



Registration of a Charge

Company Name: **M & N WHOLESALERS LIMITED**

Company Number: **02643978**



Received for filing in Electronic Format on the: **28/11/2022**

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Details of Charge

Date of creation: **22/11/2022**

Charge code: **0264 3978 0009**

Persons entitled: **ALLICA BANK LIMITED**

Brief description: **THE FREEHOLD LAND BEING 11 HIGH STREET, LYE, STOURBRIDGE, DY9 8JT REGISTERED AT HM LAND REGISTRY WITH TITLE NUMBER WM337619 AND WM259979. THE FREEHOLD LAND BEING 95A HIGH STREET, CRADLEY HEATH REGISTERED AT HM LAND REGISTRY WITH TITLE NUMBER WM565925.**

Contains fixed charge(s).

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: **LAWRENCE STEPHENS LTD**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2643978

Charge code: 0264 3978 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd November 2022 and created by M & N WHOLESALERS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th November 2022 .

Given at Companies House, Cardiff on 29th November 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**



Allica Bank

Legal Mortgage – Limited Company

THIS DOCUMENT CONTAINS IMPORTANT LEGAL OBLIGATIONS. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE FROM A SOLICITOR TO ENSURE THAT YOU FULLY UNDERSTAND THE NATURE AND EFFECT OF THE OBLIGATIONS CONTAINED IN IT. IF YOU DEFAULT IN YOUR OBLIGATIONS TO THE BANK, THE BANK MAY ENFORCE AGAINST ANY SECURITY PROVIDED FOR UNDER THIS DOCUMENT IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO IT.

This deed is made on 22 November 2022

BETWEEN:

- (1) **Borrower** : M & N WHOLESALERS LIMITED incorporated and registered in England and Wales with registered number 02643978 whose registered office is at No 4 Castle Court 2, Castlegate Way, Dudley, DY1 4RH
- (2) **Bank** : ALLICA BANK LIMITED incorporated and registered in England and Wales with company number 07706156 whose registered office is at Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS

BACKGROUND

- (1) Under this deed, the Borrower provides security to the Bank for all its present and future obligations and liabilities to the Bank.
- (2) The Borrower owns the Property.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions and Interpretation

The definitions and rules of interpretation under Schedule 1 hereto apply in this deed.

2. COVENANT TO PAY

2.1 Covenant to pay

The Borrower shall, on demand, pay to the Bank and discharge the Secured Liabilities.

2.2 Interest

The Borrower covenants with the Bank to pay interest on any amounts due under clause 2.1 from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Borrower) at the Default Rate, provided that, in the case of any cost or expense, such interest shall accrue and be payable as from the date on which the relevant cost or expense arose without the necessity for any demand being made for payment.

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 Borrower with full title guarantee charges to the Bank:

3.1.1 by way of a first legal mortgage, the Property; and

3.1.2 by way of a first fixed charge:

- a. all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, the Rental Income and the benefit of any guarantee or security in respect of the Rental Income to the extent not effectively assigned under clause 3.2;

- b. the benefit of all other contracts, guarantees, appointments and warranties relating to the Charged Assets and other documents to which the Borrower is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of the Charged Assets or otherwise relating to the Charged Assets (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them); and
- c. all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business carried on at the Property or the use of any Charged Asset, and all rights in connection with them.

3.2 Assignment

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee assigns to the Bank absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- 3.2.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy; and
- 3.2.2 the Rental Income and the benefit of any guarantee or security in respect of the Rental Income,

provided that nothing in this clause 3.2 shall constitute the Bank as mortgagee in possession.

4. PERFECTION OF SECURITY

4.1 Registration of legal mortgage at the Land Registry

The Borrower applies 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 or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 22 November 2022 in favour of Allica Bank Limited referred to in the charges register."

4.2 Further advances

This deed secures further advances and re-advances but the Bank is not obliged to make further advances.

4.3 First registration

If the title to the Property is not registered at the Land Registry, the Borrower shall ensure that no person (other than itself) shall be registered under the Land Registration Act 2002 as the proprietor of all or any part of the Property, without the prior written consent of the Bank.

4.4 Cautions against first registration and notices

Whether or not title to the Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Borrower's title to the Property, the Borrower shall immediately provide the Bank with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Borrower shall immediately, and at its own expense, take such steps as the

Bank may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5. LIABILITY OF THE BORROWER

5.1 Liability not discharged

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

- 5.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Bank that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 5.1.2 the Bank 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
- 5.1.3 any other act or omission that, but for this clause 5.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

5.2 Immediate recourse

The Borrower waives any right it may have to require the Bank 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 Borrower.

6. REPRESENTATIONS AND WARRANTIES

6.1 Times for making representations and warranties

The Borrower makes the representations and warranties set out in this clause 6 to the Bank on the date of this deed and the representations and warranties contained in this clause 6 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 Borrower is the sole legal and beneficial owner of the Charged Assets and has good, valid and marketable title to the Property.

6.3 No Security

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

6.4 No adverse claims

The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Assets or any interest in them.

6.5 No adverse covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever that materially and adversely affect the Charged Assets.

6.6 No breach of laws

There is no breach of any law or regulation that materially and adversely affects the Charged Assets.

6.7 No interference in enjoyment

No facility necessary for the enjoyment and use of the Charged Assets is subject to terms entitling any person to terminate or curtail its use.

6.8 No overriding interests

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in the Property.

6.9 No prohibitions or breaches

There is no prohibition on the Borrower assigning its rights in any of the Charged Assets referred to in clause 3.2 and the entry into of this deed by the Borrower does not, and will

not, constitute a breach of any policy, agreement, document, instrument or obligation binding on the Borrower or its assets.

6.10 Environmental compliance

The Borrower has, at all times, complied in all material respects with all applicable Environmental Law and Environmental Licences.

6.11 Information for Valuations and Certificates of Title

6.11.1 All written information supplied by the Borrower or on its behalf for the purpose of each Valuation and Certificate of Title was true and accurate in all material respects at its date or at the date (if any) on which it was stated to be given.

6.11.2 The information referred to in clause 6.11.1 was, at its date or at the date (if any) on which it was stated to be given, complete and the Borrower did not omit to supply any information that, if disclosed, would adversely affect the Valuation or Certificate of Title.

6.11.3 In the case of the first Valuation and Certificate of Title only, nothing has occurred since the date the information referred to in clause 6.11.1 was supplied and the date of this deed that would adversely affect such Valuation or Certificate of Title.

6.12 Avoidance of security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Borrower or otherwise.

6.13 Enforceable security

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower and is, and will continue to be, effective security over all and every part of the Charged Assets in accordance with its terms.

7. GENERAL COVENANTS

7.1 Negative pledge and disposal restrictions

The Borrower shall not at any time, save in respect of any Permitted Security:

7.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Charged Asset;

7.1.2 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

7.1.3 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 Borrower 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 Bank or materially diminish the value of any of the Charged Assets or the effectiveness of the security created by this deed.

7.3 Compliance with laws and regulations

7.3.1 The Borrower shall not, without the Bank's prior written consent, use or permit the Charged Assets to be used in any way contrary to law.

7.3.2 The Borrower shall:

a. comply with the requirements of any law or regulation relating to or affecting the Charged Assets or the use of them or any part of them;

b. obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Assets or their use or that are necessary to preserve, maintain or renew any Charged Asset; and

- c. promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Charged Assets.

7.4 Enforcement of rights

The Borrower shall use its best endeavours to:

- 7.4.1 procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Borrower and forming part of the Charged Assets of the covenants and other obligations imposed on such counterparty; and
- 7.4.2 enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Assets that the Bank may require from time to time.

7.5 Notice of misrepresentation and breach

The Borrower shall, promptly on becoming aware of any of the same, notify the Bank in writing of:

- 7.5.1 any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated; and
- 7.5.2 any breach of any covenant set out in this deed.

7.6 Title documents

The Borrower shall, on the execution of this deed, deposit with the Bank and the Bank shall, for the duration of this deed, be entitled to hold:

- 7.6.1 all deeds and documents of title relating to the Charged Assets that are in the possession or control of the Borrower (and if these are not within the possession or control of the Borrower, the Borrower undertakes to obtain possession of all these deeds and documents of title); and
- 7.6.2 each Insurance Policy.

7.7 Notices to be given by the Borrower

- 7.7.1 The Borrower shall as requested by the Bank from time to time give notice to the relevant insurers of the assignment of the Borrower's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3.2.1 and use all reasonable endeavours to procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Bank.
- 7.7.2 The Borrower shall obtain the Bank's prior written approval of the form of any notice or acknowledgement to be used under this clause 7.7.

8. PROPERTY COVENANTS

8.1 Repair and maintenance

- 8.1.1 The Borrower shall keep all premises, and fixtures and fittings on the Property, in:
 - a. good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings that have become worn out or otherwise unfit for use with others of a like nature and equal value; and
 - b. such repair and condition as to enable the Property to be let in accordance with all applicable laws and regulations.

8.2 No alterations

- 8.2.1 The Borrower shall not, without the prior written consent of the Bank:
 - a. pull down or remove the whole or any part of any building forming part of the Property nor permit the same to occur; or

- b. make or permit to be made any material alterations to the Property or sever or remove, or permit to be severed or removed, any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 8.1).
 - 8.2.2 The Borrower shall promptly give notice to the Bank if the premises or fixtures or fittings forming part of the Property are destroyed or damaged.
- 8.3 Development restrictions**

The Borrower shall not, without the prior written consent of the Bank:

 - 8.3.1 make or, in so far as it is able, permit others to make any application for planning permission or development consent in respect of the Property; or
 - 8.3.2 carry out, or permit or suffer to be carried out, on the Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit, or suffer to be changed, the use of the Property.
- 8.4 Insurance**
 - 8.4.1 The Borrower shall, unless it has a prior written waiver from the Bank, effect and maintain sufficient and appropriate policies of insurance of its business and assets as would be maintained by reasonably prudent persons carrying on the same class of business as the Borrower and shall supply copies of them to the Bank on written demand by the Bank and in any event within 30 days of the end of each calendar year. In the event that the Borrower fails to provide copies of its Insurance Policies to the Bank within 30 days of the end of each calendar year then the Bank may put in place such insurance policies as it sees fit in respect of the Charged Assets, the costs of which may be debited by the Bank to the Borrower's loan account. The Borrower must immediately on request by the Bank pay the costs and expenses of the Bank or its agents incurred in connection with any action taken by the Bank under this clause 8.4.1.
 - 8.4.2 In addition to the obligation on the Borrower to maintain insurance generally in relation to its business and assets under clause 8.4.1 above, the Borrower shall, at all times, ensure that, in relation to the Property, it maintains in full force and effect, insurance which:
 - a. insures its interest in such Property and the plant and machinery thereon (including fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed) as stated in the most recent valuation for the Property addressed to and satisfactory to the Bank plus VAT (where applicable);
 - b. provides cover on (i) an index linked basis, in line with the then current insurance industry practice and (ii) such other terms acceptable to the Bank, acting reasonably; and
 - c. provides cover against loss or damage by fire, storm, tempest, flood, earthquake, landslip, heave, subsidence, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage;
 - d. is with an insurer of good repute in the insurance market;
 - e. includes cover for loss of rent and for all rents payable in respect of the Property for a period of two years;
 - f. contains a note of the Bank's interest duly noted by the insurer against the policy (but, for the avoidance of doubt, without the Bank having any liability

for any premium in relation to those Insurance Policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy).

- 8.4.3 The Borrower shall ensure that, at all times, it:
- complies with the terms of the Insurance Policies;
 - does not do or permit anything to be done which may make void or voidable any of the Insurance Policies;
 - pays each premium for the Insurance Policies promptly and in any event prior to the commencement of the period of insurance for which that premium is payable; and
 - does all other things necessary as to keep each of the Insurance Policies in force;
 - promptly pays all premiums in respect of such Insurance Policies and provides such evidence of the same as the Bank may require.
- 8.4.4 The Borrower shall promptly notify the Bank of:
- any termination, avoidance or cancellation of any of the Insurance Policies made or, to its knowledge, threatened or pending;
 - any claim, and any actual or threatened refusal of any claim, under any of the Insurance Policies; and
 - any event or circumstance which has led or may lead to a breach by the Borrower of any provision of this clause 8.4 of this deed.
- 8.4.5 All monies payable under any Insurance Policies shall:
- be paid into a Designated Account;
 - if they are not paid into a Designated Account, be held, pending such payment, by the Borrower as trustee of the same for the benefit of the Bank; and
 - at the option of the Bank, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities.

8.5 Leases and licences affecting the Property

The Borrower shall not, without the prior written consent of the Bank:

- 8.5.1 grant any licence or tenancy affecting the whole or any part of the Property, or exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925);
- 8.5.2 in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Property (or agree to dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Property);
- 8.5.3 let any person into occupation, or share occupation, of the whole or any part of the Property; or
- 8.5.4 grant any consent or licence under any lease or licence affecting the Property.

8.6 No restrictive obligations

The Borrower shall not, without the prior written consent of the Bank, enter into any onerous or restrictive obligations affecting the whole or any part of the Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of the Property.

8.7 Proprietary rights

The Borrower shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of the Property, without the prior written consent of the Bank.

8.8 Compliance with and enforcement of covenants

The Borrower shall:

- 8.8.1 observe and perform all covenants, stipulations and conditions to which the Property, or the use of it, is or may be subject and (if the Bank so requires) produce to the Bank evidence sufficient to satisfy the Bank that those covenants, stipulations and conditions have been observed and performed; and
- 8.8.2 diligently enforce all covenants, stipulations and conditions benefiting the Property and shall not (and shall not agree to) waive, release or vary any of the same.

8.9 Notices or claims relating to the Property

8.9.1 The Borrower shall:

- a. give full particulars to the Bank of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a Notice) that specifically applies to the Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Notice; and
- b. (if the Bank so requires) immediately, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Bank in making, any objections or representations in respect of that Notice that the Bank thinks fit.

8.9.2 The Borrower shall give full particulars to the Bank of any claim, notice or other communication served on it in respect of any modification, suspension or revocation of any Environmental Licence or any alleged breach of any Environmental Law, in each case relating to the Property.

8.10 Payment of rent and outgoings

The Borrower shall:

- 8.10.1 where the Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and
- 8.10.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on the Property or on its occupier.

8.11 Rent reviews

8.11.1 The Borrower shall, if the Property is subject to occupational leases or licences, implement any upwards rent review provisions and shall not, without the prior written consent of the Bank, agree to any change in rent to less than the open market rental value of the relevant part of the Property.

8.11.2 The Borrower shall not, without the prior written consent of the Bank, if the Property is leasehold, agree to any change in the rent payable under the lease in excess of the open market rental value and shall only agree to any upwards rent review in accordance with the terms of the lease.

8.12 Environment

The Borrower shall in respect of the Property:

- 8.12.1 comply with all the requirements of Environmental Law; and
- 8.12.2 obtain and comply with all Environmental Licences.

8.13 Conduct of business on Property

The Borrower shall carry on its trade and business on those parts (if any) of the Property as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in such trade or business.

8.14 Inspection

The Borrower shall permit the Bank, any Receiver and any person appointed by either of them to enter on and inspect the Property on reasonable prior notice.

8.15 VAT option to tax

The Borrower shall not, without the prior written consent of the Bank:

8.15.1 exercise any VAT option to tax in relation to the Property; or

8.15.2 revoke any VAT option to tax exercised, and disclosed to the Bank in writing, before the date of this deed.

9. RENTAL INCOME COVENANTS

9.1 Notice of assignment of Rental Income

The Borrower shall, as requested by the Bank from time to time, give notice to the relevant tenant, guarantor or surety of the assignment under clause 3.2.2 of the Borrower's rights and interest to the Rental Income and each guarantee or security in respect of the Rental Income and use all reasonable endeavours to procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Bank.

10. POWERS OF THE BANK

10.1 Power to remedy

10.1.1 The Bank shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Borrower of any of its obligations contained in this deed.

10.1.2 The Borrower irrevocably authorises the Bank and its agents to do all things that are necessary or desirable for that purpose.

10.1.3 Any monies expended by the Bank in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Bank on a full indemnity basis and shall carry interest in accordance with clause 17.1.

10.1.4 In remedying any breach in accordance with this clause 10.1, the Bank, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Bank may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

10.2 Exercise of rights

The rights of the Bank under clause 10.1 are without prejudice to any other rights of the Bank under this deed. The exercise of any rights of the Bank under this deed shall not make the Bank liable to account as a mortgagee in possession.

10.3 Bank 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 Bank 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.

10.4 Conversion of currency

10.4.1 For the purpose of, or pending, the discharge of any of the Secured Liabilities, the Bank may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause

- 10.4) from their existing currencies of denomination into any other currencies of denomination that the Bank may think fit.
- 10.4.2 Any such conversion shall be effected at the Bank's then prevailing spot selling rate of exchange or such other bank's prevailing spot selling rate of exchange as the Bank in its sole discretion may select for such other currency against the existing currency.
- 10.4.3 Each reference in this clause 10.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.
- 10.5 New accounts**
- 10.5.1 If the Bank receives, or is deemed to have received, notice of any subsequent Security or other interest, affecting all or part of the Charged Assets, the Bank may open a new account for the Borrower in the Bank's books. Without prejudice to the Bank's right to combine accounts, no money paid to the credit of the Borrower in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- 10.5.2 If the Bank does not open a new account immediately on receipt of the notice, or deemed notice, referred to in clause 10.5.1, then, unless the Bank gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Bank shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Bank.
- 10.6 Indulgence**
- The Bank may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Borrower) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this deed or to the liability of the Borrower for the Secured Liabilities.
- 11. WHEN SECURITY BECOMES ENFORCEABLE**
- 11.1 Enforcement**
- The security constituted by this deed shall become immediately enforceable if:
- 11.1.1 the Secured Liabilities, or any part of them, are not paid or discharged when due;
- 11.1.2 the Borrower is in breach of any of its obligations under this deed;
- 11.1.3 the Borrower enters into liquidation or any arrangement with creditors or a receiver, administrator or a trustee is appointed over a substantial part of the Borrower's assets or the Borrower is subject to similar proceedings in any jurisdiction;
- 11.1.4 anyone seeks to, or takes possession of, or seeks to enforce, or enforces, any security affecting the Charged Assets or if anything else happens which might adversely affect the security given by this deed;
- 11.1.5 any other event occurs that makes the security constituted by this deed (or any other security for the Secured Liabilities) enforceable;
- 11.1.6 the Property is compulsorily purchased or requisitioned;
- 11.1.7 an Event of Default (as defined under the Loan Agreement) under the Loan Agreement occurs; or
- 11.1.8 any act of default (howsoever described) occurs entitling the Bank to declare the Secured Liabilities or any part of them due and payable or the Secured Liabilities or any part of them otherwise becomes due and payable.

12. ENFORCEMENT OF SECURITY

12.1 Enforcement powers

- 12.1.1 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.
- 12.1.2 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 11.1.
- 12.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

12.2 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 Bank 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 Borrower, to:

- 12.2.1 grant a lease or agreement for lease;
- 12.2.2 accept surrenders of leases; or
- 12.2.3 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 Borrower, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender), as the Bank or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

12.3 Redemption of prior Security

- 12.3.1 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 Bank may:
 - a. redeem any prior Security over any Charged Asset;
 - b. procure the transfer of that Security to itself; and
 - c. 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 Borrower).
- 12.3.2 The Borrower shall pay to the Bank 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.

12.4 Protection of third parties

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

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

12.5 Privileges

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

12.6 No liability as mortgagee in possession

Neither the Bank nor any Receiver or Delegate shall be liable, 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, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

12.7 Relinquishing possession

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

12.8 Conclusive discharge to purchasers

The receipt of the Bank, 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 Bank, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it thinks fit.

12.9 Right of appropriation

12.9.1 To the extent that:

- a. the Charged Assets constitute Financial Collateral; and
- b. this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,
the Bank shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Charged Assets in or towards the payment or discharge of the Secured Liabilities in any order that the Bank may, in its absolute discretion, determine.

12.9.2 The value of any Charged Assets appropriated in accordance with this clause shall be, in the case of cash, the amount standing to the credit of the rent account of the Borrower into which Rental Income is paid, together with any accrued but unpaid interest, at the time the right of appropriation is exercised.

12.9.3 The Borrower agrees that the method of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

13. RECEIVERS

13.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Bank 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.

13.2 Removal

The Bank may, without further notice (subject to section 45 of the Insolvency Act 1986), 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.

13.3 Remuneration

The Bank 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.

13.4 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 Bank 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.

13.5 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 Bank despite any prior appointment in respect of all or any part of the Charged Assets.

13.6 Agent of the Borrower

Any Receiver appointed by the Bank under this deed shall be the agent of the Borrower and the Borrower 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 Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Bank.

14. POWERS OF RECEIVER

14.1 Powers additional to statutory powers

14.1.1 Any Receiver appointed by the Bank 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 14.2 to clause 14.20.

14.1.2 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.

14.1.3 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.

14.1.4 Any exercise by a Receiver of any of the powers given by clause 14 may be on behalf of the Borrower, the directors of the Borrower or himself/herself.

14.2 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.

14.3 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.

14.4 Employ personnel and advisers

14.4.1 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.

14.4.2 A Receiver may discharge any such person or any such person appointed by the Borrower.

14.6 Make and revoke VAT options to tax

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

14.6 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 Bank may prescribe or agree with him/her.

14.7 Take possession

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

14.8 Manage or reconstruct the Borrower'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 Borrower carried out at the Property.

14.9 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.

14.10 Sever fixtures and fittings

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

14.11 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.

14.12 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 Borrower or relating in any way to any Charged Asset.

14.13 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.

14.14 Insure

A Receiver may, if he/she thinks fit, but without prejudice to the indemnity in clause 17.2, 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 Borrower under this deed.

14.15 Form subsidiaries

A Receiver may form a subsidiary of the Borrower and transfer to that subsidiary any Charged Asset.

14.16 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 Bank consents, terms under which that security ranks in priority to this deed).

14.17 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 Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

14.18 Delegation

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

14.19 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.

14.20 Incidental powers

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

14.20.1 may consider desirable or necessary for realising any of the Charged Assets;

14.20.2 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

14.20.3 lawfully may or can do as agent for the Borrower.

15. DELEGATION

15.1 Delegation

The Bank 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 19.1).

15.2 Terms

The Bank 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.

15.3 Liability

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

16. APPLICATION OF PROCEEDS

16.1 Order of application of proceeds

All monies received or recovered by the Bank, 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 (other than sums received under any Insurance Policy), 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 Bank's right to recover any shortfall from the Borrower):

16.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Bank (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;

16.1.2 in or towards payment of the Secured Liabilities in any order and manner that the Bank determines; and

16.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.

16.2 Appropriation

Neither the Bank, 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.

16.3 Suspense account

All monies received by the Bank, 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):

- 16.3.1 may, at the discretion of the Bank, Receiver or Delegate, be credited to a suspense account;
- 16.3.2 shall bear interest, if any, at the rate agreed in writing between the Bank and the Borrower; and
- 16.3.3 may be held in that account for so long as the Bank, Receiver or Delegate thinks fit.

17. COSTS AND INDEMNITY

17.1 Costs

The Borrower shall, promptly on demand, pay to, or reimburse, the Bank 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 Bank, any Receiver or any Delegate in connection with:

- 17.1.1 this deed or the Charged Assets;
- 17.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Bank's, a Receiver's or a Delegate's rights under this deed; or
- 17.1.3 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, liquidation, winding-up or administration of the Borrower) at the Default Rate.

17.2 Indemnity

17.2.1 The Borrower shall indemnify the Bank, 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:

- a. 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;
- b. taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- c. any default or delay by the Borrower in performing any of its obligations under this deed.

17.2.2 Any past or present employee or agent may enforce the terms of this clause 17.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

18. FURTHER ASSURANCE

18.1 Further assurance

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

- 18.2.1 creating, perfecting or protecting the security created or intended to be created by this deed;

- 18.2.2 facilitating the realisation of any Charged Asset; or
- 18.2.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Bank 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 Bank 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 Bank may consider necessary or desirable.

19. POWER OF ATTORNEY

19.1 Appointment of attorneys

By way of security, the Borrower irrevocably appoints the Bank, every Receiver and every Delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

- 19.1.1 the Borrower is required to execute and do under this deed; or
- 19.1.2 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 Bank, any Receiver or any Delegate.

19.2 Ratification of acts of attorneys

The Borrower 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 19.1.

20. RELEASE

20.1 Release

20.2 Subject to clause 26.3, at the end of the Security Period, the Bank shall, at the request and cost of the Borrower, take whatever action is necessary to:

- 20.2.1 release the Charged Assets from the security constituted by this deed; and
- 20.2.2 reassign the Charged Assets to the Borrower.

21. ASSIGNMENT AND TRANSFER

21.1 Assignment by Bank

- 21.1.1 At any time, without the consent of the Borrower, the Bank may assign or transfer any or all of its rights and obligations under this deed.
- 21.1.2 The Bank may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Charged Assets and this deed that the Bank considers appropriate.

21.2 Assignment by Borrower

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

22. SET-OFF

22.1 Bank's right of set-off

The Bank may at any time set off any liability of the Borrower to the Bank against any liability of the Bank to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Bank may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Bank of its rights under this clause 22.1 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

22.2 No obligation to set off

The Bank is not obliged to exercise its rights under clause 22.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

22.3 Exclusion of Borrower's right of set-off

All payments made by the Borrower to the Bank under this deed shall be made in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

23. AMENDMENTS, WAIVERS AND CONSENTS

23.1 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).

23.2 Waivers and consents

23.2.1 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 other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

23.2.2 A failure or delay by a party to exercise 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 Bank shall be effective unless it is in writing.

23.3 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.

24. SEVERANCE

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

25. THIRD PARTY RIGHTS

25.1 Third party rights

Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

26. FURTHER PROVISIONS

26.1 Independent security

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Bank may hold for any of the Secured Liabilities at any time. No prior security held by the Bank over the whole or any part of the Charged Assets shall merge in the security created by this deed.

26.2 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 Bank discharges this deed in writing.

26.3 Discharge conditional

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

26.3.1 the Bank 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 Bank deems necessary to provide the Bank with security against any such avoidance, reduction or order for refund; and

26.3.2 the Bank may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred.

26.4 Certificates

A certificate or determination by the Bank as to any amount for the time being due to it from the Borrower under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due.

26.5 Consolidation

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

27. NOTICES

27.1 Notices

27.1.1 Any communication to be made under or in connection with this deed shall be made in writing.

27.1.2 Any communication, demand or notice given by the Bank to the Borrower under this deed may be made:

- a. by letter addressed to the Borrower or any officer of the Borrower sent by first class post to or left at the Borrower's address last known to the Bank or at the Borrower's registered office; or
- b. by fax or other electronic means to the Borrower's fax number or electronic mail address last known to the Bank.

If sent by post, the demand or notice will be deemed to have been received at 10.00 a.m. on the second Business Day following the day the letter was posted.

If delivered by hand, the demand or notice will be deemed to have been received at the time it is left at the relevant address. If sent by fax or other electronic means, the demand or notice will be deemed to have been received at the time of transmission (provided that if the date of transmission is not a Business Day it shall be deemed to have been received at 9 a.m. on the next Business Day).

27.1.3 Unless otherwise advised by the Bank any notices given by the Borrower to the Bank under this deed shall be by letter and sent by first class post or delivered by hand to: the Company Secretary, Allica Bank Limited, Eldon House, First Floor, 2-3 Eldon Street, London EC2M 7LS.

27.1.4 All communications to the Bank shall be effective only on actual receipt by the Bank.

27.1.5 The Bank may rely upon any communication by telephone or email purporting to be on behalf of the Borrower by anyone notified to the Bank as being authorised to do so, without enquiry by the Bank as to authority or identity. The Borrower agrees to indemnify the Bank against any liability incurred or sustained by the Bank as a result.

28. GOVERNING LAW AND JURISDICTION

28.1 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.

28.2 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. Nothing in this clause shall limit the right of the Bank to take proceedings against the Borrower 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.

This document is executed by the Borrower as a deed and is delivered on the date stated at the beginning of this deed.

SCHEDULE 1

Definitions and Interpretation

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in this deed:

- | | |
|---|---|
| Business Day | : means a day on which the Bank is open for normal banking business in England |
| Certificate of Title | : any report on or certificate of title relating to the Property supplied to the Bank |
| Charged Assets | : all the assets, property and undertaking of the Borrower, 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) |
| Default Rate | : means: <ul style="list-style-type: none">a. the default interest rate set out in the document under which the relevant liability for the overdue amount initially arose; orb. if no default rate is set out in such document, 2% per annum above the Bank of England's Base Rate from time to time |
| Delegate | : any person appointed by the Bank or any Receiver under clause 15 and any person appointed as attorney of the Bank, Receiver or Delegate |
| Designated Account | : any account of the Borrower nominated by the Bank as a designated account for the purposes of this deed |
| Environment | : the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media |
| Environmental Law | : all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment |
| Environmental Licence | : any authorisation, permit or licence necessary under Environmental Law in respect of any of the Charged Assets |
| Financial Collateral | : has the meaning given to that expression in the Financial Collateral Regulations |
| Financial Collateral Regulations | : the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226) |
| Insurance Policy | : each contract and policy of insurance effected or maintained by the Borrower from time to time relating to the Property |

Loan Agreement	: the loan agreement dated on or about the date of this deed entered into by the Borrower and the Bank, as amended or amended and restated from time to time
LPA 1925	: the Law of Property Act 1925
Permitted Security	: means:- <ul style="list-style-type: none"> a. any liens arising by operation of law and in the ordinary course of the Borrower's business and not as a result of any default or omission by the Borrower; b. any normal title retention arrangements included in a supplier's standard conditions of supply of goods acquired by the Borrower in the ordinary course of trade; c. Security granted by the Borrower in favour of the Bank; d. Security granted by the Borrower in favour of a third party in respect of which the Bank has given its prior written consent to the Borrower.
Property	: the freehold or leasehold property (whether registered or unregistered) owned by the Borrower described in Schedule 2
Receiver	: a receiver or receiver and manager appointed by the Bank under clause 13
Rental Income	: all amounts paid or payable to or for the account of the Borrower in connection with the letting, licence or grant of other rights of use or occupation of all or any part of the Property
Secured Liabilities	: all present and future obligations and liabilities of the Borrower to the Bank, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity and whether or not the Bank was an original party to the relevant transaction and in whatever name or style, together with all interest (including, without limitation, default interest) accruing in respect of those 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 Financial Collateral Arrangement	: has the meaning given to that expression in the Financial Collateral Regulations
Security Period	: the period starting on the date of this deed and ending on the date on which the Bank 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
Valuation	: any valuation relating to the Property supplied to the Bank by the Borrower (or on its behalf)
VAT	: value added tax or any equivalent tax chargeable in the UK or elsewhere

1.2 Interpretation

In this deed:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- 1.2.2 a reference to a person shall include a reference to 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);
- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 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;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8 a reference to writing or written includes fax and email in respect of communications from the Bank to the Borrower but not in respect of communications from the Borrower to the Bank unless otherwise specified;
- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 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;
- 1.2.11 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;
- 1.2.12 any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.13 a reference to an amendment includes a novation, re-enactment, supplement or variation (and amend and amended shall be construed accordingly);
- 1.2.14 a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.15 a reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.16 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

- 1.2.17 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 Bank considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower 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:

- 1.4.1 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;
- 1.4.2 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;
- 1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of the Property, and any monies paid or payable in respect of those covenants; and
- 1.4.4 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 Loan Agreement and of any side letters between any parties in relation to the Loan Agreement are incorporated into this deed.

1.6 Perpetuity period

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

1.7 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.

SCHEDULE 2

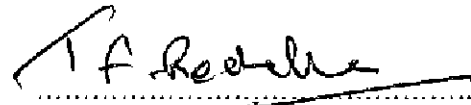
Property

The freehold land being 11 High Street, Lye, Stourbridge, DY9 8JT registered at HM Land Registry with Title Number WM337619 and WM259979

The freehold land being 95a High Street, Cradley Heath registered at HM Land Registry with Title Number WM565925.

EXECUTION PAGE

EXECUTED as a DEED by the
Borrower acting by a director in the
presence of:

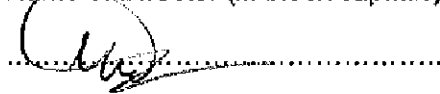


Director

T. F. Reath

Name of Director (in block capitals)

Signature of Witness:



Name of Witness (in block capitals):

.....

Address of Witness:

Michael John Darby
Solicitor

107 Kent Road, B62 8PB

Occupation of Witness:

.....