



Registration of a Charge

Company name: **DIXONS CONTRACTORS LTD**

Company number: **NI050218**



X7L6TAUY

Received for Electronic Filing: **20/12/2018**

Details of Charge

Date of creation: **19/12/2018**

Charge code: **NI05 0218 0003**

Persons entitled: **GHS HOLDINGS LIMITED**

Brief description: **LANDS AT 41-43 PARK AVENUE, BELFAST COMPRISED IN FOLIOS
DN181296L, DN203827L AND DN205316L ALL COUNTY DOWN.**

Contains fixed charge(s).

Contains floating 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:

MILLS SELIG



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI50218

Charge code: NI05 0218 0003

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 19th December 2018 and created by DIXONS CONTRACTORS LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th December 2018 .

Given at Companies House, Belfast on 20th December 2018

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 THE 19 DAY OF December 2018

- (1) DIXON CONTRACTORS LTD (AS CHARGOR)
- (2) GHS HOLDINGS LIMITED (AS CHARGEES)

LEGAL CHARGE



CONTENTS

Clause	Page No.
1. COVENANT TO PAY	3
2. CREATION OF CHARGE	3
3. CONVERSION OF A FLOATING CHARGE INTO A FIXED CHARGE; APPOINTMENT OF A RECEIVER AND WARRANTIES	6
4. RESTRICTIONS ON OTHER SECURITIES AND DISPOSALS.....	6
5. PERFECTION OF THE CHARGEES SECURITY.....	6
6. POWERS OF SALE AND LEASING	7
7. APPOINTMENT OF A RECEIVER	8
8. ATTORNEY.....	12
9. FURTHER COVENANTS BY THE CHARGOR AND CONDUCT OF CRIMINAL DAMAGE CLAIMS	12
10. ENVIRONMENTAL OBLIGATIONS.....	18
11. FURTHER POWERS OF THE CHARGEES.....	20
12. NOTICES	21
13. MERGER AND COLLATERAL SECURITY	21
14. GENERAL	22
15. DISCHARGES AND RELEASES AVOIDED	23
16. INTERPRETATION	23
17. COUNTERPARTS	24
18. GOVERNING LAW.....	24
SCHEDULE 1.....	25
PART 1 UNREGISTERED FREEHOLD PROPERTY	25
PART 2 UNREGISTERED LEASEHOLD PROPERTY.....	25
PART 3 REGISTERED PROPERTY	25

LAND REGISTRY

Folio: DN181296L, DN203827L and DN205316L

County: all County Down

Registered Owner: DIXON CONTRACTORS LTD

THIS INDENTURE (the **Mortgage**) is made the 19 day of December 2018

BETWEEN:

- (1) **DIXON CONTRACTORS LTD** (registered number NI050218) whose registered office is at 143 Tullaghans Road, Ballymena, BT44 9EA (the **Chargor**); and
- (2) **GHS HOLDINGS LIMITED** (registered number NI627519) whose registered office is at 6 Doagh Road, Ballyclare, BT39 9EW (the **Chargee**).

WITNESSETH as follows:

1. Covenant to pay

The Chargor covenants that it will on demand of the Chargee pay and discharge any or all of the Secured Liabilities when due.

2. Creation of Charge

2.1 The Chargor as beneficial owner, as security for the payment and discharge of the Secured Liabilities, hereby:

2.1.1 grants and demises unto the Chargee all that the property more particularly set out in Part 1 of the Schedule hereto to hold the same unto the Chargee for the term of ten thousand years from the date hereof subject to the proviso for redemption hereinafter contained;

2.1.2 grants and demises all that the property more particularly set out in Part 2 of the Schedule hereto to hold the same unto the Chargee for the residue of the terms of years created by the respective leases short particulars of which are also set out in Part II of the Schedule hereto less the last ten days thereof subject to the proviso for redemption hereinafter contained;

2.1.3 charges all that the property comprised in the above mentioned Folios as are more particularly set out in Part 3 of the Schedule hereto with payment to the Chargee of the Secured Liabilities and hereby requests that the charge hereby created be registered as a burden on the said property subject to the proviso for redemption hereinafter contained and applies to the Registrar of Titles for the registration in the above-mentioned Folios of the following restriction:-

"except under an Order of the Registrar no charge or other security interest is to be registered or noted without the consent of the Registered Owner for the time being of Charge No[●]"

together with all buildings, structures, erections, trade and other fixtures, fixed plant and machinery from time to time affixed or attached thereto (together the "**Mortgaged Premises**", which expression shall include all or any part thereof);

- 2.1.4 charges by way of first fixed charge the benefit of all rights and claims of the Chargor under or in respect of all present and future building contracts, development plans, appointments of professionals, warranty agreements in favour of the Chargor and any other agreement or document relating to the acquisition, construction, management, design, servicing, marketing, development, operation or use of the Mortgaged Premises or any part thereof together with the benefit of any agreements, contracts, deeds, undertakings, guarantees, warranties, rent deposits or other documents now or hereafter in existence in relation to the Mortgaged Premises or any part thereof;
- 2.1.5 charges by way of first fixed charge all shares, rights, benefits and advantages at any time arising in any residents' or management company or other company connected with the Mortgaged Premises and in which the Chargor is entitled now or from time to time;
- 2.1.6 charges by way of first fixed charge the right to receive the full benefit of all monies owing to the Chargor by way of rent or licence fee by any tenant or licensee (in each case whether present or future) of the Mortgaged Premises;
- 2.1.7 (in the event only of the Chargor being a body corporate) charges by way of first floating charge all plant, machinery and other equipment (excluding however all fixed plant and machinery or trade and other fixtures from time to time being effectively charged by way of first fixed charge under sub-clause 2.1.3 above) and all tools, furniture, vehicles and goods which in any such case now or shall from time to time be placed on or used in or about the Mortgaged Premises;
- 2.1.8 (to the extent not charged above) assigns the benefit of all rights and claims to which the Chargor is now or hereafter may become entitled in relation to the Mortgaged Premises to and in any existing leases or underleases together with any other leases or underleases from time to time of the Mortgaged Premises, together with the benefit of any guarantees, suretyships, indemnities or other security (whether proprietary or by way of personal covenant and whether from a tenant or any third party) from time to time of or in respect of any such lease or underlease, subject to redemption upon payment in full of all the Secured Liabilities;
- 2.1.9 assigns to the Chargee the goodwill of the business (if any) now or at any time hereafter carried on by the Chargor at the Mortgaged Premises and the full benefit of all present and future licences (excluding Environmental Licences as defined in clause 10 below) held in connection with the said business carried on at the Mortgaged Premises and also full right to recover and receive all compensation which may at any time become payable to the Chargor from whatever source in relation to or arising out of the Mortgaged Premises to hold the same unto the Chargee absolutely subject to redemption upon payment in full of all the Secured Obligation; and
- 2.2 In this Mortgage the expression "Charged Property" means the undertaking, assets, rights, benefits and revenues described in sub clauses 2.1.1 to 2.1.9 hereof and references to Charged Property include references to any part of it.

- 2.3 This security shall be a continuing security to the Chargee for the monies or the balance of the monies intended to be hereby secured and for the time being remaining unpaid including interest as hereinbefore provided and shall not be affected by any intermediate payment or settlement of account or any other matter or thing whatsoever and shall extend to all sums debited to any account hereby secured until the complete and final discharge and release of this Mortgage.
- 2.4 The security hereby created is in addition to any other security or securities which the Chargee may now or from time to time hold or take from the Chargor.
- 2.5 If the Chargor shall duly repay to the Chargee and discharge the Secured Liabilities and comply with all obligations hereunder the Chargee will at the request and cost of the Chargor discharge the security hereby created.
- 2.6 The Chargor hereby attorns tenant to the Chargee of any part of the Mortgaged Premises at the yearly rent of five pence (if demanded) provided always that the Chargee may at any time without notice to the Chargor determine the tenancy hereby created and enter upon such Mortgaged Premises but so that neither the receipt of the said rent nor the said tenancy shall render the Chargee liable to account to any person as mortgagee in possession.
- 2.7 It is hereby agreed and declared that the Chargor shall stand possessed of the reversion immediately expectant upon the term of years hereby granted in any part of the Mortgaged Premises in trust for the Chargee and to assign, convey or dispose of the same as the Chargee may direct (subject to the proviso for redemption hereinbefore contained) and the Chargee may at any time during the continuance of the security hereby created remove the Chargor or any other person, persons or body corporate from being a trustee of the trust declared by this clause and on the death or removal of the Chargor or such other person, persons or body corporate appoint a new trustee or trustees in his, their or its place.
- 2.8 This Mortgage secures further advances made by the Original Lenders to the Chargor.
- 2.9 From the date on which the Chargee demands the payment or discharge of all or any part of the Secured Liabilities or after the occurrence of an Event of Default or, if earlier, the date on which a petition for an administration order is presented in relation to the Chargor, the Chargee and Original Lenders shall cease to be under any further commitment to the Chargor. The Secured Liabilities (other than contingent liabilities) not otherwise so payable shall immediately become payable on demand and the Chargor shall provide cash cover on demand for the maximum amount of its contingent liabilities to the Chargee.
- 2.10 assigns to the Chargee the gross rents, licence fees and other moneys receivable now or hereafter at any time by the Chargor in respect of or arising out of the Occupational Leases (as defined in clause 16.8 below) of the Mortgaged Premises or any agreement for lease or otherwise without limitation derived by the Chargor from the Mortgaged Premises or otherwise paid to or received by the Chargor in respect of the Mortgaged Premises (including without limitation all mesne profits) but save for insurance rents or service charges or the like and the benefit to the Chargor of all other rights and claims to which the Chargor is or may now in the future become entitled in relation to the Mortgaged Premises including but not limited to all rights and claims of the Chargor against all persons who are or have been or may become lessees, sub-lessees, licensees or occupiers of the Mortgaged Premises and all guarantors and sureties for the obligation of such persons.

3. Conversion of a floating charge into a fixed charge; appointment of a receiver and warranties

3.1 The Chargee may at any time by notice in writing to the Chargor convert the floating charge created by sub-clause 2.1.7 above hereby into a fixed charge with reference to any assets specified in such notice and by way of further assurance of such specific charge the Chargor will promptly on receipt of such notice execute over such assets a fixed charge in favour of the Chargee in such form as the Chargee shall require and notwithstanding anything herein contained if the Chargor charges, pledges or otherwise encumbers (whether by way of fixed or floating security) any of the Charged Property referred to at sub-clause 2.1.7 or attempts to do so without the prior written consent of the Chargee or if any person levies or attempts to levy any distress execution sequestration or other process against any of the Charged Property referred to at sub-clause 2.1.7 above the charge hereby created over the subject thereof shall automatically without notice operate as a fixed charge instantly such event occurs.

3.2 If at any time it appears to the Chargee that the Charged Property is in danger of seizure, distress, diligence or other legal process or that the security hereunder is for any other reason in jeopardy, the Chargee shall be entitled without notice to the Chargor to take possession of and hold the same or appoint a receiver of the same. The provisions of clause 7 shall govern the appointment, removal and powers of such receiver as if he were appointed under that clause.

3.3 The Chargor hereby represents and warrants to the Chargee that this Mortgage does not contravene any of the provisions of its Memorandum or Articles of Association or other constitutional documents and that it has the power and has obtained all necessary corporate authorisations to execute this Mortgage and perform its obligations hereunder.

4. Restrictions on other securities and disposals

The Chargor hereby covenants that it shall not without the prior consent in writing of the Chargee:

4.1 create or allow to subsist any specific or other mortgage, debenture, charge, lien (other than a lien arising by operation of law), pledge, hypothecation or other security interest of any kind upon the Charged Property or any part thereof; and

4.2 transfer, sell, lease, loan or otherwise dispose of the whole or any part of the Charged Property.

5. Perfection of the Chargee's security

5.1 The Chargor shall immediately upon the execution of this Mortgage (or upon becoming possessed thereof at any time thereafter) deposit with the Chargee and the Chargee during the continuance of this security shall be entitled to hold all deeds, certificates and other documents constituting or evidencing title to the Charged Property (including all insurance policies relating thereto) and to any subordinate interest in any of them including without limitation all Occupational Leases unless the same shall be held by or be required to be delivered to any holder of a security ranking in priority to that of the Chargee.

5.2 The Chargor shall at any time if and when demand in writing is made upon it by the Chargee execute in favour of the Chargee or as the Chargee shall direct such further legal or other mortgages, charges, assignments, transfers, agreements or other

documentation over or in respect of the Chargor's estate or any part thereof or any interest in the Charged Property as the Chargee may in its discretion think requisite for the purpose of more effectively securing the payment or discharge to the Chargee of the Secured Liabilities, such mortgages, charges, assignments transfers, agreements or other legal documentation to be prepared by or on behalf of the Chargee at the cost of the Chargor and to contain all such provisions for the benefit of the Chargee as the Chargee may require.

6. Powers of sale and leasing

6.1 The monies hereby secured shall be deemed to have become due within the meaning of section 19 of the Conveyancing and Law of Property Act 1881 and payable upon demand for payment being made on the Chargor by the Chargee and, in addition to all other protection afforded by statute, every purchaser or other party dealing with the Chargee shall be entitled and bound to assume without enquiry that some money is owing under this Mortgage and that a demand therefor has been duly made hereunder and the said monies hereby secured have accordingly become due.

6.2 The Chargor hereby undertakes with the Chargee that at no time during the subsistence of the security hereby constituted will the Chargor, except as permitted by the Facilities Agreement or with the prior written consent of the Chargee and in accordance with any conditions to which such consent may be subject:

6.2.1 execute or agree to execute any conveyance or assignment of the Mortgaged Premises;

6.2.2 exercise any of the statutory powers of leasing, letting, entering into agreements for leases or lettings reserved to a mortgagor in relation to the Mortgaged Premises and in the event the Chargee consents to the grant of a lease of the Mortgaged Premises or any part thereof in accordance with the terms of this Mortgage, deliver to the Chargee for retention by the Chargee during the existence of this Mortgage, a duly completed and stamped counterpart of that lease;

6.2.3 vary any lease permitted or existing at the date of this Mortgage or enter into, permit, suffer or allow any person any licence or other right to occupy or share possession of the Mortgaged Premises or part with possession of the same or any part thereof;

6.2.4 give any consent, licence or agreement whether expressly or by conduct, to any assignment of any lease or tenancy of the Mortgaged Premises or any sub-letting under any such lease or tenancy or to the assignment of any sub-lease or sub-tenancy of the Mortgaged Premises;

6.2.5 accept or agree to accept a surrender of any lease or underlease permitted hereunder or tenancy thereof waive the performance of any obligation of the tenant under any such lease or underlease or agree to any renewal or extension of the term of any such lease or underlease or any amendment or variation of its terms or of any guarantee, suretyship, indemnity or other security (whether proprietary or by way of personal covenant only and whether from the tenant or any third party) in respect thereof; or

6.2.6 allow any person to become entitled to assert any property, interest or right over the Mortgaged Premises;

- 6.2.7 provided that none of the foregoing prohibitions shall be construed as limiting any powers exercisable by any Receiver appointed by the Chargee hereunder and being an agent of the Chargor.
- 6.3 The powers of enforcement and the remedies of this security conferred on mortgagees by the Conveyancing and Law of Property Act 1881 (as amended) shall apply on the part of the Chargee without the restrictions imposed by Section 20 of the Conveyancing and Law of Property Act 1881 and Section 17 of the Conveyancing and Law of Property Act 1881 shall not apply to this security or to any security given to the Chargee pursuant hereto.
- 6.4 The statutory powers of leasing conferred on the Chargee shall be extended so as to authorise the Chargee to lease and make agreements for leases at a premium or otherwise and accept surrenders of leases and grant options as the Chargee shall consider expedient and without the need to observe any of the provisions of Section 18 of the Conveyancing and Law of Property Act 1881 and Section 3 of the Conveyancing and Law of Property Act 1911.
- 6.5 No purchaser or other person dealing with the Chargee or its delegate or any Receiver appointed hereunder shall be bound to see or enquire whether the right of the Chargee or such Receiver to exercise any of its or his powers has arisen or become exercisable or be concerned with any notice to the contrary or be concerned to see whether any delegation by the Chargee shall have lapsed for any reason or been revoked.
- 7. Appointment of a receiver**
- 7.1 At any time after the Chargee shall have demanded payment from the Chargor of the Secured Liabilities or at any time after the Chargor shall have requested it so to do or at any time after a petition for an administration order relating to the Chargor or after any breach by the Chargor of any of the provisions hereof or of any contract or agreement giving rise to any of the Secured Liabilities shall have been presented the Chargee may by writing appoint any person or persons to be a receiver and manager or receivers and managers of the whole or any part of the Charged Property (hereinafter called "Receiver" which expression shall where the context so admits includes the plural and any substituted receiver and manager or receivers and managers) to act, in the case of two or more Receivers severally (unless the contrary shall be stated in the deed(s) or instrument(s) appointing them), and to the extent permitted by law, the Chargee may by writing similarly remove any Receiver so appointed and appoint another or others in his or their place.
- 7.2 Any Receiver so appointed shall have the power in the name of or on behalf and at the cost of the Chargor or at his or their option in his or their own name(s) (and in any case notwithstanding any liquidation of the Chargor) to do or omit to do anything which the Chargor could do or omit to do in relation to the Charged Property and shall be entitled to exercise all the powers conferred by the Conveyancing and Law of Property Acts 1881 - 1911 and the Insolvency (Northern Ireland) Order 1989 in the same way as if the Receiver had been appointed thereunder and in the case of powers conferred by the Conveyancing and Law of Property Acts 1881 to 1911 without the restrictions contained in Section 20 of the Conveyancing and Law of Property Act 1881 any such Receiver may (without limitation):
- 7.2.1 take possession of, collect and get in all or any of the Charged Property and for that purpose may take any proceedings in its name or otherwise as he shall think fit;

- 7.2.2 cultivate and manage the Mortgaged Premises and carry on, manage or concur in carrying on, managing, extending and diversifying the business of the Chargor at any time carried on by the Chargor at the Mortgaged Premises or any part thereof and for any of those purposes may raise or borrow any money (including money for the completion with or without modification of any building in the course of construction and any development or project in which the Chargor was engaged) from or incur any other liability to the Chargee or any other person and on such terms as to interest or otherwise and with or without security, as the Receiver may think expedient and so that any such security may be or include a charge on the Charged Property;
- 7.2.3 without the restrictions imposed by Section 20 of the Conveyancing and Law of Property Act 1881 or the need to observe any of the provisions of Section 18 of such Act or Section 3 of the Conveyancing and Law of Property Act 1911 sell by public auction or private contract, let surrender or accept surrenders grant licences or otherwise dispose of or deal with all or any of the Charged Property or concur in so doing in such manner for such consideration and generally on such terms and conditions as he may think fit with full power to convey let surrender accept surrenders or otherwise transfer or deal with such Charged Property in the name and on behalf of the Chargor or otherwise and so that covenants and contractual obligations may be granted and assumed in the name of and so as to bind the Chargor (or other the estate owner) if he shall consider it necessary or expedient so to do. Any such sale lease or disposition may be for cash debentures or other obligations, shares stocks securities or other valuable consideration and be payable immediately or by instalments spread over such period as he shall think fit and so that any consideration received or receivable shall ipso facto forthwith be and become charged with the payment of the Secured Liabilities. Plant machinery fixtures fittings and equipment may be severed and sold separately from the business containing them and the Receiver may apportion any rent and the performance of any obligations affecting the premises sold without the consent of the Chargor;
- 7.2.4 promote the formation of a subsidiary company or subsidiary companies of the Chargor with a view to such subsidiary company or companies purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Charged Property or for any other purpose or function which may be regarded as necessary or appropriate by the Receiver on such terms and conditions as he may think fit and arrange for such purchase, lease, licence or acquisition of all or any of the Charged Property by any such subsidiary or subsidiaries on the basis whereby the consideration may be for cash, shares, debentures, loan stock, convertible loan stock or other securities, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise howsoever and whether or not secured on the assets of the subsidiary or subsidiaries and whether or not such consideration is payable or receivable in a lump sum or at any one time or a number of times or by instalments spread over such period as the Receiver may think fit;
- 7.2.5 make any arrangement or compromise of claims which the Chargee or the Receiver shall think fit;

- 7.2.6 appoint managers, officers, agents, servants and workmen for any of the aforesaid purposes on such terms as the Receiver shall think fit including (without limitation) power to engage his or their own firms in the conduct of receivership and dismiss the same;
- 7.2.7 alter, improve, develop, complete, construct, modify, repair, renew, refurbish or rebuild any building or land and complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which the Chargor was concerned or interested prior to his appointment being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land;
- 7.2.8 redeem any prior encumbrance and settle and pass the accounts of the encumbrancer. Any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall constitute a receivership expense;
- 7.2.9 without any further consent or notice to the Chargor exercise on behalf of the Chargor all the powers and provisions conferred on a landlord or a tenant by the Business Tenancies (Northern Ireland) Order 1996 or any other legislation from time to time in force relating to rent or agriculture in respect of any part of the property hereby charged but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised;
- 7.2.10 effect and renew insurances in respect of the Charged Property;
- 7.2.11 to negotiate for compensation with any Authority which may intend to acquire or be in the process of acquiring the Mortgaged Premises or any part of it and make objections to any order for the acquisition of the Mortgaged Premises or any part of it and the Receiver may request the Chargor to do so at any enquiry held to consider such objections or which is otherwise relevant to such acquisition;
- 7.2.12 to apply for and negotiate the terms of any renewed tenancy whether pursuant to the Business Tenancies (Northern Ireland) Order 1996 or otherwise;
- 7.2.13 to make allowances and arrangements with any lessee or any tenant in respect of the rents receivable pursuant to an Occupational Lease;
- 7.2.14 to operate and agree any rent review in respect of any lease or underlease of the Mortgaged Premises or any Occupational Leases and the amount of any varied rent payable pursuant to article 11 of the Business Tenancies (Northern Ireland) Order 1996; and
- 7.2.15 do all such other acts and things and sign any document or execute any deed as may be considered by the Receiver to be incidental or conducive to any of the matters or powers aforesaid or otherwise incidental or conducive to the realisation of this security and use the Chargor's name for all of the above purpose.

- 7.3 All monies received by any Receiver appointed under this Mortgage shall (subject to the rights and claims of any person having a security ranking in priority to the security constituted by or pursuant to this Mortgage) be applied in the following order:
- 7.3.1 in or towards satisfaction pro rata of, or the provision pro rata for, all costs, charges and expenses incurred and payments made by the Chargee as Chargee for the Secured Parties and of all costs, charges and expenses properly incurred and payments properly incurred and payments properly made by the Receiver and of the remuneration of the Receiver;
 - 7.3.2 in providing for the matters (other than the remuneration of the Receiver) specified in the first three paragraphs of section 24(8) of the Conveyancing and Law of Property Act 1881;
 - 7.3.3 in or towards payment of any debts or claims which are by statute payable in preference to the monies hereby secured but only to the extent to which such debts or claims have such preference; and
 - 7.3.4 in or towards the satisfaction of the Secured Liabilities; and
 - 7.3.5 any surplus shall be paid to the Chargor or other person entitled thereto.
- 7.4 Any Receiver so appointed shall be deemed at all times and for all purposes to be the agent of the Chargor and the Chargor shall be solely responsible for his acts and defaults and for the payment of his remuneration.
- 7.5 Every Receiver so appointed shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Chargee (or, failing such agreement, to be fixed by the Chargee) appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted in accordance with the Receiver's current practice or the current practice of his firm.
- 7.6 The provisions of sub clauses 7.3 and 7.5 shall take effect as and by way of variation and extension to the provisions of sections 19 and 21 to 24 inclusive of the Conveyancing and Law of Property Act 1881 as amended by the Conveyancing Act 1911 and the provisions of those sections and the powers thereby conferred on a mortgagee or Receiver as so varied and extended shall apply to and be exercisable by any Receiver so far as applicable and section 20 of the Conveyancing and Law of Property Act 1881 shall not apply.
- 7.7 Only money actually paid by the Receiver to the Chargee shall be capable of being applied by the Chargee in or towards satisfaction of the Secured Liabilities.
- 7.8 Every such appointment or removal of a Receiver by the Chargee and every delegation, appointment or removal by the Chargee in the exercise of any right to delegate its powers or to remove delegates herein contained, may be made either by deed or by instrument in writing under the hand of any officer of the Chargee or any person authorised in writing in that behalf by any such officer.
- 7.9 All powers of a Receiver hereunder may be exercised by the Chargee whether as attorney for the Chargee or otherwise.

8. Attorney

8.1 The Chargor hereby irrevocably appoints the Chargee and the persons deriving title under it and its and their substitutes and any Receiver or Receivers appointed under the foregoing provisions hereof jointly and also severally to be its attorney for it and in its name and on its behalf and as its act and deed or otherwise to make any alteration or addition or deletion in or to any documents which the Chargee may require for perfecting its title or for vesting any of the Charged Property in the Chargee or its nominees or any purchaser and to redeliver the same thereafter and otherwise generally to create, issue, sign, seal and deliver and perfect any such legal or other assignment, mortgage, security, charge, agreement or other legal documentation as aforesaid and to give notice thereof or of the charges hereby effected and to perfect the same or (without executing any such assignment, mortgage, security, charge, agreement or other legal documentation) any deed, assurance, document or act which may be required or may be deemed proper by the Receiver (whether in favour of the Chargee or any other person and whether for the purpose of exercising any power conferred by clauses 5, 6 or 7 hereof or otherwise) on or in connection with any sale, realisation, disposal, lease, tenancy or surrender or getting in by the Chargee or by any such Receiver as aforesaid under any power applicable thereto or in connection with any other exercise of any power hereunder or for carrying out any obligation imposed upon the Chargor by or pursuant to this Mortgage.

8.2 Without prejudice to the generality of the foregoing, the Chargor hereby covenants with the Chargee and separately with any such Receiver that if required so to do it will ratify and confirm:

8.2.1 all transactions entered into by the Chargee or any such Receiver or by the Chargor at its or his instance in the exercise or purported exercise of its or his powers; and

8.2.2 all transactions entered into by the Chargee or any such Receiver in signing, sealing, delivering and otherwise perfecting any assignment, mortgage, security, charge, deed, agreement, other legal documentation, assurance or act as aforesaid.

8.3 The Chargor irrevocably acknowledges and agrees that the said power of attorney is given to the Chargee, its delegates and to the Receiver irrevocably and for value as part of the security constituted by this Mortgage to secure proprietary interests of and performance of obligations owed to the respective donees within the meaning of the Powers of Attorney Act (Northern Ireland) 1971.

8.4 The Chargee shall have full power to delegate the power conferred on it by this clause 8 but no such delegation shall preclude the subsequent exercise or subsequent delegation thereof to some other person.

9. Further covenants by the Chargor and conduct of criminal damage claims

9.1 The Chargor covenants that it shall, during the continuance of this security:

9.1.1 keep all buildings and erections and all plant, machinery, fixtures, fittings, vehicles, computers and equipment and effects for the time being comprised in the Charged Property and every part thereof in good and substantial repair and in good working order and condition with a recognisable identification marking and not pull down or remove or sell or otherwise dispose of any of the same without the prior consent in writing

of the Chargee except in the ordinary course of use, repair, maintenance or improvement. If the Chargor is at any time in default in complying with this covenant the Chargee shall be entitled but not bound at the expense of the Chargor to repair and maintain same with power for the Chargee, its agents and their respective employees to enter any of the Chargor's property for that purpose or to inspect the same and any sum so expended by the Chargee shall be repayable by the Chargor to the Chargee on demand;

- 9.1.2 at its own expense insure and keep insured all its property and effects whatsoever of an insurable nature with insurers previously approved by the Chargee in writing against loss or damage (including without limitation, property owner's liability insurance to include without limitation insurance against risks and liabilities to employees and third parties; insurance against loss of any intoxicating liquor licence necessary for the conduct of the business at the Mortgaged Premises; and where the Mortgaged Premises are tenanted for a minimum of three years' loss of rent) by fire, civil commotion, explosion, earthquake, subsidence, landslip, heave, aircraft and articles dropped therefrom, flood, storm, lightning, burst pipes, theft, malicious damage impact, and such other risks and contingencies as the Chargee shall from time to time request (insofar as available in Northern Ireland) to the full replacement value thereof from time to time including where appropriate architects, surveyors, engineers and all other professional fees and demolition charges together with full provision for estimated inflation with the interest of the Chargee noted thereon as the Chargee may require and with the policy containing such provisions for the protection of the Chargee as the Chargee may reasonably require to avoid the interests of the Chargee being prejudiced by any act of the Chargor or of any occupier and maintain such other insurance policies (with the interest of the Chargee noted thereon or jointly with the Chargee as the Chargee may require) containing like provisions for the protection of the Chargee as are normally maintained by prudent companies carrying on similar businesses where the Mortgaged Premises are tenanted, and duly pay within one week of the same becoming due all premiums and other monies necessary for effecting and keeping up such insurances and on demand to deposit with the Chargee such policies as the Chargee requires (unless deposited with a prior mortgagee and for so long as it remains a prior mortgagee) or as the Chargee may require to produce to the Chargee the policy or policies of such insurance and proof of such payments, failing which the Chargee may take out or renew such insurances in any sum which the Chargee may think expedient and all money expended by the Chargee under this provision shall be reimbursed by the Chargor on demand and bear interest from the date of payment by the Chargee. All monies to be received by virtue of any insurance maintained or effected by the Chargor (whether or not in pursuance of the obligations hereunder) are hereby charged to and shall be paid to the Chargee (or if not paid by insurers directly to the Chargee held on trust for the Chargee) and shall at the option of the Chargee be applied in replacing, restoring or reinstating the property or assets destroyed, damaged or lost (any deficiency being made good by the Chargor) or (save in the case of leasehold premises) in reduction of the moneys, obligations and liabilities hereby secured;

- 9.1.3 allow the Chargee of any authorised agent or contractor of the Chargee to inspect the Charged Property and will allow any such persons to

- examine any of the books of the Chargor and to make such extracts therefrom as he may require;
- 9.1.4 provide the Chargee, its employees, professional advisers and agents with all such information respecting the Charged Property as the Chargee may from time to time require;
- 9.1.5 punctually pay or cause to be paid all rents, rates, taxes, duties, assessments and other outgoings payable in respect of the Charged Property;
- 9.1.6 observe and perform all restrictive and other covenants and stipulations for the time being affecting the Charged Property or the use or the enjoyment of the same and (without limitation) observe and perform the covenants reserved by or contained in any lease, agreement for lease or tenancy or other agreement affecting or under which any part of the Mortgaged Premises may be held and neither take any step nor omit to take any step whatsoever if in consequence of the taking or omission to take such step such lease, agreement for lease, tenancy or other agreement may be surrendered or forfeited or the rent thereunder may be increased and not without the prior consent in writing of the Chargee enter into any onerous or restrictive obligations affecting the Mortgaged Premises Chargor's freehold leasehold and other property or make any structural or material alterations thereto or suffer to be done on any such property anything which is "development" as defined in the Planning Acts (which shall bear the same meaning given to by sub-clause 16.5 hereof) nor do or suffer or omit to be done any act or matter or thing whereby any provision of Act of Parliament, Order or Regulation from time to time in force affecting any such property is infringed;
- 9.1.7 indemnify the Chargee (and as a separate covenant any Receiver or Receivers appointed by it) against all existing and future rents, taxes, duties, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever (whether imposed by deed or statute or otherwise and whether in the nature of capital or revenue and even though of a wholly novel character) which now or at any time during the continuance of the security constituted by or pursuant to this Mortgage are payable in respect of the Charged Property or by the owner or occupier thereof. If any such sums shall be paid by the Chargee (or any such Receiver) the same shall be repaid by the Chargor on demand with interest from the time or respective times of the same having been paid;
- 9.1.8 observe, perform, comply with and cause observance, performance and compliance with the provisions of all statutes in force including the requirements of any governmental body, agency, department or regulatory, self-regulatory or other authority including without limitation local and public authorities and statutory undertakings (together "Authority") relating to the Mortgaged Premises or anything done on it by the Chargor and with all relevant licences, consents, permissions and conditions from time to time granted or imposed by the Planning Acts (which shall bear the meaning given to it by sub clause 16.5 hereof) and not to enter into any agreement with any relevant planning authority nor make any application for planning permission affecting the Mortgaged Premises without the prior written consent of the Chargee;

- 9.1.9 forthwith upon receipt of any permission, notice, order, proposal or recommendation given or issued by any competent planning authority to the owner or occupier of any of the Mortgaged Premises or from any superior landlords of the Mortgaged Premises forward the same or a true copy thereof to the Chargee;
- 9.1.10 not to do or cause or permit anything which may in any way depreciate, jeopardise or otherwise prejudice the value to the Chargee of the security hereby charged;
- 9.1.11 in the event of any consent being given by the Majority Lenders for the grant of any lease of any of the Mortgaged Premises or any part thereof pursuant to the sub-clause 6.2 above to deliver to the Chargee for retention during this security a duly completed and stamped counterpart of such lease;
- 9.1.12 not to consent to any assignment of a lease or sub-letting of the whole or any part of the Mortgaged Premises without the prior consent in writing of the Majority Lenders and from time to time and at such intervals as may be required by the Chargee, to furnish to the Chargee all such particulars and information as the Chargee may require relating to any lease, agreement for lease or tenancy then subsisting or other arrangements or matters affecting the Mortgaged Premises;
- 9.1.13 as the landlord enforce promptly and duly the obligations from time to time of any tenant under any lease or underlease permitted in relation to the Mortgaged Premises or any part thereof;
- 9.1.14 comply with all requirements, with all building and other regulations and bye-laws insofar in each case as the same affect any land or buildings forming part of the Mortgaged Premises or the user thereof;
- 9.1.15 not waive, release, vary or agree to waive, release, vary or agree any obligation under or the terms of any such lease, licence or agreement for lease and not exercise any right, option or power to break, determine or extend or renew any such lease, licence or agreement to lease and to accept or agree to accept a surrender thereof except with the prior consent in writing of the Majority Lenders;
- 9.1.16 if the Chargor shall receive any notice served under section 14 of the Conveyancing and Law of Property Act 1881 or any proceedings shall be commenced for forfeiture of any lease under which the Mortgaged Premises are held or any superior lease or the landlord or any superior landlord shall attempt to re-enter under the provisions of such lease give immediately notice in writing to the Chargee and at the request of the Chargee at the expense of the Chargor take such steps as the Majority Lenders may require;
- 9.1.17 take all steps for the protection and security of the Charged Property as shall be recommended or required from time to time by the Police Service of Northern Ireland or the Northern Ireland Office or any statutory successor thereof and indemnify the Chargee against any loss incurred arising out of any failure to do so;

- 9.1.18 manage the Charged Property and any person occupying the whole or any part of the Charged Property under any Occupational Lease in accordance with the principles of good estate management and in any manner that the Chargee may in its discretion require;
- 9.1.19 not oppose any application by the Chargee or a Receiver for the transfer grant or renewal of any intoxicating liquor licence relation to the Charged Property;
- 9.1.20 not without the consent of the Chargee, elect to waive exemption under paragraphs 2-3 of Schedule 10 to the Value Added Tax Act 1994 in respect of any supply made in relation to the Charged Property or any part of it or any part of it or any other building, parade, precinct or complex or any agricultural land (including the buildings on such land) in which the Chargor has a right or licence to occupy within the meaning of paragraph 1(5) of Schedule 10 to the Value Added Tax Act 1994 which could give rise to a deemed election in relation to the Charged Property;
- 9.1.21 except with the prior written consent of the Chargee, not consent to, or enter into any negotiations with any Authority with regard to the acquisition of the whole or any part of the Charged Property;
- 9.1.22 not without the prior written consent of the Chargee, agree the terms of any renewed lease or the amount of any varied rent payable under article 11 of the Business Tenancies (Northern Ireland) Order 1996. In the event that the terms of the renewed lease or rent are determined by the court, the Chargor shall make such representations to the court as the Chargee may require. Immediately after such renewed lease is granted to the Chargor, the Chargor shall execute a mortgage or charge (as may be appropriate) over such lease in the form required by the Chargee;
- 9.1.23 immediately notify the Chargee of any matter or event under or by reason of which any lease has or may become subject to determination or forfeiture; and
- 9.1.24 if so required by the Chargee, join with the Chargee in bringing any proceedings against the landlord under such lease for forfeiture, determination or otherwise;
- 9.1.25 not implement any planning permission received by it until it has been acknowledged by the Chargee to be acceptable to it;
- 9.1.26 comply with any conditions attached to any approvals, authorisations, consents, licences, permissions, filings and registrations which it is necessary or advisable to obtain from any Authority or, without limitation, any third party (together a "Consent") under the Planning Acts relating to or affecting the Charged Property; and
- 9.1.27 not, except with the prior written consent of the Chargee, enter into, or agree to enter into, any agreement under the Planning Orders or any other similar Order including without limitation any agreement under article 40 of the Planning (Northern Ireland) Order 1991 as amended, article 110 of the Roads (Northern Ireland) Order 1993 as amended, article 122 of the Roads (Northern Ireland) Order 1993 as amended and section 96 of the Local Government Act (Northern Ireland) 1972 as amended.

- 9.2 The Chargor shall with respect to the Occupational Leases:
- 9.2.1 comply with all restrictive and other covenants and obligations, however arising, to be performed by it as lessor under any Occupational Lease;
 - 9.2.2 enforce all restrictive and other covenants and obligations, however arising, owed to it as lessor under any Occupational Lease;
 - 9.2.3 not waive, release or vary (or agree to do so) any of the Chargor's rights, title and interest from time to time in any lease, licence or occupational right whatsoever together with the entire benefit of all the Chargor's rights, title and interest from time to time in any renewal of, replacement of or variation to any such lease, licence or occupational right (including without limitation, all its rights, title and interest in any Occupational Lease and any associated agreements which may be granted by the Chargor or any person deriving title from the Chargor from time to time over or in respect of the whole or any part of the Mortgaged Premises or any provision of any Occupational Lease without the prior written consent of the Chargee;
 - 9.2.4 not agree the amount of any reviewed rent without the prior written consent of the Chargee and in the event of such rent being determined by a third party to procure that any representations made by the Chargee are put before such third party to the reasonable satisfaction of the Chargee;
 - 9.2.5 not without the prior written consent of the Chargee, agree the terms of any renewed lease or the amount of any varied rent payable under article 11 of the Business Tenancies (Northern Ireland) Order 1996 and in the event that the terms of the renewed lease or rent are determined by the court, to procure that any representations made by the Chargee are put before the court to the reasonable satisfaction of the Chargee;
 - 9.2.6 forthwith notify the Chargee of any matter or event by reason of which the Occupational Leases have or may become subject to determination or forfeiture;
 - 9.2.7 if so required by the Chargee, join with the Chargee in the bringing of proceedings against the lessees under the Occupational Leases;
 - 9.2.8 not grant any Consent under the Occupational Leases without the prior written consent of the Majority Lenders;
 - 9.2.9 not without the prior written consent of the Chargee:
 - 9.2.9.1 exercise any option or power to break, terminate, renew or extend any Occupational Lease;
 - 9.2.9.2 accept or agree to accept any surrender of any Occupational Lease; or
 - 9.2.9.3 grant any Consent or licence as lessor or grantor under any Occupational Lease; and
 - 9.2.10 allow, and shall procure that any person occupying the whole or any part of the Mortgaged Premises under any Occupational Lease shall allow, the Chargee and its agents, with or without surveyors, workmen or others

authorised by it upon prior notice (except in an emergency when no notice shall be required) to enter the Mortgaged Premises in order to view the Mortgaged Premises, to carry out any repairs on the Mortgaged Premises which the Chargee considers necessary or to do anything the Chargee is entitled to do pursuant to clause 11.7.

9.3 Without prejudice to the generality of the foregoing, the Chargor further covenants that, during the continuance of this security, it shall:

9.3.1 notify the Chargee in writing as soon as practicable and in any event within three days after becoming aware of any event or circumstance which will, or is likely to, give rise to a claim by or in the name of the Chargor under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 in relation to the Charged Property (referred to in this sub-clause as a "Claim") specifying in reasonable detail the nature of the event or circumstance which will, or is likely to, give rise to a Claim and the extent of the damage to the Charged Property;

9.3.2 at the Chargor's cost, take such action (including legal proceedings) and give such information and access to personnel, premises, chattels, documents and records to the Chargee and its professional advisers as the Chargee may reasonably request in order to make, dispute, settle or appeal any Claim or any adjudication in respect thereto;

9.3.3 at the request of the Chargee allow the Chargee to take the sole conduct of such actions as the Chargee may deem appropriate in connection with any Claim by or in the name of the Chargor and in that connection give or cause to be given to the Chargee all such assistance as the Chargee may reasonably require in disputing, settling or appealing any Claim and shall instruct such solicitors and other professional advisers as the Chargee and the Chargor shall agree to act on behalf of the Chargor, but to act in accordance with the Chargee's sole instructions; and

9.3.4 make no agreement, settlement or compromise in relation to any Claim without the prior written consent of the Chargee.

9.4 All monies received in relation to or arising out of any Claim are hereby charged to the Chargee and shall be paid to the Chargee (or if not paid directly to the Chargee shall be held on trust for the Chargee) and shall at the option of the Chargee be applied in replacing, restoring or reinstating the Charged Property destroyed or damaged (any deficiency being made good by the Chargor) or in reduction of the monies, obligations and liabilities hereby secured.

9.5 Where any Claims Monies are applied in replacing, restoring or reinstating the Charged Property pursuant to clause 9.4 above the Chargee may, at the cost of the Chargor, appoint its own architects, surveyors and other professional advisers to review the replacement, restoration or reinstatement works (the "Works") and in the light of the comments of those advisers the Chargee may give such directions to the Chargor regarding completion of the Works as the Chargee shall reasonably deem necessary or appropriate in the interests of preserving the value of the security hereby constituted.

10. Environmental Obligations

10.1 The Chargor covenants with the Chargee that the Chargor shall:

- 10.1.1 obtain all requisite Environmental Licences (which shall bear the meaning given to it by sub clause 10.2.1 hereof) applicable to the Mortgaged Premises and comply with the terms and conditions of the same;
 - 10.1.2 comply with all Environmental Laws (which shall bear the meaning given to it by sub clause 10.2.1 hereof) applicable to the Mortgaged Premises and not permit a contravention of the same;
 - 10.1.3 notify the Chargee and the Agent of the receipt of and content of all claims, notices or other communication in respect of any alleged breach of any Environmental Law or the terms and conditions of any Environmental Licences which may, if substantiated, have a material adverse effect on the market value of the Mortgaged Premises and shall forthwith take such steps as the Agent or the Chargee may direct to remedy and/or cease the continuation of any such alleged breach;
 - 10.1.4 promptly pay all fees and other charges in respect of any Environmental Licence applicable to the Mortgaged Premises;
 - 10.1.5 forthwith notify the Chargee and the Agent of the receipt of and the contents of any notices or other communication varying or suspending any Environmental Licence relating to the Mortgaged Premises and forthwith take such steps as the Agent or the Chargee may direct to re instate in full force and effect any Environmental Licence so varied or suspended;
 - 10.1.6 permit the Chargee or its agents at any time to enter upon the Mortgaged Premises or for the purpose of establishing whether or not the Chargor is complying fully with its obligations under this sub clause 10.1; and
 - 10.1.7 forthwith supply the Chargee with copies of any environmental reports, audits or studies undertaken in relation to the Mortgaged Premises.
- 10.2 In this Mortgage the expression:
- 10.2.1 "Environmental Laws" means all laws (statutory, common law or otherwise) including (without limitation) circulars, guidance notes and codes of practice from time to time regulating the carrying on of any process or activity on premises and any emissions from and all waste produced by such process or activity and any such chemicals or substances relating to the same whether relating to health and safety, the workplace, the environment or the provision of energy (including, without limitation, the Health and Safety at Work (Northern Ireland) Order 1978, the Pollution Control and Local Government (Northern Ireland) Order 1978, the Control of Pollution Act 1974, the Planning Acts (as defined in sub-clause 16.5 below), the Clean Air (Northern Ireland) Order 1981, the Water and Sewerage Services (Northern Ireland) Order 2006 (as amended), the Public Health (Ireland) Act 1878, the Environmental Protection Act 1990, the Industrial Pollution Control (Northern Ireland) Order 1997, the Waste and Contaminated Land (Northern Ireland) Order 1997 (as amended), the Radioactive Substances Act 1993 (as amended), the Water (Northern Ireland) Order 1999, the Environment (Northern Ireland) Order 2002 (as amended) and any European Community legislation regulating the same) from time to time in force and any other instrument, plan, regulation, permission, authorisation and direction made or issued thereunder or deriving validity therefrom; and

10.2.2 "Environmental Licence" means any permit, licence, authorisation, consent or other approval required by or given pursuant to any Environmental Laws.

10.3 The Chargor shall promptly indemnify the Chargee and as a separate covenant any Receiver appointed by it against all costs, claims, demands, expenses, charges, assessments, impositions, fines and sums (whether imposed by deed or statute or otherwise or whether of the nature of capital or revenue and even though of a wholly novel character) and the consequences of any proceedings or prosecutions arising directly or indirectly from or in connection with any breach by the Chargor of any Environmental Law. If any such sums shall be paid by the Chargee or any Receiver, the same shall be paid by the Chargor on demand from the time or respective times of the same having been paid or incurred by the Chargee or the Receiver as the case may be but the Chargee shall not be deemed to have taken possession of the Mortgaged Premises by reason of such payment.

11. Further Powers of the Chargee

11.1 The Chargee shall have in addition to any general lien or similar right (if any) to which it may be entitled by law the right at any time or times and without notice to the Chargor (as well before as after any demand hereunder or otherwise) to consolidate all or any of the Chargor's then existing accounts (including accounts in the name of the Chargee) with and liabilities of the Chargor to the Chargee and/or set off or transfer any sum or sums standing to the credit of any one or more of such accounts denominated in whatever currency in or towards satisfaction of any of the liabilities of the Chargor to the Chargee or any other account or in any other respect whether such liabilities be actual, contingent, primary, collateral, several or joint.

11.2 The Chargee may in its absolute discretion at all times pending the payment to the Chargee of the whole of the Secured Liabilities place and keep to the credit of a separate or suspense account any money received by virtue of this Mortgage for so long and in such manner as the Chargee may determine without any obligation to apply the same or any part thereof in or towards the discharge of the Secured Liabilities.

11.3 If the Chargee shall receive notice of any subsequent charge or assignment or other interest affecting the Charged Property the Chargee may open a new account or accounts for the Chargor; if the Chargee does not open a new account it shall nevertheless be treated as if it had done so at the time when such notice was received and as from that time all payments made by or on behalf of the Chargor to the Chargee shall be credited to the new account and shall not operate to reduce the amounts due from the Chargor to the Chargee at the time when notice was received.

11.4 For the purpose of or pending the discharge of any of the Secured Liabilities the Chargee may convert any monies received, recovered, or realised or subject to application by the Chargee under this Mortgage (including the proceeds of any previous conversion under this clause) from their existing currency of denomination into such other currency of denomination as the Chargee may think fit and any such conversion shall be effected in accordance with Clause 17.3 (Currency Protection) of the Facilities Agreement. Each previous reference in this clause to a currency extends to any funds of that currency and for the avoidance of doubt funds of one currency may be converted into different funds of the same currency.

11.5 The Chargee may at any time or times without discharging or in any way affecting the security created by or pursuant to this Mortgage or any remedy of the Chargee in

respect of such security grant to the Chargor time or indulgence or abstain from asserting, calling, exercising or enforcing any remedies, securities, guarantees or other rights which it may now or hereafter have from or against the Chargor.

- 11.6 The Chargee may in its discretion grant time or other indulgence, or make any other arrangement, variation or release with, any person or persons not party hereto (whether or not such person or persons are jointly liable with the Chargor) in respect of the Secured Liabilities or of any other security therefor or guarantee in respect thereof without prejudice either to the security constituted by or pursuant to this Mortgage or to the liability of the Chargor for the Secured Liabilities or the exercise by the Chargee of any rights, remedies and privileges conferred upon it by this Mortgage.
- 11.7 If the Chargor at any time defaults in complying with any of its obligations contained in this Mortgage, the Chargee shall without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Chargor hereby irrevocably authorises the Chargee and its employees and agents by way of security to do all such things (including, without limitation, entering the Chargor's property) necessary or desirable in connection therewith. Any moneys so expended by the Chargee shall be repayable by the Mortgagor to the Chargee on demand together with interest at the default rate of interest agreed between the Chargor and the Chargee and in accordance with the Chargee's usual practice from the date of payment by the Chargee until such repayment, both before and after judgment. No exercise by the Chargee of its powers under this clause shall make it liable to account as a mortgagee in possession.
- 11.8 The Chargee shall, when under this Mortgage it becomes entitled to enter into possession of the Mortgaged Premises, have the power to sell or dispose of the intoxicating liquor licence(s) attached to the Mortgaged Premises and the consideration received on the sale of the said licence(s) shall be credited against all monies owed by the Chargor to the Chargee.

12. Notices

- 12.1 Any demand for payment or any other demand or notice hereunder may be made or given by any manager, officer or agent of the Chargee by letter given by hand or sent by post addressed to the Chargor at its the last known place of business or, at the Chargee's option, its registered office.
- 12.2 Any such demand or notice shall be deemed served on the Chargor:
- 12.2.1 if given by hand at the time of delivery; and
- 12.2.2 if sent by post at the earlier of the time of delivery or 10 a.m. on the first business day next following the date of posting (a business day for the purpose of this clause being a day on which the Chargee is open for business in London notwithstanding that it be returned undelivered).
- 12.3 In proving service by post it shall be sufficient to prove that the letter containing the demand or notice was properly addressed and posted. In proving service by facsimile, it shall be sufficient to produce the Chargee's copy thereof.

13. Merger and collateral security

- 13.1 Nothing herein contained shall operate so as to merge or otherwise prejudice or affect any bill, note, guarantee, mortgage or other security or any contractual or other right

which the Chargee may at any time have for any money or liabilities or other sums due owing or incurred by the Chargor or any right or remedy of the Chargee thereunder and any receipt, release or discharge of the security provided by or of any liability arising under this Mortgage shall not release or discharge the Chargor from any liability to the Chargee for the same or any moneys which may exist independently of this Mortgage, nor shall it release or discharge the Chargor from any liability to the Chargee under the indemnity in sub clause 10.3.

- 13.2 Where the security hereby given initially takes effect as a collateral or further security then notwithstanding any receipt, release or discharge endorsed on or given in respect of or under the principal security to which this Mortgage operates as a collateral or further security the security hereby provided shall in respect of the Secured Liabilities be an independent security for any such money or liabilities or other sums.

14. General

- 14.1 No failure on the part of the Chargee to exercise, or delay on its part in exercising, any of the rights, powers and remedies provided by this Mortgage or by law (collectively the "Chargee's Rights") shall operate as a waiver thereof, nor shall any single or partial waiver of any of the Chargee's Rights preclude any further or other exercise of that one of the Chargee's Rights concerned or the exercise of any other of the Chargee's Rights.
- 14.2 All the costs, charges and expenses of the Chargee incurred by the Chargee in relation to this Mortgage or the Secured Liabilities (including, without limitation, the costs, charges and expenses incurred in or in connection with the preparation of this Mortgage or the registration or other perfection of any security constituted by or pursuant to this Mortgage, or in or in connection with any proposed waiver or variation of any of the provisions of this Mortgage or the consideration or investigation of any act or omission which constitutes or which is believed by the Chargee may constitute a breach of any such provision, or in or in connection with the exercise of any of the rights, remedies and powers hereby conferred on the Chargee or the enforcement of the security constituted hereby or pursuant hereto, or in or in connection with the perfection or enforcement of any other security for or guarantee in respect of the Secured Liabilities) shall be reimbursed by the Chargor to the Chargee on demand on a full indemnity basis together with the amount of any value added tax chargeable on or in respect thereof.
- 14.3 A certificate by an officer of the Chargee as to the Secured Liabilities for the time being shall be binding and conclusive upon the Chargor.
- 14.4 Each of the provisions in this Mortgage shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
- 14.5 This Mortgage shall be binding upon and enure for the benefit of the Chargee and its successors and the Chargee may assign or transfer any of its rights or obligations under this Mortgage to any Chargee or other financial institution free from any equities. The Chargee shall be entitled to impart any information concerning the Chargor to any such proposed assignee or other successor.
- 14.6 The Chargor acknowledges that the Chargee enters into this Deed for itself and as trustee for the Secured Parties who shall be entitled to the full benefit of this Deed.

15. Discharges and releases avoided

- 15.1 No assurance, security or payment (hereinafter referred to in this clause 15 as a "Transaction") which may be avoided, adjusted or be the subject of any order of a court under any applicable law relating to insolvency of any jurisdiction (hereinafter called "Insolvency Provisions" which expression includes but is not limited to articles 198, 202, 203, 204, 205, 206 and 207 of the Insolvency (Northern Ireland) Order 1989) and no release, settlement, discharge, effect or arrangement (each such incidence being hereinafter referred to as "Incidence"), including, without limitation, an Incidence of or in relation to the liability or obligation of any third party (hereinafter called "Third Party") to the Chargee for which the Chargor may have or may have had liability or responsibility as a guarantor, surety, indemnifier, co debtor or otherwise, which may have occurred or may have been given or made on the faith of any such Transaction shall prejudice or affect the right of the Chargee to recover from the Chargor to the full extent of this Mortgage as if such Transaction or Incidence (as the case may be) had never occurred or been granted, given or made. Any Incidence shall as between the Chargee and the Chargor be deemed to have occurred or been given or made upon the express condition that it shall become and be voidable at the instance of the Chargee if the Transaction on the faith of which it was made or given shall at any time thereafter be avoided adjusted or be the subject of any order of court under any Insolvency Provision or otherwise to the intent and so that the Chargee shall become and be entitled at any time after any such avoidance adjustment or order to exercise all or any of the rights in this Mortgage expressly conferred upon the Chargee and/or all or any other rights which by virtue and as a consequence of this Mortgage the Chargee would have been entitled to exercise but for such Incidence.
- 15.2 Where any Transaction which was effected in or towards the payment or discharge or purported payment or discharge of any indebtedness, obligation or liability of the Chargor or a Third Party to the Chargee is avoided, adjusted or otherwise the subject of any order of a court under any of the Insolvency Provisions, then (without prejudice to any orders or orders made in that regard in favour of the Chargee thereunder) as between the Chargor and the Chargee such payment or discharge shall be deemed never to have taken place.

16. Interpretation

In this Mortgage:

- 16.1 where the context so admits or requires the "Chargee" shall include the Chargee's successors and assigns;
- 16.2 "subsidiary" shall mean a subsidiary Chargor as that expression is defined in section 1159 of the Companies Act 2006 or any statutory modification or re-enactment thereof;
- 16.3 unless the context otherwise requires expressions in the singular shall also denote the plural and vice versa and the masculine shall also denote the feminine and neuter;
- 16.4 the headings are included for ease of reference only and shall in no way affect the construction or interpretation of this Mortgage;
- 16.5 the expression "Planning Acts" means all legislation from time to time regulating the development, use, safety and control of property including (without limitation) the Planning (Northern Ireland) Orders 1972, 1978, 1982 and 1991, the Planning Act (Northern Ireland) 2011, any Act or Orders for the time being in force amending,

replacing or modifying such Orders and any other instrument, plan, regulation, permission and direction made or issued thereunder or deriving validity therefrom;

- 16.6 any reference to a statute shall be construed as a reference to that statute as modified or re enacted from time to time or any analogous provision or rule under any applicable foreign law;
- 16.7 the expression "person" includes a body of persons whether incorporated or unincorporated;
- 16.8 the expression "Occupational Leases" means all leasehold interests and other occupational rights whatsoever (including without limitation all licences and agreements for leases) in existence from time to time relating to the whole or any part of the Charged Property);
- 16.9 the expression "Facilities Agreement" means the term loan facility agreement dated on or around the date of this Mortgage made by and between (1) the Chargor and (2) the Chargee.
- 16.10 the expression "Secured Liabilities" means any liability expressed to be due, owing or payable by the Chargor under or in connection with the Facilities Agreement (together the "Secured Liabilities"); and

17. Counterparts

This Mortgage may be executed in any number of counterparts and by one or more parties on separate counterparts, each of which shall constitute an original, but all such counterparts shall together constitute one and the same instrument.

18. Governing law

This Mortgage shall be governed by and construed in accordance with the laws of Northern Ireland and for the benefit of the Secured Parties the Chargor hereby irrevocably submits to the non exclusive jurisdiction of the courts of Northern Ireland.

IN WITNESS whereof the parties hereto have executed this Mortgage as a deed the day and year first above written.

SCHEDULE 1

**PART 1
UNREGISTERED FREEHOLD PROPERTY**

None at the date of this Mortgage.

**PART 2
UNREGISTERED LEASEHOLD PROPERTY**

None at the date of this Mortgage.

**PART 3
REGISTERED PROPERTY**

lands at 41-43 Park Avenue, Belfast comprised in folios DN181296L, DN203827L and DN205316L all County Down

The Chargor

EXECUTED (but not delivered until
the date hereof) **AS A DEED** by

DIXONS CONTRACTORS LTD

acting by *DANIEL JAMES*
DIXON, a director:-

Witness:

Occupation:

Address:

Witness:

Occupation:

Address:

Director