



Registration of a Charge

Company Name: **ETME WATER STREET DEVELOPMENTS LTD**

Company Number: **14389073**



Received for filing in Electronic Format on the: **07/11/2022**

XBG9CZT6

Details of Charge

Date of creation: **27/10/2022**

Charge code: **1438 9073 0002**

Persons entitled: **FAXTON LIMITED**

Brief description: **1. UNITS 6, 7 AND 8 LANSDOWNE HOUSE, WATER STREET, BIRMINGHAM. 2. CAR PARKING SPACE LYING TO THE NORTH OF 1 LANSDOWNE HOUSE, 43 WATER STREET, BIRMINGHAM. 3. UNIT 1 LANSDOWNE HOUSE, WATER STREET, BIRMINGHAM COMPRISED IN TITLE NUMBER. 4. 43A WATER STREET, BIRMINGHAM. 5. UNIT 1 LANSDOWNE HOUSE, WATER STREET, BIRMINGHAM.**

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:

RICHARD SAUM



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 14389073

Charge code: 1438 9073 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th October 2022 and created by ETME WATER STREET DEVELOPMENTS LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th November 2022 .

Given at Companies House, Cardiff on 9th November 2022

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**

HM Land Registry

Legal charge of a registered estate

CH1

This form should be accompanied by either Form AP1 or Form FR1

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Conveyancer is a term used in this form. It is defined in rule 217A, Land Registration Rules 2003 and includes persons authorised under the Legal Services Act 2007 to provide reserved legal services relating to land registration and includes solicitors and licensed conveyancers.

For information on how HM Land Registry processes your personal information, see our [Personal Information Charter](#).

Leave blank if not yet registered.

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Give full name(s).

Complete as appropriate where the borrower is a company.

Enter the overseas entity ID issued by Companies House for the borrower pursuant to the Economic Crime (Transparency and Enforcement) Act 2022. If the ID is not required, you may instead state 'not required'.

Further details on overseas entities can be found in [practice guide 78: overseas entities](#).

1	Title number(s) of the property: WM456008, WM794864, WM794863, WM575458 and WM741949
2	Property: 1. Units 6, 7 and 8 Lansdowne House, Water Street Birmingham 2. Car parking space lying to the north of 1 Lansdowne House 43 Water Street, Birmingham 3. Unit 1 Lansdowne House, Water Street Birmingham comprised in title number 4. 43a Water Street Birmingham 5. Unit 1 Lansdowne House, Water Street Birmingham
3	Date: 27 th Oct 2022
4	Borrower: ETME WATER STREET DEVELOPMENTS LTD <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 14389073 <u>For overseas entities</u> (a) Territory of incorporation or formation: (b) Overseas entity ID issued by Companies House, including any prefix: (c) Where the entity is a company with a place of business in the United Kingdom, the registered number, if any, issued by Companies House, including any prefix:

Give full name(s).

Complete as appropriate where the lender is a company. Also, for an overseas company, unless an arrangement with HM Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each proprietor may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

Place 'X' in any box that applies.

Add any modifications.

Place 'X' in the appropriate box(es).

You must set out the wording of the restriction in full.

Standard forms of restriction are set out in Schedule 4 to the Land Registration Rules 2003.

Insert details of the sums to be paid (amount and dates) and so on.

5 Lender for entry in the register:

FAXTON LIMITED

For UK incorporated companies/LLPs

Registered number of company or limited liability partnership including any prefix: 05319730

For overseas companies

(a) Territory of incorporation:

(b) Where the entity is a company with a place of business in the United Kingdom, the registered number, if any, issued by Companies House, including any prefix:

6 Lender's intended address(es) for service for entry in the register:

Unit 11 Waterside Industrial Estate, Ettingshall Road,
Wolverhampton, West Midlands, WV2 2RQ

7 The borrower with

- ☒ full title guarantee
☐ limited title guarantee

charges the property by way of legal mortgage as security for the payment of the sums detailed in panel 9

8 ☒ The lender is under an obligation to make further advances and applies for the obligation to be entered in the register

☐ The borrower applies to enter the following standard form of restriction in the proprietorship register of the registered estate:

9 Additional provisions

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply in this agreement.

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

Charged Assets: the Property.

Default Rate: the rate payable pursuant clause 6.3 of the Facility Agreement

Delegate: any person appointed by the Lender or any Receiver under clause 14 and any person appointed as attorney of the Lender, Receiver or Delegate.

Event of Default: any event or circumstance listed in clause 13 of the Facility Agreement.

Facility Agreement: means a loan facility agreement between the Borrower and Lender of even date.

Insurance Policy: any insurance relating to the Property required to be effected or maintained by the Borrower under clause 8.1 of this deed or any insurance required to be effected or maintained by the Borrower pursuant to clause 12.11 of the Facility Agreement.

LPA 1925: the Law of Property Act 1925.

Property: 1.Units 6,7 and 8 Lansdowne House, Water Street Birmingham

2.Car parking space lying to the north of 1 Lansdowne House 43 Water Street, Birmingham

3.Unit 1 Lansdowne House, Water Street Birmingham comprised in title number

4.43a Water Street Birmingham

5.Unit 1 Lansdowne House, Water Street Birmingham registered under title numbers WM456008, WM794864, WM794863, WM575458 and WM741949

Receiver: a receiver or receiver and manager appointed by the Lender under clause 12.

Secured Liabilities: all present and future obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Facility Agreement or this deed (including, without limitation, those arising under clause 26.3(b)), together with all interest (including, without limitation, default interest) accruing in respect of those monies, 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 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.

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

1.2 Interpretation

In this deed:

(a) clause and paragraph headings shall not affect the interpretation of this deed;

(b) 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);

(c) unless the context otherwise requires, words in the singular

shall include the plural and in the plural shall include the singular;
(d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
(e) 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;

(f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;

(g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;

(h) a reference to writing or written includes fax but not email;

(i) an obligation on a party not to do something includes an obligation not to allow that thing to be done;

(j) 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;

(k) 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;

(l) a reference to an amendment includes a novation, supplement or variation (and **amend** and **amended** shall be construed accordingly);

(m) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;

(n) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration or resolution;

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

(p) 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

(q) 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 Nature of security over real property

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

(a) 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;

(b) 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;

(c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Borrower in respect of the 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 the Property.

2. Covenant to pay

The Borrower shall, on demand, pay to the Lender and discharge the Secured Liabilities in accordance with clause 7 of the Facility Agreement.

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 Borrower with full title guarantee charges to the Lender:

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

(b) by way of a first fixed charge:

(i) 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;

3.2 Assignment

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

(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;

provided that nothing in this clause 3.2 shall constitute the Lender as mortgagee in possession.

4. Perfection of security

4.1 Registration of legal mortgage 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 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 2022 in favour of Faxton Limited referred to in the charges register."

5. Liability of the Borrower

5.1 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:

(a) 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;

(b) the Lender 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

(c) any other act or omission that, but for this clause 5.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

6. Representations and warranties

6.1 Times for making representations and warranties

The Borrower makes the representations and warranties set out in this clause 6 to the Lender on the date of this deed.

6.2 Ownership of Charged Assets

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

6.3 No Security

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

6.4 No adverse claims

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

6.5 No adverse covenants

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

6.6 No breach of laws

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

6.7 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.

6.8 No overriding interests

Nothing has arisen, has been created or is subsisting, that would

be an overriding interest in the Property.

6.9 No prohibitions or breaches

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

6.10 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 Borrower or otherwise.

6.11 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 all and every part of the Charged Assets in accordance with its terms.

7. General covenants

7.1 Negative pledge and disposal restrictions

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

- (a) 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;
- (b) 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
- (c) 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 Borrower 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 the Lender 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

- (a) The Borrower shall not, without the Lender's prior written consent, use or permit the Charged Assets to be used in any way contrary to law.
- (b) The Borrower shall:
 - (i) 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;
 - (ii) 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

(iii) 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 Borrower shall use its best endeavours to:

(a) procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Borrower and forming part of the Charged Assets of the covenants and other obligations imposed on such counterparty; and

(b) enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Assets that the Lender may require from time to time.

7.5 Notice of misrepresentation and breach

The Borrower shall, promptly on becoming aware of any of the same, notify the Lender in writing of:

(a) 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

(b) any breach of any covenant set out in this deed.

7.6 Notices to be given by the Borrower

(i) The Borrower shall within five days of the execution of this deed give notice to the relevant insurers of the assignment of the Borrower's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3.2(a) ;

8. Property covenants

8.1 Insurance

(a) The Borrower shall insure and keep insured the Charged Assets against:

(i) loss or damage by fire or terrorist acts, including any third-party liability arising from such acts;

(ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and

(iii) any other risk, perils and contingencies as the Lender may reasonably require.

8.2 Insurance premiums

The Borrower shall promptly pay all premiums in respect of each Insurance Policy required by clause 8.1(a) and do all other things necessary to keep that policy in full force and effect.

8.3 No invalidation of insurance

The Borrower 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 8.1(a).

8.4 Proceeds from Insurance Policies

All monies payable under any Insurance Policy required by clause 8.1(a) shall (whether or not the security constituted by this deed has become enforceable):

- (a) be paid immediately to the Lender;
- (b) if they are not paid directly to the Lender by the insurers, be held, pending such payment, by the Borrower as trustee of the same for the benefit of the Lender; and
- (c) at the option of the Lender, 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.

8.5 No restrictive obligations

The Borrower shall not, without the prior written consent of the Lender, 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.

8.6 Proprietary rights

The Borrower 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 the prior written consent of the Lender.

8.7 Compliance with and enforcement of covenants

The Borrower shall:

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

8.8 Notices or claims relating to the Property

(a) The Borrower shall:

- (i) give full particulars to the Lender 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
- (ii) (if the Lender so requires) immediately, and at the cost of the Borrower, take all reasonable and necessary steps to comply with any Notice, and make, or join with the Lender in making, any objections or representations in respect of that Notice that the Lender thinks fit.

8.9 Payment of outgoings

The Borrower shall:

(a) 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.

8.10 Inspection

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

9. Powers of the Lender

9.1 Power to remedy

(a) 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.

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

(c) Any monies expended by the Lender in remedying a breach by the Borrower of its obligations contained in this deed shall be reimbursed by the Borrower to the Lender on a full indemnity basis and shall carry interest in accordance with clause 17.1.

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

9.2 Exercise of rights

(a) The rights of the Lender under clause 9.1 are without prejudice to any other rights of the Lender under this deed.

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

9.3 Lender 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 the Lender 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

(a) 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 9.4) from their existing currencies of denomination into any other currencies of denomination that the Lender may think fit.

(b) 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.

(c) 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

(a) If the Lender receives, or is deemed to have received, notice of any subsequent Security or other interest, affecting all or part of the Charged 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.

(b) If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, referred to in clause 9.5(a), 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.

9.6 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.

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, 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 Charged Assets.

11. Enforcement of security

11.1 Enforcement powers

(a) 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.

(b) 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.

(c) 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 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:

- (a) grant a lease or agreement for lease;
- (b) accept surrenders of leases; or
- (c) 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 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.

11.3 Redemption of prior Security

(a) 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:

- (i) redeem any prior Security over any Charged Asset;
- (ii) procure the transfer of that Security to itself; and
- (iii) 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 Borrower).

(b) The Borrower shall pay to the Lender 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 the Lender, any Receiver or any Delegate shall be concerned to enquire:

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (b) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or
- (c) how any money paid to the Lender, any Receiver or any Delegate is to be applied.

11.5 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.

11.6 Exclusion of liability

Neither the Lender, nor any Receiver or Delegate, shall be liable to the Borrower or any other person:

(a) (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;

(b) for any loss on realisation, or for any act, default or omission for which a mortgagee in possession might be liable; or

(c) for any expense, loss or liability:

(i) relating to the enforcement of, or any failure to enforce or delay in enforcing, any security constituted by or pursuant to this deed;

(ii) relating to an exercise of rights, or by any failure to exercise or delay in exercising, rights under this deed; or

(iii) arising in any other way in connection with this deed,

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

11.7 Relinquishing possession

If the Lender, any Receiver or Delegate enters into or takes possession of a Charged Asset, it or he/she may at any time relinquish possession.

11.8 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 Charged 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 thinks fit.

12. Receivers

12.1 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 Charged Assets.

12.2 Removal

The Lender 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

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.

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 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.

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 the Lender despite any prior appointment in respect of all or any part of the Charged Assets.

12.6 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.

13. Powers of Receiver

13.1 Powers additional to statutory powers

(a) Any Receiver appointed by the Lender under this deed shall, in addition to the rights, powers and discretions conferred on him/her by statute, have the rights, powers and discretions set out in clause 13.2 to clause 13.20.

(b) 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 he/she is an administrative receiver or not.

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

(d) Any exercise by a Receiver of any of the powers given by clause 13 may be on behalf of the Borrower, the directors of the Borrower or himself/herself.

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 he/she thinks fit.

13.4 Employ personnel and advisers

(a) 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/she thinks fit.

(b) A Receiver may discharge any such person or any such person appointed by the Borrower.

13.5 Make and revoke VAT options to tax

A Receiver may make, exercise or revoke any VAT option to tax as he/she thinks 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 him/her) that the Lender may prescribe or agree with him/her.

13.7 Take possession

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

13.8 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 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 he/she is 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 he/she thinks fit. A Receiver may promote, or concur in promoting, a company to purchase the Charged Assets to be disposed of by him/her.

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 Borrower.

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 Borrower 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 he/she thinks fit.

13.14 Insure

A Receiver may, if he/she thinks fit, but without prejudice to the indemnity in clause 17.2, 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 Borrower under this deed.

13.15 Form subsidiaries

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

13.16 Borrow

A Receiver may, for whatever purpose he/she thinks fit, raise and borrow money either unsecured or on the security of all or any of the Charged Assets in respect of which he/she is appointed on any terms that he/she thinks fit (including, if the Lender 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 Borrower, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

13.18 Delegation

A Receiver may delegate his/her 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 he/she 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 he/she:

(a) may consider desirable or necessary for realising any of the

Charged Assets;

(b) 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

(c) lawfully may or can do as agent for the Borrower.

14. Delegation

14.1 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 or him/her by this deed (including the power of attorney granted under clause 19.1).

14.2 Terms

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

14.3 Liability

Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower 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 the Lender, 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 the Lender's right to recover any shortfall from the Borrower):

(a) in or towards payment of all costs, liabilities, 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;

(b) in or towards payment of the Secured Liabilities in any order and manner that the Lender determines; and

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

15.2 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.

15.3 Suspense account

All monies received by the Lender, 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):

- (a) may, at the discretion of the Lender, Receiver or Delegate, be credited to a suspense account;
- (b) shall bear interest, if any, at the rate agreed in writing between the Lender and the Borrower; and
- (c) may be held in that account for so long as the Lender, Receiver or Delegate thinks fit.

16. Costs and indemnity

16.1 Costs

The Borrower shall, promptly on demand, pay to, or reimburse, the Lender 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 the Lender, any Receiver or any Delegate in connection with:

- (a) the negotiation, preparation, execution and delivery of this deed;
- (b) the Charged Assets;
- (c) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed;
- (d) any amendment, extension, waiver, consent or suspension of rights (or any proposal for any of these) under or in connection with this deed;
- (e) any release of any security constituted by this deed; or
- (f) 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

(a) The Borrower shall, promptly on demand, indemnify the Lender, 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:

- (i) 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;

(ii) taking, holding, protecting, perfecting, preserving, releasing or enforcing (or attempting to do so) the security constituted by this deed; or

(iii) any default or delay by the Borrower in performing any of its obligations under this deed.

(b) Any past or present employee or agent may enforce the terms of this clause 17.2 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 Borrower shall promptly, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

(a) creating, perfecting or protecting the security created or intended to be created by this deed;

(b) facilitating the realisation of any Charged Asset; or

(c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender 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 the Lender 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, the Lender may consider necessary or desirable.

18. Power of attorney

18.1 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:

(a) the Borrower is required to execute and do under this deed; or

(b) 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.

18.2 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 19.1.

19. Release

19.1 Release

Subject to clause 27.3, at the end of the Security Period, the Lender shall, at the request and cost of the Borrower, take

whatever action is necessary to:

- (a) release the Charged Assets from the security constituted by this deed; and
- (b) reassign the Charged Assets to the Borrower.

20. Assignment and transfer

20.1 Assignment by Lender

- (a) At any time, without the consent of the Borrower, the Lender may assign any of its rights or transfer any of its rights and obligations under this deed.
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Borrower, the Charged Assets and this deed that the Lender considers appropriate.

20.2 Assignment by Borrower

The Borrower 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

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 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

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

21.3 Exclusion of Borrower's right of set-off

All payments made by the Borrower to the Lender 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

- (a) 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.

(b) A failure by the Lender 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 the Lender 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

(a) 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.

25. Third party rights

25.1 Third party rights

(a) 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.

(b) 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 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 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 the Lender discharges this deed in writing.

26.3 Discharge conditional

Any release, discharge or settlement between the Borrower and the Lender shall be conditional on no payment or security received by the Lender 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:

(a) the Lender 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 the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and

(b) 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.

26.4 Certificates

Any certification or determination by the Lender 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:

(a) in writing;

(b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax; and

(c) sent to:

(i) the Borrower at:

Fax:

Attention: Lifestyle Homes & Developments Ltd

(ii) the Lender at:

[]

Fax:

Attention: Faxton Limited

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 Borrower

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

- (a) if delivered by hand, at the time it is left at the relevant address;
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and
- (c) if sent by fax, when received in legible form.

A notice or other communication given as described in clause 28.2(a) or clause 28.2(c) 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 the Lender shall be deemed to have been received only on actual receipt.

27.4 Service of proceedings

This clause 28 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 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 the Lender to take proceedings against the Borrower 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 Borrower irrevocably consents to any process in any legal action or proceedings under clause 29.2 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.

The borrower must execute this charge as a deed using the space opposite. If there is more than one borrower, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If a note of an obligation to make further advances has been applied for in panel 8 this document must be signed by the lender or its conveyancer.

Examples of the correct form of execution are set out in practice guide 8: execution of deeds. Execution as a deed usually means that a witness must also sign, and add their name and address.

10 Execution

Execution

Executed as a Deed by ETME WATER STREET DEVELOPMENTS LTD
in the presence of:

Signature: _____

Signature of witness: _____

Name (in BLOCK CAPITALS): STEWART WHEATLEY

Address: 4 GARDENS ROAD
FOUR OAKS
SUTTON COLDFIELD
WEST MIDLANDS B74 2TB

Signed as a Deed by Faxton Limited
Acting by a director
in the presence of:

Signature: _____

Signature of witness: _____

Name (in BLOCK CAPITALS): _____

Address: _____

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

