

MR01  
Particulars of a charge



Companies House



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A fee is payable with this form  
Please see 'How to pay' on page 2

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument.

☐ **What this form is NOT for**  
You may not use this form to  
register a charge when the charge is  
instrument. Use form MR01.



A10 \*A673Z10G\* #207  
24/05/2017  
COMPANIES HOUSE

This form must be delivered to the Registrar for registration within  
21 days beginning with the day after the date of creation of the charge. If  
delivered outside of the 21 days it will be rejected unless it is accompanied by a  
court order extending the time for delivery.



You must enclose a certified copy of the instrument with this form. This will be  
scanned and placed on the public record. Do not send the original.

1

**Company details**

Company number / 0 3 4 8 8 0 8 6

Company name in full / Aclairs Limited

3

For official use

**Filling in this form**

Please complete in typescript or in  
bold black capitals.

All fields are mandatory unless  
specified or indicated by \*

2

**Charge creation date**

Charge creation date / d 2 d 2 m 0 m 5 y 2 y 0 y 1 y 7

3

**Names of persons, security agents or trustees entitled to the charge**

Please show the names of each of the persons, security agents or trustees  
entitled to the charge.

Name / Clive John Banks

Name / Sarah Jane Banks

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below.

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge.

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Particulars of a charge

4	<b>Brief description</b>	
Brief description	<p>Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.</p>	<p>Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".</p>
	<p>All that freehold property situate at and known as ACL House, Coombend, Radstock, Bath BA3 3AS as the same is registered at HM Land Registry under title numbers AV213499 and AV223491.</p>	<p>Please limit the description to the available space.</p>
5	<b>Other charge or fixed security</b>	
	<p>Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.</p>	
	<p><input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b></p>	
6	<b>Floating charge</b>	
	<p>Is the instrument expressed to contain a floating charge? Please tick the appropriate box.</p>	
	<p><input checked="" type="checkbox"/> <b>Yes</b> Continue <input type="checkbox"/> <b>No</b> Go to <b>Section 7</b></p>	
	<p>Is the floating charge expressed to cover all the property and undertaking of the company?</p> <p><input type="checkbox"/> <b>Yes</b></p>	
7	<b>Negative Pledge</b>	
	<p>Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.</p>	
	<p><input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b></p>	
8	<b>Trustee statement <sup>1</sup></b>	
	<p>You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.</p> <p><input type="checkbox"/></p>	<p><sup>1</sup> This statement may be filed after the registration of the charge (use form MR06).</p>
9	<b>Signature</b>	
Signature	<p>Please sign the form here.</p>	
	<p>Signature</p> <p>X <i>neysduneyking</i> X</p>	
	<p>This form must be signed by a person with an interest in the charge.</p>	

# MR01

## Particulars of a charge



### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Layla Hardin

Company name Royds Withy King

Address Midland Bridge House

Midland Bridge Road

Post town Bath

County/Region

Postcode B A 2 3 F P

Country

DX

Telephone 01225 730100



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have included a certified copy of the instrument with this form.
- ☐ You have entered the date on which the charge was created.
- ☐ You have shown the names of persons entitled to the charge.
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☐ You have given a description in Section 4, if appropriate.
- ☐ You have signed the form.
- ☐ You have enclosed the correct fee.
- ☐ Please do not send the original instrument; it must be a certified copy.



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

**For companies registered in England and Wales:**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

**For companies registered in Scotland:**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

**For companies registered in Northern Ireland:**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG.  
DX 481 N.R. Belfast 1.



### Further information

For further information, please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)



**FILE COPY**

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

Company number: 3488086

Charge code: 0348 8086 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd May 2017 and created by ACLAIMS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th May 2017.

Given at Companies House, Cardiff on 31st May 2017



**Companies House**



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



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

*reads wdfykg*  
/

dated 22<sup>nd</sup> MAY 2017

**Aclaims Limited**

and

**Clive John Banks and Sarah Jane Banks**

## **LEGAL CHARGE**

**relating to**

**ACL House, Coombend, Radstock, Bath BA3 3AS**

Trowers & Hamlins LLP  
The Senate  
Southernhay Gardens  
Exeter  
EX1 1UG  
t +44 (0)1392 612600  
f +44 (0)1392 612601  
[www.trowers.com](http://www.trowers.com)

**trowers & hamlins**

**THIS LEGAL CHARGE** is made **BETWEEN**

- (1) **ACLAIMS LIMITED** whose **registered** office is at acl House, Coombend, Radstock, Bath BA3 3AS and whose company registration number is 03488086 ("the Chargor");
- (2) **Clive John Banks** and **Sarah Jane Banks** both of Offwell House, Offwell, Devon EX14 9SA ("the Lender" which expression shall include their successors and assignees)

**1 Definitions And Interpretation**

**1.1** In this Legal Charge:

**'the Act'** means the Law of Property Act 1925;

**'Authority'** means any government department local or public authority or statutory undertaking;

**'Business Day'** means a day on which the relevant London interbank markets are open for dealings between banks;

**'Charged Assets'** means the property assets debts rights and undertakings from time to time charged to the Lender by or pursuant to this Charge and includes any part of or interest therein;

**'Default Rate'** means the default rate specified in any agreement between the Lender and the Chargor pursuant to which this Legal Charge has been entered into and if none means 4% per annum above the base rate from time to time of HSBC Bank Plc ;

**'Encumbrance'** means any mortgage charge pledge lien assignment hypothecation security interest deferred purchase title retention leasing sale-and-purchase or sale-and-leaseback arrangement preferential right trust arrangement or any right conferring a priority of payment whatsoever over or in any property assets or rights of whatsoever nature and includes any agreement for any of the same;

**'Environmental Laws'** means the common law and all applicable local governmental or quasi-governmental laws rules regulations licences orders permits decisions or requirements concerning discharges of contaminants occupational or public health and safety of the environment and any order injunction judgment declaration notice or demand issued pursuant to any of them;

**'Event of Default'** means any event set out in Clause 5.1 and any event or circumstance which constitutes an event of default under any other agreement or deed between the Chargor and the Lender;

**'the Insolvency Act'** means the Insolvency Act 1986;

**'the L&T (Covenants) Act'** means the Landlord and Tenants (Covenants) Act 1995

**'the Mortgaged Property'** means the freehold property of the Chargor referred to in Schedule 1 together with all buildings fixtures (including trade fixtures) and fixed plant and machinery from time to time thereon and all improvements and additions thereto and where the context requires shall mean any part or parts of the Mortgaged Property;

**'Occupational Leases'** means the leases or underleases to which the Mortgaged Property is for the time being subject;

**'Period'** means the period commencing on the date of this Legal Charge and ending on the date upon which the Lender certifies in writing to the Chargor that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full;

**'Planning Acts'** means any statute for the time being in force relating to town and country planning;

**'Prior Charges'** means the Encumbrances existing at the date of this Legal Charge details of which are set out in Schedule 2 (if any);

**'Receiver'** means any receiver or receiver and manager or administrative receiver appointed by the Lender under or by virtue of this Legal Charge whether alone or jointly with any other person and includes any substitute for any of them appointed from time to time;

**'Rental Income'** means the gross rents and licence fees and other monies receivable now or hereafter at any time by the Chargor in respect of or arising out of the Mortgaged Property or any agreement for lease or otherwise without limitation derived by the Chargor from the Mortgaged Property or otherwise paid to or received by the Chargor in respect of the Mortgaged Property but excluding insurance rents or service charges or the like;

**'Secured Liabilities'** means:

- (a) all indebtedness, liabilities and obligations which are now or may at any time hereafter be due, owing or incurred in any manner whatsoever to the Lender, by the Chargor whether actually or contingently, and whether solely or jointly with any other person and whether as principal or surety and whether or not the Lender shall have been an original party to the relevant transaction and in whatever currency denominated including all liabilities from time to time issued or incurred by the Lender at the request of the Chargor in connection with foreign exchange transactions, acceptances, discounting or otherwise or under any guarantees, bonds, indemnities, documentary or other credits or any instruments whatsoever and including interest, discount, commissions and any other lawful charges or expenses which the Lender may in the course of its business charge in respect of all such indebtedness liabilities and obligations;
- (b) on a full indemnity basis all costs and expenses incurred by the Lender in relation to this Legal Charge and all costs and expenses incurred by the Lender in relation to the protection and enforcement of the rights of the Lender hereunder; and
- (c) interest at the date of discharge of all sums payable under all liabilities and obligations to be discharged under sub-clauses (a) and (b) above. Such interest shall be computed and compounded in accordance with the terms of any agreement or instrument (if applicable) pursuant to which that liability and obligation has arisen or otherwise as agreed between the parties from time to time or in the absence of such agreement compounded monthly and computed according to the usual practice of the Lender and shall be payable as well after as before any demand or judgment

**'Subsidiary' and 'holding company'** have the meanings given to them by section 1159 of the Companies Act 2006 except that in addition, for the purposes of sections 1159(1)(b) and (c), a company (X) shall be treated as a member of another company (Y) even if any or all of the shares in company (Y) are held by a person (or its nominee) by way of security or in connection with the taking of security or are held by a subsidiary of Company (X) or are held by a person acting on behalf of company (X) or any of its subsidiaries

1.2 In this Legal Charge, unless the context otherwise requires:-

- 1.2.1 words denoting the singular number only shall include the plural number also and vice versa;
- 1.2.2 words denoting the neutral gender only shall also include the masculine gender and feminine gender and vice versa;
- 1.2.3 references to Clauses and Schedules are to the clauses and schedules to this Legal Charge and references to sub-clauses shall unless otherwise specifically stated be construed as references to the sub-clauses of the Clause in which the reference appears and references to this Legal Charge include its Schedules;
- 1.2.4 clause headings are inserted for ease of reference only and are not to affect the interpretation of this Legal Charge;
- 1.2.5 except to the extent the context otherwise requires any reference in this document to 'this Legal Charge' and any other document referred to in it includes any document expressed to be supplemental to or collateral with or which is entered into pursuant to or in accordance herewith or therewith and shall be deemed to include any instruments amending varying supplementing novating or replacing the terms of any such documents from time to time;
- 1.2.6 references to a person are to be construed to include corporations firms companies partnerships individuals associations states and administrative and governmental and other entities whether or not a separate legal entity;
- 1.2.7 references to any person are to be construed to include references to that person's successors transferees and assigns whether direct or indirect;
- 1.2.8 references to any statutory provision are to be construed as references to that statutory provision as amended supplemented re-enacted or replaced from time to time (whether before or after the date of this Legal Charge) and are to include any orders regulations instruments or other subordinated legislation made under or deriving validity from that statutory provision;
- 1.2.9 the words 'other' and 'otherwise' are not to be construed ejusdem generis with any foregoing words where a wider construction is possible; and
- 1.2.10 the words 'including' and 'in particular' are to be construed as being by the way of illustration or emphasis only and are not to be construed as, nor shall they take effect as, limiting the generality of any foregoing words



- 1.3 A reference in this Legal Charge to a charge or mortgage of any freehold or leasehold property includes all buildings and all the Chargor's fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery from time to time on such property
- 1.4 If the Lender reasonably considers that the amount paid by the Chargor or any person to the Lender in discharge of any of the Secured Liabilities is likely to be avoided or otherwise set aside on the liquidation or administration of the Chargor or any other person then that amount shall not be considered to have been irrevocably paid for the purposes of this Legal Charge
- 1.5 This Clause 1.5 shall have application for the avoidance of doubt and where the expression "the Chargor" comprises two or more parties:
- 1.5.1 any representations or statements being made in this Legal Charge in relation to the Chargor shall be construed as representations or statements made separately in relation to each of the parties comprised in such expression and as if the representation or statement was repeated separately in relation to each such party and any charging provision shall relate to property held by either or both of the Chargor; and
- 1.5.2 all of the indebtedness, obligations, covenants, representations, warranties or other obligations given hereunder by the Chargor ("agreed obligations") are given by each party comprised in the expression "the Chargor" severally and also jointly with every other of the Chargor and each Chargor agrees and consents to be bound by the agreed obligations notwithstanding that any other or others of the Chargor which was or were intended to execute this document (or any of the same) may not do so or may not effectually be bound thereby and notwithstanding that any of such agreed obligations may be determined by any such party or may become invalid or unenforceable against that party
- 1.6 The terms of any other deeds agreements or side letters between the parties hereto are incorporated in this Legal Charge to the extent required to ensure that any disposition of the Charged Assets contained in this Legal Charge is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989
- 2 Security**
- 2.1 The Chargor covenants duly and punctually to pay and discharge to the Lender forthwith on demand the Secured Liabilities at the time or times when and in the currencies which they become due for payment whether at maturity on acceleration on demand or otherwise
- 2.2 The Chargor as continuing security for the payment or discharge when due of the Secured Liabilities and all its other obligations under this Legal Charge hereby charges in favour of the Lender:
- 2.2.1 by way of first legal mortgage with full title guarantee the Mortgaged Property subject to (but in the case of properties registered at HM Land Registry only to the extent that such are registered or protected on the Register or are overriding interests) and with the benefit of any existing leases rights right of tracing and unpaid vendor's liens and similar and associated rights;

- 2.2.2 by way of first fixed charge with full title guarantee all Rental Income present or future and whether payable now or in the future and the proceeds of any sale lease or other disposition of the Mortgaged Property and all rights and claims of the Chargor against all lessees sub-lessees licensees or occupiers of the Mortgaged Property and all guarantors and sureties for the obligations of any such person or other third parties in relation to the Mortgaged Property now or in the future existing and capable of being satisfied by the payment of money provided that nothing in this sub-clause shall constitute the Lender as a mortgagee in possession; and
- 2.2.3 (if the Chargor is a company) by way of first floating charge with full title guarantee the undertaking and all other property assets and rights of the Chargor not effectively charged above both present and future and the Lender shall have the power to appoint any one or more persons the Lender thinks fit to be an administrator, and paragraph 14 of schedule B1 of the Insolvency Act shall apply to this floating charge
- 2.3 The security created by this Legal Charge shall rank subject only to the Prior Charges (if any). The Charge created by Clause 2.2.3 shall (unless otherwise expressly agreed in writing by the Lender) be a first floating charge unless it is converted into a fixed charge pursuant to this Legal Charge or by operation of law
- 2.4 The Lender may at any time by notice to the Chargor convert the floating charge created by Clause 2.2.3 into a fixed charge as regards any Charged Assets specified in such notice and the Chargor will forthwith execute in respect of the specified Charged Assets a mortgage charge pledge or assignment (as the case may be) of such Charged Assets in favour of the Lender and in such form as the Lender requires
- 2.5 The floating charge created by Clause 2.2.3 shall automatically and without notice be converted into a fixed charge in respect of any Charged Assets subject to it:
- 2.5.1 which shall become subject to an Encumbrance; or
- 2.5.2 if and when any person levies or notifies the Chargor that it intends to levy a distress execution sequestration or other process against those Charged Assets; or
- 2.5.3 if and when the Chargor shall cease to carry on business or to be a going concern; or
- 2.5.4 if an Event of Default shall take place; or
- 2.5.5 if any of the Secured Liabilities become due and outstanding prior to their stated maturity; or
- 2.5.6 if the Chargor shall be in breach of any provision of this Legal Charge or of any agreement containing any terms and conditions of or applicable to the monies obligations and liabilities secured by this Legal Charge and such conversion shall be deemed to occur the instant before such event occurs

- 2.6 In the case of any part of the Charged Assets consisting of land for the time being registered at HM Land Registry the Chargor hereby consents to a restriction in the Proprietorship Register of the relevant title or titles in the following terms:

"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 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 MAY 2017* in favour of Bricks Finance Limited referred to in the charges register"

- 2.7 In the case of any part of the Mortgaged Property consisting of land which is not registered under the Land Registration Acts 1925 – 2002 the Chargor hereby covenants with the Lender that:

2.7.1 no person shall during the continuance of this security be registered under the said Acts as proprietor of such property without the prior consent in writing of the Lender; and

2.7.2 upon any such registration the Chargor shall procure the simultaneous registration of this Legal Charge in the Charges Register of the relevant title which relates to all of or any such part of the Mortgaged Property and the Chargor shall forthwith deliver to the Lender an official copy of the register showing the entries that exist on the register on completion of such registration together with the Title Information Document confirming completion of the registration.

- 2.8 Upon the Lender being satisfied that the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and following a written request from the Chargor the Lender shall release and where appropriate reassign the security created by this Legal Charge

- 2.9 The Lender's certificate of the amount of the Secured Liabilities outstanding at any time shall in the absence of manifest error be conclusive for all purposes as against the Chargor

- 2.10 The Chargor unconditionally and irrevocably agrees that repayment of all or any part of the moneys forming part of the Charged Assets is and will be subject to and conditional upon the Chargor paying and discharging in full the Secured Liabilities to the satisfaction of the Lender and accordingly unless and until such time as the Secured Liabilities have been so repaid and discharged in full neither the Chargor nor any person claiming under through or on the Chargor's behalf may request demand or require the payment or repayment of and the Lender will be under no obligation to pay or repay all or any part of the monies forming part of the Charged Assets to the Chargor or any such other person or to release all or any part of the Charged Assets from the terms of this Legal Charge

### **3 Undertakings In Respect Of The Mortgaged Property**

- 3.1 **Negative Undertakings** The Chargor shall not during the Period:

3.1.1 create any Encumbrance upon the Mortgaged Property or any part of it nor convey assign or transfer the whole or declare a trust in respect of or any part of the Mortgaged Property without the prior written consent of the Lender;

- 3.1.2 without the prior written consent of the Lender elect to waive exemption under Schedule 10 to the Value Added Tax Act 1994 in respect of any supply made in relation to the Mortgaged Property or any part of it or any other building, parade, precinct or complex or any other contiguous agricultural land (including the buildings on such land) in which the Chargor has a right or licence to occupy within the meaning of Schedule 10 to the Value Added Tax Act 1994 which could give rise to a deemed election in relation to the Mortgaged Property;
- 3.1.3 sell, transfer or otherwise dispose of (or agree to so deal with) its undertaking and Charged Assets or any part of them, except by getting in and realising them in the ordinary and proper course of its business; nor
- 3.1.4 grant any new or further lease agreements leases underleases tenancy agreements or licences in relation to the Mortgaged Property without the prior written consent of the Lender which shall not be unreasonably withheld

**3.2 Positive Undertakings** The Chargor covenants with the Lender during the Period:

- 3.2.1 to observe and perform all restrictive and other covenants and stipulations (if any) for the time being affecting the Mortgaged Property or any part of it;
- 3.2.2 to pay and discharge all existing and future rates taxes charges assessments impositions and outgoings whatsoever (whether Parliamentary municipal parochial or otherwise) which now are or at any time after the date of this Legal Charge may be payable charged or assessed on or in respect of the Mortgaged Property or any part of it or the owner or occupier of it;
- 3.2.3 to keep the Mortgaged Property in good and substantial repair and condition and, when necessary, rebuilt and renewed and to permit the Lender and any person authorised by it to enter the Mortgaged Property at any time to view its state and condition and to test any work being carried out. In the event that the Chargor fails to keep the Mortgaged Property in good and substantial repair and condition as aforesaid, the Lender or any person authorised by it may enter the Mortgaged Property for the purpose of carrying out any works, repairs or rebuilding (at the expense of the Chargor) and shall not in doing so be treated as a mortgagee in possession;
- 3.2.4 to give notice to the Lender immediately of any loss damage or destruction to or of the Mortgaged Property or any part thereof;
- 3.2.5 observe and perform the obligations contained in any agreement in contemplation of which a fixed charge over the Mortgaged Property has been created;
- 3.2.6 to manage the Mortgaged Property with all due diligence in accordance with the principles of good estate management and in such manner as will not diminish the value thereof otherwise than as agreed by the Lender; and
- 3.2.7 to observe and perform the covenants and obligations on the part of the Chargor contained in any Prior Charges

**3.3 Insurance** The Chargor shall during the Period:

- 3.3.1 effect and maintain adequate insurances in relation to the Charged Assets with reputable underwriters or insurers and in the case of the Mortgaged Property in the joint names of the Chargor and the Lender, and with the Lender irrevocably nominated as first loss payee (unless otherwise agreed in writing by the Lender) against such risks and in such office and for such amount as the Lender may direct;
- 3.3.2 pending or in default of any direction under Clause 3.3.1, take out insurance to cover loss or damage by fire, explosion, storm, tempest, aircraft and articles dropped from aircraft, flood, lightning, impact, civil commotion, malicious damage, overflowing of pipes and against three years loss of rent. The Chargor shall place such insurance with insurers or underwriters of repute to the full reinstatement value of all items covered for the time being (with adequate provision being made in that insurance for the cost of clearing the site and architects, engineers, surveyors and other professional fees incidental to it);
- 3.3.3 without limiting the generality of the preceding sub-clauses (and unless otherwise previously agreed in writing by the Lender) cause the policies of insurances maintained by it to include clauses reasonably satisfactory to the Lender to ensure that no breach of any of the terms of any such policy of insurance nor failure to give notice of any event giving rise to any claim will invalidate such policy of insurance or any provision thereof as regards the Lender and to ensure that the relevant insurer shall advise the Lender:
- (a) of any cancellation alteration termination or expiry of any such policy at least 30 days before such cancellation alteration termination or expiry is due to take effect;
  - (b) of any delay or default in the payment of any premium or failure to renew the insurance at least 30 days before the renewal date; and
  - (c) of any act or omission or the occurrence of any event of which the insurer has knowledge and which might invalidate or render unenforceable (in whole or in part) the insurance
- 3.3.4 punctually pay all premiums necessary for effecting and keeping up such insurance and not do or suffer or cause to be done or suffered anything whereby any insurance policy now or at any time effected in respect of the Charged Assets may become liable to be vitiated or cancelled and in particular shall not use or allow the Charged Assets to be used otherwise than in accordance with the terms of any policy of insurance for the time being relating thereto without first giving written notice to the Lender and obtaining the consent of the insurers concerned and complying with such requirements as to the payment of extra premiums or otherwise as the insurers may impose;
- 3.3.5 produce to the Lender (if and whenever required by the Lender so to do) the policy or policies of such insurance and the receipts for every such payment save that the Lender will accept performance of the obligation to insure imposed by any lease or underlease under which the Mortgaged Property is held as performance or part performance of the like obligation imposed by the

above sub-clauses. If the Chargor is unable to produce any policy or receipt because it is in the possession of the lessor, it shall be sufficient compliance with this Clause if the Chargor adduces to the Lender evidence satisfactory to the Lender of the subsistence of the policy and of its terms and conditions;

- 3.3.6 subject to the terms of any Prior Charges and the provisions of any lease of the Mortgaged Property deposit all policies and other contracts of insurance and subsequent endorsements relating to the Mortgaged Property with the Lender; and
- 3.3.7 hold on trust for the Lender all moneys becoming payable under any insurance on the Mortgaged Property whether pursuant to the covenant contained herein or otherwise subject to the provisions of any Prior Charges or any lease of the Mortgaged Property to be applied in making good the loss or damage in respect of which the same become payable or (if the Lender in its absolute discretion so elects) in or towards discharge of the Secured Liabilities

**3.4 Planning** The Chargor shall during the Period:

- 3.4.1 not without the prior consent in writing of the Lender, make any application for planning permission or enter into any agreement under the Planning Acts in respect of the Mortgaged Property or any part of it. In the event of planning permission being obtained by the Chargor, the Chargor will produce that permission to the Lender within seven days of receipt of it;
- 3.4.2 not implement any planning permission received by it until it has been acknowledged by the Lender to be acceptable to the Lender;
- 3.4.3 observe, perform, comply with and cause observance, performance and compliance with the provisions of all statutes in force including the requirements of any competent Authority relating to the Mortgaged Property or anything done on it by the Chargor, in particular, (but without prejudice to the generality of the foregoing) the provisions and requirements of the Planning Acts;
- 3.4.4 give full particulars to the Lender within seven days of receipt of it by the Chargor (or sooner, if necessary having regard to the contents of the same) of any notice, order, direction, proposal for a notice or order or other matter relating to or likely to affect the Mortgaged Property or any part thereof made given or issued to the Chargor by any Planning Authority or other public body or authority (the "Notice"). If required by the Lender, the Chargor shall produce the Notice to the Lender and, without delay take all reasonable and necessary steps to comply with the same. The Chargor will join with the Lender, (if required by the Lender so to do) (at the cost of the Chargor) in making any representations or appeals as the Lender may deem fit in respect of the Notice;
- 3.4.5 without prejudice to the generality of clause 3.4.4 give to the Lender such information as the Lender shall reasonably require as to all matters relating to the Mortgaged Property; and
- 3.4.6 not without the prior consent in writing of the Lender, enter into any negotiations concerning matters contained in the Notice with an Authority with regard to or to consent to the acquisition of the Mortgaged Property or any part of it. If so

requested by the Lender, the Chargor shall permit the Lender or its servants or agents to conduct such negotiations or to give any such consent on the Chargor's behalf

**3.5 Leasing** The Chargor shall throughout the Period:

- 3.5.1 with respect to any lease or underlease under which the Mortgaged Property is held:
- (a) pay the rent reserved by and observe and perform the lessee's covenants and conditions contained in that lease;
  - (b) enforce against the lessor the covenants and conditions given by the lessor in the lease;
  - (c) not vary the terms of such lease without the prior consent in writing of the Lender;
  - (d) not agree the amount of any reviewed rent without the prior consent in writing of the Lender. In the event that such rent is determined by a third party, the Chargor shall procure that any representations made by the Lender are put to the third party to the satisfaction of the Lender;
  - (e) not without the prior consent in writing of the Lender, agree the terms of any renewed lease or the amount of any interim rent payable under section 24(A) of the Landlord and Tenant Act 1954. In the event that the terms of the renewed lease or rent are determined by the Court, the Chargor shall, make such representations to the Court as the Lender may require. Immediately after any such renewed lease is granted to the Chargor, the Chargor shall execute a legal charge over such lease in identical form (*mutatis mutandis*) to that contained in this Legal Charge;
  - (f) immediately notify the Lender of any matter or event under or by reason of which any lease has or may become subject to determination or forfeiture or any other material fact or circumstance arising in relation to the Mortgaged Property or any Lease or Occupational Lease;
  - (g) if so required by the Lender, join in with the Lender in bringing and/or defending any proceedings against or brought by the landlord under such lease for forfeiture, determination or otherwise
- 3.5.2 with respect to the Occupational Leases:
- (a) observe and perform the covenants and conditions on the part of the lessor contained in those leases;
  - (b) enforce against the lessees the covenants and conditions to be observed by the lessees;
  - (c) not to vary the terms of such leases without the prior consent in writing of the Lender;

- (d) not agree the amount of any reviewed rent without the prior consent in writing of the Lender. In the event of such rent being determined by a third party the Chargor will procure that any representations made by the Lender are put to the third party to the satisfaction of the Lender;
- (e) not without the prior consent in writing of the Lender agree the terms of any renewed lease or the amount of any interim rent payable under section 24(A) of the Landlord and Tenant Act 1954. In the event that the terms of such renewed lease are determined by the Courts, the Chargor shall procure that any representations made by the Lender are put before the Court to the satisfaction of the Lender;
- (f) immediately notify the Lender of any matter or event by reason of which the Occupational Leases have and may become subject to determination or forfeiture and join in the Lender (if so required by it) in bringing proceedings against the relevant lessee under the Occupational Leases for forfeiture determination or otherwise and/or defending any proceedings brought by such lessee or any other material fact or circumstance arising in relation to the Occupational Leases;
- (g) not without the prior consent in writing of the Lender grant any consent under the Occupational Leases;
- (h) not take or omit to take any action the taking or omission of which might result in the impairment of any of the rights created by the Occupational Leases or this security;
- (i) not agree any assignment of the Occupational Leases or grant any further derivative interest whether by way of lease or licence without the prior written consent of the Lender;
- (j) not agree or purport to agree any transfer or charge of the right to current or future Rental Income;
- (k) by any action or omission waive release or modify any guarantee of the obligations of any lessee without the prior written consent of the Lender;
- (l) cause or permit any of its claims for Rental Income to be compromised compounded discharged postponed released or subordinated (except in favour of the Lender under this Legal Charge) or any of its rights in connection therewith to be waived or anything to be done or omitted to be done which might delay or prejudice the full recovery thereof; and
- (m) without prejudice to any other provision in this Legal Charge if and whenever required in writing by the Lender, at its own cost forthwith execute in such form as the Lender may require:
  - i a fixed charge of the benefit of the Occupational Leases (or such of them as the Lender may specify);
  - ii an assignment of the Chargor's entitlement to the Rental Income;



- iii from time to time and at all times after this Legal Charge shall become enforceable execute all further assurances, deeds and things and perform all such acts and give all such notices, orders and directions as the Lender may require for facilitating the realisation of its assets and the exercise by the Lender or any Receiver of all the powers, authorities and discretions conferred under this Legal Charge or any other security documents in being for the time being in respect of the Secured Liabilities on the Lender or such Receiver;
  - iv without prejudice to the foregoing or to any other security the Lender may have now or in the future in respect of the Rental Income at the request of the Lender given on or following an Event of Default require the lessees under the Occupational Leases (or such of them as the Lender shall direct) and/or the managing agents of the Mortgaged Property to forthwith remit all Rental Income to the Lender which shall apply the same in reduction of the Secured Liabilities
- 3.6 **Development** Where at the date of this Charge or at any time during the continuance of this security the Mortgaged Property or any part of it is intended to be developed or is in the course of development, the Chargor shall proceed diligently and to the satisfaction of the Lender and any competent authority with such development in all respects in conformity with the planning and bye-law consents therefor to produce all plans and specifications in relation to such development to the Lender for approval and not to amend such plans and specifications without the Lender's prior approval
- 3.7 **Right of entry** The Chargor shall permit representatives of the Lender with or without workmen or others to enter the Mortgaged Property at all reasonable times to view the state of repair and condition of the Mortgaged Property
- 3.8 **Information** The Chargor shall on request produce to or provide for the Lender such documents or information relating to the Mortgaged Property or its development as the Lender may require
- 3.9 **Statutes** The Chargor shall comply (in all material respects) with all obligations imposed under any present or future statute regulation order or instrument or under any bye-laws regulations or requirements of any competent authority or approvals licences or consents relative to the Mortgaged Property or its use or enjoyment
- 3.10 **L&T (Covenants) Act** With reference to the Mortgaged Property the Chargor covenants and agrees as follows:
  - 3.10.1 not to consent to the assignment of any New Tenancy (as defined in the L&T (Covenants) Act) unless the existing tenant under such New Tenancy duly executes in favour of the Chargor an authorised guarantee agreement in a form and substance which is satisfactory to the Lender (acting reasonably);
  - 3.10.2 not to effect any relevant variation to any New Tenancy which would restrict the liability of a former tenant or his guarantor pursuant to Section 18 of the L&T (Covenants) Act unless the Lender has expressly consented in writing to such restriction in liability and to the relevant variation such consent not to be unreasonably withheld or delayed;

- 3.10.3 as soon as reasonably practicable to serve upon any former tenant or guarantor any notice which is required pursuant to Section 17 of the L&T (Covenants) Act in order to recover any rent, service charge or liquidated sum from the former tenant or guarantor (such notice to be in a form and to be served within the period prescribed by Section 17 of the L&T (Covenants) Act);
- 3.10.4 as soon as reasonably practicable to provide the Lender with a copy of any notice served under Clause 3.10.3 any request for an overriding lease and any completed overriding lease and such other information as the Lender may from time to time in good faith request in relation to any matter arising under the L&T (Covenants) Act.

For the purposes of Clauses 3.10.1 to 3.10.4 (inclusive) the expressions "authorised guarantee agreement", "former tenant", "guarantor", "overriding lease" and "relevant variation" shall have the meanings respectively ascribed to them by Section 17 of the L&T (Covenants) Act.

#### **4 Miscellaneous Covenants**

##### **4.1 The Chargor shall throughout the Period:**

- 4.1.1 conduct and maintain its business operations in connection with the Mortgaged Property so as to comply in all material respects with all applicable Environmental Laws and notify the Lender promptly and in full detail on receipt of any claim notice or communication, or if it becomes aware of any violation or potential violation by it of any Environmental Laws setting out the action which is to be taken with respect to that matter;
- 4.1.2 maintain continuous environmental surveillance of the Mortgaged Property and business operations in connection therewith and monitor all its procedures to prevent contravention of Environmental Laws;
- 4.1.3 not do permit or suffer to be done anything which may in any way depreciate jeopardize or otherwise prejudice the value of the security created under this Legal Charge;
- 4.1.4 forthwith notify the Lender, in writing, upon becoming aware of the occurrence of an Event of Default or other event which with the giving of notice and/or lapse of time and/or upon the Lender making a relevant determination would constitute an Event of Default or upon the happening of any other event which with the giving of time fulfilment of a condition or giving of notice would constitute a breach of the covenants and warranties on the part of the Chargor contained in this Legal Charge;
- 4.1.5 upon the written request of the Lender execute in favour of the Lender fixed charges of such part of the Charged Assets presently comprised in equitable or floating charges hereunder (to the extent that such property can then be comprised in a fixed charge) such charge or charges to be in such form as the Lender shall require and in particular to contain all the powers and provisions of this Legal Charge as shall be applicable; and

4.1.6 indemnify and keep indemnified the Lender from and against all actions, proceedings, damages, costs, claims and demands occasioned by any breach of any of the covenants, conditions and warranties on the part of the Chargor contained in this Legal Charge and in particular but without prejudice to the generality of the foregoing in the event of the Lender entering into possession of part or parts of the Charged Assets the Chargor shall keep the Lender effectually indemnified against liability which may be incurred by the Lender under any of the covenants agreements or obligations contained in or imposed by any conveyance transfer lease agreement or tenancy or building agreement or other deed or document affecting any such part or parts of the Charged Assets and against all actions proceedings losses damages and costs whatsoever in consequence of any defect or want of repair to any such part or parts of the Charged Assets or out of any failure to perform any such covenants agreements or obligations and in the event of the Chargor failing upon the request in writing of the Lender to keep it indemnified as aforesaid it shall be lawful for the Lender to settle liquidate compound or to contest such claim (as it may think fit) and expend such monies and to incur such costs as the Lender may deem necessary for that purpose

4.2 Each of the provisions in this Clause 4 and in Clause 3 as with all other provisions in this Legal Charge are cumulative with all other covenants and obligations of the Chargor to the Lender (whether hereunder or under any other deed or document) notwithstanding any repetition or similarity to any such other covenants and obligations

## 5 **Enforcement**

5.1 Each of the following events shall constitute an Event of Default namely:-

5.1.1 if the Chargor fails to pay any sums payable by it from time to time to the Lender on the due date thereof or fails to comply with any term condition covenant or other provision of this Legal Charge or of any facility from the Lender or any related security document or to perform any of its obligations or liabilities to the Lender or if any representation or warranty from time to time made to the Lender by the Chargor is or becomes incorrect or misleading when made or deemed to be made or repeated in a material respect;

5.1.2 if any indebtedness whatsoever of the Chargor or (if the Chargor is a company) any of its subsidiaries becomes due or capable of being declared due before its specified maturity date by reason of breach or default on the part of the Chargor or (if the Chargor is a company) any of its subsidiaries under the terms of any agreement or instrument creating or evidencing the same or is otherwise not paid when due (or within any applicable period of grace) or any guarantee or indemnity given by the Chargor or (if the Chargor is a company) any of its subsidiaries is not honoured when due and called upon;

5.1.3 if an encumbrancer takes possession of or a trustee receiver or similar officer is appointed in respect of all or any part of the business or assets of the Chargor or (if the Chargor is a company) any of its subsidiaries or a distress execution attachment or other legal process is levied or enforced upon or sued out against all or any substantial part of such assets and is not discharged within 14 days;

- 5.1.4 if the Chargor or (if the Chargor is a company) any of its subsidiaries is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or commences negotiations with any one or more of its creditors with a view to the general readjustment or rescheduling of its indebtedness or makes a general assignment for the benefit of or a composition with its creditors;
- 5.1.5 if the Chargor (being a company) or any of its subsidiaries takes any corporate action or, (whether by the Chargor or the holder of a qualifying floating charge as defined in paragraph 14 of schedule B1 of the Insolvency Act or any other party) other steps are taken or legal proceedings are started for its winding-up dissolution or reorganisation (otherwise than for the purposes of an amalgamation or reconstruction whilst solvent on terms previously approved in writing by the Lender) or for the appointment of a receiver administrator administrative receiver trustee or similar officer of it or of all or a material part of its revenues and assets;
- 5.1.6 if the Chargor or (if the Chargor is a company) any of its subsidiaries suspends or threatens to suspend a substantial part of its business operations (otherwise than for the purposes of a reconstruction or amalgamation on terms previously approved in writing by the Lender) or any governmental authority permits or procures or threatens to permit or procure any reorganisation transfer or expropriation (whether with or without compensation) of a substantial part of the business or assets of the Chargor or any of its subsidiaries;
- 5.1.7 if any guarantee indemnity or other security for any of the Secured Liabilities fails or ceases in any respect to have full force and effect or to be continuing or is terminated or disputed or in the opinion of the Lender is in jeopardy invalid or unenforceable or if this Legal Charge or the security created by it is disputed or in the opinion of the Lender is in jeopardy;
- 5.1.8 if at any time it is or becomes unlawful for the Chargor to perform or comply with any or all of its obligations under this Legal Charge or any other agreement between the Chargor and the Lender or any of such obligations of the Chargor are not or cease to be legal valid binding and enforceable;
- 5.1.9 (where the Chargor is a company) control (as defined in Section 435 of the Insolvency Act) or the power to take control of the Chargor or any of its subsidiaries is acquired by any person or company or group of associates (as defined in such section) not having control of the Chargor or any of its subsidiaries at the date of this Legal Charge (unless with the prior consent in writing of the Lender); or
- 5.1.10 if in the opinion of the Lender a material adverse change occurs in the financial condition results of operations or business of the Chargor or (if the Chargor is a company) any of its subsidiaries
- 5.2 The power of sale and other powers conferred on a mortgagee by the Act as varied or amended by this Legal Charge shall arise on the execution of this Legal Charge and shall become exercisable by the Lender at any time in relation to any part of the Mortgaged Property on the occurrence of an Event of Default. The Lender may exercise whether or not it shall have appointed a Receiver all the powers conferred on mortgagees by the Act as hereby varied or extended and all the powers and discretions hereby conferred either

expressly or by reference to a Receiver appointed hereunder. Any demand for payment shall be valid and effective for the purposes of this Clause 5 notwithstanding that the demand may contain an inaccurate or incomplete statement of the Secured Liabilities

- 5.3 Section 93 of the Act (restricting the right of consolidation) and section 103 of the same Act (restricting the power of sale) shall not apply to this Legal Charge. The statutory powers of leasing conferred on the Lender shall be extended so as to authorise the Lender to lease make agreements for leases accept surrenders of leases and grant options as the Lender thinks fit and whether or not the Lender shall then be in possession of the Mortgaged Property proposed to be leased and without the need to comply with any of the provisions of sections 99 and 100 of the Act and so as to authorise the Lender (inter alia) to make a lease or agreement for lease at a premium and for any length of term generally without any restriction on the kinds of leases and agreements for lease that the Lender may make and so that for the purposes of section 99(2) of the Act the expression "mortgagor" shall include an encumbrancer deriving title under the Chargor
- 5.4 Neither the Lender nor its agents managers officers employees delegates and advisers will be liable for any claim demand liability loss damage cost or expense incurred or arising in connection with the exercise or purported exercise of any rights powers and discretions under this Legal Charge in the absence of gross negligence or wilful misconduct
- 5.5 All moneys received by the Lender pursuant to this Legal Charge shall after payment of any claims having priority to the security created hereunder be paid or applied in the following order of priority (but without prejudice to the right of the Lender to recover any shortfall from the Chargor):
- 5.5.1 in satisfaction of all costs charges and expenses incurred or payments made by the Lender or any Receiver in connection with this Legal Charge;
  - 5.5.2 in or towards satisfaction of the Secured Liabilities (and in such order as the Lender may decide); and
  - 5.5.3 as to the surplus (if any) to the person or persons entitled to such moneys
- 5.6 No purchaser from the Lender or any Receiver or other person will be entitled or required to enquire or be affected by notice as to whether demand under this Legal Charge has or has not been made or whether any power exercised under this Legal Charge has become exercisable or whether any of the Secured Liabilities are outstanding
- 5.7 Neither the Lender nor any Receiver will by reason of the taking of possession of the whole or any part of the Charged Assets by any of them be liable to account as mortgagee in possession or for anything except actual receipts or be liable for any loss upon realisation or for any default or omission for which a mortgagee in possession might be liable
- 5.8 At any time after the security constituted in this Legal Charge has become enforceable the Lender may redeem any prior security interest against the Charged Assets or procure the transfer of the Charged Assets to itself and may settle or pass the accounts of any holder of such security interest and any accounts so settled and passed will be conclusive and binding on the Chargor

- 5.9 Notwithstanding anything to the contrary contained in this Legal Charge the Chargor will remain liable to observe and perform all of the conditions and obligations relating to the Charged Assets and neither the Lender nor any Receiver will be under any obligation or liability with respect to the Charged Assets by reason of or arising out of this Legal Charge. Neither the Lender nor any Receiver will be required in any manner to perform or fulfil any obligations of the Chargor in respect of the Charged Assets or to make any payment or to make any enquiry as to the nature or sufficiency of any payment received by it or to present or file any claim or take any other action to collect or enforce any of the Charged Assets
- 5.10 The Chargor will permit the Lender its agents and contractors at reasonable times and upon reasonable notice to enter into or upon the Mortgaged Property or at any time if an Event of Default is continuing and has not been waived by the Lender:
- 5.10.1 to view the state and condition thereof or of any of the tangible Charged Assets without becoming liable as mortgagee in possession;
- 5.10.2 to comply with or object to any direction or notice or other matter served on the Chargor; and
- 5.10.3 to carry out at the expense of the Chargor any repairs or take any action which the Lender shall consider necessary or desirable in connection with the Charged Assets to procure compliance with any covenant or obligation in this Legal Charge
- 5.11 If the Chargor fails to fulfil any of the obligations as to insurance contained in this Legal Charge, the Lender may, but shall not be obliged to, take out renew or maintain such insurances in such sums the Lender may think expedient
- 5.12 The Chargor shall on demand indemnify the Lender on a full indemnity basis in respect of any costs, damages and expenses incurred by the Lender pursuant to this Clause together with interest at the Default Rate from the date of payment by the Lender until repayment whether before or after judgment and any such cost, damages and expenses and the interest thereon shall be charged on the Charged Assets
- 5.13 The Lender may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the powers authorities and discretions which are for the time being exercisable by the Lender under this Legal Charge in relation to the Charged Assets or any part of them. Any such delegation may be made upon such terms (including power to sub-delegate) and subject to such regulations as the Lender may think fit. The Lender shall not be in any way liable or responsible to the Borrower for any loss or damage arising from any act default omission or misconduct on the part of any such delegate or sub-delegate. No such delegation shall preclude the subsequent delegation by the Lender of any other person; and any such delegation may be revoked by the Lender at any time
- 6 Receiver**
- 6.1 At any time after this security becomes enforceable or at the request of the Chargor the Lender may without further notice appoint any one or more persons to be a Receiver of all or any part of the Mortgaged Property

- 6.2 Every Receiver appointed in accordance with Clause 6.1 will have and be entitled to exercise:
- 6.2.1 all powers conferred by the Act as if such Receiver had been duly appointed under that Act together with all powers equivalent to those now referred to in Schedule I to the Insolvency Act in so far as the same relate to the assets over which the Receiver is appointed;
  - 6.2.2 power to acquire additional land or interest therein and/or easements for the benefit of the Mortgaged Property and power to grant easements or rights over the Mortgaged Property;
  - 6.2.3 power to perform all contracts agreements rights securities covenants guarantees bonds and indemnities of any nature assigned by the Chargor to the Lender under this Legal Charge;
  - 6.2.4 power to use the Chargor's name for registration and to effect any necessary election for tax or other purposes;
  - 6.2.5 power to take possession of collect and get in the Mortgaged Property which unless stipulated by the Receiver to the contrary in writing shall be as agent of the Chargor;
  - 6.2.6 power to demolish construct alter improve develop complete or repair the Mortgaged Property including power to lay out build construct repair and maintain or reconstruct any roads drains or other services;
  - 6.2.7 power to dispose of the Mortgaged Property in any manner for any consideration and on any terms;
  - 6.2.8 power to apply for and obtain any planning building regulation bye-law or other permissions consents or licences;
  - 6.2.9 power to take continue or defend any proceedings and enter into any arrangement or compromise of claims as the Receiver thinks fit;
  - 6.2.10 power to effect maintain renew and deal with all kinds of insurances and to obtain bonds and give indemnities and securities to bondsmen;
  - 6.2.11 power to employ accountants lawyers architects surveyors engineers quantity surveyors contractors builders workmen and others and the power to purchase or hire materials tools equipment or supplies;
  - 6.2.12 power to raise or borrow money whether from the Lender or any other lender and whether or not in priority to the security constituted by or pursuant to this Legal Charge and with or without a mortgage or charge on the Mortgaged Property; and
  - 6.2.13 power to do any other act or thing which the Receiver considers to be incidental or conducive to the exercise of any other right exercisable by him
- 6.3 In making any sale or other disposal in the exercise of their respective powers, the Receiver or the Lender may accept as and by way of consideration for such sale or other

disposal, cash, shares, own capital or other obligation including, without limitation, consideration fluctuating according to or dependent upon profit or turnover and consideration the amount whereof is to be determined by a third party. Any such consideration may be receivable in a lump sum or by instalments and upon receipt by the Receiver or the Lender as the case may be, shall ipso facto be and become charged with the payment of the Secured Liabilities. Any contract for any such sale or other disposal by the Receiver or the Lender may contain conditions excluding or restricting the personal liability of the Receiver

- 6.4 Any Receiver appointed pursuant to this Legal Charge will be (so far as the law permits) the agent of the Chargor (and notwithstanding the liquidation of such Chargor any Receiver will not be the agent of the Lender). The Chargor will be solely liable for such Receiver's costs defaults and remuneration and will be liable on any contracts and engagements made or entered into by such Receiver except the Lender may from time to time remove any Receiver appointed by it and may whenever it may deem it expedient appoint another person of equivalent standing as a new receiver in the place of any Receiver whose appointment may for any reason have terminated and may from time to time fix the remuneration of any Receiver appointed by it
- 6.5 All or any of the powers authorities and discretions which are conferred by this Legal Charge (either expressly or impliedly) upon a Receiver of the Mortgaged Property may be exercised after the security created by this Legal Charge becomes enforceable by the Lender in relation to the Mortgaged Property without first appointing a Receiver or notwithstanding the appointment of a Receiver
- 6.6 Subject to the prior written consent of the Lender a Receiver may delegate to any person or persons any of the rights (including the discretions) conferred on him by Clause 6.2 and may do so on terms authorising successive sub-delegations
- 6.7 In the case of joint Receivers any of the rights (including the discretions) conferred by this Clause 6 may be exercised by any one or more of them unless their appointment specifically states the contrary

## **7 Attorney**

- 7.1 The Chargor hereby irrevocably appoints the Lender and its agents its true and lawful attorney with full power and in its name and on its behalf and as its act and deed to execute and do any assurance agreement instrument act or thing which it ought to execute and do under the covenants undertakings and provisions herein contained or which may be required or deemed proper for any of the purposes of this security Provided Always:-

- 7.1.1 that the Lender and its agents shall not (save in the case of gross negligence or wilful default) be responsible to the Chargor for any loss thereby incurred; and
- 7.1.2 notwithstanding the terms of Clause 7.1.1 third parties shall not be bound to see or enquire whether the right of the Lender to exercise the powers hereby conferred has arisen

- 7.2 The Chargor hereby ratifies and confirms and agrees to ratify all acts of any such attorney as is mentioned in Clause 7.1 in the exercise of all or any of the powers, authorities and discretions referred to therein



7.3 The power of attorney hereby granted is as regards the Lender and its delegates (and as the Chargor hereby acknowledges) granted irrevocably and for value as part of the security constituted by this Legal Charge to secure proprietary interests in and the performance of obligations owed to the respective donees within the meaning of the Powers of Attorney Act 1971

## 8 Indemnity

8.1 The Lender and every Receiver Attorney agent or other person appointed by the Lender hereunder shall be entitled to be indemnified out of the Mortgaged Property in respect of all liabilities and expenses incurred directly or indirectly by any of them in the execution or purported execution of any of the powers authorities or discretions vested in them or him hereunder and against all actions proceedings costs claims and demands in respect of any matter or thing done or omitted in any wise relating to the Charged Assets and the Lender and any such Receiver Attorney agent or other person may retain and pay all sums in respect of the same out of any moneys received under the powers hereby conferred

8.2 If under any applicable law or regulation or pursuant to a judgment or order being made or registered against the Chargor or the liquidation of the Chargor or without limitation for any other reason any payment under or in connection with this Legal Charge is made or falls to be satisfied in a currency (the 'payment currency') other than the currency in which such payment is expressed to be due under or in connection with this Legal Charge (the 'contractual currency') then to the extent that the amount of such payment actually received by the Lender when converted into the contractual currency at the rate of exchange falls short of the amount due under or in connection with this Legal Charge the Chargor as a separate and independent obligation shall indemnify and hold harmless the Lender against the amount of such shortfall. For the purposes of this clause 'rate of exchange' means the rate at which the Lender is able on or about the date of such payment to purchase, in accordance with its normal practice, the contractual currency with the payment currency and shall take into account (and the Chargor shall be liable for) any premium and other costs of exchange including any taxes or duties incurred by reason of any such exchange

## 9 Notices

9.1 Every notice demand or other communication under this Legal Charge shall be in writing and may be delivered personally or by letter or facsimile transmission dispatched as follows:

9.1.1 if to the Lender to its address specified at the head of this Legal Charge or to the facsimile number for the time being at such address;

9.1.2 if to the Chargor to its address specified at the head of this Legal Charge or its registered or principal office for the time being or to such other address in England as may be notified in writing in accordance with this clause by the relevant party to the other party for such purpose

9.2 Where the Chargor is resident or incorporated overseas the Chargor irrevocably appoints its solicitors referred to in Schedule 3 or subject to it having first notified the Lender in writing for this purpose such other firm of solicitors in England to accept service of all notices proceedings or other documents to be served on the Chargor hereunder

- 9.3 Every notice demand or other communication shall be deemed to have been received (if sent by post) 24 hours after being posted first class postage prepaid (if posted from and to an address within the United Kingdom) or 5 working days after being posted prepaid airmail (if posted from or to an address outside the United Kingdom) and (if delivered personally or by facsimile transmission) at the time of delivery or dispatch if during normal business hours on a working day in the place of intended receipt and otherwise at the opening of business in that place on the next succeeding such working day
- 9.4 The Lender and any Receiver may but shall not be obliged to rely upon and act in accordance with any communication which may be or purport to be given by telephone or facsimile transmission on behalf of the Chargor by any person notified to the Lender by the Chargor as being authorised to give such communication without enquiry as to the authority and identity of the person making or purporting to make such communication. The Chargor shall indemnify and keep the Lender or any Receiver indemnified on a full indemnity basis against all losses claims actions proceedings damages costs and expenses incurred or sustained by the Lender as a result of relying upon or acting in accordance with any such communication
- 9.5 All notices demands or other communications under or in connection with this Legal Charge shall be in English
- 9.6 All notices to the Lender shall be deemed to have been given only on actual receipt by the Lender
- 9.7 Service on any of the parties comprised in the expression "Chargor" shall be deemed to be service on all persons comprised in that expression

## **10 Warranties And Representations**

- 10.1 If the Chargor is a company then the Chargor hereby represents and warrants to and for the benefit of the Lender that:
- 10.1.1 at the date hereof there is no provision under any existing mortgage debenture contract licence agreement or other instrument binding on the Chargor which will be contravened by the Chargor entering into this Legal Charge or by the Chargor's performance or observance of any of its obligations hereunder;
- 10.1.2 the Chargor and its subsidiaries is not in default under any agreement to which it is a party or by which it may be bound;
- 10.1.3 neither the Chargor nor any of its subsidiaries is engaged in any litigation or arbitration, administrative or criminal proceedings, whether as plaintiff, defendant or otherwise, and which, where the Chargor, or any subsidiary, as the case may be, is a defendant are not malicious and totally without foundation, and no litigation or arbitration, administrative or criminal proceedings by or against the Chargor or any subsidiary, as the case may be, is pending, threatened or expected and so far as the Chargor is aware there is no fact or circumstance likely to give rise to any such litigation or arbitration, administrative or criminal proceedings (past or present) of the Chargor or any subsidiary, as the case may be, in respect of any act or default for which any such person might be vicariously liable;

- 10.1.4 the Chargor has the necessary corporate power and authority and legal right to borrow the moneys or incur the liabilities hereby secured and to secure the same on the terms and conditions set out in this Legal Charge and to observe and perform its obligations under this Legal Charge and that the acceptance of the said moneys or the liabilities on the terms and conditions set out in this Legal Charge by the execution and delivery of this Legal Charge has been validly authorised by the appropriate corporate action of the Chargor and constitutes a valid and binding obligation on the Chargor enforceable in accordance with its terms;
- 10.1.5 the execution of this Legal Charge is in the best commercial interests of the Chargor and does not constitute a transaction at a under-value for the purposes of Section 238 of the Insolvency Act or a preference for the purposes of Section 239 of the Insolvency Act nor fall to be challenged under Section 245 of the Insolvency Act or other like legislation in its relevant jurisdiction; and
- 10.1.6 neither the execution of this Legal Charge nor the creation of the security hereunder or pursuant hereto does or will contravene any of the provisions of the Memorandum and Articles of Association of the Chargor (or equivalent if the Chargor is an overseas company)
- 10.2 If the Chargor is an individual then the Chargor hereby represents and warrants to and for the benefit of the Lender that:
- 10.2.1 at the date hereof there is no provision under any existing mortgage charge contract licence agreement or other instrument binding on the Chargor which will be contravened by the Chargor entering into this Legal Charge or by the Chargor's performance or observance of any of his obligations hereunder; and
- 10.2.2 the execution of this Legal Charge does not constitute a transaction at an undervalue for the purposes of Section 339 of the Insolvency Act or a preference for the purposes of Section 340 of the Insolvency Act nor fall to be challenged under any other like legislation
- 10.3 The Chargor (whether an individual or company) further represents and warrants to and for the benefit of the Lender:
- 10.3.1 the Chargor has good and marketable title to the Mortgaged Property and has power to charge the same with full title guarantee;
- 10.3.2 the Chargor is or on completion of this Legal Charge will be the sole legal and beneficial owner of the Mortgaged Property free from any Encumbrances (other than the Prior Charges) and the Lender has been supplied with accurate and complete copies of all deeds and documents (including all existing Occupational Leases) which materially affect the title to the Mortgaged Property;
- 10.3.3 the Chargor has complied at all time in all respect with all Environmental laws in relation to or affecting the Charged Assets and there has not been any past or present events, condition, circumstance, activity, practice, incident, action or other phenomenon at or about the Charged Assets which could give rise under any Environmental laws to any criminal or civil liability or a statutory liability or

which could require the carrying out of any remedial work in respect of any environmental contamination or waste;

- 10.3.4 there is no material breach non-performance or non- observance of the covenants conditions obligations statutory requirements planning consents bye-laws orders and regulations affecting the Mortgaged Property and no notice of any breach of any of the foregoing has been given and the Chargor is not in default under any law, statute, regulation, indenture, mortgage, trust deed, lease, facility agreement or other instrument, arrangement, obligation, duty or agreement;
- 10.3.5 there are no Encumbrances affecting the Chargor's assets other than the Prior Charges;
- 10.3.6 no litigation or arbitration or administrative or criminal proceedings before or at any court or governmental authority are presently pending or to the best of the knowledge or belief of the Chargor threatened against the Chargor or any assets of the Chargor;
- 10.3.7 there is no material fact or circumstance relating to the Chargor the Charged Assets or to this transaction generally which has not been disclosed in writing to the Lender and which if disclosed might reasonably be expected to affect the Lender's willingness to enter into this Legal Charge; and
- 10.3.8 each of the representations and warranties set out in this Clause 11 will be correct and complied with in all material respects at all times during the Period as if repeated then by reference to the then existing circumstances

## **11 Possession**

If the Lender shall enter into possession of any part or parts of the Mortgaged Property it may from time to time at pleasure go out of such possession and shall not be liable to account as mortgagee in possession while in or out of such possession and the Lender shall not nor shall any receiver appointed by it be liable by reason of any such entry into possession to account as mortgagee in possession or for anything except actual receipts or be liable for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable

## **12 Continuation**

This Legal Charge shall remain in effect and binding on the Chargor notwithstanding any amalgamation or merger that may be effected by the Lender with any other company notwithstanding any reconstruction by the Lender involving the formation of and transfer of the whole or any of the Lender's undertaking and assets to a new company and notwithstanding the sale or transfer of all or any part of the Lender's undertaking and assets to another company whether the company with which the Lender amalgamates or merges or the company to which the Lender transfers all or any part of its undertaking and assets either on a reconstruction or sale or transfer as aforesaid shall or shall not differ from the Lender in its objects character or constitution it being the intent of the Chargor that the security hereby evidenced and the provisions herein contained shall remain valid and effectual in all respects in favour of against and with reference to and that the benefit thereof and all rights conferred upon the Lender thereby may be assigned to and enforced

by any such company and proceeded on in the same manner to all intents and purposes as if such company had been named herein instead of or in addition to the Lender

**13 General**

**13.1 The security constituted by this Legal Charge:**

13.1.1 shall be a continuing security and shall not be considered satisfied by an intermediate payment or settlement of account or otherwise but shall remain in force until all the Secured Liabilities have been paid or discharged in full;

13.1.2 shall not prejudice or be prejudiced by any other security held by the Lender at any time nor any right the Lender might have against any other person in respect of the Secured Liabilities or any part thereof; and

13.1.3 shall not be affected by any act omission or circumstance which but for this Clause might affect or diminish its effectiveness and without prejudice to the generality of the foregoing the Lender shall be entitled from time to time and without in any way impairing the Chargor's obligations and liabilities hereunder:

(a) to release or grant any time or any other indulgence whatsoever to the Chargor or any other person firm or corporation and also to enter into any compromise or arrangement and any other transaction of any kind with or in relation to the Chargor or any other person firm or corporation or to agree to vary any existing arrangement or agreement; and

(b) to take accept vary deal with enforce abstain from enforcing surrender and/or release any other security and to claim or prove for and accept or transfer any property or payment in respect of the liabilities of the Chargor in any composition by or winding up of the Chargor or any other person firm or corporation or to abstain from so claiming or proving or from accepting any such property or payment

13.2 The provisions of this Legal Charge shall be in addition and without prejudice to any rights which the Lender may have under any applicable rule of law or by contract or otherwise. The rights and remedies herein provided are cumulative and no failure on the part of the Lender to exercise and no delay in exercising any right power or remedy available to it shall operate as a waiver thereof nor shall any single or partial exercise of any right power or remedy preclude the further exercise thereof or the exercise of any other right power or remedy

13.3 In addition to and not in substitution of any other right of set off provided to the Lender under contract or at general law the Lender shall have the right at any time or times without notice to the Chargor to combine or consolidate all or any sums of money now or hereafter standing to the credit of the then existing accounts of the Chargor with the Lender (in whatever currency such accounts may be denominated) with the liabilities to the Lender of the Chargor and/or to set-off or transfer any sum or sums standing to the credit of any one or more of such accounts in or towards satisfaction of any of the liabilities to the Lender of the Chargor on any other account or in any other respect whether such liabilities be actual contingent primary collateral several or joint. If the liability in respect of which the Lender is exercising its rights of set-off is contingent or not yet payable it shall

automatically be accelerated and shall accordingly be due and payable before and as at the time of such set off

- 13.4 On demand in writing by the Lender and at the cost of the Chargor the Chargor will execute such documents and such further or other legal or other mortgages charges assignments or other assurances in such form and on such terms as the Lender may require in respect of the Mortgaged Property or any of the rights or income deriving therefrom in any way and to do such other acts matters or things as the Lender may require in order to perfect or protect the security hereby created or any of it or to facilitate its realisation and the exercise of all powers authorities and discretions vested in the Lender or any Receiver or any delegate of either of them
- 13.5 No assurance, security or payment which may be avoided under any law relating to bankruptcy, insolvency or winding-up (including Sections 238, 239, 244 or 245 of the Insolvency Act) and no release, settlement or discharge given or made by the Lender on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Lender to enforce the security created by or pursuant to this Legal Charge to the full extent of the Secured Liabilities. The Lender may in its absolute discretion retain the security so created for a period of 2 Business Days plus such statutory period within which any security or payment given or made pursuant to this Legal Charge can be avoided or invalidated after all facilities from time to time made available to the Chargor by the Lender shall have ceased to be available and the Secured Liabilities shall have been paid in full, notwithstanding any release, settlement, discharge or arrangement given or made by the Lender on or as a consequence of such termination of liability. If at any time within such period after such termination a petition shall be presented to a competent court for an Order for the bankruptcy, insolvency or winding- up of the Chargor or the Chargor should be wound up voluntarily, or an application for an administration order shall be made by a competent court in respect of the Chargor, the Lender may, notwithstanding as aforementioned, continue to retain such security or any part thereof for and during such further period as the Lender in its absolute discretion shall determine. The Chargor agrees that such security shall be deemed to have remained held by the Lender as and by way of security
- 13.6 Every provision contained in this Legal Charge shall be severable and distinct from every other such provision 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 such provisions shall not in any way be effected thereby
- 13.7 If the Chargor fails to perform any of the undertakings contained in this Legal Charge the Lender in its absolute discretion may remedy such failure at the Chargor's expense either itself or through any other person and on such terms as the Lender considers appropriate without in any event becoming liable to account as a mortgagee in possession or otherwise except as provided in Clause 5.7 of this Legal Charge
- 13.8 If under any applicable law or regulation or pursuant to a judgment or order being made or registered against the Chargor or without limitation for any other reason any payment under or in connection with this Legal Charge is made or falls to be satisfied in a currency ("the payment currency") other than the currency in which such payment is expressed to be due under or in connection with this Legal Charge ("the contractual currency") then to the extent that the amount of such payment actually received by the Lender when converted into the contractual currency at the rate of exchange falls short of the amount

due under or in connection with this Legal Charge the Chargor as a separate and independent obligation shall indemnify and hold harmless the Lender against the amount of such shortfall. For the purposes of this clause "rate of exchange" means the rate at which the Lender is able on or about the date of such payment to purchase in accordance with its normal practice the contractual currency with the payment currency and shall take into account (and the Chargor shall be liable for) any premium and other costs of exchange including any taxes or duties incurred by reason of any such exchange

- 13.9 Any liberty or power which may be exercised or any determination which may be made hereunder by the Lender as against the Chargor may be exercised or made (unless otherwise expressly provided in this Legal Charge) in the absolute and unfettered discretion of the Lender which shall not be under any obligation to give reasons therefore
- 13.10 In this Legal Charge where any matter fact or opinion is qualified by the words "reasonable" or "material" or any variations thereof the determination by the Lender of what is reasonable or material shall be binding on the Chargor unless the Chargor shows that such determination is unreasonable
- 13.11 The Lender shall have the full and unfettered right to assign the whole (but not part) of the benefit of this Legal Charge to any person to whom they have the right to assign their interest (or part thereof) in any agreement between the Lender and the Chargor pursuant to which this Legal Charge has been entered into
- 14 Governing Law**
- 14.1 This Legal Charge is governed by and shall be construed in accordance with English law
- 14.2 The Chargor irrevocably agrees for the exclusive benefit of the Lender that the courts of England shall have jurisdiction to hear and determine any suit action or proceeding and to settle any dispute which may arise out of or in connection with this Legal Charge and for such purposes irrevocably submits to the jurisdiction of such courts
- 14.3 Nothing contained in this Clause shall limit the right of the Lender to take proceedings against the Chargor in any other court of competent jurisdiction nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not (unless precluded by applicable law)
- 14.4 The Chargor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum

**IN WITNESS** whereof this Legal Charge has been executed as a Deed by the parties the day and year first before written

### **Schedule 1**

All that freehold property situate at and known as ACL House, Coombend, Radstock, Bath BA3 3AS as the same is registered at the Land Registry with title numbers AV213499 and AV223491



### **Schedule 3**

Trowers & Hamlins LLP, The Senate, Southernhay Gardens, Exeter, EX1 1UG.

Executed as a deed by **ACLAIMS LIMITED**  
acting by Peter Keen, a director, in  
the presence of:

P Keen

Director

[Signature]

Name of witness:

PAUL THOMAS DANIELS

Address of witness:

ROIDS LINDY KING, MIDLAND BRIDGE HOUSE  
BATH BA2 3FP

Occupation of witness:

SOLICITOR