rights, powers and discretions set out in clause 12.2 to clause 12.19.
- (b) A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether he/she is an administrative receiver or not.
- (c) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him/her states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (d) Any exercise by a Receiver of any of the powers given by clause 12 may be on behalf of the Chargor, the directors of the Chargor or himself/herself.

12.2 REPAIR AND DEVELOP THE PROPERTY

A Receiver may undertake or complete any works of repair, alteration, building or development on the Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

12.3 GRANT OR ACCEPT SURRENDERS OF LEASES

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting the Property on any terms, and subject to any conditions, that he/she thinks fit.

12.4 EMPLOY PERSONNEL AND ADVISERS

- (a) A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he/she thinks fit.
- (b) A Receiver may discharge any such person or any such person appointed by the Chargor.

12.5 MAKE AND REVOKE VAT OPTIONS TO TAX

A Receiver may make, exercise or revoke any VAT option to tax as he/she thinks fit.

12.6 CHARGE FOR REMUNERATION

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him/her) that the Chargee may prescribe or agree with him/her.

12.7 TAKE POSSESSION

A Receiver may take immediate possession of, get in and realise any Charged Asset.

12.8 MANAGE OR RECONSTRUCT THE CHARGOR'S BUSINESS

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Chargor carried out at the Property.

12.9 DISPOSE OF CHARGED ASSETS

A Receiver may grant options and licences over all or any part of the Charged Assets, grant any other interest or right over, sell, exchange, assign or lease (or concur in granting options and licences over all or any part of the Charged Assets, granting any other interest or right over, selling, exchanging, assigning or leasing) all or any of the Charged Assets in respect of which he/she is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he/she thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Charged Assets to be disposed of by him/her.

12.10 SEVER FIXTURES AND FITTINGS

A Receiver may sever and sell separately any fixtures or fittings from the Property without the consent of the Chargor.

12.11 GIVE VALID RECEIPTS

A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Assets.

12.12 MAKE SETTLEMENTS

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Chargor or relating in any way to any Charged Asset.

12.13 BRING LEGAL ACTION

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Assets as he/she thinks fit.

12.14 INSURE

A Receiver may, if he/she thinks fit, but without prejudice to the indemnity in clause 15.2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Chargor under this deed.

12.15 BORROW

A Receiver may, for whatever purpose he/she thinks fit, raise and borrow money either unsecured or on the security of all or any of the Charged Assets in respect of which he/she is appointed on any terms that he/she thinks fit (including, if the Chargee consents, terms under which that security ranks in priority to this deed).

12.16 REDEEM PRIOR SECURITY

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Chargor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

12.17 DELEGATION

A Receiver may delegate his/her powers in accordance with this deed.

12.18 ABSOLUTE BENEFICIAL OWNER

A Receiver may, in relation to any of the Charged Assets, exercise all powers, authorisations and rights he/she would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do in the ownership and management of all or any part of the Charged Assets.

12.19 INCIDENTAL POWERS

A Receiver may do any other acts and things that he/she:

- (a) may consider desirable or necessary for realising any of the Charged Assets;
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) lawfully may or can do as agent for the Chargor.

13. DELEGATION

13.1 DELEGATION

The Chargee or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it or him/her by this deed (including the power of attorney granted under clause 17.1).

13.2 TERMS

The Chargee and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it or he/she thinks fit.

13.3 LIABILITY

Neither the Chargee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability of any nature arising from any act, default, omission or misconduct on the part of any Delegate.

14. APPLICATION OF PROCEEDS

14.1 ORDER OF APPLICATION OF PROCEEDS

All monies received or recovered by the Chargee, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to the Chargee's right to recover any shortfall from the Chargor):

- (a) in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Chargee (and any Receiver, Delegate, attorney or agent appointed by

it) under or in connection with this deed and of all remuneration due to any Receiver under or in connection with this deed;

- (b) in or towards payment of the Secured Liabilities in any order and manner that the Chargee determines; and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it.

14.2 APPROPRIATION

Neither the Chargee, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

14.3 SUSPENSE ACCOUNT

All monies received by the Chargee, a Receiver or a Delegate under this deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):

- (a) may, at the discretion of the Chargee, Receiver or Delegate, be credited to a suspense account;
- (b) shall bear interest, if any, at the rate agreed in writing between the Chargee and the Chargor; and
- (c) may be held in that account for so long as the Chargee, Receiver or Delegate thinks fit.

15. COSTS AND INDEMNITY

15.1 COSTS

The Chargor shall, promptly on demand, pay to, or reimburse, the Chargee and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Chargee, any Receiver or any Delegate in connection with:

- (a) enforcing (or attempting to do so) any of the Chargee's, a Receiver's or a Delegate's rights under this deed;
- (b) any amendment, extension, waiver, consent or suspension of rights (or any proposal for any of these) under or in connection with this deed; or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment) at the rate and in the manner specified in the Facility Agreement.

15.2 INDEMNITY

- (a) The Chargor shall, promptly on demand, indemnify the Chargee, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (i) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Charged Assets;
- (ii) enforcing (or attempting to do so) the security constituted by this deed; or
- (iii) any default or delay by the Chargor in performing any of its obligations under this deed.

16. FURTHER ASSURANCE

16.1 FURTHER ASSURANCE

The Chargor shall promptly, at its own expense, take whatever action the Chargee or any Receiver may reasonably require for:

- (a) facilitating the realisation of any Charged Asset; or
- (b) facilitating the exercise of any right, power, authority or discretion exercisable by the Chargee or any Receiver in respect of any Charged Asset,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Charged Assets (whether to the Chargee or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Chargee may consider necessary or desirable.

17. POWER OF ATTORNEY

17.1 APPOINTMENT OF ATTORNEYS

By way of security, and following an Event of Default only, the Chargor irrevocably appoints the Chargee, every Receiver and every Delegate separately to be the attorney of the Chargor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- (a) the Chargor is required to execute and do under this deed; or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Chargee, any Receiver or any Delegate.

17.2 RATIFICATION OF ACTS OF ATTORNEYS

The Chargor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 17.1

18. RELEASE

18.1 RELEASE

Subject to clause 22.3, at the end of the Security Period, the Chargee shall, at the request and cost of the Chargor, take whatever action is necessary to:

- (a) release the Charged Assets from the security constituted by this deed.

19. AMENDMENTS, WAIVERS AND CONSENTS

19.1 AMENDMENTS

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

19.2 WAIVERS AND CONSENTS

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any subsequent right or remedy. It only applies to the circumstances in relation to which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure by the Chargee to exercise or delay by it in exercising any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Chargee shall be effective unless it is in writing.

19.3 RIGHTS AND REMEDIES

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

20. PARTIAL INVALIDITY

If, at any time, any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

21. COUNTERPARTS

21.1 COUNTERPARTS

- (a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- (b) Transmission of an executed counterpart of this deed (but for the avoidance of doubt not just a signature page) by fax or email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- (c) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

22. THIRD PARTY RIGHTS

22.1 THIRD PARTY RIGHTS

- (a) Except as expressly provided elsewhere in this deed, a person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed.

- (b) Notwithstanding any term of this deed, the consent of any person who is not a party to this deed is not required to rescind or vary this deed at any time.

22.2 CONTINUING SECURITY

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Chargee discharges this deed in writing.

22.3 DISCHARGE CONDITIONAL

Any release, discharge or settlement between the Chargor and the Chargee shall be conditional on no payment or security received by the Chargee in respect of the Secured Liabilities being avoided, reduced, set aside or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or for any other reason. Despite any such release, discharge or settlement:

- (a) the Chargee or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Charged Assets, for any period that the Chargee deems necessary to provide the Chargee with security against any such avoidance, reduction or order for refund; and
- (b) the Chargee may recover the value or amount of such security or payment from the Chargor subsequently as if the release, discharge or settlement had not occurred.

22.4 CERTIFICATES

Any certification or determination by the Chargee of any rate or amount under this deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

22.5 CONSOLIDATION

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

23. NOTICES

23.1 DELIVERY

Any notice or other communication given to a party under or in connection with this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service; and
- (c) sent to:

- (i) the Chargor at:

*Robert Hitchins Limited, The Manor, Boddington, Cheltenham, Gloucester,
GL51 0TJ*

Attention: Legal Department

- (ii) the Chargee at:

Thrings LLP, 2 Queen Square, Bath, BA1 2HQ

Attention: Neil Barbour (ref: NB/S4968-24)

or to any other address notified in writing by one party to the other from time to time.

23.2 RECEIPT

Any notice or other communication that either party gives to the other shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address; and
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting.

A notice or other communication given as described in clause 23.2(a) or clause 23.2(b) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

23.3 SERVICE OF PROCEEDINGS

This clause 23 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.

24. GOVERNING LAW AND JURISDICTION

24.1 GOVERNING LAW

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

24.2 JURISDICTION

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

24.3 OTHER SERVICE

The Chargor irrevocably consents to any process in any legal action or proceedings under clause 24.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

THIS AGREEMENT has been entered into on the date stated at the beginning of it.

SCHEDULE 1 - Property

The freehold property South of Jackson's Lane, Chippenham and shown edged red on the Plan and being part of the property registered at HM Land Registry with title absolute under title number WT156933.

[PLAN TO BE ATTACHED]

SCHEDULE 2- Events of Default

Each of the following events or circumstances shall constitute an Event of Default:

1. NON-PAYMENT

The Chargor fails to pay the Deferred Payment (as defined in the Sale Agreement) when due, unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three Business Days of its due date.

2. MISREPRESENTATION

Any representation, warranty or statement made, repeated or deemed made by the Chargor in, or pursuant to, the Sale Agreement or this deed is (or proves to have been) incomplete, untrue, incorrect or misleading in any material respect when made, repeated or deemed made.

3. CESSATION OF BUSINESS

The Chargor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.

4. INSOLVENCY

- (a) The Chargor stops or suspends payment of any of its debts as it is unable to, or admits its inability to, pay its debts as they fall due.
- (b) The Chargor commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors (excluding the Chargee) with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties).
- (c) Any action, proceedings, procedure or step is taken in relation to:
 - (i) winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Chargor; or
 - (ii) a composition, compromise, assignment or arrangement with any creditor of the Chargor; or
 - (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Chargor or any of its assets.
- (d) The value of the Chargor's assets is less than its liabilities (taking into account contingent and prospective liabilities).
- (e) Any event occurs in relation to the Chargor that is analogous to those set out in paragraphs 3(a) to 3(d) of this Schedule (inclusive) in any jurisdiction.
- (f) A winding-up petition that is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement or, if earlier, the date on which it is advertised shall be excluded from paragraphs (a) to (e) of this Schedule.

5. ENFORCEMENT OF SECURITY

Any Security on or over the assets of the Chargor becomes enforceable.

6. ILLEGALITY

All or any part of the Sale Agreement or this deed becomes invalid, unlawful, unenforceable, terminated or ceases to be effective or to have full force and effect.

7. REPUDIATION AND RESCISSION

The Chargor repudiates or rescinds or shows an intention to repudiate or rescind the Sale Agreement of this deed.

Executed as deed by ROBERT HITCHINS LIMITED acting by two directors,

.....

Director

.....

Director

Executed as a deed by J D SPENCER & SONS through its agent DAVID HENRY SPENCER, a partner



David Henry Spencer

in the presence of:

Name of witness: NEIL RICHARD BARBOUR

Address of witness: 2, QUEEN SQUARE
BATH
BA1 2HQ

Occupation of witness: SOLICITOR



Witness

Executed as a deed by J D SPENCER & SONS through its agent MARTIN DOUGLAS SPENCER, a partner



Martin Douglas Spencer

in the presence of:

Name of witness: NEIL RICHARD BARBOUR

Address of witness: 2, QUEEN SQUARE
BATH
BA1 2HQ

Occupation of witness: SOLICITOR



Witness

Executed as a deed by J D SPENCER & SONS through its agent
WINSTON FRANCIS SPENCER, a partner



Winston Francis Spencer

in the presence of:

Name of witness: NEIL RICHARD BARBOUR

Address of witness: 2, QUEEN SQUARE
BATH
BA1 2HQ

Occupation of witness: SOLICITOR



Witness

