



**Registration of a Charge**

Company Name: **15 GREAT JAMES STREET LIMITED**

Company Number: **09585455**



XCBCY5QJ

Received for filing in Electronic Format on the: **04/09/2023**

**Details of Charge**

Date of creation: **25/08/2023**

Charge code: **0958 5455 0015**

Persons entitled: **MERCHANT MONEY SPV D LTD**

Brief description: **THE FREEHOLD PROPERTY BEING GORDON FISHER HOUSE, 15  
GREAT JAMES STREET, LONDON WC1N 3DP REGISTERED AT HM LAND  
REGISTRY WITH TITLE NUMBER NGL951610**

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **WRIGHT HASSALL LLP**



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

Company number: 9585455

Charge code: 0958 5455 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 25th August 2023 and created by 15 GREAT JAMES STREET LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th September 2023 .

Given at Companies House, Cardiff on 5th September 2023

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**

Date 25 August 2023

**15 GREAT JAMES STREET  
LIMITED**

and

**MERCHANT MONEY SPV D  
LTD**

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**LEGAL MORTGAGE OVER  
PROPERTY**

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**WRIGHT | HASSALL**

## Contents

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Clause	Page
1. Definitions and interpretation	1
2. Covenant to pay	7
3. Grant of security	7
4. Perfection of security	8
5. Liability of the Mortgagor	8
6. Representations and warranties	9
7. General covenants	13
8. Property covenants	16
9. Powers of Merchant Money	21
10. When security becomes enforceable	23
11. Enforcement of security	23
12. Receivers	26
13. Powers of Receiver	27
14. Delegation	30
15. Application of proceeds	30
16. Costs and indemnity	31
17. Further assurance	32
18. Power of attorney	33
19. Release	33
20. Assignment and transfer	34
21. Set-off	34
22. Amendments, waivers and consents	34
23. Partial invalidity	35
24. Counterparts	35
25. Third party rights	36
26. Further provisions	36
27. Notices	37
28. Governing law and jurisdiction	38

Schedule	Page
Schedule 1    Property	40

25 August 2023

**THIS DEED** is dated

## **PARTIES**

- (1) 15 GREAT JAMES STREET LIMITED incorporated and registered in England and Wales with company number 09585455 whose registered office is at 66 St. James's Street, St. James's, London, England, SW1A 1NE (Mortgagor).
- (2) MERCHANT MONEY SPV D LTD incorporated and registered in England and Wales with company number 13452099 whose registered office is at Carlton House, High Street, Higham Ferrers, Northamptonshire, NN10 8BW (Merchant Money).

## **BACKGROUND**

- (A) Under this deed, the Mortgagor provides security to Merchant Money for all its present and future obligations and liabilities to Merchant Money.
- (B) The Mortgagor owns the Property.

## **AGREED TERMS**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

The following definitions apply in this deed:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Certificate of Title:** any report on, or certificate of, title relating to the Property supplied to Merchant Money by the Mortgagor (or on its behalf).

**Charged Assets:** all the assets, property and undertaking of the Mortgagor, which are, or are expressed to be, subject to the Security created by, or pursuant to, this deed (and references to the Charged Assets shall include references to any part of them).

**Default Rate:** Merchant Money's default interest rate from time to time.

**Delegate:** any person appointed by Merchant Money or any Receiver under clause 14 and any person appointed as attorney of Merchant Money, or any Receiver or Delegate.

**Development:** the development of the Property as approved by the Planning Permission.

**Environment:** the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.

**Environmental Law:** all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and

decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.

**Environmental Licence:** any authorisation, permit or licence necessary under Environmental Law in respect of any of the Charged Assets.

**Event of Default:** any of the following events:

- a. the Mortgagor fails to pay any of the Secured Liabilities when due, unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three Business Days of its due date or by a Disruption Event and payment is made within three Business Days of its due date;
- b. the Mortgagor fails (other than a failure to pay referred to in paragraph (a) of this definition) to comply with any provision of this deed or any document under which the Mortgagor owes obligations to Merchant Money and (if Merchant Money considers, acting reasonably, that the failure to comply is capable of remedy) such failure to comply is not remedied within 14 days of the earlier of Merchant Money notifying the Mortgagor of the failure to comply and the remedy required and the Mortgagor becoming aware of the failure to comply;
- c. any representation, warranty or statement made, repeated or deemed made by the Mortgagor to Merchant Money is (or proves to have been) incomplete, untrue, incorrect or misleading in any material respect when made, repeated or deemed made;
- d. the Mortgagor suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business;
- e. any Financial Indebtedness is not paid when due nor within any originally applicable grace period;
- f. any Financial Indebtedness becomes due, or capable of being declared due and payable, before its stated maturity because of an event of default (however described);
- g. any commitment for any financial indebtedness of the Mortgagor is cancelled or suspended by a creditor of the Mortgagor because of an event of default (however described);
- h. any creditor of the Mortgagor becomes entitled to declare any Financial Indebtedness due and payable before its stated maturity because of an event of default (however described);
- i. the Mortgagor stops, or suspends, payment of any of its debts or is unable to, or admits its inability to, pay its debts as they fall due;
- j. the Mortgagor commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors (excluding Merchant Money) with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties);
- k. a moratorium is declared in respect of any indebtedness of the Mortgagor;

- l. any action, proceedings, procedure or step is taken in relation to the suspension of payments, a moratorium in respect of any indebtedness, winding-up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Mortgagor;
- m. any action, proceedings, procedure or step is taken in relation to a composition, compromise, assignment or arrangement with any creditor of the Mortgagor;
- n. any action, proceedings, procedure or step is taken in relation to the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Mortgagor or any of its assets;
- o. the value of the Mortgagor's assets is less than its liabilities (taking into account contingent and prospective liabilities);
- p. any event occurs in relation to the Mortgagor similar to those set out in paragraphs (i) to (o) (inclusive) under the laws of any applicable jurisdiction;
- q. control of the Mortgagor's goods is taken or a distress, attachment, execution, expropriation, sequestration or other analogous legal process in any jurisdiction is levied, enforced or sued out on, or against, the Mortgagor's assets and is not discharged or stayed within 30 days;
- r. any Security (or its equivalent in other currencies) on or over the assets of the Mortgagor becomes enforceable;
- s. all or any part of this deed or any document under which the Mortgagor owes obligations to Merchant Money is or becomes invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect or it becomes unlawful for any party to this deed or any document under which the Mortgagor owes obligations to Merchant Money (other than Merchant Money) to perform any obligation under this deed or that document;
- t. any party to this deed or any document under which the Mortgagor owes obligations to Merchant Money (other than Merchant Money) repudiates or rescinds or shows an intention to repudiate or rescind this deed or that document; or
- u. any event occurs (or circumstances exist) that, in the reasonable opinion of Merchant Money, has or is reasonably likely to materially and adversely affect the Mortgagor's ability to perform all or any of its obligations under, or otherwise comply with the terms of, this deed or any document under which the Mortgagor owes obligations to Merchant Money.

**Financial Collateral:** has the meaning given to that expression in the Financial Collateral Regulations.

**Financial Collateral Regulations:** the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226).

**Insurance Policy:** each contract and policy of insurance effected or maintained by the Mortgagor from time to time in respect of the Property.

**LPA 1925:** the Law of Property Act 1925.

**Perfection Requirements:** the making or procuring of all appropriate registrations, filings, stampings and/or notifications of this deed and/or the Security created by it.

**Permitted Security:** means a charge of the Property by which the Property was charged by the Mortgagor to Ortus Secured Finance I Limited on or around the date of this charge.

**Planning Permission:** the planning permission for the development of the Property granted by the London Borough of Camden Council numbered 2019/4344/L and 2019/3871/P and the subsequent approval held under planning references 2022/3531/L, 2021/4189/L, 2021/3546/P, 2021/3345/P and 2022/38333/L.

**Property:** the freehold or leasehold property (whether registered or unregistered) owned by the Mortgagor described in Schedule 1.

**Receiver:** a receiver or receiver and manager appointed by Merchant Money under clause 12.

**Secured Liabilities:** all present and future obligations and liabilities of the Mortgagor to Merchant Money, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity and whether or not Merchant Money was an original party to the relevant transaction and in whatever name or style, together with all interest (including, without limitation, default interest) accruing in respect of those obligations or liabilities.

**Security:** any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**Security Financial Collateral Arrangement:** has the meaning given to that expression in the Financial Collateral Regulations.

**Security Period:** the period starting on the date of this deed and ending on the date on which Merchant Money is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

**Valuation:** any valuation relating to the Property supplied to Merchant Money by the Mortgagor (or on its behalf).

**VAT:** value added tax or any equivalent tax chargeable in the UK or elsewhere.

## 1.2 Interpretation

In this deed:

- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- 1.2.2 a **person** includes an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or



any association, trust, joint venture or consortium (whether or not having separate legal personality);

- 1.2.3 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- 1.2.4 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- 1.2.5 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.7 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.8 a reference to **writing** or **written** does not includes fax or email unless specified;
- 1.2.9 an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- 1.2.10 a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- 1.2.11 unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- 1.2.12 any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- 1.2.13 a reference to an **amendment** includes a novation, supplement or variation (and **amend** and **amended** shall be construed accordingly);
- 1.2.14 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.15 a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration or resolution;

1.2.16 a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;

1.2.17 a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it; and

1.2.18 a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

### 1.3 **Clawback**

If Merchant Money considers that an amount paid by the Mortgagor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Mortgagor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

### 1.4 **Nature of security over real property**

A reference in this deed to a **charge or mortgage of or over the Property** includes:

1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time;

1.4.2 the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property;

1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Mortgagor in respect of the Property, and any monies paid or payable in respect of those covenants; and

1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of the Property.

### 1.5 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the any loan agreement and of any side letters between any parties in relation to the relevant loan agreement are incorporated into this deed.

### 1.6 **Schedules**

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.

## **2. COVENANT TO PAY**

### **2.1 Covenant to pay**

The Mortgagor shall, on demand, pay to Merchant Money and discharge the Secured Liabilities when they become due.

### **2.2 Interest**

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

## **3. GRANT OF SECURITY**

### **3.1 Legal mortgage and fixed charges**

As a continuing security for the payment and discharge of the Secured Liabilities, the Mortgagor with full title guarantee charges to Merchant Money:

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

3.1.2 by way of a first fixed charge:

- (a) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy to the extent not effectively assigned under clause 3.2;
- (b) the benefit of all other contracts, guarantees, appointments and warranties relating to the Charged Assets and other documents to which the Mortgagor is a party or which are in its favour or of which it has the benefit relating to any letting, development, sale, purchase, use or the operation of the Charged Assets or otherwise relating to the Charged Assets (including, in each case, but without limitation, the right to demand and receive all monies whatever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatever accruing to or for its benefit arising from any of them); and
- (c) all licences, consents and authorisations (statutory or otherwise) held or required in connection with its business carried on at the Property

or the use of any Charged Asset, and all rights in connection with them.

### **3.2 Assignment**

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

3.2.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy provided that nothing in this clause 3.2 shall constitute Merchant Money as mortgagee in possession.

## **4. PERFECTION OF SECURITY**

### **4.1 Registration of legal mortgage at the Land Registry**

The Mortgagor consents to an application being made by Merchant Money to the Land Registrar for the following restriction in Form P to be registered against its title to the Property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of Merchant Money referred to in the charges register or their conveyancer."

### **4.2 Further advances**

Merchant Money covenants with the Mortgagor that it shall perform its obligations to make advances (including any obligation to make available further advances).

### **4.3 Cautions against first registration and notices**

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

## **5. LIABILITY OF THE MORTGAGOR**

### **5.1 Liability not discharged**

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

- 5.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, Merchant Money that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 5.1.2 Merchant Money renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- 5.1.3 any other act or omission that, but for this clause 5.1, might have discharged, or otherwise prejudiced or affected, the liability of the Mortgagor.

## **5.2 Immediate recourse**

The Mortgagor waives any right it may have to require Merchant Money to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Mortgagor.

## **6. REPRESENTATIONS AND WARRANTIES**

### **6.1 Times for making representations and warranties**

The Mortgagor makes the representations and warranties set out in this clause 6 to Merchant Money on the date of this deed and the representations and warranties contained in 6.2 to 6.18 are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

### **6.2 Status**

The Mortgagor:

- 6.2.1 is a duly incorporated limited liability company validly existing under the law of its jurisdiction of incorporation; and
- 6.2.2 has the power to own its assets and carry on its business as it is being conducted.

### **6.3 Power and authority**

- 6.3.1 The Mortgagor has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of this deed and the transactions contemplated by it.
- 6.3.2 No limit on its powers will be exceeded as a result of the grant of Security contemplated by this deed.

#### 6.4 **Non-contravention**

The entry into and performance by the Mortgagor of, and the transactions contemplated by, this deed do not and will not contravene or conflict with:

- 6.4.1 any law or regulation or judicial or official order applicable to it;
- 6.4.2 its constitutional documents; or
- 6.4.3 any agreement or instrument binding on it or its assets or constitute a default or termination event (however described) under any such agreement or instrument.

#### 6.5 **Authorisations**

The Mortgagor has obtained all required or desirable authorisations to enable it to enter into, exercise its rights and comply with its obligations in this deed and to make it admissible in evidence in its jurisdiction of incorporation. Any such authorisations are in full force and effect.

#### 6.6 **Binding obligations**

Subject to the Perfection Requirements:

- 6.6.1 the obligations expressed to be assumed by the Mortgagor in this deed are legal, valid, binding and enforceable obligations; and
- 6.6.2 (without limiting the generality of clause 6.6.1 above) this deed creates the security interests which it purports to create and those security interests are valid and effective.

#### 6.7 **No default**

- 6.7.1 No Event of Default or, on the date of this deed, event or circumstance which would, on the giving of notice, expiry of any grace period, making of any determination under this deed or any document under which the Mortgagor owes obligations to Merchant Money, or satisfaction of any other condition (or any combination thereof) become an Event of Default is continuing.
- 6.7.2 No other event or circumstance is outstanding which constitutes (or, with the giving of notice, the expiry of a grace period, the making of any determination, or satisfaction of any other condition (or any combination thereof), would constitute) a default or a termination event (however described) under any other agreement or instrument that is binding on the Mortgagor or to which any of the Mortgagor's assets is subject which has or is reasonably likely to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed.

#### 6.8 **No litigation**

No litigation, arbitration, administrative proceedings or investigations are taking place, pending or, to the best of the Mortgagor's knowledge and belief, have been threatened against it, any of its directors or any of its assets, which, if adversely determined, might reasonably be expected to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed or any document under which the Mortgagor owes obligations to Merchant Money.

## **6.9 Information**

Except to the extent that it was amended, superseded or updated by more recent information supplied by, or on behalf of, the Mortgagor to Merchant Money, the information, in written or electronic format, supplied by, or on behalf of, the Mortgagor to Merchant Money in connection with this deed was, at the time it was supplied or at the date it was stated to be given (as the case may be):

- 6.9.1 if it was factual information, complete, true and accurate in all material respects;
- 6.9.2 if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was arrived at after careful consideration;
- 6.9.3 if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and
- 6.9.4 not misleading in any material respect nor rendered misleading by a failure to disclose other information.

## **6.10 Ownership of Charged Assets**

The Mortgagor is the sole legal and beneficial owner of the Charged Assets and has good, valid and marketable title to the Property.

## **6.11 No Security**

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

## **6.12 No adverse claims**

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

## **6.13 No adverse covenants**

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

## **6.14 No breach of laws**

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

**6.15 No interference in enjoyment**

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

**6.16 No overriding interests**

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

**6.17 No prohibitions or breaches**

There is no prohibition on the Mortgagor assigning its rights in any of the Charged Assets referred to in clause 3.2 and the entry into of this deed by the Mortgagor does not, and will not, constitute a breach of any Insurance Policy, Assigned Agreement or any other policy, agreement, document, instrument or obligation binding on the Mortgagor or its assets.

**6.18 Environmental compliance**

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

**6.19 Information for Valuations and Certificates of Title**

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

6.19.2 The information referred to in clause 6.19.1 was, at its date or at the date (if any) on which it was stated to be given, complete and the Mortgagor did not omit to supply any information that, if disclosed, would adversely affect the Valuation or Certificate of Title.

6.19.3 In the case of the first Valuation and Certificate of Title only, nothing has occurred since the date the information referred to in clause 6.19.1 was supplied and the date of this deed that would adversely affect such Valuation or Certificate of Title.

**6.20 Avoidance of security**

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



## 6.21 **Enforceable security**

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

## 7. **GENERAL COVENANTS**

### 7.1 **Negative pledge and disposal restrictions**

The Mortgagor shall not at any time, except with Merchant Money's prior written consent:

- 7.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Charged Asset other than any Security created by this deed or any Permitted Security;
- 7.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Charged Assets; or
- 7.1.3 create or grant (or purport to create or grant) any interest in the Charged Assets in favour of a third party.

### 7.2 **Preservation of Charged Assets**

The Mortgagor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by Merchant Money or materially diminish the value of any of the Charged Assets or the effectiveness of the security created by this deed.

### 7.3 **Compliance with laws and regulations**

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

7.3.2 The Mortgagor shall:

- (a) comply with the requirements of any law or regulation relating to or affecting the Charged Assets or the use of them or any part of them;
- (b) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Assets or their use or that are necessary to preserve, maintain or renew any Charged Asset; and
- (c) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Charged Assets.

#### **7.4 Enforcement of rights**

The Mortgagor shall use its best endeavours to:

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

#### **7.5 Notice of misrepresentation and breach**

The Mortgagor shall, promptly on becoming aware of any of the same, notify Merchant Money in writing of:

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

#### **7.6 Title documents**

The Mortgagor shall, on the execution of this deed, deposit with Merchant Money and Merchant Money shall, for the duration of this deed, be entitled to hold:

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

#### **7.7 Notification of default**

- 7.7.1 The Mortgagor shall notify Merchant Money of any Event of Default or any event or circumstance which would, on the giving of notice, expiry of any grace period, making of any determination under this deed or any document under which the Mortgagor owes obligations to Merchant Money or satisfaction of any other condition (or any combination thereof), become an Event of Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence.
- 7.7.2 The Mortgagor shall, promptly on request by Merchant Money, supply a certificate signed by two of its director(s) or senior officers on its behalf certifying that no Event of Default is continuing (or, if an Event of Default is

continuing, specifying the Event of Default and the steps, if any, being taken to remedy it).

#### **7.8 Authorisations**

The Mortgagor shall promptly obtain all consents and authorisations under any law or regulation (and do all that is needed to maintain them in full force and effect) to enable it to perform its obligations under this deed and to ensure the legality, validity, enforceability and admissibility in evidence of this deed in its jurisdiction of incorporation.

#### **7.9 Compliance with law**

The Mortgagor shall comply in all respects with all laws to which it may be subject, if failure to do so would materially impair its ability to perform its obligations under this deed.

#### **7.10 Change of business**

The Mortgagor shall not make any substantial change to the general nature or scope of its business as carried on at the date of this deed.

#### **7.11 Information**

The Mortgagor shall supply to Merchant Money:

7.11.1 all documents dispatched by the Mortgagor to its shareholders (or any class of them), or its creditors generally, at the same time as they are dispatched;

7.11.2 details of any litigation, arbitration or administrative proceedings that are current, threatened or pending against the Mortgagor or any of its directors as soon as it becomes aware of them and which might, if adversely determined, have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed or any document under which the Mortgagor owes obligations to Merchant Money; and

7.11.3 promptly, any further information about the financial condition, assets, business and operations of the Mortgagor as Merchant Money may reasonably request.

#### **7.12 Notices to be given by the Mortgagor**

7.12.1 The Mortgagor shall within five days of the execution of this deed:

- (a) in respect of each Insurance Policy, give notice to the relevant insurer that it has assigned all its rights in that Insurance Policy (including all claims, the proceeds of all claims and all returns of premiums in connection with that Insurance Policy) under clause 3.2.1 and

procure that each addressee of any such notice provides to Merchant Money within five Business Days an acknowledgement of that notice.

7.12.2 The Mortgagor shall obtain Merchant Money's prior approval of the form of any notice or acknowledgement to be used under this clause 7.7.

## **8. PROPERTY COVENANTS**

### **8.1 Repair and maintenance**

8.1.1 Save where the Property is being developed as permitted by clause 8.2, the Mortgagor shall keep all premises, and fixtures and fittings on the Property, in good and substantial repair and condition and shall keep all premises adequately and properly painted and decorated and replace any fixtures and fittings that have become worn out or otherwise unfit for use with others of a like nature and equal value

### **8.2 No alterations**

8.2.1 The Mortgagor shall not, without Merchant Money's prior written consent:

- (a) pull down or remove the whole or any part of any building forming part of the Property nor permit the same to occur; or
- (b) make or permit to be made any material alterations to the Property or sever or remove, or permit to be severed or removed, any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 8.1).

8.2.2 The Mortgagor shall promptly give notice to Merchant Money if the premises or fixtures or fittings forming part of the Property are destroyed or damaged.

### **8.3 Development restrictions**

The Mortgagor shall not, without Merchant Money's prior written consent:

- 8.3.1 make or, in so far as it is able, permit others to make any application for planning permission or development consent in respect of the Property; or
- 8.3.2 carry out, or permit or suffer to be carried out, on the Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit, or suffer to be changed, the use of the Property

provided that nothing in this clause shall prohibit the Mortgagor carrying out the Development under the Planning Permission.

### **8.4 Insurance**

8.4.1 The Mortgagor shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Charged Assets against:

- (a) loss or damage by fire or terrorist acts, including any third-party liability arising from such acts;
- (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Mortgagor; and
- (c) any other risk, perils and contingencies as Merchant Money may reasonably require.

8.4.2 Any such insurance must:

- (a) be with an insurance company or underwriters on such terms, as are reasonably acceptable to Merchant Money;
- (b) include property owners' public liability and third-party liability insurance; and
- (c) be for not less than the replacement value of the relevant Charged Asset (meaning, in the case of any premises on the Property, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for shoring or propping up, demolition, site clearance and reinstatement with adequate allowance for inflation) and loss of rents payable by the tenants or other occupiers of the Property for a period of at least three years, including provision for increases in rent during the period of insurance.

8.4.3 The Mortgagor shall, if requested by Merchant Money, produce to Merchant Money each policy, certificate or cover note relating to any insurance required by clause 8.4.1 (or where, in the case of any leasehold property, that insurance is effected by the landlord, such evidence of insurance as the Mortgagor is entitled to obtain from the landlord under the terms of the relevant lease).

8.4.4 The Mortgagor shall, if requested by Merchant Money, procure that Merchant Money is named as composite insured in respect of its own separate insurable interest under each Insurance Policy (other than public liability and third-party liability insurances) effected or maintained by it or any person on its behalf in accordance with clause 8.4.1 but without Merchant Money having any liability for any premium in relation to those

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

8.4.5 The Mortgagor shall ensure that each Insurance Policy effected or maintained by it or any person on its behalf in accordance with clause 8.4.1 contains:

- (a) a loss payee clause under which Merchant Money is named as first loss payee (other than in respect of any claim under any public liability and third-party liability insurances);
- (b) terms ensuring that it cannot be avoided or vitiated as against Merchant Money by reason of the act or default of any other insured party or any misrepresentation, non-disclosure or failure to make a fair presentation of risk by any other insured party;
- (c) a waiver of each insurer's rights of subrogation against the Mortgagor, Merchant Money and the tenants of the Property other than any such rights arising in connection with any fraud or criminal offence committed by any of those persons in respect of the Property or any Insurance Policy; and
- (d) terms ensuring that no insurer can repudiate, rescind or cancel it, treat it as avoided in whole or in part nor treat it as expired due to non-payment of premium without giving at least 30 days' prior written notice to Merchant Money.

## 8.5 Insurance premiums

The Mortgagor shall:

- 8.5.1 promptly pay all premiums in respect of each Insurance Policy required by clause 8.4.1 and do all other things necessary to keep that policy in full force and effect; and
- 8.5.2 (if Merchant Money so requires) give to Merchant Money copies of the receipts for all premiums and other payments necessary for effecting and keeping up each Insurance Policy required by clause 8.4.1 (or where, in the case of leasehold property, insurance is effected by the landlord, such evidence of the payment of premiums as the Mortgagor is entitled to obtain from the landlord under the terms of the relevant lease).

## 8.6 No invalidation of insurance

The Mortgagor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any Insurance Policy required by clause 8.4.1.

## **8.7 Proceeds from Insurance Policies**

All monies payable under any Insurance Policy required by clause 8.4.1 shall (whether or not the security constituted by this deed has become enforceable):

- 8.7.1 be paid immediately to Merchant Money;
- 8.7.2 if they are not paid directly to Merchant Money by the insurers be held, pending such payment, by the Mortgagor as trustee of the same for the benefit of Merchant Money; and
- 8.7.3 at the option of Merchant Money, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or in, or towards, discharge or reduction of the Secured Liabilities.

## **8.8 Leases and licences affecting the Property**

The Mortgagor shall not, without Merchant Money's prior written consent (which consent, in the case of clause 8.8.4, is not to be unreasonably withheld or delayed in circumstances in which the Mortgagor may not unreasonably withhold or delay its consent):

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

## **8.9 No restrictive obligations**

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

## **8.10 Proprietary rights**

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

#### **8.11 Compliance with and enforcement of covenants**

The Mortgagor shall:

8.11.1 observe and perform all covenants, stipulations and conditions to which the Property, or the use of it, is or may be subject and (if Merchant Money so requires) produce to Merchant Money evidence sufficient to satisfy Merchant Money that those covenants, stipulations and conditions have been observed and performed; and

8.11.2 diligently enforce all covenants, stipulations and conditions benefiting the Property and shall not (and shall not agree to) waive, release or vary any of the same.

#### **8.12 Notices or claims relating to the Property**

8.12.1 The Mortgagor shall:

(a) give full particulars to Merchant Money of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a Notice) that specifically applies to the Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Notice; and

(b) (if Merchant Money so requires) immediately, and at the cost of the Mortgagor, take all reasonable and necessary steps to comply with any Notice, and make, or join with Merchant Money in making, any objections or representations in respect of that Notice that Merchant Money thinks fit.

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

#### **8.13 Payment of rent and outgoings**

The Mortgagor shall:

8.13.1 where the Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and



- 8.13.2 pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on the Property or on its occupier.

**8.14 Rent reviews**

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

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

**8.15 Environment**

The Mortgagor shall in respect of the Property:

8.15.1 comply in all material respects with all the requirements of Environmental Law; and

8.15.2 obtain and comply in all material respects with all Environmental Licences.

**8.16 Inspection**

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

**8.17 VAT option to tax**

The Mortgagor shall not, without Merchant Money's prior written consent:

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

8.17.2 revoke any VAT option to tax exercised, and disclosed to Merchant Money in writing, before the date of this deed.

**9. POWERS OF MERCHANT MONEY**

**9.1 Power to remedy**

9.1.1 Merchant Money shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Mortgagor of any of its obligations contained in this deed.

9.1.2 The Mortgagor irrevocably authorises Merchant Money and its agents to do all things that are necessary or desirable for that purpose.

9.1.3 The Mortgagor shall reimburse Merchant Money, on a full indemnity basis, for any monies Merchant Money expends in remedying a breach by the Mortgagor of its obligations contained in this deed and such monies shall carry interest in accordance with clause 16.1.

9.1.4 In remedying any breach in accordance with this clause 9.1, Merchant Money, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as Merchant Money may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development.

## 9.2 **Exercise of rights**

9.2.1 The rights of Merchant Money under clause 9.1 are without prejudice to any other rights of Merchant Money under this deed.

9.2.2 The exercise of any rights of Merchant Money under this deed shall not make Merchant Money liable to account as a mortgagee in possession.

## 9.3 **Merchant Money has Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by Merchant Money in relation to any of the Charged Assets whether or not it has taken possession of any Charged Asset and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

## 9.4 **Conversion of currency**

9.4.1 For the purpose of, or pending, the discharge of any of the Secured Liabilities, Merchant Money may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 9.4) from their existing currencies of denomination into any other currencies of denomination that Merchant Money may think fit.

9.4.2 Any such conversion shall be effected at Barclays' then prevailing spot selling rate of exchange for such other currency against the existing currency.

9.4.3 Each reference in this clause 9.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

## 9.5 **New accounts**

9.5.1 If Merchant Money receives, or is deemed to have received, notice of any subsequent Security or other interest, affecting all or part of the Charged Assets, Merchant Money may open a new account for the Mortgagor in Merchant Money's books. Without prejudice to Merchant Money's right to combine accounts, no money paid to the credit of the Mortgagor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

9.5.2 If Merchant Money does not open a new account immediately on receipt of the notice, or deemed notice, referred to in clause 9.5.1, then, unless Merchant Money gives express written notice to the contrary to the Mortgagor, all payments made by the Mortgagor to Merchant Money shall be treated as having been credited to a new account of the Mortgagor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by Merchant Money.

## **9.6 Indulgence**

Merchant Money may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any such person is jointly liable with the Mortgagor) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this deed or to the liability of the Mortgagor for the Secured Liabilities.

## **10. WHEN SECURITY BECOMES ENFORCEABLE**

### **10.1 Security becomes enforceable on Event of Default**

The security constituted by this deed shall become immediately enforceable if an Event of Default occurs.

### **10.2 Discretion**

After the security constituted by this deed has become enforceable, Merchant Money may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Charged Assets.

## **11. ENFORCEMENT OF SECURITY**

### **11.1 Enforcement powers**

11.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.

11.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable

at any time after the security constituted by this deed has become enforceable under clause 10.1.

11.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

## **11.2 Extension of statutory powers of leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise Merchant Money and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Mortgagor, to:

11.2.1 grant a lease or agreement for lease;

11.2.2 accept surrenders of leases; or

11.2.3 grant any option in respect of the whole or any part of the Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Mortgagor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender), as Merchant Money or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

## **11.3 Redemption of prior Security**

11.3.1 At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, Merchant Money may:

(a) redeem any prior Security over any Charged Asset;

(b) procure the transfer of that Security to itself; and

(c) settle and pass the accounts of the holder of any prior Security (and any accounts so settled and passed shall, in the absence of any manifest error, be conclusive and binding on the Mortgagor).

11.3.2 The Mortgagor shall pay to Merchant Money immediately on demand all principal, interest, costs, charges and expenses of, and incidental to, any such redemption or transfer, and such amounts shall be secured by this deed as part of the Secured Liabilities.

## **11.4 Protection of third parties**

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

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

#### **11.5 Privileges**

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

#### **11.6 Exclusion of liability**

Neither Merchant Money, nor any Receiver or Delegate, shall be liable to the Mortgagor or any other person:

- 11.6.1 (by reason of entering into possession of a Charged Asset, or for any other reason) to account as mortgagee in possession in respect of all or any of the Charged Assets;
- 11.6.2 for any loss on realisation, or for any act, default or omission for which a mortgagee in possession might be liable; or
- 11.6.3 for any expense, loss or liability:
  - (a) relating to the enforcement of, or any failure to enforce or delay in enforcing, any security constituted by or pursuant to this deed;
  - (b) relating to an exercise of rights, or by any failure to exercise or delay in exercising, rights under this deed; or
  - (c) arising in any other way in connection with this deed,

except that this does not exempt Merchant Money or any Receiver or Delegate from liability for losses caused by the gross negligence, fraud or wilful misconduct of Merchant Money or the relevant Receiver or Delegate.

#### **11.7 Relinquishing possession**

If Merchant Money, any Receiver or Delegate enters into or takes possession of a Charged Asset, it or they may at any time relinquish possession.

#### **11.8 Conclusive discharge to purchasers**

The receipt of Merchant Money, or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Assets or in making any acquisition in the exercise of their respective powers, Merchant Money, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or they think fit.

## **11.9 Right of appropriation**

11.9.1 To the extent that:

- (a) the Charged Assets constitute Financial Collateral; and
- (b) this deed and the obligations of the Mortgagor under it constitute a Security Financial Collateral Arrangement,

Merchant Money shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Charged Assets in or towards the payment or discharge of the Secured Liabilities in any order that Merchant Money may, in its absolute discretion, determine.

11.9.2 The value of any Charged Assets appropriated in accordance with this clause shall be, in the case of cash, the amount standing to the credit of the Rent Account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised.

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

## **12. RECEIVERS**

### **12.1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of the Mortgagor, Merchant Money may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Charged Assets.

### **12.2 Removal**

Merchant Money may, without further notice, from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **12.3 Remuneration**

Merchant Money may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925 and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

#### **12.4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of Merchant Money under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

#### **12.5 Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by Merchant Money despite any prior appointment in respect of all or any part of the Charged Assets.

#### **12.6 Agent of the Mortgagor**

Any Receiver appointed by Merchant Money under this deed shall be the agent of the Mortgagor and the Mortgagor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Mortgagor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of Merchant Money.

### **13. POWERS OF RECEIVER**

#### **13.1 Powers additional to statutory powers**

13.1.1 Any Receiver appointed by Merchant Money under this deed shall, in addition to the rights, powers and discretions conferred on them by statute, have the rights, powers and discretions set out in clause 13.2 to clause 13.20.

13.1.2 A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether they are an administrative receiver or not.

13.1.3 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing them states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.

13.1.4 Any exercise by a Receiver of any of the powers given by clause 13 may be on behalf of the Mortgagor, the directors of the Mortgagor or themselves.

#### **13.2 Repair and develop the Property**

A Receiver may undertake or complete any works of repair, alteration, building or development on the Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

### **13.3 Grant or accept surrenders of leases**

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting the Property on any terms, and subject to any conditions, that they think fit.

### **13.4 Employ personnel and advisers**

13.4.1 A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that they think fit.

13.4.2 A Receiver may discharge any such person or any such person appointed by the Mortgagor.

### **13.5 Make and revoke VAT options to tax**

A Receiver may make, exercise or revoke any VAT option to tax as they think fit.

### **13.6 Charge for remuneration**

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by them) that Merchant Money may prescribe or agree with them.

### **13.7 Take possession**

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

### **13.8 Manage or reconstruct the Mortgagor's business**

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Mortgagor carried out at the Property.

### **13.9 Dispose of Charged Assets**

A Receiver may grant options and licences over all or any part of the Charged Assets, grant any other interest or right over, sell, exchange, assign or lease (or concur in granting options and licences over all or any part of the Charged Assets, granting any other interest or right over, selling, exchanging, assigning or leasing) all or any of the Charged Assets in respect of which they are appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as they think fit. A Receiver may promote,



or concur in promoting, a company to purchase the Charged Assets to be disposed of by them.

**13.10 Sever fixtures and fittings**

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

**13.11 Give valid receipts**

A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Assets.

**13.12 Make settlements**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Mortgagor or relating in any way to any Charged Asset.

**13.13 Bring legal action**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Assets as they think fit.

**13.14 Insure**

A Receiver may, if they think fit, but without prejudice to the indemnity in clause 16.2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Mortgagor under this deed.

**13.15 Form subsidiaries**

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

**13.16 Borrow**

A Receiver may, for whatever purpose they think fit, raise and borrow money either unsecured or on the security of all or any of the Charged Assets in respect of which they are appointed on any terms that they think fit (including, if Merchant Money consents, terms under which that security ranks in priority to this deed).

**13.17 Redeem prior Security**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Mortgagor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

### **13.18 Delegation**

A Receiver may delegate their powers in accordance with this deed.

### **13.19 Absolute beneficial owner**

A Receiver may, in relation to any of the Charged Assets, exercise all powers, authorisations and rights they would be capable of exercising as, and do all those acts and things, an absolute beneficial owner could exercise or do in the ownership and management of all or any part of the Charged Assets.

### **13.20 Incidental powers**

A Receiver may do any other acts and things that they:

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

13.20.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or

13.20.3 lawfully may or can do as agent for the Mortgagor.

## **14. DELEGATION**

### **14.1 Delegation**

Merchant Money or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it or them by this deed (including the power of attorney granted under clause 18.1).

### **14.2 Terms**

Merchant Money and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it or they think fit.

### **14.3 Liability**

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

## **15. APPLICATION OF PROCEEDS**

### **15.1 Order of application of proceeds**

All monies received or recovered by Merchant Money, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and

by way of variation of the LPA 1925) be applied in the following order of priority (but without prejudice to Merchant Money's right to recover any shortfall from the Mortgagor):

15.1.1 in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of Merchant Money (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed and of all remuneration due to any Receiver under or in connection with this deed;

15.1.2 in or towards payment of the Secured Liabilities in any order and manner that Merchant Money determines; and

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

## 15.2 **Appropriation**

Neither Merchant Money, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

## 15.3 **Suspense account**

All monies received by Merchant Money, a Receiver or a Delegate under this deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities):

15.3.1 may, at the discretion of Merchant Money, Receiver or Delegate, be credited to a suspense account;

15.3.2 shall bear interest, if any, at the rate agreed in writing between Merchant Money and the Mortgagor; and

15.3.3 may be held in that account for so long as Merchant Money, Receiver or Delegate thinks fit.

## 16. **COSTS AND INDEMNITY**

### 16.1 **Costs**

The Mortgagor shall, within five Business Days of demand, pay to, or reimburse, Merchant Money and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by Merchant Money, any Receiver or any Delegate in connection with:

16.1.1 the negotiation, preparation, execution and delivery of this deed;

16.1.2 the Charged Assets;

16.1.3 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of Merchant Money's, a Receiver's or a Delegate's rights under this deed;

16.1.4 any amendment, extension, waiver, consent or suspension of rights (or any proposal for any of these) under or in connection with this deed;

16.1.5 any release of any security constituted by this deed; or

16.1.6 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost, charge, expense, tax or liability arose until full discharge of that cost, charge, expense, tax or liability (whether before or after judgment) at the Default Rate.

## **16.2 Indemnity**

16.2.1 The Mortgagor shall, within three Business Days of demand, indemnify Merchant Money, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Charged Assets;
- (b) taking, holding, protecting, perfecting, preserving, releasing or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by the Mortgagor in performing any of its obligations under this deed.

16.2.2 Any past or present employee or agent may enforce the terms of this clause 16.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **17. FURTHER ASSURANCE**

### **17.1 Further assurance**

The Mortgagor shall promptly, at its own expense, take whatever action Merchant Money or any Receiver may reasonably require for:

- 17.1.1 creating, perfecting or protecting the security created or intended to be created by this deed;
- 17.1.2 facilitating the realisation of any Charged Asset; or
- 17.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by Merchant Money or any Receiver in respect of any Charged Asset,

including, without limitation the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Charged Assets (whether to Merchant Money or to its nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, Merchant Money may consider necessary or desirable.

## **18. POWER OF ATTORNEY**

### **18.1 Appointment of attorneys**

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

- 18.1.1 the Mortgagor is required to execute and do under this deed; or
- 18.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on Merchant Money, any Receiver or any Delegate.

### **18.2 Ratification of acts of attorneys**

The Mortgagor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 18.1.

## **19. RELEASE**

### **19.1 Release**

Subject to clause 26.3, at the end of the Security Period, Merchant Money shall, at the request and cost of the Mortgagor, take whatever action is necessary to:

- 19.1.1 release the Charged Assets from the security constituted by this deed; and

19.1.2 reassign the Charged Assets to the Mortgagor.

## **20. ASSIGNMENT AND TRANSFER**

### **20.1 Assignment by Lender**

20.1.1 At any time, without the consent of the Mortgagor, Merchant Money may assign any of its rights or transfer any of its rights and obligations under this deed.

20.1.2 Merchant Money may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Mortgagor, the Charged Assets and this deed that Merchant Money considers appropriate.

### **20.2 Assignment by Mortgagor**

The Mortgagor may not assign any of its rights, or transfer any of its rights or obligations, under this deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

## **21. SET-OFF**

### **21.1 Lender's right of set-off**

Merchant Money may at any time set off any liability of the Mortgagor to Merchant Money against any liability of Merchant Money to the Mortgagor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, Merchant Money may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Merchant Money of its rights under this clause 21.1 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

### **21.2 No obligation to set off**

Merchant Money is not obliged to exercise its rights under clause 21.1. If it does exercise those rights it must promptly notify the Mortgagor of the set-off that has been made.

### **21.3 Exclusion of Mortgagor's right of set-off**

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

## **22. AMENDMENTS, WAIVERS AND CONSENTS**

### **22.1 Amendments**

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

## **22.2 Waivers and consents**

22.2.1 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any subsequent right or remedy. It only applies to the circumstances in relation to which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.

22.2.2 A failure by Merchant Money to exercise or delay by it in exercising any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by Merchant Money shall be effective unless it is in writing.

## **22.3 Rights and remedies**

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

## **23. PARTIAL INVALIDITY**

If, at any time, any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **24. COUNTERPARTS**

### **24.1 Counterparts**

24.1.1 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

24.1.2 Transmission of an executed counterpart of this deed (but for the avoidance of doubt not just a signature page) by mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this deed. If either method of delivery is adopted, without prejudice to the validity of the deed thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.

24.1.3 No counterpart shall be effective until each party has executed and delivered at least one counterpart.

25. **THIRD PARTY RIGHTS**

25.1 **Third party rights**

25.1.1 Except as expressly provided elsewhere in this deed, a person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed.

25.1.2 Notwithstanding any term of this deed, the consent of any person who is not a party to this deed is not required to rescind or vary this deed at any time.

26. **FURTHER PROVISIONS**

26.1 **Independent security**

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

26.2 **Continuing security**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until Merchant Money discharges this deed in writing.

26.3 **Discharge conditional**

Any release, discharge or settlement between the Mortgagor and Merchant Money shall be conditional on no payment or security received by Merchant Money in respect of the Secured Liabilities being avoided, reduced, set aside or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or for any other reason. Despite any such release, discharge or settlement:

26.3.1 Merchant Money or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Charged Assets, for any period that Merchant Money deems necessary to provide Merchant Money with security against any such avoidance, reduction or order for refund; and



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

#### 26.4 **Certificates**

Any certification or determination by Merchant Money of any rate or amount under this deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

#### 26.5 **Consolidation**

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

### 27. **NOTICES**

#### 27.1 **Delivery**

Any notice or other communication given to a party under or in connection with this deed shall be:

27.1.1 in writing;

27.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by email; and

27.1.3 sent to:

(a) the Mortgagor at:

66 St. James's Street, St. James's, London, England, SW1A 1NE

Attention: Christian St. John Sweeting

Email: christian@lat.is

(b) Merchant Money at:

Carlton House, High Street, Higham Ferrers, Northamptonshire,  
NN10 8BW

Attention: Jonathan Stern

or to any other address or fax number notified in writing by one party to the other from time to time.

#### 27.2 **Receipt by Mortgagor**

Any notice or other communication that Merchant Money gives to the Mortgagor shall be deemed to have been received:

27.2.1 if delivered by hand, at the time it is left at the relevant address;

27.2.2 if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and

27.2.3 if sent by email, when received.

A notice or other communication given as described in clause 27.2.1 or clause 27.2.3 on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

### **27.3 Receipt by Lender**

Any notice or other communication given to Merchant Money shall be deemed to have been received only on actual receipt.

### **27.4 Service of proceedings**

This clause 27 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

### **27.5 No notice by email**

A notice or other communication given to Merchant Money under or in connection with this deed is not valid if sent by email.

## **28. GOVERNING LAW AND JURISDICTION**

### **28.1 Governing law**

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

### **28.2 Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation. Nothing in this clause shall limit the right of Merchant Money to take proceedings against the Mortgagor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

### 28.3 **Other service**

The Mortgagor irrevocably consents to any process in any legal action or proceedings under clause 28.2 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.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1 PROPERTY

The Freehold Property being Gordon Fisher House, 15 Great James Street, London WC1N 3DP registered at HM Land Registry with title number NGL951610

Executed as deed by 15 GREAT JAMES STREET LIMITED acting by CHRISTIAN ST. JOHN SWEETING a director, in the presence of:

Robert Luck

.....

66 St James's  
Street London  
SW1A 1NE

.....

Company  
Director

I confirm that I was physically present when Christian St. John SWEETING signed this deed.

DocuSigned by:  
[Redacted Signature]  
B09M13578A141B6...

Director

.....  
DocuSigned by:  
[Redacted Signature]  
5C9FD32A8B084E2...

Executed as deed by MERCHANT MONEY SPV D LTD acting by JONATHAN STERN a director, in the presence of:

Daniela Cunningham

.....

1-3 Canfield  
Place, NW6 3BT

.....

.....

Head of Financial  
Operations

I confirm that I was physically present when Jonathan Stern signed this deed.

DocuSigned by:  
[Redacted Signature]  
D0937DF8115B46E...

Director

DocuSigned by:  
[Redacted Signature]  
E27687DEC598493...