

716198/23

in accordance with  
Sections 859A and  
859J of the Companies  
Act 2006.

# MR01

## Particulars of a charge



Companies House



Go online to file this information  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

A fee is payable with this form  
Please see 'How to pay' on the last page.

☒ **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 where the  
instrument. Use form MR08



\*A6370FBC\*

A26

28/03/2017

#210

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 09518075  
Company name in full CYGNUS INVESTMENTS LIMITED

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 24/03/2017

### 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 THE COUNCIL OF THE CITY AND COUNTY OF SWANSEA

Name

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.

MR01

Particulars of a charge

4

**Brief description**

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.

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".

Please limit the description to the available space.

Brief description

1 YORK STREET  
SWANSEA  
FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.

5

**Other charge or fixed security**

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.

☐ Yes

☒ No

6

**Floating charge**

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

**Negative Pledge**

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.

☒ Yes

☐ No

8

**Trustee statement <sup>①</sup>**

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.

☐

<sup>①</sup> This statement may be filed after the registration of the charge (use form MR06).

9

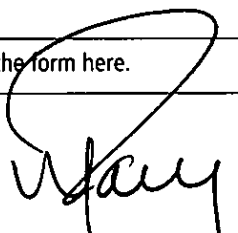
**Signature**

Please sign the form here.

Signature

Signature

X



X

This form must be signed by a person with an interest in the charge.

**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 **WILLIAM PARRY**

Company name **W PARRY & CO**

Address **37 WALTER ROAD**

Post town **SWANSEA**

County/Region

Postcode **S A 1 5 N W**

Country **UK**

DX **39553 SWANSEA**

Telephone **01792 470037**

**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: 9518075

Charge code: 0951 8075 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 24th March 2017 and created by CYGNUS INVESTMENTS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 28th March 2017.

2X

Given at Companies House, Cardiff on 3rd April 2017



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

LAND REGISTRY LAND REGISTRATION ACT 2002

Administrative area Swansea

Title Number(s) **CYM696340 and the Title Number to be allocated to the Property once registration of the Deed of Variation dated 21 February 2017 is completed at the Land Registry**

Property **1 YORK STREET, SWANSEA more particularly described in the Schedule**

THIS LEGAL CHARGE is made on **24<sup>th</sup> March 2017**

PARTIES

- (1) **CYGNUS INVESTMENTS LIMITED** whose registered office is at **AVC HOUSE, 1 NORTHAMPTON LANE, SWANSEA SA1 4EM**, ('the Borrower') and
- (2) **THE COUNCIL OF THE CITY AND COUNTY OF SWANSEA** of Civic Centre, Oystermouth Road, Swansea SA1 3SN ('the Lender')

THIS DEED WITNESSES:

**1 DEFINITIONS AND INTERPRETATION**

For all purposes of this legal charge the terms defined in this clause 1 have the meanings specified.

**1.1 Gender, personality and number**

Unless the context otherwise requires:

- 1.1.1 the singular includes the plural and vice versa;
- 1.1.2 references to persons includes references to firms, companies, corporations or limited liability partnerships and vice versa; and
- 1.1.3 references in the masculine gender include references in the feminine or neuter genders and vice versa.

**1.2 Headings**

The clause and schedule headings do not form part of this Legal Charge and are not to be taken into account in its construction or interpretation.

Witnessed and interpreted that this is a true and accurate copy of the original examined at our offices this **24** day of **March** **2017**  
**W. Parry + Co**  
W. Parry & Co  
37 Walter Road, Swansea

### **1.3 Interpretation of 'the Borrower' and 'the Lender'**

Unless the context otherwise requires the expressions 'the Borrower' and 'the Lender' include their respective successors and assigns whether immediate or derivative and where appropriate the survivors or survivor of them and where either party comprises two or more persons include any one or more of those persons.

### **1.4 Joint and several liability**

Where any party to this Legal Charge for the time being comprises two or more persons, obligations expressed or implied to be made by or with that party are deemed to be made by or with the persons comprising that party Jointly and severally.

### **1.5 Loan-to-Value Ratio**

'Loan-to-value Ratio' means at any given time the Principal sum due from the Borrower to the Lender under this charge expressed as a percentage of the open market value of the Property such value to be agreed between the parties or in default of agreement determined by a chartered surveyor, acting as an expert and not as an arbitrator, appointed by agreement between the parties or in default of agreement nominated by the President of the Royal Institution of Chartered Surveyors

### **1.6 Notification Event**

'Notification Event' has the same meaning as referred to in the WP Agreement

### **1.7 Obligation not to permit or suffer**

Any covenant by the Borrower not to do anything includes an obligation not to permit or suffer that thing to be done by another person.

### **1.8 The Planning Acts**

'The Planning Acts' means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008.

### **1.9 The Principal**

'The Principal' means the repayable grant in the sum of **ONE HUNDRED AND NINETY NINE THOUSAND, SEVEN HUNDRED AND SEVENTY TWO POUNDS AND FIFTY PENCE (£199,772.50)** to be provided by the Lender to the Borrower in accordance with the terms of the VVP Agreement

### **1.10 The Property**

'The Property' means the property specified in the schedule THE PROPERTY and all buildings, erections, structures, fixtures, fittings and appurtenances on the Property from time to time.

### **1.11 The Redemption Date**

'The Redemption Date' Is 56 days of a Notification Event occurring

### **1.12 VAT**

'VAT' means value added tax or any other tax of a similar nature and unless otherwise expressly stated all references to sums payable by the Borrower are exclusive of VAT.

### **1.13 WP Agreement**

'VVP Agreement' means the agreement made between the Lender and the Borrower dated **24<sup>th</sup> March 2017** in relation to an award of funding under the "Vibrant and Viable Places Programme" (annexed to this legal charge).

### **1.14 References to clauses**

Any reference in this Legal Charge to a clause without further designation is to be construed as a reference to the clause of this Legal Charge so numbered.

### **1.15 References to statutes**

Unless expressly stated to the contrary, any reference to a specific statute includes any statutory extension or modification, amendment or re-enactment of that statute and any regulations or orders made under it, and any general reference to a statute includes any regulations or orders made under that statute.

## **2 BACKGROUND**

### **2.1 TITLE**

The Borrower is registered at the Land Registry as proprietor with title absolute of the Property subject as mentioned in The Schedule.

### **2.2 Agreement to lend**

The Lender has agreed to lend to the Borrower the sum of **ONE HUNDRED AND NINETY NINE THOUSAND, SEVEN HUNDRED AND SEVENTY TWO POUNDS AND FIFTY PENCE (£199,772.50)** pounds for the purpose of meeting costs incurred

on projects forming part of the 'Vibrant and Viable Places Program' on condition that its repayment is secured in the manner set out in this Legal Charge.

### **3 PAYMENT OF PRINCIPAL**

In consideration of the Principal now paid by the Lender to the Borrower (receipt of which the Borrower acknowledges) the Borrower covenants with the Lender as set out in this clause 3.

#### **3.1 Payment of Principal**

The Borrower covenants with the Lender to pay the Principal to the Lender on the Redemption Date or, if earlier, immediately on written demand if:

- 3.1.1 the Borrower fails to comply with any term, condition, covenant or provision of or to perform any of his obligations or liabilities under this Legal Charge and where such failure to comply is capable of remedy it is not remedied within 28 days of the Borrower receiving notice of such breach; or
- 3.1.2 any representation or warranty given by the Borrower to the Lender is or becomes incorrect in any material respect; or
- 3.1.3 any adverse judgment or order made against the Borrower or any surety by any court where such judgement or order would have a material adverse effect on the Borrower's ability to meet its obligations under this Legal Charge is not complied with within 28 days; or
- 3.1.4 the property of the Borrower or any surety becomes subject to any forfeiture or execution, distress, sequestration or other form of process and such action is not lifted or discharged within 21 days; or
- 3.1.5 a mortgagee takes possession of or exercises or seeks to exercise any power of sale or of an appointment of a receiver in relation to the property charged by this Legal Charge; or

#### **3.2 Costs, charges, expenses and other liabilities**

##### **3.2.1 Costs included**

The Borrower's liability will include those incurred properly and reasonably in relation to or arising out of:

- (a) the contemplation and institution of all proceedings and other action in connection with the enforcement, preservation and protection of the security constituted by this Legal Charge;



- (b) the contemplation and institution of all proceedings and other action ( against the Borrower) for the payment or discharge of the money and liabilities secured by or associated with this Legal Charge;
- (c) the exercise or contemplated exercise of any power, right or discretion conferred by this Legal Charge or by law on the Lender; and
- (d) any default by the Borrower or any surety in compliance with the obligations imposed by the terms of this Legal Charge or associated with it.

#### **4 LEGAL CHARGE**

The Borrower, with full title guarantee, charges the Property to the Lender by way of 2<sup>nd</sup> legal charge with payment or discharge of all money and other obligations and liabilities in this Legal Charge covenanted to be paid or discharged by the Borrower or otherwise secured by this Legal Charge. The Borrower and the Lender hereby agree and acknowledge that the Charge created by this document is to rank behind in order of priority the Lender's Charge dated 14 March 2016 and behind all monies secured by the Debenture dated 21 December 2016 made between the Borrower and LSC Finance Limited as is referred to in a Deed dated 21 February 2017 made between (1) the Borrower (2) the Lender (3) LSC Finance Limited.

#### **5 BORROWER'S REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Lender as set out in this clause 5.

##### **5.1 Permitted use**

The present use of the Property is a permitted use within the provisions of the Planning Acts.

##### **5.2 Development**

The Borrower has not before the execution of this Legal Charge carried out any operation upon the Property or put the Property to any use which is a development within the provisions of the Planning Acts and in respect of which any requisite permission has not been obtained or any valid enforcement order may be made.

##### **5.3 Environmental matters**

The Borrower has complied in all material respects with environmental law and, in particular (but without prejudice to the generality of that representation and warranty) that no hazardous or toxic materials, substances, pollutants,

contaminants or wastes have at any time before the execution of this Legal Charge been released into the environment or deposited, discharged, displaced or disposed of at or near the Property.

#### **5.4 Contravention of other liabilities**

The execution of and the observance and performance of the Borrower's obligations under this mortgage does not and will not contravene any other charge, mortgage, lease, or other agreement.

#### **5.5 Solvency**

At the time of entering into this Legal Charge the Borrower is not insolvent and knows of no circumstances in the case of a company or limited liability partnership that would entitle any creditor to appoint a receiver or administrator or to petition for winding up or in the case of an individual to petition for bankruptcy and in either case that would entitle a creditor to exercise any rights over or against the assets of the Borrower.

#### **5.6 Litigation etc**

No litigation or administrative or arbitration proceeding before or of any court, governmental authority, other tribunal or arbitrator or other third party is presently taking place, pending or, to the best of the knowledge, information and belief of the Borrower, threatened against the Borrower or the Property that might materially and adversely affect the Borrower's ability to perform the Borrower's obligations under this mortgage.

#### **5.7 Capacity**

The execution of and the observance of the Borrower's obligations under this mortgage does not and will not contravene any of the provisions of its constitution.

### **6 BORROWER'S COVENANTS AS TO THE PROPERTY**

The Borrower covenants with the Lender as set out in this clause 6.

#### **6.1 Repair**

##### **6.1.1 Repairing obligation**

The Borrower will keep all buildings, fixtures and fittings, services and service media in, on or associated with the Property in good and substantial repair and good working order and condition (fair wear and tear accepted).

##### **6.1.2 Inspection**

The Borrower will permit the Lender and his representatives at all reasonable times and upon reasonable notice to enter upon the Property or any part of it to inspect the state and condition of the buildings, fixtures and fittings, services and service media in, on or

associated with the Property without the Lender becoming liable as mortgagee in possession.

#### **6.1.3 Entry and repair**

If the Borrower fails to maintain the buildings, fixtures and fittings, services and service media in, on or associated with the Property in the requisite state of repair and condition the Lender and his representatives may (but without being bound to do so) at any time thereafter enter upon the Property or any part of It and execute all remedial works that the Lender reasonably considers to be necessary and proper without the Lender thereby becoming liable as mortgagee in possession.

#### **6.1.4 Repayment of expenses**

The Borrower will within 10 days of written demand repay to the Lender all expenses properly and reasonably incurred by the Lender in carrying out inspections and works permitted by clause 6.1.2 and clause 6.1.3 of which money shall be charged on the Property.

### **6.2 Alterations**

The Borrower will not without the previous written consent of the Lender (such consent not to be unreasonably withheld or delayed) make any structural or material alteration to, or pull down or remove any or any part of, any buildings, fixtures and fittings, services and service media in, on or associated with the Property.

### **6.3 Insurance**

#### **6.3.1 Duty to insure**

The Borrower will:

- (a) ensure the Property is kept insured for such amount or amounts (including sums in respect of any loss of rent and any professional fees which may be incurred in or about repair, rebuilding or reinstatement), in such name or names, and against loss or damage due to such risks and with such underwriters as is usual for those carrying on a similar business as the Borrower; and
- (b) make all payments required for this purpose as and when they become due and will if and when required by the Lender deliver to the Lender the policy of insurance and the receipt for each payment.

### **6.3.2 Indemnity for payments by the Lender**

If the Borrower fails to perform any of his obligations under this clause 6.3 and if the Lender takes out any insurance on the Property or any part of it, the Borrower will within 10 days of written demand repay to the Lender all payments made by him for that purpose and all such money shall be charged on the Property.

### **6.3.3 Application of insurance money**

Any money received under any policy of insurance effected or maintained by the Borrower in respect of the Property (whether or not pursuant to his obligations under this clause 6.3) shall, at the option and absolute discretion of the Lender (acting reasonably), be applied either in making good the loss or damage in respect of which it was received or in or towards discharge of the money due under this Legal Charge, and if received by the Borrower will be held on trust for the Lender for this purpose.

## **6.4 Outgoings**

The Borrower will punctually pay and indemnify the Lender against all rents, rates, taxes, levies, assessments, impositions and outgoings whatsoever (whether governmental, municipal, contractual or otherwise) which may be or may become imposed upon or payable in respect of the Property or any part of it where failure to pay would materially and adversely affect the Borrower's ability to comply with its obligations under this Legal Charge.

## **6.5 General covenant to comply with statutes etc**

The Borrower will ensure that any legislation, regulations or bye-laws for the time being in force applicable to the Property are complied with in all material respects.

## **6.6 General covenant to produce notices etc**

### **6.6.1 Production**

The Borrower will immediately produce to the Lender any order, direction, permission, notice, claim or other matter whatever materially and adversely affecting the Property and served upon the Borrower by any third party, and will allow the Lender to make a copy of it.

### **6.6.2 Compliance**

The Borrower will comply in all material respects with any order, direction, permission, notice, claim or other matter referred to in clause 6.6.1 without delay or, if the Lender so reasonably requires, will make or join with the Lender in making such objections or representations

against or in respect of the same as the Lender may reasonably request or approve in writing.

## **6.7 Leasing and disposal**

The Borrower must not other than in the course of its business without the previous consent in writing of the Lender (such consent not to be unreasonably withheld or delayed):

- 6.7.1 exercise or agree to exercise any power of leasing or of accepting surrenders of leases (whether conferred by statute or otherwise) or vary or agree to vary any lease or tenancy agreement or the amounts payable thereunder; or
- 6.7.2 otherwise part with or share possession or occupation of or dispose of or deal with the Property or any part of it or any interest in it.

## **6.8 Compliance with terms of conveyances etc**

### **6.8.1 Observance**

The Borrower will observe and perform the terms of all conveyances, grants, assignments, transfers, contracts and other deeds and documents from time to time affecting the Property and binding on the Borrower where failure to observe and perform would materially and adversely affect the ability of the Borrower to comply with its obligations to the Lender under this Legal Charge.

### **6.8.2 Indemnity**

The Borrower will keep the Lender indemnified against all proceedings and claims on account of any breach of the terms of the documents referred to in clause 6.8.1.

### **6.8.3 Charging provision**

All expenses, damages and costs properly and reasonably incurred by the Lender in relation to any breach referred to in clause 6.8.2 will be repaid by the Borrower to the Lender within 10 days of written demand all of which money shall be charged on the Property.

## **6.9 Not to register**

The Borrower must not without the previous consent in writing of the Lender cause or allow any person to be registered under the Land Registration Act 2002 as proprietor of the Property.

## **6.10 Other charges**

The Borrower shall not without the previous consent in writing of the Lender (such consent not to be unreasonably withheld or delayed) create or permit to subsist any mortgage, pledge, charge, encumbrance, lien or other security interest in the Property other than this Legal Charge.

## **7 BORROWER'S FURTHER COVENANTS**

The Borrower covenants with the Lender as set out in this clause 7

### **7.1 Notification of events of default**

Upon becoming aware of the occurrence of any of the matters referred to in clauses 3.1.1 to 3.1.5 the Borrower will immediately give the Lender notice in writing of that occurrence.

### **7.2 Financial information and accounts**

The Borrower will promptly provide the Lender with such financial information relating to the Borrower as the Lender may from time to time reasonably require and in any event within 90 days after the end of each financial year provide the Lender with a copy of its annual audited profit and loss account and balance sheet and annual report prepared on a basis consistent with prior years.

### **7.3 Maintenance of Loan-to-Value Ratio**

The Loan-to-Value Ratio in relation to the Property will be maintained at no more than 95% and if at any time the Loan-to-Value Ratio in relation to the Property exceeds 95% the Borrower on each and every occasion that it does so exceed 95% shall forthwith repay to the Lender such proportion of the secured indebtedness as may be required to reduce the Loan-to-Value Ratio to 95%.

## **8 LENDER'S POWERS AND RIGHTS**

### **8.1 Exercise of statutory powers**

#### **8.1.1 Exclusion of Section 103**

The Law of Property Act 1925 Section 103 shall not apply to this Legal Charge.

#### **8.1.2 Enforcement of security and exercise of power of sale**

At any time after the money secured by this Legal Charge has become due and payable the security shall be immediately enforceable and the Lender's power of sale as amended or varied by this Legal Charge shall be immediately exercisable in respect of the whole or any part of the Property without the restrictions contained in the Law of Property Act 1925

as to the giving of notice or otherwise.

## **8.2 Extension of statutory powers**

### **8.2.1 Power of sale**

The power of sale conferred upon mortgagees by the Law of Property Act 1925 shall be extended so as to authorise any person exercising it to do so by selling the Property or any part of it in such manner and on such conditions as to payment of the purchase price and otherwise as the Lender may think fit.

### **8.2.2 Powers of leasing and accepting surrenders**

By way of extension of the powers contained in the Law of Property Act 1925 Sections 99 and 100 the Lender shall at any time or times hereafter (and whether or not he has entered into or is in possession of the Property or has appointed a receiver who is still acting) be entitled to grant or vary or reduce any sum payable under, or accept surrenders of, leases of the Property or any part or parts of it or agree to do so without restriction in such manner and on such terms and conditions as the Lender shall think fit. For the purposes of the exercise of these powers the provisions of the Law of Property Act 1925 Section 99 shall be deemed to have been enacted with the omission of the Law of Property Act 1925 Section 99(18).

### **8.2.3 General**

At any time after this Legal Charge has become enforceable and notwithstanding the appointment of any receiver the Lender may at his absolute discretion exercise any power which a receiver appointed by him could exercise and for these purposes the Borrower authorises the Lender if required to exercise the option to tax under the Value Added Tax Act 1994 Schedule 10 Paragraph 2(1) on behalf of the Borrower in respect of the Property

### **8.2.4 Exclusion of liability**

The powers referred to in or granted or varied or extended by this clause 8.2 shall be exercisable free from any liability on the part of the Lender or the person exercising them to the Borrower or any other interested person, whether in contract, tort or otherwise.

## **8.3 Powers in respect of goods**

### **8.3.1 Power to remove and dispose**

At any time after this Legal Charge has become enforceable the Lender may, as agent for and on behalf of the Borrower and at the



expense of the Borrower, remove, store, preserve, sell or otherwise dispose of any chattels or other items situate at or in the Property which are not charged by this mortgage.

#### **8.3.2 Exclusion of liability**

The Lender will have no liability to the Borrower for any loss incurred in connection with any removal, storage, preservation, sale or disposal referred to in clause 8.3.1.

#### **8.3.3 Proceeds of sale**

The Lender will have the right to set off any proceeds of sale against the sums due under this Legal Charge. The Lender will pay any net proceeds of any sale (after payment of removal, storage and preservation costs and the costs of the sale) to the Borrower on demand.

#### **8.3.4 Nature of security**

The provisions of this clause 8.3 are not intended to grant to the Lender any rights in, or any charge or security over, any goods, furniture, effects, chattels or other items or the proceeds of any sale of them so as to constitute this Legal Charge a bill of sale.

### **8.4 Power to appoint a receiver**

#### **8.4.1 Appointment**

At any time after this Legal Charge becomes enforceable, or at the request of the Borrower, the Lender may by writing under hand appoint any person or persons to be a receiver of all or any part of the Property.

#### **8.4.2 Removal**

The Lender may at any time and from time to time by writing under hand remove any receiver so appointed and appoint another in his place or appoint an additional person as receiver.

#### **8.4.3 Remuneration**

The Lender may, either at the time of appointment or at any time subsequently and from time to time, fix the remuneration of any receiver so appointed.

#### **8.4.4 Restrictions**

None of the restrictions imposed by the Law of Property Act 1925 in relation to the appointment of receivers or as to the giving of notice or otherwise shall

apply.

#### **8.4.5 Power to act severally**

Where more than one receiver is appointed they shall have the power to act severally.

#### **8.4.6 Agency**

Any receiver appointed under this clause 8.4 shall be the agent of the Borrower for all purposes and the Borrower shall be solely responsible for his acts or defaults and for his remuneration.

#### **8.4.7 General powers**

Any receiver appointed under this clause 8.4 shall have all the powers conferred on mortgagees or receivers by the Law of Property Act 1925 (but without the restrictions contained in the Law of Property Act 1925 Section 103) and on administrative receivers by the Insolvency Act 1986 except to the extent to which those powers are expressly or impliedly excluded by the terms of this Legal Charge. In the event of ambiguity or conflict the terms of this Legal Charge will prevail.

#### **8.4.8 Specific powers**

In addition to the powers referred to in clause 8.4.7 any receiver appointed under this clause 8.4 shall have power at his discretion, to such extent and upon such terms as he may in his absolute discretion think fit, and notwithstanding the administration or liquidation or, as appropriate, bankruptcy, death or mental incapacity of the Borrower, to do or omit to do anything which the Borrower could do or omit to do in relation to all or any part of the Property. In particular (but without limitation) any such receiver shall have the power:

- (a) to take possession of, collect and get in all or any part of the Property and for that purpose bring any proceedings in the name of the Borrower or otherwise;
- (b) to manage or carry on or concur in carrying on any business of the Borrower;
- (c) to raise or borrow money (whether from the Lender or otherwise) to rank for payment in priority to this Legal Charge and with or without a charge on all or any part of the Property;
- (d) to sell (whether by public auction or private contract or otherwise), lease, vary, renew or surrender leases or accept surrenders of leases (without needing to observe the provisions of the Law of Property Act 1925 Sections 99 and 100) of, or otherwise dispose of or deal with all or any part of, the Property or of rights associated with all or any part of

- the Property or to concur in so doing whether in the name or on behalf of the Borrower or otherwise;
- (e) to seize and sever all or any fixtures at or in the Property other than, to the extent the Borrower comprises an individual or individuals, trade machinery as defined by the Bills of Sale Act 1878 and sell the same separately from the Property or its site;
  - (f) to settle, arrange, compromise or submit to arbitration any accounts, claims, questions or disputes whatsoever which may arise in connection with any business of the Borrower or the Property or in any way relating to this Legal Charge;
  - (g) to bring, take, defend, compromise, submit to arbitration or discontinue any actions, suits or proceedings whatsoever whether civil or criminal which may arise in connection with any business of the Borrower or the Property or in any way relating to this Legal Charge;
  - (h) to disclaim, abandon or disregard all or any outstanding contracts of the Borrower and to allow time for payment of any debts either with or without security;
  - (i) to repair, insure, manage, protect, improve, enlarge, develop, build, complete or reconstruct or replace all or any part of the Property and to apply for and obtain any appropriate permissions, approvals, consents or licences;
  - (j) to acquire by purchase, lease or otherwise any further property, assets or rights;
  - (k) to appoint, employ and dismiss managers, officers, contractors and agents: and
  - (l) to do (whether in the name of the Borrower or otherwise) all such other acts and things as he may consider necessary or desirable for the preservation, management, improvement or realisation of the Property or as he may consider incidental or conducive to any of the above matters or to the exercise of any of the above powers

#### **8.4.9 Application of money**

All money received by any receiver shall be applied by him in the following order:

- (a) in payment of the costs, charges and expenses of and incidental to the appointment of the receiver and the exercise of all or any of his powers and of all outgoings paid by him (including preferential debts),
- (b) in payment to the receiver of such remuneration as may be

agreed between him and the Lender at, or at any time and from time to time after, his appointment,

- (c) In or towards satisfaction of the amount owing on this Legal Charge, with the surplus (if any) being paid to the Borrower or other persons entitled to it.

#### **8.5 Right to consolidate**

The Law of Property Act 1925 Section 93 (restricting the Lender's right of consolidation) shall not apply to this Legal Charge.

### **9. PROTECTION OF THOSE DEALING WITH LENDER OR RECEIVER**

No person dealing with the Lender or any receiver appointed by him shall be concerned, bound or entitled to inquire or be affected by notice as to any of the following matters:

- 9.1 whether this Legal Charge has become enforceable,
- 9.2 whether any power exercised or purported to be exercised under this mortgage has arisen or become exercisable,
- 9.3 the propriety, regularity or purpose of the exercise or purported exercise of any such power.
- 9.4 whether any money remains due under the security, or
- 9.5 the necessity or expediency of the stipulations and conditions subject to which any disposition shall be made,

and the receipt of the Lender or any receiver for any money shall effectually discharge the person paying from those matters and from being concerned to see to the application or being answerable for the loss or misapplication of that money.

### **10 INDULGENCE AND WAIVER**

The Lender may at any time or times without discharging or diminishing or in any way prejudicing or affecting this Legal Charge or any right or remedy of the Lender under this mortgage grant to the Borrower, or to any other person, time or indulgence, further advances or enter into any arrangement or variation of rights or, either in whole or in part, release, abstain from perfecting or enforcing or neglect or fail to perfect or enforce any remedies, securities, guarantees or rights which he may now or subsequently have from or against the Borrower or any other person.

## **11 DEMANDS AND NOTICES**

### **11.1 Form and mode of deemed service**

A demand or notice by the Lender under this mortgage must be in writing and shall be deemed to have been properly served on the Borrower if served personally on:

11.1.1 the Borrower if an individual, or

11.1.2 any one of the directors or the secretary of the Borrower if a limited company, or

11.1.3 any member of the Borrower if a limited liability partnership,

or by first class letter post or fax addressed to the Borrower at or by delivery to his usual or last known place of abode or business or as appropriate its registered office or at any of its principal places of business.

### **11.2 Time of service**

Service shall be deemed to be effected notwithstanding the death or, as appropriate, dissolution of the Borrower:

11.2.1 at 1000 hours on the second business day (being a day when the United Kingdom clearing banks are open for business in the City Of London) immediately following the day of posting if given by first class letter post irrespective of the time or date of actual delivery or of lack of delivery:

11.2.2 when dispatched if given by fax; and

11.2.3 when left at the property concerned if delivered.

### **11.3 Other methods of service**

The methods of service described in clause 11.1 are in addition, and without prejudice, to any other method of service prescribed or permitted by law and in particular to the provisions of the Law of Property Act 1925 Section 196.

## **12 VALIDITY AND SEVERABILITY**

### **12.1 Enforceability**

Each of the provisions of this mortgage is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not be affected or impaired.

### **12.2 Lack of capacity**

If this mortgage is executed by or on behalf of more than one person and any

one or more of those persons is not bound by its provisions (whether by reason of lack of capacity or improper execution or for any other reason), the remaining parties shall continue to be so bound as if those who are not bound had not been parties to the security.

### **13 EXCLUSION OF THIRD PARTY RIGHTS**

Nothing in this mortgage is intended to confer any benefit on any person who is not a party to it.

### **14 GOVERNING LAW AND JURISDICTION**

#### **14.1 Construction**

This mortgage shall be governed by and construed in accordance with English and Welsh law as applied in Wales.

#### **14.2 Jurisdiction of English and Welsh courts**

It is irrevocably agreed for the exclusive benefit of the Lender that the courts of England and Wales are to have jurisdiction to settle any disputes which may arise out of or in connection with this mortgage and that accordingly any suit, action or proceeding arising out of or in connection with this mortgage may be brought in those courts.

### **14.3 Jurisdiction of other courts**

Nothing in this clause 14 shall limit the Lender's right to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

### **15 Restriction**

The parties apply to the registrar for entry of a restriction on the register of the title to the Property in the following terms:

"No transfer or charge of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 24<sup>th</sup> March 2017 in favour of the Council of the City and County of Swansea referred to in the Charges Register."

### **THE SCHEDULE**

The Leasehold land situate at and known as 1 York Street Swansea SA1 3LZ being all of the property comprised in a Lease dated 14 January 2016 originally for a term of 35 years commencing on 14 January 2016 at an annual rent of £10,000.00 made between (1) Mopellan Investments Limited (2) Cygnus Investments Limited (3) Thomas Bellis Leisure Limited and Still and Stove Leisure Limited as first varied by a Deed of Variation made on 9 November 2016 made between (1) Mopellan Investments Limited (2) Cygnus Investments Limited (3) Thomas Bellis Leisure Limited and Still and Stove Leisure Limited by virtue of which the term of years of the Lease was varied to a term of years commencing on and including 16 January 2016 and expiring on 21 June 2026 as further varied by a Deed of Variation made on 21 February 2017 between (1) Mopellan Investments Limited (2) Cygnus Investments Limited and (3) Thomas Bellis Leisure Limited and Still and Stove Leisure Limited by virtue of which, inter alia, the term of years of the Lease was further varied to a term of 125 years commencing on and including 21 February 2017 and expiring on 18 February 2142.

**IN WITNESS** whereof this Legal Charge has been executed but remains undelivered until the day and year first before written

The common seal of  
**THE COUNCIL OF THE CITY AND  
COUNTY OF SWANSEA**  
was hereunto affixed  
in the presence of

DW

(PRINT NAME OF SIGNATORY)

~~The Common Seal of~~

Applicant – CYGNUS INVESTMENTS LIMITED

Signed: .....  ..... DAVID WAINWRIGHT

Position (if applicable): ..... DIRECTOR

in the presence of:

Signature:  .....

Name: WILLIAM HOWARD PERRY

Address: 31 WATER ROAD

..... QUINCEA

..... SICKLE