



**Registration of a Charge**

Company name: **SUMA (DEVELOPMENTS) LIMITED**

Company number: **01208426**



X9XV4VAI

Received for Electronic Filing: **08/02/2021**

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**Details of Charge**

Date of creation: **02/02/2021**

Charge code: **0120 8426 0022**

Persons entitled: **WYRE FOREST DISTRICT COUNCIL**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS OR BEING PLOT L, FORMER BRITISH SUGAR SITE, STOURPORT ROAD, KIDDERMINSTER (AS SHOWN EDGED RED ON PLAN 1, ATTACHED TO INSTRUMENT).**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

**SQUIRE PATTON BOGGS (UK) LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 1208426

Charge code: 0120 8426 0022

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd February 2021 and created by SUMA (DEVELOPMENTS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th February 2021 .

Given at Companies House, Cardiff on 9th February 2021

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

DATED 02 FEBRUARY 2020 *1*

*W*

(1) SUMA (DEVELOPMENTS) LIMITED

and

(2) WYRE FOREST DISTRICT COUNCIL

LEGAL MORTGAGE

We hereby certify that this is a  
true and correct copy of the original  
Dated 5/2/21

*Squire Patton Boggs (UK) LLP*  
SQUIRE PATTON BOGGS (UK) LLP  
RUTLAND HOUSE  
148 EDMUND STREET  
BIRMINGHAM  
B3 2JR

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This MORTGAGE DEED is made on 02 February 2020

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BETWEEN

(1) **SUMA (DEVELOPMENTS) LIMITED**

(Company number 01208426)

whose registered office is at Telford House, 1 Claremont Lender, Shrewsbury, SY1 1RW  
(the "Mortgagor")

AND

(2) **WYRE FOREST DISTRICT COUNCIL** (the "Lender")

Address for communications with the Lender under this Mortgage is Address: c/o Finance Birmingham Limited,  
45 Church Street, Birmingham, B3 2RT

1. **DEFINITIONS AND INTERPRETATION**

In this Mortgage, so far as the context admits, the following words and expressions shall have the following meanings:

**"Chattels"** means all stock, goods, moveable plant, machinery, implements, utensils furniture and equipment now or from time to time placed on or used in or about (but not forming part of) the Mortgaged Property;

**"Enfranchising Legislation"** means any legislation conferring upon a tenant or tenants of property (whether individually or collectively with other tenants of that or other properties) the right to acquire a new lease of that property or to acquire, or require a nominee to acquire, the freehold or any intermediate reversionary interest in that property including (without limitation) the Leasehold Reform Act 1967 the Leasehold Reform, Housing and Urban Development Act 1993 and the Commonhold and Leasehold Reform Act 2002 but does not include Part II of the Landlord and Tenant Act 1954;

**"Environmental Law"** means all laws (statutory, common law or otherwise) including, without limitation, circulars, guidance notes and codes of practice from time to time regulating the control and prevention of pollution to land water or atmosphere and/or the carrying on of any process or activity on premises and any emissions from and all waste produced by such process or activity and any chemicals or substances relating to the same whether relating to health and safety, the work place, the environment or the provision of energy (including without limitation the Health and Safety at Work etc Act 1974, the Control of Pollution Act 1974, the Environmental Protection Act 1990, the Environment Act 1995, the Water Industry Act 1991, the Water Resources Act 1991, the Statutory Water Companies Act 1991, the Water Consolidation (Consequential Provisions) Act 1991, the Water Act 2003, the Clean Air Act 1993, the Alkali, etc, Works Regulation Act 1906, the Planning (Hazardous Substances) Act 1990, the Public Health Acts and the Radioactive Substances Act 1993 and any European Union directives or regulations regulating the same) from time to time in force and any instrument, plan, regulation, permission, authorisation, order or direction made or issued thereunder or deriving validity therefrom;

**"Environmental Licence"** means any permit, licence, authorisation, consent or other approval required by or given pursuant to any Environmental Law;

**"Insolvency Event"** in relation to the Mortgagor means each of the following:

- (a) a meeting is convened for the purpose of considering a resolution to wind up the Mortgagor;
- (b) such a resolution as is mentioned in paragraph (a) is passed;
- (c) a meeting of the directors or members of the Mortgagor is convened for the purpose of considering a resolution to seek a winding up order, an administration order or the appointment of an administrator;
- (d) such a resolution as is mentioned in paragraph (c) is passed;
- (e) a petition for a winding up or an application for an administration order is made by the Mortgagor;
- (f) such an order as is mentioned in paragraph (e) is made;
- (g) a notice of appointment of or notice of intention to appoint an administrator is issued by the Mortgagor or their directors or members or by the holder of a qualifying floating charge or a proposal is made for, or the Mortgagor becomes subject to, any voluntary arrangement;

- (h) a receiver (administrative or otherwise) is appointed over all or part of the Mortgagor's assets;
- (i) the Mortgagor takes part in any action (including entering negotiations) with a view to readjustment, rescheduling, forgiveness or deferral of any part of the Mortgagor's indebtedness;
- (j) the Mortgagor proposes or makes any general assignment, composition or arrangement with or for the benefit of all or some of the Mortgagor's creditors;
- (k) the Mortgagor suspends or threatens to suspend making payments to all or some of the Mortgagor's creditors;
- (l) any action is taken in any jurisdiction which is similar or analogous to any of the foregoing; or
- (m) the Lender has reasonable grounds for believing that any of the foregoing is imminent;

**"Intellectual Property Rights" means:**

- (a) all present and future copyrights, patents, designs, trademarks, service marks, brand names, inventions, design rights, know-how, formulas, confidential information, trade secrets, computer software programmes, computer systems and all other intellectual property rights whatsoever without any limitation, whether registered or unregistered, in all or any part of the world, in which the Mortgagor is legally, beneficially or otherwise interested;
- (b) the benefit of any pending applications for the same and all benefits deriving therefrom and thereunder including but not limited to royalties, fees, profit sharing agreements and income arising therefrom and all licences in respect of or relating to any intellectual property rights, whether such licences are granted to the Mortgagor or granted by the Mortgagor; and
- (c) every item of physical material of any description or type whatever in or in respect of which intellectual property rights may subsist and in respect of each such item the original copy or version or variant owned by, produced by or delivered to or obtained by the Mortgagor and any rejected and surplus materials associated or connected with or forming part of the foregoing which shall include, without limitation, any and all manuals and translations thereof, log books, designs, sketches, algorithms, calculations, diagrams, computations, source codes, models, prototypes, apparatus, computer programmes, photographs, books and other records in any medium, electronic data and any other material of any description whatever in which intellectual property may be incorporated;

**"Mortgaged Assets" means** the Mortgaged Property and all of the other assets, rights and properties assigned, mortgaged or charged under or pursuant to this Mortgage, and such expression shall include all or any part thereof;

**"Mortgagors Liabilities" means:**

- (a) all money and liabilities whether actual or contingent (including further advances made hereafter by the Lender) which now are or at any time hereafter may be due, owing or incurred from or by the Mortgagor to the Lender anywhere or for which the Mortgagor may be or become liable to the Lender in any manner whatsoever without limitation (and (in any case) whether alone or jointly with any other person and in whatever style, name or form and whether as principal or surety and notwithstanding that the same may at any earlier time have been due, owing or incurred to some other person and have subsequently become due, owing or incurred to the Lender as a result of a transfer,



assignment or other transaction or by operation of law) including, (without prejudice to the generality of the foregoing):

- (b) interest on all such money and liabilities to the date of payment; and
- (c) commission and other banking charges and legal, administrative and other costs, charges and expenses (on a full and unqualified indemnity basis) incurred by the Lender in enforcing or endeavouring to enforce payment of such money and liabilities whether by the Mortgagor or others and in relation to preparing, preserving defending or enforcing any security held by or offered to the Lender for such money and liabilities, together with interest computed as provided in paragraph (b) above on each such sum from the date that the same was incurred or fell due;

**"Mortgaged Licences"** means all present and future licences, permits, consents and authorisations (if any) (including Environmental Licences to the extent they are capable of being charged) held in connection with any business at any time carried on by the Mortgagor at the Mortgaged Property;

**"Mortgaged Property"** means the property, assets, rights and interests charged by clause 2.1 and such expression shall include all or any part thereof;

**"Planning Acts"** means all legislation from time to time regulating the development, use, safety and control of property including without limitation the Town and Country Planning Act 1990 and any instrument, plan, regulation, permission and direction made or issued thereunder or deriving validity therefrom;

**"Secured Obligations"** means:

- (a) the Mortgagor's Liabilities; and
- (b) all other money and liabilities expressed to be secured hereby and all other obligations and liabilities of the Mortgagor ; and

**"Value Added Tax"** includes any other form of sales or turnover tax.

1.2 In this Mortgage:

- (a) the expressions the **"Lender"** and **"Mortgagor"** where the context admits include their respective successors in title and/or assigns, whether immediate or derivative.
- (b) unless the context requires otherwise:
  - (i) the singular shall include the plural and vice versa;
  - (ii) any reference to a person shall include an individual, a company, corporation, limited liability partnership or other body corporate, a joint venture, society or unincorporated association, organisation or body of persons (including a trust, and a partnership) and any government, state, government or state agency or international organisation (whether or not a legal entity). References to a person also including that person's successors and assigns whether immediate or derivative;
  - (iii) the expression **"this Mortgage"** shall mean this mortgage and shall extend to every separate and independent stipulation contained herein;
  - (iv) any right, entitlement or power which may be exercised or any determination which may be made by the Lender under or in connection with this Mortgage may be exercised or made in the absolute and unfettered

discretion of the Lender which shall not be under any obligation to give reasons therefore;

(v) references to any statutory provision (which for this purpose means any Act of Parliament, statutory instrument or regulation or European directive or regulation or other European legislation) shall include a reference to any modification re-enactment or replacement thereof for the time being in force, all regulations made thereunder from time to time and any analogous provision or rule under any applicable foreign law;

(vi) for the avoidance of any doubt, the rights, powers and discretions conferred upon the Lender by or pursuant to this Mortgage shall (unless otherwise expressly stated) apply and be exercisable regardless of whether a demand has been made by the Lender for the payment of the Secured Obligations or any of them and regardless of whether the power of sale or other powers and remedies conferred on mortgagees by the Law of Property Act 1925 or this Mortgage shall have arisen or become exercisable;

(vii) references to clauses, sub-clauses and schedules shall be references to clauses, sub-clauses and schedules of this Mortgage;

(c) if for any reason whatsoever this Mortgage shall not be, or shall cease to be, a valid and effective charge over or assignment of the Mortgaged Assets (as the case may be) then this Mortgage shall take effect as a charge over or assignment of the beneficial interest of the Mortgagor in the Mortgaged Assets;

(d) except where expressly otherwise stated or where the context requires otherwise, each provision of this Mortgage shall apply both before and after any demand for payment under this Mortgage both before and after the date of discontinuance.

1.3 The perpetuity period applicable to any trust constituted by this Mortgage shall be eighty years.

## 2. CHARGES AND ASSIGNMENTS

2.1. The Mortgagor with full title guarantee:

(a) charges by way of legal mortgage the property specified in the First Schedule and all buildings and fixtures (including trade fixtures) from time to time on any such property as a continuing security for the payment to the Lender of the Secured Obligations;

(b) charges by way of fixed charge as a continuing security for the payment to the Lender of the Secured Obligations any fixed plant and machinery from time to time on any such property as is referred to in clause 2.1(a) and which is not included within the charge in clause 2.1 (a); and

(c) (where any property referred to in clause 2.1 (a) is leasehold) charges by way of fixed charge as a continuing security for the payment to the Lender of the Secured Obligations any present or future right or interest conferred upon the Mortgagor in relation thereto by virtue of any Enfranchising Legislation including any rights arising against any nominee purchaser pursuant thereto.

2.2. The Mortgagor with full title guarantee assigns to the Lender all amounts now or hereafter owing to the Mortgagor by way of:

(a) rent (but excluding ground rent, service charge and any sums payable in respect of any services provided to any tenant or payable in respect of insurance premiums) by any tenant (whether present or future) of the Mortgaged Property;

- (b) licence fee by any licensee (whether present or future) of the Mortgaged Property;
- (c) service charge and sums payable in respect of services provided to any tenant or payable in respect of insurance premiums by any tenant (whether present or future) of the Mortgaged Property;
- (d) rent deposit and purchase deposit; and
- (e) any other amounts (including without limitation ground rents, rent charges and dilapidations) payable by any tenant licensee or occupier (in any case whether present or future) of the Mortgaged Property.

and in each case the proceeds thereof and all rights to recover such amounts, and subject to re-assignment on payment of the Secured Obligations.

- 2.3. The Mortgagor with full title guarantee assigns to the Lender the goodwill of the business (if any) now or at any time hereafter carried on by the Mortgagor at the Mortgaged Property and the full benefit of the Mortgaged Licences (if any) and also the full right to recover and receive all compensation which may at any time become payable to the Mortgagor by virtue of the Licensing Act 2003 or any other statutory enactment subject to re-assignment upon payment of all the Secured Obligations.

2.4.

- (a) The Mortgagor with full title guarantee hereby assigns to the Lender the benefit of all guarantees or covenants by any surety or sureties of any of the lessee's obligations under any existing lease or underlease of the Mortgaged Property, subject to re-assignment upon payment of all the Secured Obligations.
- (b) The Mortgagor shall at any time if and when required by the Lender execute to the Lender or as the Lender shall direct an assignment or assignments of the benefit of all guarantees or covenants by any surety or sureties of any of the lessee's obligations under any lease or underlease of the Mortgaged Property hereafter granted to secure the Secured Obligations, such assignments to be prepared by or on behalf of the Lender at the cost of the Mortgagor and to contain all such clauses for the benefit of the Lender as the Lender may require.

- 2.5. The Mortgagor with full title guarantee assigns to the Lender the Intellectual Property Rights that arise in connection with the business (if any) now or at any time hereafter carried on by the Mortgagor at the Mortgaged Property, subject to re-assignment on payment of all the Secured Obligations.

- 2.6. If there are two or more parties comprised in the expression the "Mortgagor" each of such parties with full title guarantee hereby charges and assigns all such party's estate, rights, title and interest in the Mortgaged Assets to secure payment of the Secured Obligations.

- 2.7. The security hereby constituted shall extend to all beneficial interests of the Mortgagor in the Mortgaged Assets and to any proceeds of sale or other realisation thereof or of any part thereof.

- 2.8. The Mortgagor represents and warrants that, at the date that the Mortgagor executes this Mortgage, the Mortgagor has made full disclosure in writing to the Lender of:

- (a) any information relating to each part of the Mortgaged Assets and each right held by any other person in relation to any part of the Mortgaged Assets which, in each case, would be material to the Lender in relation to the appropriateness or adequacy of any part of the Mortgaged Assets as security for the Secured Obligations; and
- (b) each matter in respect of which the Lender has requested information from the Mortgagor in connection with this Mortgage.

- 2.9. It shall not be necessary for the Lender, before demanding payment of the Secured Obligations or enforcing this Mortgage, to make demand on or seek to obtain payment from any other person.

### **3. COSTS AND EXPENSES**

- 3.1. The Mortgagor agrees to pay to the Lender on demand all legal and other costs, charges and expenses (on a full and unqualified indemnity basis) incurred by the Lender (whether before or after the power of sale has arisen under this Mortgage or the date of discontinuance):

- (a) in enforcing or reasonably endeavouring to enforce this Mortgage or otherwise in relation to this Mortgage or the Mortgaged Assets (including any acts necessary to release the Mortgaged Assets from this security);
- (b) in connection with effecting any appointment of any receiver or administrator or in dealing with any appointment of, or notice of intention or application to appoint, any receiver or administrator by any party including the Mortgagor and without prejudice to any other right or process of recovering such costs.

- 3.2. If any payment made by or on behalf of the Lender under this Mortgage includes an amount in respect of Value Added Tax, or if any payment due to the Lender under this Mortgage shall be in reimbursement of any expenditure by or on behalf of the Lender which includes an amount in respect of Value Added Tax, then such an amount shall be payable by the Mortgagors to the Lender on demand.

- 3.3. The Mortgagor shall pay to the Lender all costs incurred or suffered by the Lender (on a full and unqualified indemnity basis) and any receiver appointed by the Lender shall be entitled to recover as a receivership expense, all costs incurred or suffered by him:

- (a) in connection with any application under Part III of the Insolvency Act 1986; and
- (b) in defending proceedings brought by any third party impugning the Lender's title to this security or the enforcement or exercise of the rights and remedies of the Lender or any such receiver under this Mortgage.

- 3.4. The Mortgagor agrees to pay to the Lender on demand interest on each sum referred to in this clause 3 (except interest provided for by this sub-clause 3.4) and on all costs awarded to the Lender or agreed to be paid to the Lender in any proceedings brought by the Mortgagor against the Lender from the date of the award or agreement such interest to be at the rate of four percentage points per annum above the Bank of England base rate for the time being in force.

- 3.5. Without prejudice to the right of the Lender to require payment of such interest, all such interest shall be compounded both before and after any demand or judgment.

- 3.6. All amounts referred to in this clause 3 shall, pending payment, be secured hereby.

### **4. RESTRICTIONS AND WARRANTIES**

- 4.1. The Mortgagor shall not without the prior written consent of the Lender:

- (a) sell, assign, license, sub-license or otherwise dispose of or deal in any other way with the Mortgaged Assets save as provided in herein;
- (b) create or permit to subsist or arise any mortgage, debenture, hypothecation, charge, assignment by way of security, pledge or lien or any other encumbrance or security whatsoever over all or any part of the Mortgaged Assets or over the Chattels; or

- (c) enter into any contractual or other agreement or arrangement which has or may have an economic effect similar or analogous to any such encumbrance or security as would be prohibited by sub-clause 4.1(b).
- 4.2. The Mortgagor hereby requests the Chief Land Registrar to register the following restriction on the Proprietorship Register of any registered land forming part of the Mortgaged Property:
- "RESTRICTION
- No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge dated 02-02-21 in favour of Wyre Forest District Council referred to in the Charges Register"
- 4.3. The Mortgagor represents and warrants to the Lender, and so that each such representation and warranty shall be deemed to be repeated on each day during the continuance of this security, that, except to the extent disclosed by the Mortgagor to the Lender in writing prior to the date hereof:
- (a) the Mortgagor has not made any election pursuant to paragraph 2 of schedule 10 to the Value Added Tax Act 1994 in relation to or affecting any part of the Mortgaged Property;
- (b) so far as the Mortgagor is aware after making due and careful enquiry the charges and assignments contained in clause 2 do not infringe any intellectual property rights whether registered or unregistered whatsoever;
- (c) no circumstances have occurred during the Mortgagor's ownership of the Mortgaged Property and, so far as the Mortgagor is aware after making due and careful enquiry no circumstances occurred before the Mortgagor's ownership of the Mortgaged Property, which have led or could lead to a competent authority or a third party taking any action or making a claim under any Environmental Law (including the requirement to clean up or remedy in any other way any contaminated part of the environment or the revocation, suspension, variation or non-renewal of any Environmental Licence) or which have led or could lead to the Mortgagor having to take action to avert the possibility of any such action or claim; and
- (d) the Mortgagor is solely and beneficially interested in the Mortgaged Assets.
- 4.4. The Mortgagor shall not make or revoke such an election as is referred to in sub-clause 4.3(a) in relation to any part of the Mortgaged Property without the Lender's prior written consent or unless the Lender requests the Mortgagor to do so, in which case the Mortgagor shall immediately make or revoke (as the case may be) such an election in relation to any part of the Mortgaged Property that the Lender considers appropriate and give valid notification of it to H.M. Revenue and Customs.

## 5. FURTHER ASSURANCE

- 5.1. The Mortgagor shall at any time if and when required by the Lender execute and deliver to the Lender or as the Lender shall direct such further legal or other assignments, mortgages, securities, charges, agreements and other legal documentation as the Lender shall require of and on all or any of the Mortgaged Assets to secure payment of the Secured Obligations. Such assignments, mortgages, securities, charges agreements or other legal documentation shall be prepared by or on behalf of the Lender at the cost of the Mortgagor and shall contain all such clauses for the benefit of the Lender as the Lender may require including without limitation if so required by the Lender, in the case of a mortgage or charge on the Mortgaged Property or the proceeds of sale thereof, any such clauses as are contained in any of the Lender's standard forms of mortgage from time to time.
- 5.2. The Mortgagor shall at any time if and when required by the Lender and at the Mortgagor's cost give notice to such parties as the Lender may require of the assignments, mortgages and charges hereby effected and any such further legal or other assignments, mortgages, securities, charges, agreements



and other legal documentation, and shall take, do or execute such steps, acts, deeds, documents and things as the Lender may consider necessary or desirable to give effect to and procure the perfection, of the security intended to be granted by this Mortgage or any such further legal or other assignments, mortgages, securities, charges, agreements or other legal documentation.

**6. DEALINGS WITH CHATTELS**

If the Lender or any receiver appointed by the Lender takes possession of the Mortgaged Property:

- (a) the Lender or any receiver appointed by the Lender is hereby authorised as agent for the Mortgagor if it or he elects so to do to remove, warehouse, store or sell any Chattels which the Mortgagor shall fail or refuse to remove from the Mortgaged Property within seven days of being requested so to do by notice from the Lender or any receiver appointed by the Lender, and neither the Lender nor any such receiver shall be liable for any loss or damage occasioned to the Mortgagor;
- (b) the Mortgagor shall indemnify the Lender and any receiver appointed by the Lender against all expenses incurred by the Lender or any such receiver in relation to such Chattels including expenses of removal and storage and against all liability to any third party in respect thereof, and such expenses and liabilities shall be paid by the Mortgagor on demand with interest from the time or respective times of the same having been paid or incurred by the Lender or the receiver as the case may be and, until payment, shall be secured hereby;
- (c) the Lender or any receiver appointed by it, as the case may be, shall account to the Mortgagor for the proceeds of any such sale after deducting any such expenses and conditionally upon the Mortgagor procuring the release of the Lender and such receiver from all liability for any charges or expenses in respect of future storage of any such Chattels;
- (d) the Lender or any receiver appointed by it, as the case may be, shall not be liable to the Mortgagor for any act or omission by any person appointed by it or him to effect such sale or for any failure by any such person to obtain a proper price provided only that such appointment shall have been made by the Lender or such receiver in good faith; and
- (e) the Mortgagor shall not sell or otherwise dispose of the Chattels or encumber them in any way nor remove them from the Mortgaged Property unless requested to do so pursuant to sub-clause 7(a).

**7. LENDER'S POWERS OF SALE AND LEASING**

**7.1.**

- (a) The powers and remedies conferred on mortgagees by the Law of Property Act 1925 shall apply to this Mortgage but without the restriction on the exercise of the power of sale imposed by section 103 of that Act, and the statutory powers of leasing conferred on the Lender shall be extended so as to authorise the Lender to lease and make agreements for leases at a premium or otherwise and to accept surrenders of leases and grant options as the Lender shall think expedient, without the need to observe any of the provisions of sections 99 and 100 of the said Act.
- (b) The Lender in exercising its statutory power of sale and any receiver appointed by the Lender in exercising his powers under this Mortgage shall be at liberty to sell at such price and on such terms and conditions as it or he in its or his sole discretion thinks fit and shall not be under any duty or obligation to obtain the best or any particular price.
- (c) Neither the Lender nor any such receiver shall be liable to the Mortgagor or any other person for any loss, damage, cost, expense or liability which the Mortgagor or any such

person may suffer or incur as a direct or indirect result of the Lender exercising its statutory power of sale, as hereby varied or extended, or such receiver exercising his powers under this Mortgage.

- 7.2. In favour of a purchaser the Secured Obligations shall be deemed to have become due on the day on which demand for payment thereof is made by the Lender, and the statutory power of sale as hereby varied or extended shall be exercisable from and after that date, which date (without prejudice to the equitable right to redeem) shall be the redemption date.

## **8. MORTGAGOR'S POWERS OF LEASING AND LICENSING**

The Mortgagor shall not, without the prior written consent of the Lender, in relation to any of the Mortgaged Property:

- (a) exercise the statutory powers and any other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases; or
- (b) part with possession of the Mortgaged Property or grant any lease, tenancy, licence, right or interest to occupy the Mortgaged Property; or
- (c) amend or confer upon any person any lease, tenancy, licence, right or interest to occupy the same or any part thereof or grant any licence or permission to assign, underlet or part with possession of the same or any part thereof.

## **9. APPOINTMENT AND POWERS OF A RECEIVER**

- 9.1. At any time after the Lender shall have demanded payment of any of the Secured Obligations or the Mortgagor shall have requested it so to do or an Insolvency Event shall have occurred (upon the happening of which the security created by this Mortgage shall be immediately enforceable), the Lender shall have power in writing under the hand of any official of the Lender authorised by the Lender from time to time or any person authorised by any such official in writing to appoint such person or persons as the Lender thinks fit to be a receiver or joint receivers or several receivers or joint and several receivers of the Mortgaged Assets to act, in the case of two or more receivers, jointly, severally or jointly and severally in relation to any part of the Mortgaged Assets, and to the extent permitted by law similarly to remove any such receiver and to appoint another or others in his place.
- 9.2. If the Lender excludes any part of the Mortgaged Assets from the appointment of any receiver, the Lender may subsequently extend that appointment (or that of any receiver replacing such receiver) to such excluded part of the Mortgaged Assets.
- 9.3. Any such receiver at the cost of the Mortgagor may in the name or on behalf of the Mortgagor or at his option in the name of the Lender (but only with the specific approval in writing of the Lender) or at his option in his own name (and in any case notwithstanding any bankruptcy, death, mental incapacity, administration or liquidation of the Mortgagor) do or omit to do anything which the Mortgagor could do or omit to do in relation to the Mortgaged Assets or the Chattels or any of them and (in addition) may exercise in relation thereto all or any of the powers specified in Schedule 1 to the Insolvency Act 1986 (notwithstanding that the receiver may not be an administrative receiver and notwithstanding that the Mortgagor may not be a company), and in particular (but without prejudice to the generality of the foregoing) any such receiver may:
- (a) deal with, take possession of, cultivate, collect and get in the Mortgaged Assets or the Chattels;
  - (b) carry on, manage, develop or diversify or concur in carrying on, managing, developing or diversifying any business of the Mortgagor at any time carried on by the Mortgagor at the Mortgaged Property, and for any of those purposes receive, retain or use any Chattels

and any proceeds, books or records of such business and carry out or complete (with or without modification) on the Mortgaged Property any works of demolition, building, repair, construction, furnishing or any project or development in which the Mortgagor was engaged;

- (c) raise or borrow any money from or incur any other liability to the Lender or any other person and on such terms as to interest or otherwise and with or without security as such receiver may think expedient, and so that any such security may, with the prior consent of the Lender, be or include a charge on the Mortgaged Assets ranking either in priority to or pari passu with or after the security hereby created;
- (d) forthwith and without the restriction imposed by Section 103 of the Law of Property Act 1925 sell, realise, dispose of or concur in selling, realising or disposing of (but where necessary with the leave of the Court) and without the need to observe any of the provisions of Sections 99 and 100 of the said Act let or concur in letting or surrender or concur in surrendering or accept surrenders of leases or tenancies of all or any part of the Mortgaged Assets;
- (e) carry any sale, exchange, realisation, disposal, lease, tenancy or surrender of the Mortgaged Assets into effect by conveying, transferring, assigning, leasing, letting, surrendering or accepting surrenders in the name and on behalf of the Mortgagor (or other the estate owner), and so that covenants and contractual obligations may be granted in the name of and so as to bind the Mortgagor (or other the estate owner) so far as such receiver may consider it necessary, appropriate or expedient for the exercise of the powers conferred by this Mortgage so to do. Any such sale, exchange, realisation, disposal, lease or tenancy may be for cash, debentures or other obligations, shares, stock or other valuable consideration and may be payable in a lump sum or by instalments spread over such period as such receiver shall think fit, and so that any consideration received or receivable shall forthwith be and become charged with the payment of the Secured Obligations. Plant, machinery and other fixtures may be severed and sold separately from the premises containing them without the consent of the Mortgagor being obtained thereto;
- (f) obtain (by way of application or otherwise) any approval, permission, consent and licence (including any Environmental Licence, planning permission and building regulation approval) enter into and perform contracts and arrangements, purchase materials and incur any type of obligation;
- (g)
  - (i) promote the formation of a subsidiary or subsidiaries of the Mortgagor with a view to such subsidiary or subsidiaries purchasing, leasing, licensing or otherwise acquiring interests in or the use of the Mortgaged Assets and the Chattels or with a view to such subsidiary or subsidiaries engaging employees or providing management or other services in connection therewith or for any other purpose or function which may be regarded as necessary or appropriate by such receiver from time to time;
  - (ii) arrange for such subsidiary or subsidiaries to trade or cease to trade as such receiver may think fit from time to time; and
  - (iii) arrange for the purchase, lease, licence or acquisition of the Mortgaged Assets and the Chattels by such subsidiary or subsidiaries on a basis whereby the consideration may be cash, shares, debentures, loan stock, convertible loan stock or other securities, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise howsoever and whether or not secured on the assets of the subsidiary or subsidiaries and whether or not such consideration is payable or receivable



in a lump sum or by instalments spread over such period as such receiver may think fit;

- (h) take any proceedings in relation to the Mortgaged Assets in the name of the Mortgagor or otherwise as may seem expedient including (without prejudice to the generality of the foregoing) proceedings for the collection of rent in arrears at the date of his appointment;
- (i) enter into any agreement or make any arrangement or compromise as such receiver shall think expedient in respect of the Mortgaged Assets or the Chattels;
- (j) exercise the Mortgagor's rights under any rent review clause in respect of the Mortgaged Property or grant or apply for any new or extended tenancy thereof;
- (k) exercise all or any of the powers conferred by clause 8 and repair, renew or improve any Chattels used by such receiver for the purposes of any business of the Mortgagor at any time carried on at the Mortgaged Property;
- (l) insure the Mortgaged Assets and the Chattels and/or maintain or renew any insurances of the same on such terms as such receiver shall think fit or as the Lender shall from time to time direct;
- (m) appoint managers, agents, officers and employees for any of the aforesaid purposes at such salaries and for such periods as such receiver may determine and dismiss any of the same;
- (n) adopt any contracts of employment entered into between the Mortgagor and any employees of the Mortgagor with such variations to the contracts as such receiver may think fit, and dismiss any such employees;
- (o) cause the Mortgagor to grant such powers of attorney or appoint agents for any of the aforesaid purposes as such receiver may from time to time think expedient;
- (p) do all such things as may be thought necessary for the management of the affairs, business and property of the Mortgagor;
- (q) grant, vary and release easements and other rights over the Mortgaged Property and impose, vary or release covenants affecting the Mortgaged Property and agree that the Mortgaged Property may be subject to any easements or covenants;
- (r) purchase any freehold and leasehold properties and other capital assets if such receiver considers it would be conducive to realisation of the Lender's security to do so; and
- (s) do all such other acts and things as may from time to time be considered by such receiver to be incidental or conducive to any of the matters or powers aforesaid or otherwise incidental or conducive to the realisation of the Lender's security or the exercise of his functions as receiver.

9.4. Sub-section 109(8) of the Law of Property Act 1925 shall not apply and all money received by such receiver shall (subject in relation to each paragraph below to any claims having priority to the matter therein described) be applied:

- (a) first in payment of his remuneration and the costs of realisation including all costs and expenses of or incidental to any exercise of any power hereby conferred;
- (b) secondly (if such receiver thinks fit, but not otherwise) in or towards payment of all or any of the matters referred to in paragraphs (i), (ii), (iii) and (iv) of Sub-section 109(8) of the Law of Property Act 1925 as he in his absolute discretion shall decide; and

(c) thirdly in or towards satisfaction of the Secured Obligations.

9.5. Any such receiver shall at all times and for all purposes be deemed to be the agent of the Mortgagor, which alone shall be responsible for his acts or defaults and for his remuneration.

9.6. Any such receiver shall be entitled to remuneration for his services and the services of his firm at a rate or rates or in an amount or amounts as may from time to time be agreed between the Lender and such receiver or (in default of agreement) as may be appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by such receiver in accordance with the current practice of such receiver or his firm and without in either such case being limited by the maximum rate specified in Section 109(6) of the Law of Property Act 1925.

9.7. If the Lender shall appoint more than one receiver the powers given to a receiver hereby and by statute shall be exercisable by all or any one or more of such receivers, and any reference in this Mortgage to "receiver" shall be construed accordingly.

9.8. The powers conferred by this clause 9 shall be in addition to all powers given by statute to the Lender or to any such receiver.

9.9. Only money actually paid by such receiver to the Lender shall be capable of being applied by the Lender in or towards satisfaction of the Secured Obligations.

#### 10. PROTECTION OF THIRD PARTIES

10.1. No person (each a "Third Party", including any insurer, assurer, purchaser or security holder) dealing with the Lender or any receiver appointed by it or their respective employees and agents need enquire:

- (a) whether any right, exercised or purported to be exercised by the Lender, such receiver or their respective employees and agents, has become exercisable; or
- (b) whether any of the Secured Obligations are due or remain outstanding; or
- (c) as to the propriety or regularity of anything done (including any sale, dealing or application of money paid, raised or borrowed) by the Lender, such receiver or their respective employees and agents.

10.2. Each of those things shall (as between that Third Party on the one hand and the Lender or any receiver appointed by it or their respective employees or agents on the other hand) be deemed to be exercisable, due, outstanding, proper, regular and within the terms of this Mortgage (as the case may be) and be fully valid and effective.

10.3. All the protections to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 and to persons contained in Section 42(3) of the Insolvency Act 1986 apply to each Third Party.

10.4. The Lender, any receiver appointed by it and their respective employees and agents may give receipts to any Third Party. The Mortgagor agrees that each receipt shall be an absolute and conclusive discharge to such Third Party and shall relieve such Third Party of any obligations to see to the application of any assets paid or transferred to or by the direction of the Lender, such receiver, employee or agent.

#### 11. COVENANTS

The Mortgagor shall:

- (a) pay the rent and other outgoings reserved or payable under any lease under which the Mortgaged Property is held by the Mortgagor and any rent-charge or other outgoing charged upon the Mortgaged Property, and produce to the Lender on demand any

receipt for such payment and further perform and observe all covenants, regulations and agreements on the part of the lessee and conditions contained in any such lease;

- (b) comply with all covenants, restrictions, requirements, provisions, conditions, laws and regulations affecting the Mortgaged Property (including the use and enjoyment of it);
- (c) comply with all relevant licences, consents, permissions and conditions from time to time granted or imposed by the Planning Acts and not without the prior written consent of the Lender give any undertaking to or enter into any agreement with any relevant planning authority affecting the Mortgaged Property;
- (d) not make or consent to the making of any application for planning permission or any other application under the Planning Acts affecting the Mortgaged Property unless either the Lender has consented in writing to such application being made or a copy of the proposed application has been sent to the Lender at least one month before the date of the application and the Lender has raised no objection to the making of the application;
- (e) forthwith upon receipt of any permission, notice, order, proposal or recommendation given or issued by any competent planning authority to the owner or occupier of the Mortgaged Property or any notice under Section 146 of the Law of Property Act 1925 or otherwise from any superior landlord of the Mortgaged Property, forward the same or a true copy thereof to the Lender;
- (f) not demolish or remove any part of the Mortgaged Property nor sever or remove from the Mortgaged Property any trade or other fixtures or fixed plant and machinery for the time being thereon except for the purpose of renewing or replacing the same by trade or other fixtures or fixed plant and machinery of equal or greater value;
- (g) permit the Lender or its agents at any time to enter upon the Mortgaged Property for the purpose of establishing whether or not the Mortgagor is complying fully with the Mortgagor's obligations under this Mortgage or inspecting the Mortgaged Assets;
- (h) not do or cause or permit to be done or omit to do anything which may in any way depreciate jeopardise or otherwise prejudice the value to the Lender or marketability of the security hereby created by this Mortgage or of the Mortgaged Property;
- (i) not (without the prior written consent of the Lender) incur any expenditure or liabilities of an exceptional or unusual nature (including without limitation any expense in carrying out any development pursuant to a planning permission unless a copy of the relevant planning permission has been sent to the Lender at least one month before the date of commencement of such development and the Lender has raised no objection to such development);
- (j) not change its business in any way which would result in it becoming a 'relevant financial institution' for the purposes of clause 2 of The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014;
- (k) not carry on any business which would constitute 'excluded activities' in terms of Part 2 of The Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014;
- (l) notify the Lender immediately on the occurrence of an Insolvency Event;
- (m) where the Mortgaged Property is held under a lease:
  - (i) notify the Lender forthwith if the Mortgaged Property becomes subject to an Estate Management Scheme pursuant to Chapter IV of Part I of the Leasehold Reform, Housing and Urban Development Act 1993, and provide a

copy of the scheme deed as approved by the relevant leasehold valuation tribunal;

- (ii) notify the Lender before exercising (whether individually or collectively with others) any right conferred upon the Mortgagor in relation to the Mortgaged Property by Enfranchising Legislation, and supply to the Lender such information as it may reasonably require in relation to the exercise of such right;
  - (iii) not without the prior written consent of the Lender agree the terms of any new lease of the Mortgaged Property (with or without any further property) to be granted to the Mortgagor pursuant to any Enfranchising Legislation or otherwise;
  - (iv) if as a result of the exercise of any rights conferred by Enfranchising Legislation or otherwise the freehold interest or any intermediate reversionary interest in the Mortgaged Property becomes vested in a third party on behalf of the Mortgagor (with or without others), forthwith supply to the Lender particulars of such third party and (where such third party is a body corporate) details of any shares therein to be issued to the Mortgagor and deliver the share certificate in respect thereof to the Lender when received; and
  - (v) at its own cost take such further action as the Lender may require in relation to the security granted by this Mortgage;
- (n) where the Mortgaged Property is or becomes subject to any tenancy:
- (i) forthwith notify the Lender on receipt of (and provide to the Lender a copy of) any notices received from any tenant of the Mortgaged Property pursuant to the provisions of any Enfranchising Legislation;
  - (ii) not serve upon any tenant of the Mortgaged Property a notice pursuant to the provisions of any Enfranchising Legislation unless the Lender has consented in writing thereto;
  - (iii) serve such notices in such form and take such other steps as the Lender may reasonably require following the exercise by any tenant of the Mortgaged Property of any rights arising under Enfranchising Legislation;
  - (iv) not enter into any agreement to grant a new lease to any tenant of the Mortgaged Property pursuant to or in consequence of the operation of any Enfranchising Legislation unless the Lender has consented in writing thereto; and
  - (v) not enter into any agreement pursuant to or in consequence of the operation of any Enfranchising Legislation to transfer to any person or persons the Mortgagor's interest in the Mortgaged Property subject to this Mortgage unless the Lender has consented in writing thereto and (if such consent be given or deemed be given as herein after provided) to provide to the Lender such information in respect of any such transfer and its terms (including the identity of the transferees) as the Lender may reasonably require;

Provided that in all cases in this sub clause (n) where the Lender's consent in writing is required before the Mortgagor may take further action the Lender's consent to such action shall be deemed to be granted if the Lender has not raised any objection to such action within one month of the date of the relevant request to the Lender for such

consent Provided that the Mortgagor must at all times use its best endeavours (and at no cost to the Lender) to obtain the maximum compensation permitted under the relevant Enfranchising Legislation from any person or persons exercising any rights under such legislation.

- (o) if any notice (whether agreed or unilateral) is registered against the title of all or part of the Mortgaged Property, give to the Lender full particulars of the circumstances relating to such registration and, if such notice shall have been registered in order to protect a purported interest the creation of which is contrary to the obligations of the Mortgagor under this Mortgage, immediately at the Mortgagors expense take such steps as the Lender requires to ensure that the notice is withdrawn or cancelled;
- (p) if the Lender so requires, deposit with the Lender, and the Lender during the continuance of this Mortgage shall be entitled to hold and retain (unless held by the holders for the time being of a Prior Mortgage) all deeds and documents of title relating to the Mortgaged Property.

## 12. REPAIR AND INSURANCE

### 12.1 The Mortgagor shall:

- (a) keep the Mortgaged Assets in a good state of repair;
- (b) insure and keep insured the Mortgaged Assets with reputable insurers and on terms (for the time being) approved by the Lender (making such amendments thereto as the Lender may from time to time require) against loss or damage by fire and by terrorist damage and such other risks and contingencies as may from time to time be required by the Lender in their full reinstatement value for the time being in the joint names of the Mortgagor and the Lender or with the interest of the Lender endorsed on the policy or policies or noted as the Lender may require;
- (c) (unless deposited with the holder(s) for the time being of the Prior Mortgage(s), or unless the insurance to which such policy or policies relate and which was approved by the Lender was effected by a landlord with the respective interests of the Mortgagor and the Lender endorsed or noted thereon) deposit the relevant policy or policies with the Lender;
- (d) duly pay all premiums and sums payable in relation to such insurance and produce the receipts therefor to the Lender within seven days of their becoming due and payable; and
- (e) ensure that the relevant policy or policies remain valid at all times.

### 12.2

- (a) If default shall at any time be made by the Mortgagor in keeping the Mortgaged Assets, or any part thereof in a good state of repair or in effecting or keeping up any such insurance or in paying any rent or other outgoings or dilapidations or in producing to the Lender any such policy or receipt, it shall be lawful for but not obligatory on the Lender (as the case may require) to repair and maintain or manage the same with power to enter the Mortgaged Property for that purpose or to pay such rent and other outgoings and dilapidations or to effect or renew any such insurance as aforesaid as the Lender shall think fit, and any sums paid by the Lender for any such purpose shall be repayable by the Mortgagor to the Lender on demand with interest from the date of payment by the Lender as aforesaid and, pending payment, shall be secured hereby.
- (b) All money which may at any time be received or receivable under any such policies of insurance (or any other insurances covering any of the Mortgaged Assets) shall be held in trust for the Lender and (at the Lender's option) the Mortgagor shall pay such money to



the Lender or shall apply the same in replacing, restoring or reinstating the buildings, fixtures and assets destroyed or damaged.

- 12.3. Any sum paid by the Lender to the lessor of any lease under which the Mortgaged Property is held (or under any superior lease) in settlement of any claim made by the lessor for any rent or other outgoings or dilapidations reserved or payable or alleged to be reserved or payable under the lease shall be deemed to be a payment properly made under the terms of clause 12.2 (a) (whether or not actually due to the lessor and whether or not disputed by the Mortgagor) provided that such payment was made by the Lender in good faith for the purpose of avoiding, compromising or terminating any proceedings for forfeiture or otherwise for the purpose of preserving or enforcing the security hereby created.
- 12.4. The Mortgagor authorises the Lender in the Mortgagor's name and on the Mortgagor's behalf to make any claim against the insurer under any part of any insurance policy relating to the Mortgaged Assets and to admit, compromise or settle such claim or any liability relating to any such claim or any potential claim.
- 12.5. The Mortgagor also authorises the Lender to receive any amounts payable or received in respect of any insurance policy or claim under any insurance policy relating to the Mortgaged Assets and give a good discharge to the insurer in respect of such amounts.

### 13. MORTGAGED LICENCES

- 13.1. The Mortgagor shall at its own expense obtain and maintain all licences, permits, consents and authorisations required in connection with any business at any time carried on at the Mortgaged Property.
- 13.2. If any Mortgaged Licences are held in connection with any business at any time carried on at the Mortgaged Property, the following shall apply:
- (a) the Mortgagor shall at its own expense conform to all orders, regulations and notices made by the licensing authority, the licensing justices or any other authority concerning the Mortgaged Assets and the said business and apply for and use its best endeavours to obtain whenever necessary proper renewals or regrants of the Mortgaged Licences, and shall not surrender, abandon or transfer to any person any of the Mortgaged Licences or remove the same or any of them to any other premises or do or permit any act or thing whereby the renewal of any such licences may be refused or discontinued or whereby the said business or the goodwill thereof or the letting or sale of the Mortgaged Property may be prejudicially affected, and shall upon demand by or on behalf of the Lender deliver to the Lender or as the Lender shall direct the Mortgaged Licences and give, do and execute all notices, acts instruments and things necessary or convenient for transferring the same or any of them or vesting the same in the Lender or its nominee or nominees or withdrawing from the books of H.M. Revenue and Customs the entry of the Mortgagor as carrying on the business carried on upon the Mortgaged Property;
  - (b) all money received by the Lender as compensation awarded in respect of the refusal of the licensing authority, the licensing justices or any other authority concerning the Mortgaged Assets to renew the Mortgaged Licences or any of them shall be applied first in payment of the costs incurred by the Lender under this Mortgage, secondly in or towards satisfaction of the other Secured Obligations, and subject thereto shall be held in trust for the Mortgagor;
  - (c) the Mortgagor shall forthwith upon the receipt of any order, direction or notice from the licensing authority, licensing justices or any other authority affecting the Mortgaged Assets forward the same or a true copy thereof to the Lender;
  - (d) the Mortgagor further covenants with the Lender in the manner following:

- (i) the Mortgagor shall pay all charges which may be imposed in respect of the Mortgaged Licences or any of them by virtue of the Licensing Act 2003, the Licensing Act 1988 or any other statutory enactment, and in default the Lender or any receiver may pay all such costs charges and expenses;
  - (ii) the Mortgagor shall from time to time at the request of the Lender endeavour to procure the transfer of any of the Mortgaged Licences which may be held by nominees on behalf of or in trust for the Mortgagor to such other person or persons as the Lender may approve or appoint, and shall not permit the transfer of such licences to any person or persons not approved by the Lender;
  - (iii) the Mortgagor shall keep the Mortgaged Licences and every renewal or regrant thereof and any new licences granted in respect of the Mortgaged Assets insured against forfeiture or refusal to renew in the name of the Lender for a sum and in an office to be approved by the Lender in writing, and shall deposit the relevant policy or policies with the Lender and shall duly pay all premiums and sums of money payable for this purpose and produce the receipts therefor to the Lender within seven days of their becoming due and payable, and in case of the Mortgagor making default in that behalf the Lender may pay all premiums and sums of money for effecting or keeping in force the said insurance. If any other policies of insurance cover the Mortgaged Licences and/or their renewal or regrant as aforesaid, the Mortgagor shall hold any sums received under such policies in trust for the Lender and shall pay the same to the Lender on demand;
  - (iv) if the Mortgaged Licences or any of them shall at any time be vested in a nominee of the Mortgagor, the Mortgagor shall procure that all covenants by the Mortgagor herein contained shall be performed and fulfilled by any such nominee; and
  - (v) all sums, costs and expenses paid or incurred by the Lender under the powers conferred by this clause shall be paid by the Mortgagor to the Lender on demand with interest from the time or respective times of the same having been paid or incurred by the Lender or the receiver as the case may be and, pending payment, shall be secured hereby;
- (e) without limiting the generality of clause 15, the power of attorney contained in that clause shall authorise the attorney or attorneys for and in the name of the Mortgagor or otherwise:
- (i) to assign and transfer the Mortgaged Licences to any purchaser or purchasers of the Mortgaged Assets or to such other person or persons as the Lender shall direct;
  - (ii) to attend before the relevant authorities and to sign all such notices and other documents and to do all such other acts and things for and in the name, place and stead and on behalf of the Mortgagor or otherwise in order to obtain protection for or the transfer of the Mortgaged Licences to such purchaser or purchasers or other person or persons as aforesaid and to appeal against any refusal by any authority in respect of any grant or transfer or any renewal of any of the Mortgaged Licences or any order, regulation or direction made by any authority in respect of the Mortgaged Licences;
  - (iii) to sign all necessary notices and make all necessary applications for the purpose of obtaining the renewal, grant or regrant of any of the Mortgaged Licences; and

- (iv) generally to execute all such instruments and to give or sign all such notices as the attorney shall think fit as fully and effectually to all intents and purposes whatsoever as the Mortgagor could do personally.

#### 14. ENVIRONMENTAL OBLIGATIONS

The Mortgagor shall:

- (a) obtain all Environmental Licences applicable to the Mortgaged Assets, and any business of the Mortgagor carried on at the Mortgaged Property and comply with the terms and conditions of the same;
- (b) comply with all Environmental Laws applicable to the Mortgaged Assets and any business of the Mortgagor carried on at the Mortgaged Property, and not permit a contravention of the same;
- (c) notify the Lender of the receipt of and content of all claims, notices or other communications in respect of any alleged breach of any Environmental Law or the terms and conditions of any Environmental Licence which may have a material adverse effect on the market value of the Mortgaged Assets or on the value of any business carried on by the Mortgagor at the Mortgaged Property, and shall forthwith take such steps as the Lender may direct to remedy or stop such alleged breach;
- (d) promptly pay all fees and other charges in respect of any Environmental Licence, applicable to the Mortgaged Assets and any business of the Mortgagor carried on at the Mortgaged Property;
- (e) forthwith notify the Lender of the receipt of and the contents of any notices or other communication varying or suspending any Environmental Licence relating to the Mortgaged Assets and any business of the Mortgagor carried on at the Mortgaged Property, and forthwith take such steps as the Lender may direct to reinstate in full force and effect any Environmental Licence so varied or suspended;
- (f) forthwith supply the Lender with copies of any environmental reports, audits or studies undertaken in relation to the Mortgaged Assets and any business of the Mortgagor carried on at the Mortgaged Property; and
- (g) pay on demand the costs and expenses (including Value Added Tax) incurred by the Lender in commissioning environmental audits (which the Lender shall be entitled to do whenever it thinks fit) and shall permit the Lender and its agents full and free access to all the Mortgaged Assets for the purposes of such environmental audits. (Such costs and expenses shall bear interest from the date of demand and, pending payment, shall be secured hereby).

#### 15. POWER OF ATTORNEY

15.1. For the purpose of securing the payment of the Secured Obligations and for securing any proprietary interest which the Lender has in any of the Mortgaged Assets, the Mortgagor irrevocably appoints the Lender and the persons deriving title under it, and its and their substitutes and any receiver or receivers appointed under this Mortgage (the "Attorney") jointly and also severally to be the Mortgagor's true and lawful attorney. For the purposes aforesaid, the Attorney shall have the right to do anything which the Mortgagor may lawfully do and all the rights and powers which may lawfully be given to an attorney including, without prejudice to the generality of the foregoing:

- (a) the right to do anything to procure or carry out the performance of the Mortgagor's obligations under this Mortgage and anything to facilitate the exercise of the Lender's rights under this Mortgage;
- (b) the right to act in the name of the Mortgagor;



- (c) the right to delegate and sub-delegate any or all of the rights of the Attorney;
- (d) the right to sign, execute, seal, deliver and otherwise perfect:
  - (i) any documents or instruments which the Lender or any receiver may require for perfecting the title of the Lender to the Mortgaged Assets or for vesting the same in the Lender, its nominees or any purchaser; and
  - (ii) any further security documentation.

15.2. The Mortgagor ratifies and shall ratify everything done or purported to be done by the Attorney.

## 16. INDEMNITY

16.1. The Mortgagor hereby agrees to indemnify the Lender and any receiver appointed by it and their respective employees and agents (as a separate covenant with each such person indemnified) against:

- (a) all existing and future rents, rates, taxes, duties, charges, assessments and outgoings now or at any time payable in respect of the Mortgaged Assets or by the owner or occupier thereof; and
- (b) all costs, claims, demands, expenses, charges, assessments, impositions, fines and sums and the consequences of any proceedings or prosecutions arising directly or indirectly from or in connection with any breach by the Mortgagor of any law or of any provision in this Mortgage,

in each case, whether imposed by statute or otherwise and whether of the nature of capital or revenue and even though of a wholly novel character. If any such sums shall be paid by the Lender or any such receiver or any of their respective employees or agents, the same shall be paid by the Mortgagor on demand with interest from the time or respective times of the same having been paid or incurred and, pending payment, shall be secured hereby, but the Lender shall not be deemed to have taken possession of the Mortgaged Assets by reason of such payment.

16.2. The Mortgagor hereby agrees to indemnify the Lender and any receiver appointed by it and their respective employees and agents (as a separate covenant with each such person indemnified) against all loss incurred in connection with:

- (a) any statement made by the Mortgagor or on the Mortgagor's behalf in connection with this Mortgage, the Mortgaged Assets or the business of the Mortgagor being untrue or misleading;
- (b) the Lender entering into any obligation with any person (whether or not the Mortgagor) at the request of the Mortgagor (or any person purporting to be the Mortgagor);
- (c) any actual or proposed amendment, supplement, waiver, consent or release in relation to this Mortgage;
- (d) any stamping or registration of this Mortgage or the security constituted by it; and
- (e) any failure to register this Mortgage in respect of any Mortgaged Assets where such registration is required in order to preserve the effectiveness or priority of the security created by this Mortgage,

whether or not any fault (including negligence) can be attributed to the Lender or any receiver appointed by it or their respective employees and agents.

16.3. This indemnity does not and shall not extend to any loss to the extent that:

- (a) in the case of any loss incurred by the Lender or its employees or agents it arises from the Lender or its employees or agents acting other than in good faith; or
- (b) in the case of any loss incurred by the receiver or his employees or agents it arises from the receiver or his employees or agents acting other than in good faith; or
- (c) there is a prohibition against an indemnity extending to that loss under any law relating to this indemnity.

17. **CONTINUING SECURITY**

This Mortgage shall continue to bind the Mortgagor as a continuing security notwithstanding that the Mortgagor's Liabilities may from time to time be reduced to nil and notwithstanding any change in the name, style, constitution or otherwise of the Mortgagor.

18. **CONCLUSIVE EVIDENCE**

A certificate by an official of the Lender as to the amount of the Mortgagor's Liabilities or Secured Obligations shall (save for manifest error) be binding and conclusive on the Mortgagor in any legal proceedings both in relation to the existence of the liability and as to the amount thereof.

19. **SECURITY NOT TO BE AVOIDED BY CERTAIN EVENTS**

19.1.

- (a) No assurance, security or payment which may be avoided or invalidated or for which the Lender may have to account in whole or in part to any third party under any applicable law ("**Applicable Law**") of any jurisdiction (including, without prejudice to the generality of the foregoing, sections 175, 176A, 234, 238, 239, 241, 242, 243, 245, 339, 340, 342 and 423 of the Insolvency Act 1986 and section 754 of the Companies Act 2006) and no release, settlement, discharge, cancellation or arrangement including, but not limited to, a release, settlement, discharge, cancellation or arrangement of or in relation to this Mortgage, which may have been given or made on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Lender to recover under this Mortgage as if such assurance, security, payment, release, settlement, discharge, cancellation or arrangement (as the case may be) had never been granted, given or made.
- (b) Any such release, settlement, discharge, cancellation or arrangement shall as between the Lender and a Mortgagor be deemed to have been given or made upon the express condition that it shall become and be voidable or invalidated at the instance of the Lender if the assurance, security or payment on the faith of which it was made or given shall at any time thereafter be avoided or invalidated or be subject to an accounting to any other person under any Applicable Law or otherwise, to the intent and so that the Lender shall become and be entitled at any time after any such avoidance, invalidation or accounting to exercise all or any of the rights in this Mortgage expressly conferred upon the Lender and/or all or any other rights which by virtue and as a consequence of this Mortgage the Lender would have been entitled to exercise but for such release, settlement, discharge, cancellation or arrangement.

19.2.

- (a) The Lender shall be entitled to retain this Mortgage for a period of two months plus any statutory period during which any assurance, security or payment may be avoided or invalidated (or such longer period as the Lender shall consider reasonable in the light of the provisions of any Applicable Law) after (as the case may be) the creation of such assurance or security or after the payment of all sums that are or may become due to the Lender from the Mortgagor, notwithstanding any release, settlement, discharge, cancellation or arrangement given or made by the Lender.

- (b) If at any time within such period or prior to such repayment, either a bankruptcy petition shall be presented against the Mortgagor or an application shall be presented to a competent Court for an administration order or for an order for the winding-up of the Mortgagor or the Mortgagor shall commence to be wound-up voluntarily or a notice of appointment of or notice of intention to appoint an administrator is issued by or in respect of the Mortgagor (or any step is taken under any Applicable Law which is analogous to any of the foregoing), then the Lender shall be entitled to continue to retain this Mortgage for and during such further period as the Lender may determine, in which event this Mortgage shall be deemed to have continued to have been held by the Lender as security for the payment to the Lender of all the Secured Obligations (including any sums which the Lender is ordered to repay pursuant to any order of the Court or as a consequence of any Applicable Law).

## **20. OTHER SECURITIES OR RIGHTS**

- 20.1. This Mortgage is in addition to and is not to prejudice or be prejudiced by any other guarantee or security or other rights which is or are now or may hereafter be held by the Lender for or in relation to any of the Secured Obligations, whether from the Mortgagor or otherwise, nor shall any recoveries, or arrangements for allocation or application of the same, pursuant to the any other guarantee or security or rights relating to the Secured Obligations affect the Lender's right to claim payment under this Mortgage.
- 20.2. It shall not be necessary for the Lender before enforcing this Mortgage to resort to or seek to enforce any guarantee or other security or other rights whether from or against any other person.

## **21. NOTICES AND DEMANDS**

- 21.1. Any notice or demand by the Lender under this Mortgage to or on any Mortgagor shall be deemed to have been sufficiently given or made if sent to that Mortgagor:
- (a) by hand or prepaid letter post to the Mortgagor's address stated herein or the Mortgagor's address last known to the Lender or in respect of a Mortgagor which is a company or limited liability partnership, its registered office; or
- (b) by facsimile to the Mortgagor's last known facsimile number relating to any such address or office.
- 21.2. Any such notice or demand given or made under sub-clause 21.1 shall be deemed to have been served on that Mortgagor:
- (a) at the time of delivery to the address referred to in sub-clause 21.1(a), if sent by hand;
- (b) at the earlier of the time of delivery or 10.00 am on the day after posting (or, if the day after posting be a Sunday or any other day upon which no delivery of letters is scheduled to be made, at the earlier of the time of delivery or 10.00 am on the next succeeding day on which delivery of letters is scheduled to be made), if sent by prepaid letter post;
- (c) at the time of transmission, if sent by facsimile (and a facsimile shall be deemed to have been transmitted if it appears to the sender to have been transmitted from a machine which is apparently in working order); or
- (d) on the expiry of 72 hours from the time of despatch in any other case.
- 21.3. Service of any claim form may be made on the Mortgagor in the manner described in sub-clause 21.1(a), in the event of a claim being issued in relation to this Mortgage, and shall be deemed to constitute good service

- 21.4. Any notice or communication from the Mortgagor to the Lender under the terms of this Mortgage shall be in writing and delivered by hand or sent by recorded delivery to the Lender at the Lender's address stated herein (or at such other address as may be notified in writing by the Lender to the Mortgagor for this purpose) and will be effective only when actually received by the Lender. Any notice or communication must also be marked for the attention of such official (if any) as the Lender may for the time being have notified to the Mortgagor in writing.

**22. PAYMENTS**

- 22.1. If at any time the currency in which all or any part of the Secured Obligations are denominated is, or is due to be or has been converted into the euro or any other currency as a result of a change in law or by agreement between the Lender and the relevant obligor, then the Lender may in its sole discretion direct that all or any of the Secured Obligations shall be paid in the euro or such other currency or currency unit.

- 22.2. The Lender may apply, allocate or appropriate the whole or any part of any payment made by the Mortgagor under this Mortgage or any money received by the Lender under any guarantee, indemnity or third party security or from any trustee in bankruptcy, liquidator, receiver or administrator of the Mortgagor or from the proceeds of realisation of any part of the Mortgaged Assets or any part thereof to such part or parts of the Secured Obligations (or as the Lender may otherwise be entitled to apply, allocate or appropriate such money) as the Lender may in its sole discretion think fit to the entire exclusion of any right of the Mortgagor to do so.

**23. TRANSFERS BY THE LENDER OR THE MORTGAGOR**

- 23.1. The Lender may freely and separately assign or transfer any of its rights under the Mortgage (a "Transfer") or otherwise grant an interest in any such rights to any person or persons (the "Transferee"). On request by the Lender, the Mortgagor shall immediately execute and deliver to the Lender any form of instrument required by the Lender to confirm or facilitate any such assignment or transfer or grant of interest. Following such Transfer, the Mortgagor shall have recourse only to the Transferee in respect of that portion of the Lender's obligations transferred to the Transferee.

- 23.2. The Mortgagor shall not assign or transfer any of the Mortgagor's rights or obligations under this Mortgage or enter into any transaction or arrangement which would result in any of those rights or obligations passing to or being held in trust for or for the benefit of another person.

**24. RESTRICTION ON LIABILITY OF THE LENDER**

Except to the extent that any such exclusion is prohibited or rendered invalid by law, neither the Lender nor any receiver appointed by it nor their respective employees and agents shall:

- (a) be liable to account as a mortgagee in possession for any sums other than actual receipts;
- (b) be liable for any loss upon realisation of, or for any action, neglect or default of any nature whatsoever in connection with, any part of the Mortgaged Assets for which a mortgagee in possession might as such otherwise be liable;
- (c) be under any duty of care or other obligation of whatsoever description to the Mortgagor in relation to or in connection with the exercise of any right conferred upon the Lender, any receiver appointed by it and their respective employees and agents; or
- (d) be under any liability to the Mortgagor as a result of, or in consequence of, the exercise, or attempted or purported exercise, or failure to exercise, any of their respective rights.

25. **MISCELLANEOUS**

- 25.1. Any amendment of or supplement to any part of this Mortgage shall only be effective and binding on the Lender and the Mortgagor if made in writing and signed by both the Lender and the Mortgagor. References to "this security", or to "this Mortgage" include each such amendment and supplement.
- 25.2. The Mortgagor and the Lender shall from time to time amend the provisions of this Mortgage if the Lender notifies the Mortgagor that any amendments are required to ensure that this Mortgage reflects the market practice prevailing at the relevant time following the introduction or extension of economic and monetary union and/or the euro in all or any part of the European Union.
- 25.3. The Lender and the Mortgagor agree that the occurrence or non-occurrence of European economic and monetary union, any event or events associated with European economic and monetary union and/or the introduction of any new currency in all or any part of the European Union shall not result in the discharge, cancellation, rescission or termination in whole or in part of this Mortgage or give any party hereto the right to cancel, rescind, terminate or vary this Mortgage in whole or in part.
- 25.4. Any waiver, consent, receipt, settlement or release given by the Lender in relation to this Mortgage shall only be effective if given in writing and then only for the purpose for and upon any terms on which it is given.
- 25.5. For the purpose of exercising, assigning or transferring its rights under this Mortgage, the Lender may disclose to any person any information relating to the Mortgagor which the Lender has at any time.
- 25.6. The restriction on the right of consolidating mortgages contained in Section 93 of the Law of Property Act 1925 shall not apply to this Mortgage or any further or other security entered into pursuant to this Mortgage.
- 25.7. Any change in the constitution of the Lender or its absorption of or amalgamation with any other person shall not in any way prejudice or affect its or their rights under this Mortgage, and the expression "Lender" shall include any such other person.
- 25.8. This document shall at all times be the property of the Lender.
- 25.9. The Lender or its nominee shall only exercise the rights attached to any shares subject to this Mortgage in accordance with the Mortgagor's instructions, except where the Lender or its nominee is exercising such right for the purpose of preserving the value of the security hereby created or of realising it.

26. **UNLAWFULNESS AND PARTIAL INVALIDITY**

- 26.1. If (but for this sub-clause 26.1) it would for any reason be unlawful for the Mortgagor to grant security in respect of any particular liability of the Mortgagor to the Lender, then (notwithstanding anything herein contained) this Mortgage shall not (to the extent that it would be so unlawful) extend to such liability, but without in any way limiting the scope or effectiveness of this Mortgage as regards the rest of the Secured Obligations.
- 26.2. Each of the provisions of this Mortgage shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

27. **NO RELIANCE ON THE LENDER**

- (a) The Mortgagor acknowledges to and agrees with the Lender that, in entering into this Mortgage:



- (i) the Mortgagor has not relied on any oral or written statement, representation, advice, opinion or information made or given to the Mortgagor in good faith by the Lender or anybody on the Lender's behalf, and the Lender shall have no liability to the Mortgagor if the Mortgagor has in fact so done; and
  - (ii) there are no arrangements, collateral or relating to this Mortgage, which have not been recorded in writing and signed on behalf of the Lender and the Mortgagor.
- (b) The validity and enforceability of this Mortgage and the recoverability of the Secured Obligations shall not be affected or impaired by:
  - (i) any other security or any guarantee taken by the Lender from the Mortgagor or any third party;
  - (ii) any such other security or guarantee proving to be inadequate;
  - (iii) the failure of the Lender to take, perfect or enforce any such other security or guarantee; or
  - (iv) the release by the Lender of any such other security or guarantee.
- (c) The Mortgagor agrees with the Lender for itself and as trustee for its officials, employees and agents that neither the Lender nor its officials, employees or agents shall have any liability to the Mortgagor in respect of any act or omission by the Lender, its officials, employees or agents done or made in good faith.

## 28. LAW AND JURISDICTION

- 28.1 This Mortgage and any dispute (whether contractual or non-contractual, including, without limitation, claims in tort, for breach of statutory duty or on any other basis) arising out of or in connection with it or its subject matter ("Dispute") shall be governed by and construed in accordance with the law of England and Wales.
- 28.2 The parties to this Mortgage irrevocably agree, for the sole benefit of the Lender, that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any Dispute. Nothing in this clause shall limit the right of the Lender to take proceedings against the Mortgagor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

**IN WITNESS** whereof the Mortgagor has executed this Mortgage as a deed and has delivered it upon its being dated.

**THE FIRST SCHEDULE**

**THE MORTGAGED PROPERTY**

The property known as or being Plot L, former The Property is Freehold British Sugar Site, Stourport Road, Kidderminster as shown edged red on Plan 1 attached.

Including the entirety of the property comprised in the document(s) particulars of which are set out below.

Date	Description (Conveyance, Lease, Assignment, Assent etc)	Parties
------	---	---------

--	--	--

**Title No(s).**

**Administrative Area**

--	--

Use this execution clause if the Mortgagor is a Company and is to execute acting by two directors or one director and the company secretary.

Executed as a deed by

SUMA (DEVELOPMENTS) LIMITED

acting by

Director

Director/Company Secretary

Use this execution clause if the Mortgagor is a Company and is to execute acting by only one director.

Executed as a deed by

SUMA (DEVELOPMENTS) LIMITED

acting by

[Redacted Signature]

T. P. McLOUGHLIN Director

in the presence of

Witness' name

BEVERLY DOGGETT

Witness' Signature

[Redacted Signature]

Witness' Address

[Redacted Address]

Witness' occupation

[Redacted Occupation]

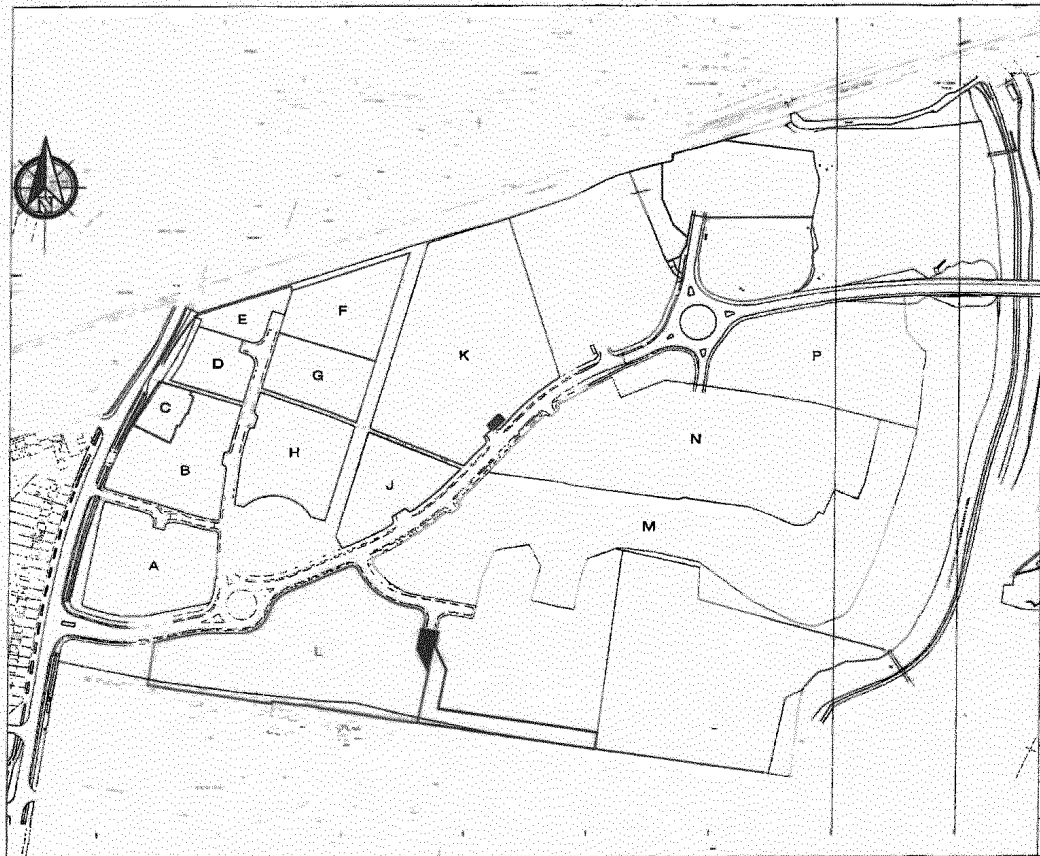


Executed as a Deed by affixing THE  
COMMON SEAL of WYRE FOREST DISTRICT  
COUNCIL

THE COMMON SEAL of  
WYRE FOREST DISTRICT COUNCIL  
was hereunto authenticated

in the presence of

Authorised Signatory



Rev B: Boundary amendment 20-06-19  
Rev A: General amendments 07-08-19

<b>DUTCH ARCHITECTURE</b>	
Office 52/ Dunsigale/ 52-55 Tinkwell Road/ WV1 4TH t: 01447 776 752/77 d: 01447 776 752/77	
Client: ST FRANCIS GROUP	
Contract: FORMER BRITISH SUGAR WORKS KIDDERMINSTER	
Title: Plot L Boundary	
Drawn: ODW	Scale: 1:2500 @ A3
Date: July 2019	Rev: B
Drawing Number: 9538/Plot L-01	

J.P. HELOUGHAN