



**Registration of a Charge**

Company name: **JEM NOMINEES LIMITED**

Company number: **09083977**



X529OWYR

Received for Electronic Filing: **07/03/2016**

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**Details of Charge**

Date of creation: **02/03/2016**

Charge code: **0908 3977 0001**

Persons entitled: **TITLESTONE REAL ESTATE LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **BIRD & BIRD LLP**



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

Company number: 9083977

Charge code: 0908 3977 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd March 2016 and created by JEM NOMINEES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th March 2016 .

Given at Companies House, Cardiff on 8th March 2016

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED 2 March 2015<sup>6</sup>

- (1) JAYNE ELEANOR MCGIVERN and RORY GLEESON and  
JAMES SUNLEY and JEM NOMINEES
- (2) TITLESTONE REAL ESTATE LIMITED

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CHARGE OVER SHARES  
RELATING TO  
CYGNUS ESTATES LIMITED

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Bird & Bird LLP  
15 Fetter Lane  
London EC4A 1JP  
Tel: 020 7415 6000  
[www.twobirds.com](http://www.twobirds.com)  
Ref: SOH\TITPR\0091



THIS DEED is made the

2 day of March

2015

**BETWEEN:**

- (1) **JAYNE ELEANOR MCGIVERN** of of Greenlands Farm, Edale, Hope Valley S33 7ZL and **RORY GLEESON** of 4<sup>th</sup> Floor 20 Berkeley Square, London W1J 6LH and **JAMES SUNLEY** of 4<sup>th</sup> Floor, 20 Berkeley Square, London W1J 6LH and **JEM NOMINEES** of Greenlands Farm, Edale, Hope Valley S33 7ZL (together the "**Chargor**"); and  
(2) **TITLESTONE REAL ESTATE LIMITED** of 40 Gracechurch Street, London EC3V 0BT (the "**Lender**").

**BACKGROUND:**

- (A) The Chargor is the registered beneficial owner of the Scheduled Securities as defined in Clause 1.1.
- (B) Pursuant to the Facility Letter the Lender has agreed to make available loan facilities to the Borrower.
- (C) As security inter alia for the obligations of the Borrower to the Lender pursuant to the Facility Letter the Chargor has agreed to deposit the Scheduled Securities with the Lender in accordance with the terms of this Deed and hereby charges the Scheduled Securities to the Lender in the manner set out in this Deed.

**NOW THIS DEED WITNESSES** as follows:

**1. INTERPRETATION**

- 1.1 In this Deed (and the Schedules hereto) unless there is something in the subject or context inconsistent therewith the following expressions shall have the following meanings:

"**Borrower**" means Cygnus Estates Limited incorporated in England and Wales with company number 08973575 whose registered office is at Unit 1 President Building, Saville Street, East Sheffield, South Yorkshire S4 7UG;

"**Business Day**" means a day (other than a Saturday or Sunday) on which the London Interbank Market is open and on which banks are open for general business in London;

"**Demand**" shall mean any demand made by the Lender on the Borrower under the Facility Letter for repayment of all or any part of the Indebtedness;

"**Encumbrance**" means any mortgage, charge (whether freed 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;

"**Facility Letter**" means a facility letter dated 3 November 2015 between the Lender and the Borrower as amended replaced varied restated or novated from time to time;

"**Financial Collateral**" shall have 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);

"**Indebtedness**" means any and all sums (of principal interest fees or otherwise) due or to become due (whether present or future actual or contingent) to the Lender from

the Borrower or any person who is a party to any Related Security Document under or pursuant to the terms of the Facility Letter, this Deed or any Related Security Document or on any account whatsoever;

**"Proceedings"** means any suit, action or proceeding arising out of or in connection with this Deed;

**"Related Security"** means any guarantee, indemnity, mortgage, charge, pledge or other security now or from time to time hereafter held by the Lender in respect of or in connection with the Facility Letter or all or any part of the Indebtedness;

**"Related Security Document"** means any document creating, evidencing, or regulating the terms of any Related Security;

**"Scheduled Securities"** means the rights, title and interest present and future of the Chargor in and to:

- (a) the shares, stocks and securities listed in Schedule 1 hereto held by the Lender as security for the repayment of the Indebtedness;
- (b) any other shares, stocks and securities issued to the Chargor to be substituted from time to time for those shares, stocks and securities listed in Schedule 1 hereto held by the Lender as security for the repayment of the Indebtedness; and
- (c) all interest, dividends (cash or otherwise) bonus issues, distributions, allotments, offers by way of rights, benefits, proceeds and entitlements or otherwise arising from or attaching to any of the securities referred to in (a) to (b) above.

1.2 In this Deed unless the context otherwise requires:

- (a) clause headings are for ease of reference only and shall not affect the construction of this Deed;
- (b) any reference to any agreement or document shall be deemed to refer to the same as amended, modified or supplemented from time to time by the parties thereto;
- (c) references to **"person"** shall mean any person, firm, body corporate or unincorporated body of persons an association a trust or any other entity or organisation including a government or political sub-division or an agency or instrument thereof;
- (d) any reference to the masculine gender shall include the feminine gender and neuter meaning and vice-versa;
- (e) words importing the singular number only include the plural and vice-versa and where there are two or more persons included in the expression the **"Chargor"** references to the Chargor are references to respectively all or any of them as the context may require;
- (f) where there are two or more persons included in the expression the **"Chargor"** all assignments, charges, agreements, undertakings, covenants, obligations, warranties and representations given, undertaken, made or assumed by or reference to the Chargor hereunder shall be deemed to have been given, undertaken, made or assumed by or are references to them jointly and severally and construed accordingly;

- (g) the expression the "**Chargor**" includes the persons deriving title under the Chargor and the expression the "**Lender**" includes its successors in title and assigns;
  - (h) any reference to a Clause or a Schedule is a reference to a clause hereof or a schedule hereto (unless the contrary is stated or the context otherwise requires);
  - (i) references to statutory provisions includes a reference to any subordinate legislation and shall be construed as references to provisions as respectively amended or re-enacted (whether before or after the date hereof) from time to time and shall include provisions of which they are re-enactments (whether with or without modification).
- 1.3 This Deed and the Facility Letter shall each constitute independent documents but in addition each and every provision contained in this Deed shall form part of the Facility Letter as if separately set out therein. Each and every provision of the Facility Letter not contained in this Deed shall form part hereof as if separately set out herein. To the extent that there is any conflict between any provision contained in the Facility Letter and any provision contained in this Deed the Facility Letter shall prevail.
- 1.4 If the Lender considers that an amount is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.5 A third party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy the benefit of, any term of this Deed.
- 1.6 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 The Schedule forms 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 Schedule.
2. **COVENANT TO PAY**
- 2.1 The Chargor shall on demand pay and discharge the Indebtedness on the due date and in the manner provided in the Facility Letter or under the relevant clause of the Related Security Document.
- 2.2 Notwithstanding any other provision of this Deed the obligations of the Chargor under this Deed to the Lender shall at all times be limited to the value of the Scheduled Securities from time to time.
3. **CHARGE**
- 3.1 The Chargor charges by way of first fixed charge to the Lender with full title guarantee all of its present and future rights, title and interest in and to the Scheduled Securities as continuing security for the repayment of the Indebtedness.
- 3.2 If at any time the Indebtedness has been fully discharged and repaid and the Chargor and/or any party who is a party to the Facility Letter or any Related Security Document has no actual or contingent liability to the Lender the Lender shall (at the request and full cost of the Chargor) re-transfer to the Chargor the Scheduled Securities or otherwise release the Scheduled Securities to the Chargor (which have been charged to the Lender pursuant to this Deed) without recourse or warranty.

#### 4. REPRESENTATIONS AND WARRANTIES

The Chargor represents and warrants to the Lender (and so that such representations and warranties shall be deemed to be made at the date hereof and thereafter on the last Business Day of each calendar month) that:

- (a) it has and will at all times have good title to and is and will at all times be the sole, legal and beneficial owner of the Scheduled Securities free from any charges other than the security constituted or evidenced by this Deed or any other charge permitted by the Facility Letter that the Scheduled Securities are fully paid that there are no moneys or liabilities outstanding or payable in respect of the Scheduled Securities and that the Chargor is lawfully entitled (with full power under its Memorandum and Articles of Association or its other constitutional documents) to create security over the same in favour of the Lender. The act of depositing any Scheduled Securities hereunder or any certificates, documents of title or other documentary evidence of title to the same shall on each occasion constitute a further and separate representation and warranty that the Chargor is and will at all times have title to and is and will at all times be the sole legal and beneficial owner of the Scheduled Securities and that these are free from any charges other than the security constituted and evidenced by this Deed or any other charge permitted by the Facility Letter that the Scheduled Securities are fully paid that there are no moneys or liabilities outstanding or payable in respect thereof and that the Chargor is lawfully entitled to create security over the same in favour of the Lender;
- (b) it has not heretofore sold, transferred or otherwise disposed of the benefit of or agreed to sell transfer or otherwise dispose of the benefit of its (or any part of its) rights, title and interest in and to the Scheduled Securities;
- (c) the information set out in the Schedule in relation to the Scheduled Securities is true and accurate in all respects and all expressions are believed to be true and such representations and warranties were made in order to induce the Lender to enter into this Deed; and
- (d) the Chargor has sufficient financial resources available to meet its commitments under this Deed, the Facility Letter and the Related Security Documents and there has been no adverse change in its financial condition business or assets since the date of its latest published audited accounts.

#### 5. COVENANTS AND UNDERTAKINGS

5.1 The Chargor covenants with the Lender that it:

- (a) will comply at all times with the terms (express or implied) of this Deed and execute, deliver and perform or procure the execution, delivery and performance of all such documents as may be necessary or desirable to secure to the Lender the full benefit of this Deed or the rights, powers and remedies herein conferred on the Lender (including without limitation all consents, waivers, approvals and permissions which are necessary for the charging or transfer of the Scheduled Securities);
- (b) shall not during the currency of this Deed without the prior written consent of the Lender:
  - (i) further assign or otherwise create any Encumbrance over its (or any part of its) rights, title and interest in and to the Scheduled Securities; or



- (ii) sell, transfer or otherwise dispose of the benefit of or agree to sell, *transfer or otherwise dispose of or otherwise create or grant (or purport to create or grant)* any interest in any of the Scheduled Securities in favour of a third party the benefit of its (or any part of its) rights, title and interest in and to the Scheduled Securities; or
  - (iii) take or omit to take any action the taking or omission whereof would or might impair the interest of the Lender or the Chargor or both in the Scheduled Securities;
- (c) will terminate with immediate effect all nominations it may have made under sections 145 and 146 of the Companies Act 2006 in respect of any Schedule Securities and, pending such termination, procure that any person so nominated:
  - (i) does not exercise any rights in respect of any Scheduled Securities without the prior written approval of the Lender; and
  - (ii) immediately upon receipt, forward to the Lender all communications or other information received in respect of any Scheduled Securities for which it has been so nominated;
- (d) amend, or agree to the amendment of, the memorandum or articles of association of any issuer (not being a public company) of any Scheduled Securities, or the rights or liabilities attaching to them.

5.2 The Chargor irrevocably undertakes to:

- (a) deposit with the Lender (to the intent that the same shall be subject in all respects to the provisions of this Deed and to the extent not previously deposited with the Lender):
  - (i) all certificates, documents of title and other documentary evidence of all rights bonuses, new shares, stock, rights to take up securities or other securities of whatever nature (including without limitation any security resulting from any conversion, consolidations or sub-divisions of the Scheduled Securities or rights arising from a reduction of capital liquidation or scheme of arrangement) which at any time during the currency of this Deed may be issued in respect of any of or attributable to the Scheduled Securities; and
  - (ii) executed blank stock transfer forms of the Scheduled Securities duly executed by the Chargor so that the Lender may at any time after this Charge has become enforceable without notice present them for registration;
- (b) to the extent not previously transferred and upon the Lender's written demand procure the transfer of the Scheduled Securities to the Lender or any nominee notified to the Chargor and in relation to those shares, stocks and securities listed in the Schedule procure that the Lender or such nominee shall be registered as the holder of these shares and issue share certificates to it in respect thereof as soon as possible after the date of this Deed;
- (c) duly and promptly pay all calls which may from time to time be made in respect of unpaid moneys under any of the shares, stocks and securities listed in the Schedule and duly and promptly pay any other moneys which the Chargor may lawfully be required to pay in respect of the Scheduled Securities (failing which the Lender may at its discretion but without obligation make such payments on

behalf of the Chargor and shall on demand be reimbursed by the Chargor on demand by the Lender on a full indemnity basis);

- (d) forthwith to provide or cause to be forthwith provided to the Lender a copy of any report, accounts, circular or notice sent or provided to it in its capacity as the registered holder (as the case may be) of the Scheduled Securities;
- (e) keep the Lender fully and effectively indemnified from and against any and all actions, losses, claims, proceedings, costs, demands and liabilities which may be suffered or incurred by the Lender as a result on the part of the Chargor of any breach of any of those covenants listed in Clause 5.1 or of any breach of these undertakings listed in this Clause 5.2; and
- (f) refrain from exercising any rights to nominate any person (other than the Lender) to enjoy or exercise any rights relating to any of the Scheduled Securities.

## **6. POWERS AND ENFORCEMENT**

6.1 This Deed and the security shall become immediately enforceable upon any Demand being made and the Indebtedness shall immediately become due and payable and the power of sale and other powers conferred by Section 101 of the Law of Property Act 1925 (as varied or amended by this Deed) shall be immediately exercisable at any time and whereupon the Lender shall cease to be under any obligation whatsoever to the Chargor under the Facility Letter and may in its absolute discretion (and without being responsible to the Chargor for any loss or damage which may arise in connection therewith) enforce all or any of its rights, powers and remedies possessed by it according to law as mortgagee of the Scheduled Securities and in any event shall have the right to:

- (a) collect, recover, compromise and give a good discharge for any and all monies and claims for monies due or to become due and for the time being comprised in the Scheduled Securities;
- (b) exercise in relation to the Scheduled Securities all such voting and any other powers or rights as the Chargor then might exercise in relation to the Scheduled Securities or might but for the terms of Clause 6.1(c) so exercise;
- (c) take any and all steps necessary to vest the Scheduled Securities in the name of the Lender or its nominee;
- (d) sell, exchange, convert into money or otherwise dispose of or realise or concur in selling, exchanging, converting into money or otherwise disposing of or realising any or all of the Scheduled Securities either by public offer or private contract and for such consideration and on such terms as the Lender may think fit and to apply the net proceeds thereof in or towards payment of any of the Indebtedness;
- (e) retain any dividends, interest or other distributions paid in respect of the Scheduled Securities and apply them as though they were proceeds of sale hereunder; and
- (f) do all such other acts and things as may be considered to be incidental or conducive to any powers and/or matters which the Lender may or can lawfully do according to law as mortgagee of the Scheduled Securities,

Provided that upon any sale of the Scheduled Securities or any part thereof pursuant to this Clause 6:

- (i) the purchaser shall be neither bound nor entitled to see or enquire whether the Lender's power of sale has arisen as hereinbefore provided;
- (ii) the purchaser shall be neither bound nor entitled to see or enquire whether the Lender has given the Chargor notice of its intention to sell the Scheduled Securities;
- (iii) the sale shall as between the Lender and the purchaser be deemed in all circumstances to be within the power of the Lender and such power shall include the power to postpone such sale and the Lender may exercise any such sale without being answerable to the purchaser for any loss occasioned by such sale or resulting from any postponement thereof or resulting from the exercise by the Lender of any of its rights under this Deed;
- (iv) the purchaser shall be neither bound nor entitled to concern itself with the proceeds of sale nor shall it in any circumstances be answerable for the application thereof; and
- (v) the Lender's receipt to the purchaser for the purchase money shall be a good discharge to the purchaser in respect of its obligation to pay the same.

6.2 All monies received by the Lender under this Deed may, at the discretion of the Lender, be credited to any suspense or securities realised account and shall bear interest at such rate, if any, as may be agreed in writing between the Lender and the Chargor and may be held in such account for so long as the Lender thinks fit.

6.3 (a) To the extent that the Scheduled Securities constitutes Financial Collateral and this Deed and the obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement, the Lender shall have the right, at any time after this Deed has become enforceable, to appropriate all or any of the Scheduled Securities in or towards the payment and/or discharge of the Indebtedness in such order as the Lender in its absolute discretion may from time to time determine.

(b) The value of any Scheduled Securities appropriated in accordance with this Clause 6.3 shall be the price of that Scheduled Securities at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Lender may select (including independent valuation).

(c) The Chargor agrees that the methods of valuation provided for in this Clause 6.3 are commercially reasonable for the purposes of the Financial Collateral Regulations.

## 7. NO DUTIES

7.1 The powers conferred on the Lender by this Deed are solely to protect its interest in the Scheduled Securities and shall not impose any duty on the Lender to exercise any of those powers.

7.2 The Lender shall not, in respect of any of the Scheduled Securities, have any duty or incur any liability for:

- (a) ascertaining or taking action in respect of any calls, instalments, conversion, exchanges, maturities, tenders or other matters relating to any Scheduled

Securities or the nature or sufficiency of any payment whether or not the Lender has or is deemed to have knowledge of such matters; or

- (b) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Scheduled Securities.

7.3 The Lender shall not be liable to account as a mortgagee in possession in respect of the Scheduled Securities, and shall not be liable in connection with the Scheduled Securities for:

- (a) any loss on realisation;
- (b) any failure to present any interest coupon or any bond or stock drawn for repayment;
- (c) any failure to pay any call or instalment;
- (d) the acceptance of any offer or the notification of the Chargor of any such offer;
- (e) any failure to ensure that the correct amounts are paid or received in respect of the Scheduled Securities;
- (f) any negligence or default by its nominees; or
- (g) any other loss of any nature whatsoever.

## **8. REMEDIES AND WAIVERS**

8.1 The rights, powers and remedies provided in this Deed are cumulative and are not and nor are to be construed as exclusive of any rights, powers or remedies provided by the Facility Letter and any Related Security Document or by law.

8.2 No failure to exercise nor any delay on the part of the Lender in exercising any right, power or remedy provided in this Deed, the Facility Letter and any Related Security Document or by law shall operate as a waiver thereof nor shall any single or partial exercise of any such right, power or remedy preclude any further or other exercise of the same such right, power or remedy.

8.3 The Lender shall be entitled (but shall not be bound) to remedy a breach at any time by the Chargor of any of its obligations contained in this Deed, and the Chargor irrevocably authorises the Lender and its agents to do all such things as are necessary or desirable for that purpose.

## **9. APPLICATION OF MONIES**

9.1 Subject to Clause 9.2 any monies received by the Lender subsequent to a Demand shall be applied in the following order of priority but without prejudice to the rights of the Lender to recover any shortfall from the Chargor:

- (a) in or towards payment to the Lender of any sum due to the Lender pursuant to Clause 16.4;
- (b) in or towards payment to the Lender of the whole or any part of the Indebtedness; and
- (c) in payment of the balance (if any) to the Chargor or to any other person so entitled as the Chargor shall inform the Lender in writing.

- 9.2 At all times prior to a Demand the Lender shall procure that it (or its nominee) shall at the full cost of the Chargor pay to the Chargor all cash dividends, interest and other moneys payable to the Chargor in respect of any of the Scheduled Securities.

## **10. NEW ACCOUNTS**

- 10.1 If the Lender receives notice of any Encumbrance or other interest affecting all or part of the Scheduled Securities, the Lender may open a new account or accounts for the Chargor in the Lender's books and (without prejudice to the Chargor's right to combine accounts) no money paid to the credit of the Chargor in any such new account will be appropriated towards or have the effect of discharging any part of the Indebtedness.

- 10.2 If the Lender does not open a new account or accounts immediately on receipt of notice under Clause 10.1 above, then, unless the Lender gives express written notice to the contrary to the Chargor, as from the time of receipt of the relevant notice by the Lender of notice under Clause 10.1 all payments made by the Chargor to the Lender shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Indebtedness.

- 10.3 If the Lender has more than one account for the Chargor in its books, the Lender may at any time after:

- (a) the security constituted by this Deed has become enforceable; or
- (b) the Lender has received notice of any Encumbrance or other interest affecting all or any part of the Scheduled Securities;

transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account which may be in debit, but the Lender shall notify the Chargor of the transfer once made.

## **11. REPRESENTATIONS AND WARRANTIES**

The representations and warranties set out in Schedule 2 are made by the Chargor on the date of this Deed, and shall be deemed to be repeated on each day during which this Deed remains in force with reference to the facts and circumstances then existing.

## **12. CONTINUING AND INDEPENDENT SECURITY**

- 12.1 The Lender may at any time without thereby discharging, impairing or otherwise affecting the security hereby created or the rights powers and remedies conferred upon it by this Deed or by law:

- (a) offer or agree to or enter into any agreement for a variation of the Facility Letter;
- (b) offer or agree to any waiver or release of any of the obligations of the Chargor under the Facility Letter;
- (c) renew any drafts bills, notes or negotiable instruments evidencing or held in connection with all or any part of the Indebtedness;
- (d) compound with or prove in a bankruptcy, administration, winding-up, liquidation or re-organisation of the Chargor; and
- (e) give or agree to give any time or other indulgence to the Chargor in respect of its obligations under the Facility Letter.

12.2 This Deed shall be in addition to and not in substitution for or derogation of any Related Security Document and accordingly neither the security hereby created nor the rights, powers and remedies conferred on the Lender by this Deed or by law shall be discharged, impaired or otherwise affected by any:

- (a) failure by the Lender to take any Related Security agreed to be taken between the Lender and the Chargor or any other person;
- (b) total or partial invalidity, voidability or unenforceability of any Related Security taken or purportedly taken;
- (c) offer of or agreement to or for a variation of any of the terms of a Related Security Document;
- (d) release, exchange, transfer or substitution of any Related Security;
- (e) offer of or agreement to or for any waiver or release of any of the obligations of any person under a Related Security Document;
- (f) composition with or proof in a bankruptcy, administration, winding-up, liquidation or re-organisation of any person bound by or party to a Related Security Document; and
- (g) time or other indulgence given to any person in respect of any of its obligations under a Related Security Document.

12.3 The Lender shall not be obliged before taking steps to enforce the security created by this Deed to exercise any of the rights, powers and remedies conferred upon it in this Deed or by law to take action or obtain judgment in any court against the Chargor or any other person bound by or party to a Related Security Document or to make or file any claim in a bankruptcy, administration, winding-up, liquidation or re-organisation of the Chargor or any other such person or to enforce or seek to enforce the Facility Letter or any Related Security Document.

### 13. **AUTHORITY OF THE LENDER**

The Lender may:

- (a) ask, require, demand, receive and give acquittance for any and all monies and claims for monies due and to become due and for the time comprised in the Scheduled Securities;
- (b) endorse any cheques or other instruments or orders in connection therewith; and
- (c) make any claims, take any action or institute any Proceedings which may be necessary or advisable in the circumstances but shall not be obliged to make any enquiries as to the nature or sufficiency of any payment received by the Lender in consequence hereof.

### 14. **EXERCISE OF REMEDIES**

Subject to the provisions of this Deed the Lender may exercise its power of sale hereunder in such manner and at such times as the Lender in its absolute discretion may determine and shall not in any circumstances be answerable for any loss occasioned to any party by such assignment or sale or resulting from postponement thereof.

**15. POWER OF ATTORNEY**

15.1 The Chargor hereby irrevocably appoints the Lender and any officer authorised by the Lender as its attorney by way of security and in order to more fully secure the performance of the obligations hereunder:

- (a) for and on behalf of the Chargor and in its name and as its act and deed to execute, deliver and otherwise perfect any such document as is mentioned in Clauses 5.1(a) and 5.2(a) or (b);
- (b) for and on behalf of the Chargor and in its name and as its act and deed to execute and deliver to any purchaser of all or any part of the Scheduled Securities from the Lender in exercise of its powers under Clause 5 an assignment transfer or other assurance in respect of the Scheduled Securities or any other document in respect of any sale or other disposal of the Scheduled Securities; and
- (c) in the name of the Chargor to do all such acts and execute all such documents as the Chargor itself could carry out in relation to the Scheduled Securities or could do so but for the terms of Clause 5.1(c);

Provided that:

- (i) the Lender shall not exercise the power contained in this Clause 15 unless and until any Demand is made; but
- (ii) the exercise of such power by the Lender shall not put any person dealing with it upon any enquiry as to whether a Demand is made nor shall any such person be in any way affected by notice to the contrary and the exercise by the Lender of the power contained in this Clause 15 shall (as between the Lender and any such person) be conclusive evidence of the Lender's right to exercise the same.

15.2 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever the Lender (as its attorney) shall do or purport to do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause.

**16. MISCELLANEOUS**

16.1 Neither the restriction on consolidating mortgage securities contained in Section 93 nor those contained in Section 103 of the Law of Property Act 1925 shall apply to this Deed or the security hereby created.

16.2 A certificate of an officer or attorney of the Lender as to the amount at any given time of the Indebtedness shall (save in the case of manifest error) be conclusive evidence as against the Chargor of the amount so owing.

16.3 The obligations on the part of the Chargor contained herein shall bind it and its successors and permitted assigns and the rights, powers and remedies of the Lender herein contained shall enure to the benefit of his successors and assigns whether or not so expressed; and

16.4 The Chargor hereby covenants to pay to the Lender on demand (on a full indemnity basis) all costs, charges, expenses and disbursements including legal fees and stamp duty (if any) incurred and payments made by the Lender in connection with the negotiation, preparation, execution and enforcement of this Deed or with the exercise of the rights, powers and privileges hereby granted together with interest as from the date of the same having been incurred until payment at the rate for the time being payable hereunder in respect of interest on the principal monies intended to be hereby

secured (which shall be payable as well after as before any judgment hereunder) and all monies payable by the Chargor hereunder shall constitute part of the Indebtedness secured hereunder.

**17. EXERCISE OF VOTING RIGHTS**

- 17.1 During such time as the Lender or any nominee for the time being of the Lender shall be registered in the register of members as the holder of any of the Scheduled Securities the Lender will or will procure that the rights attached to such of the Scheduled Securities are only exercisable in the interests of the Chargor provided that nothing contained in this Clause 17.1 shall in any manner whatsoever restrict the Lender or any nominee for the time being of the Lender from exercising any such rights in such manner as it shall in its absolute discretion determine where such rights are being exercised for the purposes of preserving the value of the security or any part thereof or of realising the security or any part thereof.
- 17.2 In the event of the Lender or any nominee for the time being of the Lender wishing to exercise any such rights as are referred to in Clause 17.1 the Lender shall be entitled (but not obliged) to request in writing that the Chargor gives notice in writing to the Lender of the manner in which it desires to see such rights exercised and any exercise of such rights in accordance with any such notice shall be deemed to be an exercise of such rights in the interests of the Chargor.
- 17.3 In the event that the Chargor shall fail to give notice in writing pursuant to Clause 17.2 within 3 Business Days of a request in writing from the Lender so to do then the Chargor shall be deemed to have given notice to the Lender that the exercise of such rights will be in its interests whatever way such rights may be exercised.
- 17.4 The provisions of Clause 17.2 shall be without prejudice to any other manner in which the Lender or any nominee for the time being of the Lender may ascertain what is in the interests of the Chargor.

**18. SEVERABILITY**

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modification necessary to give effect to the commercial intention of the parties.

**19. COUNTERPARTS**

This Deed may be executed in any number of counterparts and all of such counterparts shall be deemed to constitute one and the same Deed.

**20. AUTHORITY TO DELIVER**

The signature or sealing of this document by or on behalf of a party shall constitute an authority to the solicitors or an agent or employee of the solicitors acting for that party in connection with this document to deliver it as a deed on behalf of that party and it is not intended to take effect as a deed of that party until it has been so delivered on behalf of that party under this authority.

**21. NOTICES**

- 21.1 Each notice, request, demand or other document to be given or made hereunder shall be in writing addressed to the relevant party at the relevant party's address specified herein or at such other address as the relevant party last notified to the other in writing or at the relevant party's registered office last known address or place of business.



- 21.2 Any notice, request, demand or other communication to be given or made by one party to the other shall be deemed made:
- (a) when transmitted (if given or made by facsimile); or
  - (b) when left at the address referred to in Clause 21.1 or in the case of a notice to the Chargor when served on any one of the directors or on the secretary thereof; or
  - (c) three days after posting by first class post addressed as required above (if given or made by letter).

**22. GOVERNING LAW AND JURISDICTION**

- 22.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England and Wales.
- 22.2 The parties to this deed irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing 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 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.
- 22.3 The Chargor irrevocably consents to any process in any proceedings under clause 22.2 being served on it in accordance with the provisions of this Deed relating to service of notices. Nothing contained in this Deed shall affect the right to serve process in any other manner permitted by law.

**23. WAIVERS**

Any waiver or variation of any right or remedy by the Lender (whether arising under this Deed or under the general law), or any consent or other relaxation of the same or any indulgence time or relaxation granted at any time by the Lender to the Chargor or to any other person, shall without any express reservation to that effect be deemed to be without prejudice and shall not affect exercise at any time hereafter by the Lender of all and any of its rights and remedies under this Deed which rights and remedies shall continue in full force and effect as though no such waiver or variation had been made or indulgence time or relaxation granted.

**24. ASSIGNMENT**

- 24.1 The Lender may at any time, without the consent of the Chargor, assign or transfer the whole or any part of the Lender's rights and obligations under this Deed to any person.
- 24.2 The Chargor may not assign any of its rights or transfer any of its obligations under this Deed or enter into any transaction, which would result in any of the Chargor's rights or obligations under this Deed passing to another person.

**IN WITNESS** whereof this Deed has been executed on the day and year first before written.

## **SCHEDULE 1**

### **Scheduled Securities**

Three hundred and twenty five (325) ordinary shares of one pound (**£1.00**) each in the issued share capital of Cygnus Estates Limited (registered in England and Wales with registration number 08973575) duly registered in the names of:

Jayne Eleanor McGivern, 175 ordinary shares

Rory Gleeson, 75 ordinary shares

James Sunley, 75 ordinary shares

(each being one Chargor).

One (1) A ordinary share of one pound (**£1.00**) in the issued share capital of Cygnus Estates Limited (registered in England and Wales with registration number 08973575) duly registered in the name of Jem Nominees (being one Chargor).

## **SCHEDULE 2**

### **Representations and Warranties**

**1. OWNERSHIP OF CHARGED PROPERTY**

The Chargor is the sole legal and beneficial owner and registered holder of all the Scheduled Securities free from any Encumbrance other than this Deed.

**2. VALIDITY OF ISSUE**

The Scheduled Securities have been duly authorised and validly issued, and are and will be free from any restrictions on transfer or rights of pre-emption.

**3. FULLY PAID**

The Scheduled Securities are fully paid up and there are no monies or liabilities outstanding in respect of any of them.

**4. NO CONFLICTING RIGHTS OR BREACH**

This Deed does not and will not conflict with or result in any breach or constitute a default under any agreement, instrument or obligation to which the Chargor is a party or by which it is bound.

**5. ENFORCEABLE SECURITY**

This Deed constitutes and will continue to constitute the legal valid binding and enforceable obligations of the Chargor, and is and will continue to be effective security over all and every part of the Scheduled Securities in accordance with its terms.

**6. AVOIDANCE OF SECURITY**


This Deed is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

EXECUTED as a DEED by JAYNE ELEANOR  
MCGIVERN

  
.....

in the presence of: D

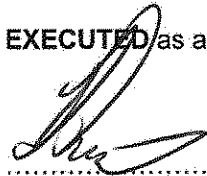
Witness' Signature:

  
Name: DAVID CROSSLAND

Address: GREENLAND FARM  
EDANE  
S33 72L


Occupation: PROPERTY AGENT

EXECUTED as a DEED by RORY GLEESON

  
.....

in the presence of:

Witness' Signature:



Name: LAURA STRADLING

Address: 20 BERKELEY SQUARE  
LONDON  
W1J 6LH

Occupation: ACCOUNTANT

EXECUTED as a DEED by JAMES SUNLEY

..... James P  
in the presence of: .....

Witness' Signature: *Y Shradling*  
Name: LAURA STRADLING  
Address: 20 BERKELEY SQUARE  
LONDON  
W1J 6LH  
Occupation: ACCOUNTANT

EXECUTED as a DEED by JEM NOMINEES acting by  
a Director


*limited Birch Bickel*  
.....  
.....

in the presence of:

Witness' Signature: *David Grossland*  
Name: DAVID GROSSLAND  
Address: GREENLANDS FARM  
EDALE  
S13 7ZL  
Occupation: PROPERTY AGENT

EXECUTED as a DEED by TITLESTONE REAL  
ESTATE LIMITED acting by a Director C Proud

.....  
in the presence of:

Witness' Signature: 

Name: DARREN ELLIS

Address: 90a Barcombe Avenue  
London  
SW2 3BA

Occupation: Finance