



Registration of a Charge

Company name: **ESSEX ST (PROPERTIES) LIMITED**

Company number: **11962772**



X96TG9WH

Received for Electronic Filing: **09/06/2020**

Details of Charge

Date of creation: **27/05/2020**

Charge code: **1196 2772 0004**

Persons entitled: **ETON CONSULTANCY LIMITED**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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:

GATELEY PLC



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11962772

Charge code: 1196 2772 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th May 2020 and created by ESSEX ST (PROPERTIES) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th June 2020 .

Given at Companies House, Cardiff on 10th June 2020

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



Companies House



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

DATED

27 May 2020

(1) ST ESSEX STREET (PROPERTIES) LIMITED *GPLC*
AND
(2) ETON CONSULTANCY LIMITED

DEBENTURE

Relating to 6-8 Bristol Street and 31-33 Essex Street

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THIS DEED is dated

27 May 2020

PARTIES

- (1) ST **ESSEX STREET (PROPERTIES) LIMITED** incorporated and registered in England and Wales with company number 11962772 whose registered office is at Forward House, 17 High Street, Henley-In-Arden, Warwickshire, England, B95 5AA (**Borrower**); and
- (2) **ETON CONSULTANCY LIMITED** incorporated and registered in England and Wales with company number 10753432 whose registered office is at 8 Wolverton Road, Snitterfield, Stratford-Upon-Avon, CV37 0HB (**Lender**).

GPLC

BACKGROUND

- (A) The Borrower and the Lender have entered into a Loan Agreement ("the Loan Agreement") on or around the date of this Debenture to document the terms and conditions upon which the Lender has already advanced and may advance in aggregate the sum of up to £300,000 plus Capitalised Interest or such further sum as the parties may agree ("the Loan") to the Borrower.
- (B) In consideration of the Loan and any subsequent advancement of monies that the Lender may make to the Borrower, the Borrower has created this Debenture in favour of the Lender.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Loan Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed:

Administrator

an administrator appointed to manage the affairs, business and property of the Borrower pursuant to clause 8.8;

Acquisition

acquisition of the Essex Street Property by the Borrower;

Book Debts

all present and future book and other debts, and monetary claims due or owing to the Borrower, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Borrower in relation to any of them;

Capitalised interest

the interest payable on the Loan as detailed in clause 6 of the Loan Agreement;

Deed of Priority

the deed of priority dated on or about the date of this debenture between the Borrower, the Lender and EBL;

Delegate

any person appointed by the Lender or any Receiver pursuant to clause 13 and any person appointed as attorney of the Lender, Receiver or Delegate;

EBL

Emeritus Birmingham Limited incorporated and registered in Hong Kong with company number 2869902 whose registered office is at 3001A, 30th Floor, 118 Connaught Road West, Sai Ying, Pun, Hong Kong;

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;

Equipment

all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Borrower, including any part of it and all spare parts, replacements, modifications and additions;

Essex Street Property

the property known as 6-8 Bristol Street and 31-33 Essex Street, Birmingham registered at the Land Registry with title number WM910083;

Event of Default

- (a) any step is taken (including the making of a petition or an application or the giving of any notice) by the Borrower or by any other person to appoint an Administrator;
- (b) any step is taking (including the making of an application or the giving of any notice) by the Borrower or by any other person to wind up or dissolve the Borrower or to appoint a liquidator, trustee, manager or receiver, administrative receiver or similar office of the Borrower or any part of its undertaking or assets;
- (c) the making of a request by the Borrower for the appointment of a Receiver;
- (d) any equivalent procedure or step to those listed in (b) to (d) above is taken under the laws of any Relevant Jurisdiction; or
- (e) the Borrower breaches any of the provisions of any Finance Document or an event of default (however described) occurs under any Finance Document;

Finance Documents

- (a) this deed;
- (b) any document, instrument or agreement (including the Loan Agreement) under which the Lender makes money available to the Borrower or under which the Borrower otherwise owes sums to the Lender;
- (c) any Security Interest granted in favour of the Lender in connection with the Secured Liabilities from time to time;
- (d) any intercreditor, subordination or other priority agreement to which the Lender and the Borrower are party in connection with the Secured Liabilities (or in connection with any Security Interest referred to in paragraph (c) above) from time to time; and
- (e) any other document designated a 'Finance Document' by the Borrower and the Lender;

Financial Collateral

shall have the meaning given to that expression in the Financial Collateral Regulations;

Financial Collateral Regulations

the Financial Collateral Arrangements (No 2) 2003 (SI 2003/3226);

Insurance Policy

each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Properties or the Equipment);

Investments

all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Borrower, including any:

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments; and
- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise;

Loan Agreement

the Loan Agreement dated on or about the date of this debenture between the Borrower and the Lender for the provision of loan facilities;

LPA 1925

Law of Property Act 1925;

Permitted Security

the Permitted Senior Security and the Permitted EBL Security;

Permitted EBL Security

has the meaning given to it in the Loan Agreement;

Permitted Senior Security

has the meaning given to it in the Loan Agreement;

Properties

all freehold and leasehold properties (whether registered or unregistered) and all common hold properties, now or in the future (and from time to time) owned by the Borrower, or in which the Borrower holds an interest (including, but not limited to, the Essex Street Property), and Property means any of them;

Receiver

a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender under clause 11;

Secured Assets

all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed;

Secured Liabilities

- (a) all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity) of the Borrower to the Lender; and
- (b) any amounts which would be included in paragraph (a) above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings;

Security Financial Collateral Arrangement

shall have the meaning given to that expression in the Financial Collateral Regulations;

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; and

Security Period

the period starting on the date of this deed and ending on the date on which the Lender 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.

1.2 INTERPRETATION

The provisions of clause 1 of the Loan Agreement apply to this deed as if they were set out in full in this deed, except that each reference in that clause to the Loan Agreement shall be read as a reference to this deed and in addition include the following:

- 1.2.1 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;
- 1.2.2 a reference to an amendment includes a novation, re-enactment, supplement or variation (and amended shall be construed accordingly);
- 1.2.3 a reference to assets includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.4 a reference to an authorisation includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- 1.2.5 a reference to continuing in relation to an Event of Default means an Event of Default that has not been remedied or waived;
- 1.2.6 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
- 1.2.7 a reference to a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

1.3 Clawback

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

1.4 Nature of security over real property

- 1.4.1 A reference in this deed to a charge or mortgage of or over any Property includes:
 - (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time;
 - (b) the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property;
 - (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of that Property, and any monies paid or payable in respect of those covenants; and
 - (d) all rights under any licence, agreement for sale or agreement for lease in respect of that 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 Finance Documents and of any side letters between any parties in relation to the Finance Documents are incorporated into this deed.

1.6 Perpetuity period

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

1.7 Schedules

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

2. COVENANT TO PAY

The Borrower shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

3. GRANT OF SECURITY

3.1 Fixed charges

Subject to the Deed of Priority, as a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender:

3.1.1 by way of legal mortgage, the Essex Street Property, together with all buildings, fixtures and fittings (including trade fixtures and fittings) at any time on or attached to the Essex Street Property;

3.1.2 by way of first fixed charge:

- (a) all Properties acquired by the Borrower in the future;
- (b) all present and future interests of the Borrower not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;
- (c) all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;
- (d) all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Borrower's business or the use of any Secured Asset, and all rights in connection with them;
- (e) all its present and future goodwill;
- (f) all its uncalled capital;
- (g) all the Equipment;
- (h) all the Book Debts;
- (i) all the Investments;
- (j) all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person; and
- (k) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy.

3.2 Floating charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of floating charge, all the undertaking, property, assets and rights of the Borrower at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1.

3.3 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.2.

3.4 Automatic crystallisation of floating charge

The floating charge created by clause 3.2 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

3.4.1 the Borrower:

- (a) creates, or attempts to create, without the prior written consent of the Lender, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Loan Agreement); or
- (b) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);

3.4.2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or

3.4.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower.

3.5 Assets acquired after any floating charge has crystallised

Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge.

4. LIABILITY OF THE BORROWER

4.1 Liability not discharged

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

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;
- 4.1.2 the Lender renewing, determining, varying or increasing any loan 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
- 4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

4.2 Immediate recourse

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

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and warranties

The Borrower makes the representations and warranties set out in this clause 5 to the Lender.

5.2 Ownership of Secured Assets

The Borrower is the legal and beneficial owner of the Secured Assets.

5.3 No Security

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

5.4 Enforceable security

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

5.5 Times for making representations and warranties

The representations and warranties set out in clause 5.2 to clause 5.4 are made by the Borrower on the date of this deed and 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. GENERAL COVENANTS

6.1 Negative pledge and disposal restrictions

The Borrower shall not at any time, except with the prior written consent of the Lender:

- 6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or any Permitted Security;
- 6.1.2 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 Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge) other than by way of granting any Permitted Security; or
- 6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party, other than by way of granting any Permitted Security.

6.2 Insurance

- 6.2.1 Subject to Clause 6.2.2 below, the Borrower 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 Secured Assets against:
 - (a) loss or damage by fire or terrorist acts; and
 - (b) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower.
- 6.2.2 While any Property is unoccupied, the Borrower shall only be required to insure and keep insured that Property against loss or damage by fire, explosion, aircraft or lightning.

6.3 Notices to be given by the Borrower

The Borrower shall promptly, following a request by the Lender, give notice to any bank, financial institution or other person (excluding the Lender) with whom it has an account that it has charged to the Lender its rights and interests under that account under clause 3.1.2(j) and use reasonable endeavours to procure that each addressee of any such notice promptly provides within ten Business Days to the Lender an acknowledgement of the notice of the Lender's interest provided that the Borrower shall not be required to comply with this Clause 6.3 to the extent that it has already delivered equivalent notices pursuant to terms of any Permitted Security for so long as that Permitted Security remains in force.

The Borrower shall obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause 6.3.

7. PROPERTY COVENANTS

7.1 Maintenance

The Borrower shall keep all buildings and all fixtures on each Property in good and substantial repair and condition.

7.2 Registration restrictions

If the title to any Property is not registered at the Land Registry, the Borrower shall procure that no person (other than itself) shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of all or any part of any Property without the prior written consent of the Lender. The Borrower shall be liable for the costs and expenses of the Lender in lodging cautions against the registration of the title to the whole or any part of any Property from time to time.

7.3 No restrictive obligations

The Borrower shall not, without the prior written consent (such consent not to be unreasonably withheld or delayed) of the Lender, enter into any onerous or restrictive obligations affecting the whole or any part of any Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Property.

7.4 Registration at the Land Registry

The Borrower consents to an application being made by the Lender to the Land Registrar for the following restriction in Form P to be registered against its title to each 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 ETON CONSULTANCY LIMITED referred to in the charges register."

8. POWERS OF THE LENDER

8.1 Power to remedy

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

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

8.2 Exercise of rights

8.2.1 The rights of the Lender under clause 8.1 are without prejudice to any other rights of the Lender under this deed.

8.2.2 The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession.

8.3 Power to dispose of chattels

8.3.1 At any time after the security constituted by this deed has become enforceable, the Lender or any Receiver may, as agent for the Borrower, dispose of any chattels or produce found on any Property.

8.3.2 Without prejudice to any obligation to account for the proceeds of any disposal made under clause 8.3.1, the Borrower shall indemnify the Lender and any Receiver against any liability arising from any disposal made under clause 8.3.1.

8.4 Lender has Receiver's powers

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

8.5 Conversion of currency

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

8.5) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.

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

8.5.3 Each reference in this clause 8.5 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.

8.6 New accounts

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

8.6.2 If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 8.6.1, then, unless the Lender gives express written notice to the contrary to the Borrower, all payments made by the Borrower to the Lender shall be treated as having been credited to a new account of the Borrower and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by the Lender.

8.7 Indulgence

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

8.8 Appointment of an Administrator

8.8.1 The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.

8.8.2 Any appointment under this clause 8.8 shall:

- (a) be in writing signed by a duly authorised signatory of the Lender; and
- (b) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

8.8.3 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 8.8 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

8.9 Further advances

The Lender covenants with the Borrower that it shall perform its obligations to make advances under the Finance Documents (including any obligation to make available further advances).

9. WHEN SECURITY BECOMES ENFORCEABLE

9.1 Security becomes enforceable on Event of Default

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

9.2 Discretion

After the security constituted by this deed has become enforceable, the Lender 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 Secured Assets.

10. ENFORCEMENT OF SECURITY

10.1 Enforcement powers

10.1.1 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this deed, but the Lender shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 9.1.

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

10.2 Extension of statutory powers of leasing

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

10.2.1 grant a lease or agreement to lease;

10.2.2 accept surrenders of leases; or

10.2.3 grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

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

10.3 Access on enforcement

10.3.1 At any time after an Event of Default has occurred and is continuing, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated without incurring any liability to the Borrower for, or by any reason of, that entry.

10.3.2 At all times, the Borrower must use its reasonable endeavours to allow the Lender or its Receiver access to any premises for the purpose of clause 10.3.1 (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

10.4 Prior Security

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

10.4.1 redeem that or any other prior Security;

10.4.2 procure the transfer of that Security to it; and

10.4.3 settle and pass any account of the holder of any prior Security.

Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Borrower. All monies paid by the Lender to an encumbrancer in settlement of any of those accounts shall, as from its payment by the Lender, be due from

the Borrower to the Lender on current account and shall bear interest at the default rate of interest specified in the Loan Agreement and be secured as part of the Secured Liabilities.

10.5 Protection of third parties

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

10.5.1 whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;

10.5.2 whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or

10.5.3 how any money paid to the Lender, any Receiver or any Delegate is to be applied.

10.6 Privileges

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

10.7 No liability as mortgagee in possession

Neither the Lender, any Receiver, any Delegate nor any Administrator shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

10.8 Conclusive discharge to purchasers

The receipt of the Lender, 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 Secured Assets or in making any acquisition in the exercise of their respective powers, the Lender, and every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

10.9 Right of appropriation

10.9.1 To the extent that:

(a) the Secured Assets constitute Financial Collateral; and

(b) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

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

10.9.2 The value of any Secured Assets appropriated in accordance with this clause shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that the Lender may select (including independent valuation).

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

11. RECEIVER

11.1 Appointment

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

11.2 Removal

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), 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.

11.3 Remuneration

The Lender 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.

11.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender 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.

11.5 Power of appointment exercisable despite prior appointments

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

11.6 Agent of the Borrower

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

12. POWERS OF RECEIVER

12.1 General

12.1.1 Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 12.2 to clause 12.23.

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

12.1.3 Any exercise by a Receiver of any of the powers given by clause 12 may be on behalf of the Borrower, the directors of the Borrower (in the case of the power contained in clause 12.16) or himself.

12.2 Repair and develop Properties

A Receiver may undertake or complete any works of repair, building or development on the Properties 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.

12.3 Surrender leases

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that he thinks fit.

12.4 Employ personnel and advisors

A Receiver may provide services and employ or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and

subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Borrower.

12.5 Make VAT elections

A Receiver may make, exercise or revoke any value added tax option to tax as he thinks fit.

12.6 Remuneration

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

12.7 Realise Secured Assets

A Receiver may collect and get in the Secured Assets or any part of them in respect of which he is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

12.8 Manage or reconstruct the Borrower's business

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

12.9 Dispose of Secured Assets

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which he is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as he thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

12.10 Sever fixtures and fittings

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

12.11 Sell Book Debts

A Receiver may sell and assign all or any of the Book Debts in respect of which he is appointed in any manner, and generally on any terms and conditions, that he thinks fit.

12.12 Valid receipts

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

12.13 Make settlements

A Receiver may make any arrangement, settlement or compromise between the Borrower and any other person that he may think expedient.

12.14 Bring proceedings

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

12.15 Improve the Equipment

A Receiver may make substitutions of, or improvements to, the Equipment as he may think expedient.

12.16 Make calls on Borrower members

A Receiver may make calls conditionally or unconditionally on the members of the Borrower in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Borrower on its directors in respect of calls authorised to be made by them.

12.17 Insure

A Receiver may, if he thinks fit, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Borrower under this deed.

12.18 Powers under the LPA 1925

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

12.19 Borrow

A Receiver may, for any of the purposes authorised by this clause 12, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Secured Assets in respect of which he is appointed on any terms that he thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

12.20 Redeem prior Security

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

12.21 Delegation

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

12.22 Absolute beneficial owner

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

12.23 Incidental powers

A Receiver may do any other acts and things:

12.23.1 that he may consider desirable or necessary for realising any of the Secured Assets;

12.23.2 that he 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

12.23.3 that he lawfully may or can do as agent for the Borrower.

13. DELEGATION

13.1 Delegation

The Lender 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 by this deed (including the power of attorney granted under clause 16.1).

13.2 Terms

The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit.

13.3 Liability

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

14. APPLICATION OF PROCEEDS

14.1 Order of application of proceeds

All monies received by the Lender, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, 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:

- 14.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (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;
- 14.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines; and
- 14.1.3 in payment of the surplus (if any) to the Borrower or other person entitled to it.

14.2 Appropriation

Neither the Lender, 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.

14.3 Suspense account

All monies received by the Lender, a Receiver or a Delegate under this deed:

- 14.3.1 may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;
- 14.3.2 shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
- 14.3.3 may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

15. FURTHER ASSURANCE

15.1 Further assurance

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

- 15.1.1 creating, perfecting or protecting the security intended to be created by this deed;
- 15.1.2 facilitating the realisation of any Secured Asset; or
- 15.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any Secured Asset,

including, without limitation (if the Lender or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

16. POWER OF ATTORNEY

16.1 Appointment of attorneys

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

- 16.1.1 the Borrower is required to execute and do under this deed; or
- 16.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or any Delegate.

16.2 Ratification of acts of attorneys

The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 16.1.

17. RELEASE

17.1 Subject to clause 24.3, on the expiry of the Security Period, the Lender shall, at the request and cost of the Borrower, take whatever action is necessary to:

17.1.1 release the Secured Assets from the security constituted by this deed; and

17.1.2 reassign the Secured Assets to the Borrower.

18. ASSIGNMENT AND TRANSFER

18.1 Assignment by Lender

The Lender may not, without the consent of the Borrower (such consent not to be unreasonably withheld or delayed), assign or transfer any or all of its rights and obligations under this deed.

18.2 Assignment by Borrower

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed, without the consent of the Lender (such consent not to be unreasonably withheld or delayed).

19. SET-OFF

19.1 Lender's right of set-off

The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 19 shall not limit or affect any other rights or remedies available to it under this deed or otherwise.

19.2 No obligation to set off

The Lender is not obliged to exercise its rights under clause 19.1. If, however, it does exercise those rights it must promptly notify the Borrower of the set-off that has been made.

20. AMENDMENTS, WAIVERS AND CONSENTS

20.1 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).

20.2 Waivers and consents

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

20.2.2 A failure to exercise, or a delay 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 the Lender shall be effective unless it is in writing.

20.3 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.

21. SEVERANCE

21.1 Severance

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

22. COUNTERPARTS

22.1 Counterparts

22.1.1 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.

23. THIRD PARTY RIGHTS

23.1 Third party rights

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

24. FURTHER PROVISIONS

24.1 Independent security

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

24.2 Continuing security

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

24.3 Discharge conditional

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

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

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

24.4 Certificates

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

24.5 Consolidation

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

25. NOTICES

25.1 Delivery

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

25.1.1 in writing;

25.1.2 delivered by hand, by pre-paid first-class post or other next working day delivery; and

25.1.3 sent to the address set out at the beginning of this deed or to any other address or fax number as is notified in writing by one party to the other from time to time.

25.2 Receipt by Borrower

Any notice or other communication that the Lender gives to the Borrower shall be deemed to have been received:

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

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

A notice or other communication given as described in clause 25.2.1 or clause 25.2.2 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.

25.3 Receipt by Lender

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

25.4 Service of proceedings

This clause 25 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.

25.5 No notice by e-mail

A notice or other communication given under or in connection with this deed is not valid if sent by e-mail.

26. GOVERNING LAW AND JURISDICTION

26.1 Governing law

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

26.2 Other service

The Borrower irrevocably consents to any process in any legal action or proceedings under clause 26.1 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.

IN WITNESS whereof the Borrower and the Lender have executed this Debenture as a Deed.

Executed as a deed by ^{ST M}ESSEX STREET (PROPERTIES) LIMITED
acting by a director

in the presence of:

Witness Signature

Name:

Address:

Occupation:

ABIZA N. BOND

Retired Land Charge Officer

Executed as a deed by ETON CONSULTANCY LIMITED
acting by a director

in the presence of:

Witness Signature

Name:

Address:

Occupation:

ABIZA N. BOND

Retired Land Charge Officer