



Registration of a Charge

Company Name: **MILLFIELDS COMMUNITY ECONOMIC DEVELOPMENT TRUST
COMMUNITY INTEREST COMPANY**

Company Number: **03513202**



Received for filing in Electronic Format on the: **09/01/2023**

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Details of Charge

Date of creation: **06/01/2023**

Charge code: **0351 3202 0006**

Persons entitled: **THE COUNCIL OF THE CITY OF PLYMOUTH**

Brief description: **FREEHOLD PROPERTY KNOWN AS THE FAMOUS FIRKIN, 2 ADELAIDE
PLACE, PLYMOUTH, PL1 3JD**

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 THE ELECTRONIC COPY INSTRUMENT DELIVERED
AS PART OF THIS APPLICATION FOR REGISTRATION IS A
CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **JASMINE KEEBLE**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3513202

Charge code: 0351 3202 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th January 2023 and created by MILLFIELDS COMMUNITY ECONOMIC DEVELOPMENT TRUST COMMUNITY INTEREST COMPANY was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th January 2023 .

Given at Companies House, Cardiff on 10th January 2023

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



Companies House



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

OFFICIAL

DATED

06 January

2023

(1) THE COUNCIL OF THE CITY OF PLYMOUTH

(2) MILLFIELDS COMMUNITY ECONOMIC DEVELOPMENT TRUST COMMUNITY
INTEREST COMPANY

LEGAL CHARGE

Relating to 2 Adelaide Place, Stonehouse,
Plymouth, PL1 3JD

Bright (South West) LLP

We hereby certify this to be a true
copy of the original.

T. Keble

08/01/2013

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THIS DEED is made on

06 January

2022

PARTIES

- (1) **THE COUNCIL OF THE CITY OF PLYMOUTH** of The Council House, Armada Way, Plymouth, PL1 2AA (**Lender**) and
- (2) **MILLFIELDS COMMUNITY ECONOMIC DEVELOPMENT TRUST COMMUNITY INTEREST COMPANY** (company number 03513202) whose registered office is situate at, 237 Union Street Plymouth PL1 3HQ (**Borrower**)

Background

- 1 The Borrower has contracted to purchase the Property.
- 2 The Lender has agreed to lend to the Borrower the Principal to enable the Borrower to purchase the Property on condition that its repayment together with interest is secured in the manner set out in this document.

1 Definitions

In this Deed the following definitions apply:

Costs all costs, charges, expenses and liability on a full and unlimited indemnity basis (including without limitation all legal and other professional costs, charges and expenses);

Event of Default any one of the events specified in clauses **Error! Reference source not found.**–**Error! Reference source not found.** (inclusive);

Insurance Policies each of the insurance policies now or in the future held by or otherwise benefiting the Borrower in relation to the Property (including the insurance policies specified in Schedule 1 and any insurance policies that are effected to renew, substitute or replace any such insurance policies and 'Insurance Policy' means any one of them;

Interest Rate 3% a year

Payment Dates 6 months after completion and every first day of each month thereafter

LPA 1925 Law of Property Act 1925;

Principal the sum of £130,000

Property the freehold property known as The Famous Firkin, 2 Adelaide Place Plymouth PL1 3JD as the same is registered at the Land Registry under title number DN319874 and all buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of any of such property

Redemption Date 06 July 2026 [36 months from date of first Repayment Day]

Secured Amounts all of the following:

	(a) the Principal;
	(b) all other money and liabilities now or at any time in the future due or owing from the Borrower to the Lender pursuant to this Deed (including without limitation all Costs) and the payment of interest;
Security Interest	any charge, pledge, mortgage, lien or other security interest securing any obligations of any person or any other arrangement of any type whatsoever having the effect of conferring security or a similar effect;
Security Period	the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that the Secured Amounts have been unconditionally and irrevocably discharged in full;
VAT	value added tax payable by virtue of Value Added Tax Act 1994 or any similar tax levied in addition to or by way of replacement for VAT;
Working Day	any day other than Saturday, Sunday and any Bank or Public Holiday.

2 Interpretation

- 2.1 The expressions 'Borrower' and 'Lender' include their respective successors in title.
- 2.2 Where any party comprises more than one person their obligations under this Deed can be enforced against them all jointly or against each of them individually.
- 2.3 Any obligation of a party to do an act or thing includes an obligation to procure that it be done and any obligation not to do any act or thing includes an obligation not to permit or suffer that act or thing to be done by any person under its control.
- 2.4 Unless otherwise specified, a reference to legislation (including subordinate legislation) is to that legislation as extended, amended, modified, consolidated or re-enacted from time-to-time and includes any instrument, order, regulation, permission, consent, licence, notice, direction, byelaw, statutory guidance or code of practice made or granted under such legislation.
- 2.5 Clause headings are for reference only and do not affect the construction of this Deed.
- 2.6 Any reference to a clause, paragraph or schedule is to a clause, paragraph or schedule in this Deed.
- 2.7 Where the words 'includes', 'including' or 'in particular' are used in this Deed they are deemed to have the words 'without limitation' following them.
- 2.8 An Event of Default is 'continuing' if it has not been waived in writing by the Lender.

3 Charge

- 3.1 The Borrower with full title guarantee charges by way of legal mortgage, in favour of the Lender, the Property as security for the payment and discharge of the Secured Amounts.
- 3.2 The Borrower with full title guarantee, assigns absolutely to the Lender, as security for the payment and discharge of the Secured Amounts:
 - 3.2.1 the benefit of each of the present and future agreements, licences, options, contracts, guarantees, warranties, easements, agreements for lease, and any other document, in each case, entered into by the Borrower relating to the use, acquisition, exploitation, disposal of or dealings with the Property; and

3.2.2 all of the Borrower's rights and claims from time to time arising in relation to each of the Insurance Policies including the benefit of all claims arising and all money payable under the Insurance Policies; and

3.2.3 all money payable under the Insurance Policies.

3.3 This Deed shall remain in full force and effect as a continuing security unless and until the Lender discharges it.

4 Payment of Principal, interest and costs

In consideration of the Principal now paid by the Lender to the Borrower (receipt of which the Borrower acknowledges) the Borrower covenants with the Lender as set out in this clause 4.

4.1 The Borrower must pay the Principal to the Lender by 35 equal monthly instalments of £3780.56 on the Payment Dates and a final payment of £3759.64 on the Redemption Date. The Principal will be repaid by the end of 36 months from the date of the first Payment Date by the Lender provided that the whole of the balance of the Principal then outstanding is to be immediately due and repayable by the Borrower to the Lender on demand if:

4.1.1 any instalment of the Principal is not paid within 28 days of becoming due; or

4.1.2 any interest or other sum payable under this security is not paid within 28 days of becoming due; or

4.1.3 the Borrower or any surety fails to comply with any material term, condition, covenant or provision of or to perform any of their obligations or liabilities under this or any associated or collateral security; or

4.1.4 any representation or warranty given by the Borrower or any surety to the Lender is or becomes incorrect; or

4.1.5 any judgment or order made against the Borrower or any surety by any court is not complied with within 28 days; or

4.1.6 the Property becomes subject to any forfeiture or to any procedure for the taking of control by another; or

4.1.7 a mortgagee takes possession of or exercises or seeks to exercise any power of sale or of an appointment of a receiver in relation to the property charged by this Deed or any other property of the Borrower or of any surety; or

4.1.8 in the case of an individual:

(a) the Borrower or any surety becomes subject to an interim order under the Insolvency Act 1986 Part VIII or enters, or seeks to enter, into any other form of composition or arrangement with their creditors whether in whole or in part; or

(b) an application is made or a petition is presented for the bankruptcy of the Borrower or any surety; or

(c) the Borrower or any surety dies or becomes mentally incapable; or

- 4.1.9 (a) in the case of a company or limited liability partnership;
- (b) the Borrower or any surety ceases or threatens to cease to carry on, or disposes or threatens to dispose of, its business or a material part of its business; or
- (c) the Borrower or any surety makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part I or enters into any other form of composition or arrangement with its creditors whether in whole or in part; or
- (d) an administrative receiver is appointed in respect of the whole or any part of the undertaking of the Borrower or any surety; or
- (e) a petition is presented in any court for the purpose of considering a resolution for the winding up of the Borrower or any surety (except in the case of a reconstruction or amalgamation that has the previous approval in writing of the Lender);
- (f) the Borrower or any surety is struck off the register.
- 4.2 The Borrower may, on giving to the Lender at least 28 days' previous notice in writing, repay to the Lender in multiples of monthly instalments, on any of the Payment Dates, the whole or any part of the Principal then owing but only if the interest due on the proposed repayment date in respect of the whole Principal for the time being owing is also paid. In the case of such a repayment, the succeeding instalments of Principal are to continue to be payable in due course in accordance with the provisions of clause 4.1 until the whole of the Principal has been satisfied.
- 4.3 The Borrower must pay to the Lender interest on the Principal (or so much of it as may from time to time remain outstanding) at the Interest Rate, from the date of this Deed, by equal monthly payments on the Payment Dates. This interest is to be payable as well after as before any demand or judgment or the administration or liquidation or striking from the register or (as appropriate) bankruptcy, death or mental incapacity of the Borrower. However if the Borrower has otherwise in all respects and at all times observed and performed their obligations under this Deed and if payment is made not later than 28 days after the due date for payment, the Lender must accept interest from the Borrower at the rate of 1% above the Interest Rate in satisfaction of payment at the Interest Rate.
- 4.4 If any interest payable under this security is not paid within 28 days after the due date for payment, it is to be capitalised and added to the Principal and be charged on the Property and bear interest from the due date for payment at the Interest Rate and on the Interest Payment Days provided that:
- 4.4.1 the capitalisation of arrears of interest is not to restrict the Lender's right at any time to enforce payment of the sums concerned as interest in arrear;
- 4.4.2 the Borrower may on any of the Interest Payment Days pay to the Lender (in addition to the interest then due) all or any part of the Principal representing capitalised arrears of interest.
- Otherwise all covenants and provisions contained in this Deed and all powers and remedies conferred by law or by this Deed and all rules of law or equity relating to the Principal and interest on it are to equally apply to capitalised arrears of interest and to interest on them.
- 4.5 The Borrower must pay to the Lender on demand (and on a full and unlimited indemnity basis) all costs, charges, expenses and liabilities paid and reasonably incurred by the

Lender (whether directly or indirectly) in relation to the security constituted by and the obligations owed under and associated with this Deed (including all commission, legal and other professional costs and fees and disbursements and VAT on them) together with interest from the date when the Lender becomes liable for them until payment by the Borrower at the Interest Rate, this interest to be payable in the same manner as interest on the Principal.

- 4.6 Without restricting the generality of the provisions of that clause, the Borrower's liability under clause 4.5 includes not only those costs, charges, expenses and liabilities that would otherwise be allowable on the taking of an account between a mortgagor and mortgagee but also (and to the extent that they are not so allowable) those incurred in relation to or arising out of:

4.6.1 the institution of all proceedings and other action in connection with the enforcement, preservation and protection of the security constituted by this Deed;

4.6.2 the institution of all proceedings and other action (whether against the Borrower or otherwise) for the payment or discharge of the money and liabilities secured by or associated with this Deed;

4.6.3 the exercise of any power, right or discretion conferred by this Deed or by law on the Lender;

4.6.4 any default by the Borrower or any surety in compliance with the obligations imposed by the terms of this security or associated with it;

4.6.5 any impeachment or attempted impeachment of the title of the Lender (whether by the Borrower or by a third party) or of the title of the Borrower; and

5 Representations and warranties

- 5.1 The Borrower makes the representations and warranties set out in this clause 5 to and for the benefit of the Lender on the date of this Deed and acknowledges that the Lender has entered into this Deed in reliance on such representations and warranties.

- 5.2 No Security Interest subsists over the Property except for the security created by or pursuant to this Deed.

- 5.3 The Borrower is the sole legal and beneficial owner of the Property.

- 5.4 No third party consents are required to ensure the effective creation of the security envisaged by this Deed.

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

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

- 5.7 No litigation or administrative or arbitration proceeding before or of any court, governmental authority, other tribunal or arbitrator or other third party is presently taking place, pending or, to the best of the knowledge, information and belief of the Borrower, threatened against the Borrower or the Property.

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

5.9

5.9.1 as far as the Borrower is aware no breach of any law (including environmental law), regulation or covenant or the terms of any planning permission has occurred and is continuing which has or would be reasonably likely to have a material adverse effect on the value or use of the Property or any part of them;

5.9.2 as far as the Borrower is aware no covenants, agreements, stipulations, reservations, conditions, interest, rights or other matters whatsoever affect the Property which have or would be reasonably likely to have a material adverse effect on the value or use of the Property or any part of them;

5.9.3 as far as the Borrower is aware nothing has arisen or has been created or is subsisting which would be an overriding interest or an unregistered interest over the Property which would have or be reasonably likely to have a material adverse effect on the value or use of the Property or any part of them;

5.9.4 the Borrower has all facilities (including access) necessary for the enjoyment and use of the Property where the lack of those facilities would have or be reasonably likely to have a material adverse effect on the value or use of the Property or any part of them;

5.9.5 no facility necessary for the enjoyment and use of the Property are on terms entitling any person to terminate or curtail its use;

5.9.6 the Borrower has received no notice of any adverse claims by any person in respect of the Property which, if adversely determined, would or would be reasonably likely to have a material adverse effect on the value or use of the Property or any part of them; and

5.9.7 as far as the Borrower is aware no hazardous or toxic materials, substances, pollutants, contaminants or wastes have at any time been released into the environment or deposited, discharged, displaced or disposed of at the Property.

5.10

5.10.1 the Insurance Policies have not been amended, modified or cancelled and remain in full force and effect;

5.10.2 the Borrower has not done or omitted to do anything and no event or circumstance has occurred which has made or could make any Insurance Policy void, voidable, treated as if it had been entered into on different terms or subject to any suspension, restriction, limitation or an increased premium or which could entitle the insurer to reduce the amount to be paid on a claim or prevent the Lender from receiving any money payable under any Insurance Policy; and

5.10.3 the Borrower has not received any notification from its insurers that their liability under the Insurance Policies has been suspended, reduced, discharged or avoided.

- 5.11 The representations contained in this clause 5 are deemed to be repeated by the Borrower by reference to the facts and circumstances then existing on each day during the Security Period.

6 Undertakings

6.1 General

- 6.1.1 The undertakings in this clause 6 remain in effect throughout the Security Period.

- 6.1.2 The Borrower must:

- (a) maintain, preserve, protect and keep good and marketable title to the Property;
- (b) maintain and preserve the security created by or pursuant to this Deed and the first-ranking priority of such security; and
- (c) provide the Lender with any notices, reports, accounts, circulars and other documents relating to the Property promptly when they are received.

- 6.1.3 The Borrower must not:

- (a) create or permit to subsist any Security Interest over the Property other than the security created by or pursuant to this Deed; or
- (b) either in a single transaction or in a series of transactions sell, transfer, licence, grant any option in respect of or otherwise dispose of all or any part of the Property or agree or attempt to do so.

6.2 Property obligations

The Borrower must:

- 6.2.1 keep all buildings, plant, machinery, fixtures, fittings and other effects charged under this Deed in good and substantial repair and in good working order (except only for fair wear and tear) and renew and replace them when they become obsolete, worn out or destroyed;
- 6.2.2 punctually pay or cause to be paid and keep the Lender indemnified against, all present and future rents, rates, taxes, levies, charges, duties, assessments, impositions and other outgoings assessed, charged or imposed upon or in respect of the Property and, when required, produce to the Lender proof of such payment;
- 6.2.3 ensure compliance with all laws, statutes, statutory instruments, regulations and by-laws for the time being in force and all notices, orders and requirements of any competent authority, and all directives and codes of practice affecting the Property and give effect to all arrangements which any such authority may direct or recommend;
- 6.2.4 complete (with reasonable expedition and in compliance with all planning and byelaw consents or agreements entered into with a competent authority) any building operations commenced at any time by it on the Property to the satisfaction of the Lender, all of which building operations shall have been previously approved by the Lender;
- 6.2.5 observe and perform all agreements, assignments, contracts, conveyances, grants and other deeds and documents for the time being binding on it or

affecting the Property or their use or enjoyment, and the Borrower must not take or omit to take any action of any kind whereby its interest or estate in the Property may be forfeited or otherwise adversely affected;

- 6.2.6 permit the Lender to enter the Property, without prejudice to the powers conferred by this Deed and without becoming a mortgagee in possession, for any reasonable purpose and to view the state of the same;
- 6.2.7 supply to the Lender, within 7 days of receipt, copies of any notice, order or proposal received by the Borrower from any competent authority affecting the Property in any material respect, and, at the cost of the Borrower, either punctually comply with the notice or order or, if so requested by the Lender, make or join with the Lender in making such objections or representations or taking such other steps as the Lender may think fit, and any compensation received by the Borrower as a result shall be charged to the Lender and paid to it and applied in or towards the discharge of the security created by this Deed;
- 6.2.8 promptly on receipt, provide to the Lender a copy of each professional valuation report it obtains in relation to the Property; and
- 6.2.9 notify the Lender, promptly on receipt, of any claim, notice or other communication received by it alleging non-compliance by it in relation to any matter referred to in this clause 6.

6.3 Property restrictions

The Borrower must not without the prior written consent of the Lender:

- 6.3.1 create any legal or equitable estate or interest (including any licence or sub-licence, or grant any interest or right relating to the use, occupation or possession) in or over the whole or any part of the Property (or purport to do so) or part with possession or ownership or allow any third party access to or the right to use the Property;
- 6.3.2 exercise any power of leasing the Property or grant any licence to assign or underlet;
- 6.3.3 construct any building or make any structural alteration or apply for any planning consent for the development or change of use of the Property or, except in the ordinary course of repair, replacement or improvement, at any time sever, remove or dispose of any fixture on them;
- 6.3.4 enter into onerous or restrictive obligations affecting the Property or create or permit to arise any overriding interest or any easement or right in or over them; or
- 6.3.5 alter, pull down, remove or dispose of any of buildings, plant, machinery, fixtures, fittings on the Property except in the ordinary course of repair, maintenance or improvement.

6.4 Insurance

The Borrower must:

- 6.4.1 insure and keep insured the Property against loss or damage by fire and other usual risks and such other risks as the Lender may require to its full

replacement value from time to time with such insurers as the Lender may from time to time approve in writing;

6.4.2 to the extent not provided to the Lender on or prior to the date of this Deed, provide the Lender with copies of the Insurance Policies promptly upon coming into possession of any of them;

6.4.3 comply with the terms of the Insurance Policies;

6.4.4 promptly, and in any event no later than their due date, pay all premiums required for keeping up the Insurance Policies and deliver to the Lender within 7 days after they become due the receipts for all such premiums;

6.4.5 provide the Lender with copies of all correspondence given to or received from any insurer under any Insurance Policy promptly after they are given or received;

6.4.6 renew each Insurance Policy in good time prior to its expiry date;

6.4.7 if any of the Insurance Policies becomes void or voidable, immediately at its own cost, effect a new Insurance Policy of the same value as the void or voidable Insurance Policy;

6.4.8 if any of the Insurance Policies is suspended, immediately at its own cost, effect a new Insurance Policy of the same value as the suspended Insurance Policy for the duration of the suspension;

6.4.9 procure the noting of this Deed and the Lender's interest on each Insurance Policy and procure that the Lender is first loss payee under each Insurance Policy;

6.4.10 use all reasonable endeavours to procure that each insurer in respect of each Insurance Policy undertakes in writing to the Lender that it will:

(a) immediately inform the Lender if the Borrower defaults in the payment of any premium or fails to renew any Insurance Policy and, pending receipt of instructions from the Lender, keep the Lender's interest in each Insurance Policy in full force and effect for the full amount insured and for the same risks, subject to any premium for any such period of extended cover being payable by the Lender on behalf of the Borrower;

(b) not, as against the Lender, avoid any Insurance Policy or refuse any claims (with or without returning any premium paid), treat any Insurance Policy as if it had been entered into on different terms, reduce the amount to be paid on a claim or suspend its liability under any Insurance Policy, as a result of any non-disclosure, misrepresentation or breach of any policy term or condition on the part of any other insured party;

(c) in so far as the Borrower has been notified advise the Lender of any proposed cancellation of any Insurance Policy at least 30 days before the cancellation is due to take effect; and

(d) in so far as the Borrower has been notified if, in relation to any Insurance Policy, the insurance cover is to be reduced or any insured risks are to be restricted, advise the Lender at least 30 days before the reduction or restriction is due to take effect; and

- 6.4.11 ensure that all proceeds of any of the Insurance Policies will be paid to the Lender and applied towards making good the loss or damage in respect of which the money was received or, at the option of the Lender after the security created by or pursuant to this Deed becomes enforceable, towards the discharge of the Secured Amounts; and
- 6.4.12 pay all money it may receive in respect of any Insurance Policy to the Lender immediately upon receipt and, pending such payment, hold all money so received upon trust for the Lender.
- 6.5 The Borrower must not do, or omit to do, any act or commit any default by which any Insurance Policy may become void, voidable, treated as if it had been entered into on different terms or subject to any suspension, restriction, limitation or an increased premium or which could entitle the insurer to reduce the amount to be paid on a claim or prevent the Lender from receiving any money payable under any Insurance Policy.
- 7 Notification of Events of Default**
On becoming aware of any Event of Default the Borrower must immediately give the Lender notice in writing of that occurrence.
- 8 Perfection of security**
- 8.1 Title documents**
The Borrower must:

- 8.1.1 immediately upon the execution of this Deed, deposit with the Lender, all deeds, title documents, certificates and other documents constituting or evidencing title to the Borrower's Property; and
- 8.1.2 at any time after the execution of this Deed, deposit with the Lender any further deeds, title documents, certificates and other documents constituting or evidencing title to the Borrower's Property, promptly upon coming into possession of any of them.

8.2 Document delivery and other steps to perfect security

- 8.2.1 The Borrower must, immediately upon the execution of this Deed execute and deliver to the Lender (at the Borrower's expense) in such form and substance as the Lender may reasonably require:
- (a) all documents in its possession required to perfect the security created, or purported to be created, by or pursuant to this Deed (including any documents required in connection with any registration formalities); and
 - (b) any notices to any third party of this Deed or any of the assignments contained in this Deed.
- 8.2.2 The Borrower must take all such other action as is available to it as may be reasonably necessary or as may reasonably be requested by the Lender to create, perfect, protect or maintain the security created, or purported to be created, by or pursuant to this Deed or to vest title to the Property in the Lender or its nominee or any purchaser, or to facilitate the realisation of the Property under this Deed or the exercise of any of the rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law, including:

- (a) making all filings and registrations with and paying all taxes and duties to the appropriate authorities (including Companies House and HM Land Registry); and
- (b) making an application to HM Land Registry in form RX1 for a restriction to be placed on the Proprietorship Register of the Borrower's Property in form N as follows:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Head of Legal Services of the Council of the City of Plymouth of Ballard House West Hoe Road Plymouth PL1 3BJ or their conveyancer"

8.3 Notices of assignment

8.3.1 The Borrower must, immediately upon the execution of this Deed give notice of assignment of the Borrower's rights and claims from time to time arising in relation to the Insurance Policies, substantially in the form set out in Schedule 2 to each of the insurers under each of the Insurance Policies and use all reasonable endeavours to procure that each such insurer returns the signed acknowledgement of such notice directly to the Lender within 10 days from the date of this Deed.

8.3.2 If the Borrower acquires any rights, title or interest in an Insurance Policy after the date of this Deed it must, promptly upon the acquisition by it of such rights, title or interest, give notice of the assignment of the Borrower's rights and claims from time to time arising in relation to such Insurance Policy, substantially in the form set out in Schedule 2 to the insurer under such Insurance Policy and use all reasonable endeavours to procure that such insurer returns the signed acknowledgement of such notice directly to the Lender within 10 days from the date the notice of assignment is served.

9 Further assurance

9.1 The Borrower must, if requested by the Lender, execute in favour of the Lender (or as the Lender directs) such further legal or other assignments or mortgages of, or charges on, the Property as the Lender requires to secure the payment and discharge of the Secured Amounts.

9.2 The assignments, mortgages or charges shall be prepared by or on behalf of the Lender at the cost of the Borrower and shall contain such provisions as the Lender may require.

10 Enforcement

10.1 The security created by or pursuant to this Deed shall become immediately enforceable at any time after the occurrence of an Event of Default.

10.2 After the security created by or pursuant to this Deed has become enforceable, the Lender may in its absolute discretion enforce all or any part of this Deed in any manner it sees fit.

11 Appointment and powers of a Receiver

11.1 At any time:

- 11.1.1 after the security created by or pursuant to this Deed has become enforceable;
or
 - 11.1.2 if so requested by the Borrower
- the Lender may appoint by writing any person to be a Receiver of all or any part of the Property.
- 11.2 Where more than one Receiver is appointed, they shall have power to act separately unless the Lender in the appointment specifies to the contrary.
 - 11.3 The Lender may from time to time determine the remuneration of the Receiver.
 - 11.4 The Lender may, subject to section 46 of the Insolvency Act 1986, remove the Receiver from the assets of which it is Receiver.
 - 11.5 The appointment of a Receiver shall not preclude:
 - 11.5.1 the Lender from making any subsequent appointment of a Receiver over all of the Property over which a Receiver has not previously been appointed or has ceased to act; or
 - 11.5.2 a Receiver, while continuing to act, consenting to the appointment of an additional Receiver to act with it.
 - 11.6 A Receiver shall be the agent of the Borrower and the Borrower shall be solely liable for the Receiver's acts, defaults and remuneration, unless and until the Borrower goes into liquidation, or becomes bankrupt after which the Receiver shall act as principal and shall not become the agent of the Lender.
 - 11.7 A Receiver shall have and be entitled to exercise in relation to the Borrower all the powers set out in Schedule 1 to the Insolvency Act 1986, and in particular, by way of addition and without limiting such powers, and without prejudice to the powers of the Lender, a Receiver shall have power either in its own name or in the name of the Borrower:
 - 11.7.1 in connection with any sale or other disposition of the Property, to receive the consideration for the sale in a lump sum or in instalments and to receive shares by way of consideration;
 - 11.7.2 to grant options, licences or any other interests in the Property;
 - 11.7.3 to sever fixtures from, and to repair, improve and make any alterations to, the Property;
 - 11.7.4 to do all other acts and things which it may consider desirable or necessary for realising the Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed; and
 - 11.7.5 to exercise in relation to the security created by or pursuant to this Deed all the powers, authorities and things which it would be capable of exercising if it was the absolute beneficial owner of any such security.
 - 11.8 Neither the Lender nor any Receiver shall be liable:
 - 11.8.1 for any loss, however caused, arising out of:

- (a) any sale or other disposal of the Property and whether or not a better price could or might have been obtained by deferring or advancing the date of such sale or other disposal; or
- (b) the exercise of or failure to exercise any of the Lender's powers under this Deed.

11.8.2 to account as mortgagee in possession for the Property.

11.9 Section 109 of the LPA 1925 shall not apply to this Deed.

11.10 The Borrower, by way of security, irrevocably appoints the Lender (whether or not a Receiver has been appointed) and any Receiver separately, to be the attorney of the Borrower with full power to appoint substitutes and to delegate, for the Borrower in its name and on its behalf, and as its act and deed or otherwise, to execute, deliver and otherwise perfect any document, or perform any act:

11.10.1 that may be required of the Borrower under this Deed and that the Borrower has failed to do within 5 days of being notified by the Lender that it is required; or

11.10.2 that may be deemed by the attorney necessary or desirable for any purpose of this Deed (including, after the security created by or pursuant to this Deed has become enforceable, to transfer legal ownership of the Property).

11.11 Without prejudice to the generality of clause 0, the Borrower covenants with the Lender and separately with any Receiver to ratify:

11.11.1 all transactions entered into by any attorney in the proper exercise of its powers in accordance with this Deed; and

11.11.2 all transactions entered into by any attorney in signing, sealing or delivering any deed, assurance or document, perfecting any Security Interest or performing any act, in each case in the proper exercise of its powers in accordance with this Deed.

12 Other powers exercisable by the Lender

12.1 All powers of a Receiver conferred by this Deed may be exercised by the Lender after the security created by or pursuant to this Deed has become enforceable, whether as attorney of the Borrower or otherwise, and whether or not a Receiver has been appointed.

12.2 The Lender or any manager or officer of the Lender is irrevocably empowered to receive all receivables and claims that may be assigned to the Lender under this Deed, on payment to give an effectual discharge for them, on non-payment to take and institute if the Lender in its sole discretion so decides all steps and proceedings either in the name of the Borrower or in the name of the Lender for their recovery, and to agree accounts and to make allowances and to give time to any surety. The Borrower undertakes to ratify and confirm whatever the Lender or any manager or officer of the Lender shall do or purport to do under this clause 12.

12.3 The Lender shall not be obliged to:

12.3.1 make any enquiry as to the nature or sufficiency of any sums received by it in respect of any receivables or claims assigned to it under this Deed or pursuant to the Property;

- 12.3.2 make any claim or take any other action under this Deed; or
- 12.3.3 collect any money or enforce any of its other rights under this Deed.

12.4 The Lender shall have no obligation under the Insurance Policies and shall have no liability in the event of failure by the Borrower to perform its obligations under the Insurance Policies.

13 Powers of sale, leasing, accepting surrenders and severance

13.1 Section 103 of the LPA 1925 shall not apply to this Deed, but the statutory power of sale shall, as between the Lender and a purchaser from the Lender, arise on, and be exercisable at any time after, the execution of this Deed. However, the Lender shall not exercise such power of sale until the security created by or pursuant to this Deed becomes enforceable, or a Receiver has been appointed, but this provision shall not affect a purchaser or require a purchaser to ask whether a demand or appointment has been made.

13.2 The statutory powers of sale, leasing and accepting surrenders exercisable by the Lender by virtue of this Deed shall be extended so as to authorise the Lender (whether in its own name or that of the Borrower) after the security created by or pursuant to this Deed has become enforceable, to grant leases of the Property on such terms and conditions as the Lender shall think fit.

13.3 The Borrower must not, in connection with the Property, exercise any of the powers of leasing or accepting surrenders of leases conferred by sections 99 and 100 of the LPA 1925 or by common law without the Lender's prior written consent.

13.4 The statutory power of sale exercisable by the Lender is extended so as to authorise the Lender to sever any fixtures from any of the Property and sell them separately.

14 Protection of third parties

No person (including a purchaser) dealing with the Lender or any Receiver or any of their respective nominees or agents, shall be concerned to enquire:

- 14.1 whether the security created by or pursuant to this Deed has become enforceable;
- 14.2 whether any Receiver is validly appointed or acting within its powers;
- 14.3 whether any power exercised or purported to be exercised has become exercisable;
- 14.4 whether any of the Secured Amounts remain due;
- 14.5 as to the necessity or expediency of any stipulations or conditions subject to which the sale of any Property is made, or otherwise as to the propriety or regularity of the sale of any Property; or
- 14.6 how any money paid to the Lender or a Receiver, or their respective nominees or agents, is applied.

15 Consolidation of mortgages

The restrictions on consolidation of mortgages contained in section 93 of the LPA 1925 shall not apply to this Deed.

16 Rights of Lender or Receiver to remedy breach

If the Borrower defaults in its performance of any of the undertakings under clause 6 or other obligations in this Deed, the Lender or any Receiver may (but shall not be obliged to) do whatever may be necessary to rectify the default or protect the Lender's interest under this Deed (including, if applicable, entering the Property without becoming liable as mortgagee in possession) at the expense of the Borrower.

17 Application of recoveries by a Lender or a Receiver

17.1 Any money received under this Deed shall, subject to the discharge of any prior-ranking claims, be paid or applied in the following order of priority:

17.1.1 in payment of the remuneration of the Receiver and the costs of realisation incurred by the Lender and/or the Receiver including all costs, charges and expenses of or incidental to any exercise of any power conferred by this Deed;

17.1.2 in or towards the payment of any debts or other amounts which are by statute made payable in preference to the Secured Amounts to the extent that such debts or other amounts are made so payable;

17.1.3 in or towards satisfaction of the Secured Amounts in such order as the Lender determines, in its absolute discretion; and

17.1.4 as to the surplus, if any, to the Borrower or to any other person or persons entitled to it.

17.2 The Lender may, in its absolute discretion on or at any time or times after demand and pending the payment to the Lender of the whole of the Secured Amounts, place and keep to the credit of an interest-bearing separate or suspense account any money received, recovered or realised by the Lender under or in connection with this Deed for so long and in such manner as the Lender may determine without any intermediate obligation on its part to apply the same or any part of such money in or towards the discharge of any of the Secured Amounts.

18 Default interest

If the Borrower fails to make any payment due under this Deed on its due date, interest on the unpaid amount shall accrue daily, from the date of non-payment to the date of actual payment (both before and after judgment) at a rate of 1% above the Interest Rate and the Borrower undertakes to pay any such interest to the Lender immediately on demand by the Lender.

19 Costs, expenses and indemnity

19.1 The Borrower must, within 5 Working Days of demand by the Lender, pay to the Lender all Costs reasonably incurred by the Lender arising at any time in connection with:

19.1.1 the negotiation, preparation, execution, perfection or discharge of this Deed (or the security created by or under it) including pursuant to clauses 8 and 9; and/or
19.1.2 responding to, considering or implementing any request for a consent, amendment or waiver to this Deed.

19.2 The Borrower must, within 3 Working Days of demand by the Lender, pay to the Lender all Costs incurred by or on behalf of the Lender arising at any time as a result of or in connection with:

19.2.1 the occurrence of an Event of Default; or

19.2.2 the preservation and/or enforcement of any of the rights of the Lender under this Deed.

20 Notices

20.1 Any notice or other communication given by a party under this Deed must:

20.1.1 be in writing and in English; and

20.1.2 be signed by or on behalf of the party giving it.

20.2 Notices must be sent to:

20.2.1 Borrower: Millfields Community Economic Development Trust Community Interest Company Attention: Josanne Stewart at: 237 Union Street Plymouth PL1 3HQ; and

20.2.2 Lender: Attention: Legal Services at: Plymouth City Council, Ballard House, West Hoe Road, Plymouth PL1 3BJ; and

20.3 A party under this Deed may change any of its details given in clause 20.2 by giving not less than 5 Working Days' notice to the other party.

20.4 Notices may be given and will be deemed received:

20.4.1 by hand: on delivery;

20.4.2 by pre-paid first class recorded signed for post: at 9.00 am on the 2nd Working Day after posting.

~~20.5 This clause 20 does not apply to any notice given in legal proceedings, arbitration or other dispute resolution proceedings.~~

20.6 A notice given under this Deed is not validly served if sent by email.

21 Enforceability

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

22 Redemption of security and releases

Subject to and without prejudice to clause 23, on the irrevocable and unconditional payment and discharge in full of the Secured Amounts, the Lender shall, at the request and cost of the Borrower:

22.1 take whatever action is necessary to release and cancel the security created by or pursuant to this Deed;

22.2 procure the reassignment to the Borrower of the property and assets assigned to the Lender pursuant to this Deed; and

22.3 return all deeds and other documents of title delivered to the Lender under this Deed in each case without recourse to, or any representation or warranty by, the Lender or any of its nominees.

23 Conditional discharge

- 23.1 Any release, settlement or discharge between the Lender and the Borrower will be conditional upon no security, disposition or payment to the Lender by the Borrower or any other person in respect of the Secured Amounts being avoided, set aside, reduced or ordered to be refunded by virtue of any statutory provision relating to insolvency or liquidation or for any reason whatsoever.
- 23.2 If any such release, settlement or discharge is so avoided, set aside, reduced or ordered to be refunded, the liability of the Borrower under this Deed shall continue or be reinstated and the Lender shall be entitled to recover the value or amount of any such security, disposition or payment from the Borrower as if the release, settlement or discharge had not occurred.

24 Lack of capacity

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

25 Third party rights

Unless expressly stated, nothing in this Deed will create any rights in favour of any person under the Contracts (Rights of Third Parties) Act 1999.

26 Governing law and jurisdiction

- 26.1 This Deed and any dispute or claim arising out of, or in connection with it, its subject matter or formation shall be governed by, and construed in accordance with, the laws of England and Wales.
- 26.2 Subject to clause 26.3, the parties under this Deed irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Deed, its subject matter or formation.
- 26.3 Notwithstanding clause 26.2 the parties under this Deed irrevocably agree that the Lender shall have the right to take, and shall not be prevented from taking, proceedings against the Borrower to settle any dispute or claim arising out of, or in connection with, this Deed, its subject matter or formation in any other court of competent jurisdiction and that the Lender may take such proceedings in any number of jurisdictions, whether concurrently or not, to the extent permitted by law.

27 VAT

All sums payable under this Deed are exclusive of VAT and the Borrower must in addition pay any VAT chargeable or payable in respect of the Secured Amounts or otherwise pursuant to this Deed.

28 CONFIDENTIALITY

28.1 Neither party shall disclose:

28.1.1 this agreement or its terms; or

28.1.2 any other information which could in the reasonable contemplation of the parties be considered confidential;

without first notifying the other party of the intention to make such disclosure, consulting with the other party as to the disclosure, and giving due and proper regard to any representations that the other party might make as regards the disclosure.

OFFICIAL

- 28.2 Each party shall ensure that if any disclosure is made pursuant to this clause 28 then the person or persons to whom such information is disclosed is made aware of the confidential nature of the documentation and requested to keep such information confidential and not to further disclose such information.
- 28.3 The conditions stipulated in clauses 28.1, and 28.2 shall not apply to any publication, announcement or disclosure which is reasonably necessary for the proper performance of the relevant parties obligations pursuant to this agreement or as may be required by law (including for the avoidance of doubt requests under the Freedom of Information Act 2000) or the rules of any stock exchange.

IN WITNESS WHEREOF this document has been executed as a deed by the parties on the date first set out at the beginning of this deed

INSURANCE POLICIES—FORM OF NOTICE OF ASSIGNMENT

ACKNOWLEDGEMENT

Part A

Form of notice of assignment to insurer

[TO BE PRINTED ON THE HEADED NOTEPAPER OF THE BORROWER]

To: *[insert name and address of the relevant insurer]*

Date:

Dear Sirs,

[insert brief description of the relevant insurance policy]

- 1 We refer to the legal charge (the 'Legal Charge') dated *[insert date]* and granted by us as borrower (the 'Borrower') in favour of *[insert name of Lender]* (the 'Lender').
- 2 We refer to the insurance policy effected by us as the policy holder, with you as the insurer relating to *[insert brief description of relevant policy, properties to which it relates and risks covered]*, with policy number *[insert number]* and any policy that may be effected to renew, substitute or replace such insurance policy (the 'Insurance Policy').
- 3 We give you notice that pursuant to the terms of the Legal Charge, we have assigned to the Lender by way of security all of our rights and claims from time to time arising in relation to the Insurance Policy including the benefit of all claims arising and all money payable under the Insurance Policy.
- 4 With effect from the date of receipt of this notice, you shall:
 - 4.1 immediately inform the Lender if we default in the payment of any premium or fail to renew the Insurance Policy and, pending receipt of instructions from the Lender, keep the Lender's interest in the Insurance Policy in full force and effect for the full amount insured and for the same risks, subject to any premium for any such period of extended cover being payable by the Lender on behalf of us;
 - 4.2 not, as against the Lender, avoid the Insurance Policy or refuse any claims (with or without returning any premium paid), treat the Insurance Policy as if it had been entered into on different terms, reduce the amount to be paid on a claim or suspend its liability under the Insurance Policy, as a result of any non-disclosure, misrepresentation or breach of any policy term or condition on the part of any other insured party;
 - 4.3 advise the Lender of any proposed cancellation of the Insurance Policy at least 30 days before the cancellation is due to take effect; and
 - 4.4 if, in relation to the Insurance Policy, the insurance cover is to be reduced or any insured risks are to be restricted, advise the Lender at least 30 days before the reduction or restriction is due to take effect.
- 5 You must not (without the Lender's prior written consent) exercise any right of set-off or counterclaim in relation to any amounts owed under or in connection with the Insurance Policy.
- 6 We irrevocably and unconditionally instruct and authorise you, without requiring further approval from us, to:
 - 6.1 promptly disclose to the Lender such information relating to the Insurance Policy as the Lender may at any time request; and
 - 6.2 provide the Lender with copies of all correspondence given to or received from us under the Insurance Policy promptly after it is given or received.
- 7 The authority and instructions contained in this notice cannot be revoked or varied by us without the prior written consent of the Lender.
- 8 This notice and any dispute or claim arising out of, or in connection with it, its subject matter or formation shall be governed by, and construed in accordance with, the laws of England and Wales.

- 9 Please acknowledge safe receipt of this notice within 5 days of receipt of this notice, by signing, dating and returning the attached acknowledgement directly to the LENDER at Ballard House, West Hoe, Road, Plymouth PL1 3BJ, (marked for the attention of Head of Legal Services) and by sending a copy to us at: Millfields Community Economic Development Trust Community Interest Company at: 237 Union Street Plymouth PL1 3HQ (marked for the attention of Roger Pipe).

Yours faithfully,

Director/authorised signatory

For and on behalf of Millfields Community Economic Development Trust Community Interest Company

Part B

Form of acknowledgement of notice of assignment from insurer

TO BE PRINTED ON THE HEADED NOTEPAPER OF THE RELEVANT INSURER

To: The Council of the City of Plymouth

For the attention of: Head of Legal Services

Copy to: Millfields Community Economic Development Trust Community Interest Company

For the attention of: Roger Pipe

Date: *[insert date]*

Dear Sirs,

[insert brief description of the relevant insurance policy]

- 1 We acknowledge receipt of the notice of assignment dated *[insert date]* and sent to us by *[insert name of Borrower]* (the 'Borrower') in connection with the insurance policy effected by the Borrower as the policy holder, with us as the insurer relating to *[insert brief description of relevant policy, the properties to which it relates and risks covered]*, with policy number *[insert number]* and any policy that may be effected to renew, substitute or replace such insurance policy (the 'Insurance Policy') (the 'Notice').
- 2 We hereby consent, notwithstanding any provision to the contrary in the Insurance Policy, to the assignment of the Insurance Policy under the Legal Charge (as defined in the Notice).
- 3 In consideration of your agreement to make available certain loan facilities to the Borrower, we accept the instructions and authorisations contained in the Notice and agree to comply with the terms of the Notice.
- 4 We also agree that you are entitled at any time to assign your rights under this acknowledgement to any party to whom you have assigned or otherwise transferred your rights under the Legal Charge.
- 5 We confirm that we have not received notice of any other assignment or other third party interest whatsoever of or in any of the rights, title or interest of the Borrower under the Insurance Policy.
- 6 This acknowledgement and any dispute or claim arising out of, or in connection with it, its subject matter or formation shall be governed by, and construed in accordance with, the laws of England and Wales.

Yours faithfully

Director/Authorised signatory

For and on behalf of *[insert name of the insurer]*

OFFICIAL

Signed as a deed by Millfields
Community Economic Development
Trust Community Interest Company
acting by a Director

BOI

In the presence of

Witness signature:

[Signature]

Name (in BLOCK CAPITALS): X

Address: X 1 VAPOR ROAD, PLYMOUTH, DEVON PL3 5NS

Occupation: Y ACCOUNTANT

Executed as a deed by affixing the)

common seal of The Council of the)

City of Plymouth in the presence of:)

.....
Senior Lawyer/Lawyer

Plymouth City Council Authorised Signatory

.....
Witness Signature

Date of Resolution – 10th May 2006