

MR01

Particulars of a charge

158933/£13

Laserform

A fee is payable with this form.

Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online.

Please go to www.companieshouse.gov.uk



What this form is for

You may use this form to register
a charge created or evidenced by
an instrument



What this form is NOT for

You may not use this form to
register a charge where there is no
instrument Use form MR08

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If the form is delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery



You **must** enclose a certified copy of the instrument with this form
scanned and placed on the public record **Do not send the original**



A3KO629U

A35

14/11/2014

#17

COMPANIES HOUSE

FRIDAY

1

Company details

Company number

0 0 0 0 7 6 3 3 ✓

Company name in full

William Sinclair Horticulture Limited ✓

2 1

For official use

Filing in this form

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2

Charge creation date

Charge creation date

d0 d7 m1 m1 y2 y0 y1 y4 ✓

3

Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name

Leumi ABL Limited ✓

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below



I confirm that there are more than four persons, security agents or
trustees entitled to the charge

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

Legal Charge over the land to the north of Firth Road, Lincoln (Title Number LL27223) ✓

Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☐ Yes

☒ No ✓

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7** ✓

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes ✓

☐ No

8

Trustee statement ①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X *Requie Patton Boggs (UK) LLP* X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Peter Stanley

Company name Squire Patton Boggs (UK) LLP

Address Rutland House

148 Edmund Street

Post town Birmingham

County/Region

Postcode B 3 2 J R

Country England

DX 708610 Birmingham 17

Telephone +44 (0)121 222 3000



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland:

The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland

The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7633

Charge code: 0000 7633 0021

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th November 2014 and created by WILLIAM SINCLAIR HORTICULTURE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th November 2014.

Given at Companies House, Cardiff on 20th November 2014



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 7 NOVEMBER 2014

WILLIAM SINCLAIR HORTICULTURE (1)
LIMITED

And

LEUMI ABL LIMITED (2)

LEGAL CHARGE

all that freehold property situate at and being land at
Firth Road, Lincoln is registered at HM Land Registry
under title number LL27223

*Save for material retained
pursuant to s.859 G of the
Companies Act 2006*

We hereby certify that this is a
true and correct copy of the original
Dated 13.11.2014

Squire Patton Boggs (uk) LLP
SQUIRE PATTON BOGGS (UK) LLP
RUTLAND HOUSE
148 EDMUND STREET
BIRMINGHAM
B3 2JR

CONTENTS

1	DEFINITIONS AND INTERPRETATION	1
2	COVENANT TO PAY	5
3	DUE DATE FOR PAYMENT	5
4	INTEREST IN ABSENCE OF AGREEMENT	5
5	PROPERTY CHARGED	5
6	COVENANTS	5
7	STATUTORY POWERS	8
8	COMPANY'S DEFAULT POWERS	8
9	CHARGE ENFORCEABLE	8
10	TAKING POSSESSION OF THE PROPERTY	9
11	APPOINTMENT OF RECEIVER	9
12	RECEIVERS' POWERS	9
13	RECEIVER'S APPLICATION OF MONIES	10
14	CHATTELS	10
15	PRIOR MORTGAGE	11
16	DEEDS OF PRIORITY	11
17	SUSPENSE ACCOUNT	11
18	CHARGE ADDITIONAL TO OTHER SECURITIES	12
19	WAIVER	12
20	NOTICE OF SUBSEQUENT CHARGE	12
21	OTHER ACCOUNTS	12
22	ASSIGNMENT OF CHARGE	12
23	ATTORNMENT	13
24	NOTICE	13
25	GENERAL TERMS	13
26	MISCELLANEOUS	14
27	OWNER'S ACKNOWLEDGEMENT	15

DATE OF LEGAL CHARGE

7 NOVEMBER 2014

PARTIES

- (1) **WILLIAM SINCLAIR HORTICULTURE LIMITED** (Company number 00007633) whose registered office is at Firth Road, Lincoln, Lincolnshire LN6 7AH the "Owner"), and
- (2) **LEUMI ABL LIMITED** (Company Number 00620951) whose registered office is at 126 Dyke Road, Brighton, East Sussex, BN1 3TE (the "Company")

INTRODUCTION.

- A The Owner is registered at the Land Registry as proprietor with freehold Title Absolute in respect of the Property described in Schedule 1 of this Charge **SUBJECT** to the Incumbrances (defined below) and the Prior Mortgage **BUT OTHERWISE** free from encumbrances
- B The Owner has already been granted or may hereafter be granted facilities from time to time by the Company in some one or other of the modes in which facilities are granted to their customers by those who provide finance through (amongst other things) the factoring or discounting of receivables and the Owner is now indebted to the Company
- C It has now been agreed between the Owner and the Company that all moneys now owing or which shall hereafter become owing on a general balance of account or otherwise between the Owner and the Company (with all interest costs charges and other moneys specified below) shall be secured in the manner and upon the terms hereinafter appearing

NOW THIS DEED WITNESSES as follows

1 DEFINITIONS AND INTERPRETATION

1.1 In this Charge

- (a) the "Company" includes its assigns to this security
- (b) the "Events" mean
 - (i) the non-payment or discharge of any of the Secured Liabilities by the Owner when the same ought to be paid and/or discharged by the Owner (whether on demand or at scheduled maturity or by acceleration or otherwise as the case may be), or
 - (ii) the occurrence of a breach on the part of the Owner of any obligations owed to the Company which breach (if capable of remedy) has not been remedied to the satisfaction of the Company before the expiry of 7 days after notice calling upon the person concerned to do so, or
 - (iii) the Insolvency of the Owner, or
 - (iv) the making of any order for the compulsory acquisition or demolition of

- the Property made by any competent authority, or
- (v) the Conveyance transfer or assignment of the Property and/or the creation of any fixed (legal or equitable) or floating charge over the Property made or created (as the case may be) without the express prior written consent of the Company, or
 - (vi) the giving of notice by anyone terminating or purporting to terminate any guarantee and/or indemnity given by anyone to the Company in respect of the obligations of the Owner to the Company, or
 - (vii) the enforcement of its security over the Property by any secured creditor of the Owner whether by the exercise of a power of sale taking possession of the Property by the appointment of a receiver or otherwise, or
 - (viii) the levying or threat of execution of distress on any part of the Property, or
 - (ix) the breach of any implied covenant or other obligation on the Owner's part including covenants for title implied under the Law of Property (Miscellaneous Provisions) Act 1994 and covenants and other obligations on the Owner's part implied or otherwise deriving from Sections 28 and 103(1) of the Land Registration Act 1925, or
 - (x) the occurrence of any event which has been agreed in writing between the Owner and the Company as an event upon the occurrence of which this or any other security for all or any of the Secured Liabilities shall become enforceable, or
 - (xi) the occurrence of any other event that puts in jeopardy the value or utility of any security supplied by anyone in respect of the obligations of the Owner to the Company or in respect of any guarantee and/or indemnity given by anyone to the Company in respect of the obligations of the Owner, or
 - (xii) the termination or purported termination of any guarantee and/or indemnity given by anyone to the Company in respect of the obligations of the Owner to the Company
- (c) **"Incumbrances"** in relation to the Property mean all matters contained or referred to on the title to the Property including but not limited to those the subject of any indemnity covenant implied hereunder including all easements rights and privileged agreements and declarations restrictive and other covenants and the matters (save only the Prior Mortgage) and all overriding interests as that expression is defined by Section 70(1) the Land Registration Act 1925 (as amended) so far as the same are still subsisting and capable of taking effect and affect or are otherwise appurtenant to the Property
- (d) **"Insolvency"** shall be deemed to occur on the happening of the following events or any of them

- (i) on the presentation of a petition for the winding up of the Owner or for an administration order in relation to the Owner pursuant to the Insolvency Act 1986, or
 - (ii) if the Owner is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or
 - (iii) on the appointment of a receiver of any part of the Owner's income or assets, or
 - (iv) on the making of a garnishee order nisi against any debtor of the Owner in relation to any judgement debt owned by the Owner at law or in equity, or
 - (v) if a proposal is made for a voluntary arrangement between the Owner and its creditors whether pursuant to the Insolvency Act 1986 or otherwise
- (e) the "**Lease**" means the lease (if any) referred to in the Introduction to this Charge and shall include all other deeds and documents varying same or that are otherwise supplemental to the said lease
- (f) the "**Owner**" includes its successors in title to the Property
- (g) the "**Parties**" to this Legal Charge are the persons corporate or otherwise named herein as the Owner and the Company or their respective successors in title to the Property and the rights and obligations on the part of the Owner created by this Charge
- (h) the "**Planning Acts**" means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991 and all statutes regulations and orders included by virtue of sub-clause 1 20
- (i) the "**Property**" means the property described in Schedule 1 and reference herein to "the Property" includes all fixed plant and machinery fixtures and fittings in or about the property and all and every interest of the Owner in the Property or in the proceeds of sale of the Property which the Owner may charge at law or in equity, and reference herein to "the Property" is a reference to the Property in its entirety and to each and every part of the Property
- (j) the "**Prior Mortgage**" means the Security Agreement dated 18 March 2014 and entered into between the Prior Mortgagee and the Owner and registered at the Land Registry on 21 March 2014.
- (k) "**Prior Mortgagee**" means the Trustees and includes their successors in title to the Prior Mortgage
- (l) the "**Secured Liabilities**" mean
- (i) all monies obligations and liabilities whatsoever whether for principal or interest or otherwise or whether certain or contingent which are now or may at any time hereafter be due from or owned or incurred by the Owner to the Company on any current or other account or in any manner

whatsoever (and whether alone or jointly with any other person and in whatever style or name and whether as principal or surety)

- (ii) (as well after as before any demand made or judgement obtained) interest to date of repayment at such rate as may from time to time be charged by the Company in accordance with the agreements entered into with the Owner or otherwise hereunder, and
- (iii) all other interest commission fees and legal and other lawful costs charges and expenses computed and compounded from time to time in accordance with the terms agreed (if any) between the Owner and the Company relating thereto and in the absence of any such agreed terms computed and compounded in accordance with Clause 4 hereof, and
- (iv) all losses and damages sustained by or otherwise due to the Company in relation to the breach of any implied covenant or other obligation on the Owner's part including covenants for title implied under the Law of Property (Miscellaneous Provisions) Act 1994 and covenants and other obligations on the Owner's part implied or otherwise deriving from Sections 28 and 103(1) of the Land Registration Act 1925, and
- (v) all costs charges and expenses and the fees and disbursements of engineers valuers lawyers and other professionals covenanted to be paid by the Owner

(m) the "Trustees" means Michael John Airey and Caroline Isobel Murray as trustees of the William Sinclair Holdings plc Pension Fund

- 1 2 words herein importing one gender are to be construed as importing any other gender, words importing the singular are to be construed as importing the plural and vice versa and words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 1 3 If two or more persons are included in the expression the "Owner" then this Charge shall by construed so as apply to the indebtedness of the Company of each of them severally and of any or all of them jointly or jointly and severally and their obligations hereunder shall be joint and several
- 1 4 Reference hereto to the obligations of any person to the Company mean all such obligations however arising including but not restricted to those arising under any separate agreement or arrangement whereby a guarantee or indemnity is given for such obligations or any of them under this Charge
- 1 5 The clause headings do not form part of this Charge and must not be taken into account in the construction in the construction or interpretation of this Charge
- 1 6 Any reference in this Charge to a clause or sub-clause further designation is to be construed as a reference to the clause or sub-clause of this Charge so numbered
- 1 7 Reference in this Charge to any named Act of Parliament shall include any and such Act save only as may be expressly stated below every applicable Act of Parliament and any and every applicable statutory instrument or other legislative material already or subsequently amending such Act save only as may be expressly stated below

1 8 Reference in this Charge to enactments generally include any and every Act of Parliament already or subsequently passed and any and every applicable statutory instrument or other legislative material already or subsequently amending such Act

1 9 Any covenant by any person not to do an act or thing shall be deemed to include an obligation not to cause permit or suffer such act or thing to be done by another person

2 COVENANT TO PAY

The Owner covenants with the Company that as and when the Secured Liabilities or any part of them are due for payment the Owner shall pay to the Company the Secured Liabilities or as the case may be the part of them due to be paid

3 DUE DATE FOR PAYMENT

3 1 It is agreed and declared that all the Secured Liabilities shall be due for payment on the happening of the first to occur of any of the Events as defined above, but

3 2 (in the absence of the occurrence of an Event) it is agreed and declared that the due date for payment of the Secured Liabilities taken individually shall be such date as shall have been expressly agreed in writing between the Company and the Owner for the same but in the absence of express contrary agreement regarding any of the Secured Liabilities they shall be payable to the Company on demand

4 INTEREST IN ABSENCE OF AGREEMENT

In the absence of any prior agreement to the contrary the Owner will pay interest on all Secured Liabilities due to the Company (whether under this Charge or on any judgement which may be recovered therefor) on the last day of each calendar month and accruing from day to day at five per cent above the Base Rate from time to time of Lloyds TSB Bank PLC and such interest shall be compounded monthly in the event of not being punctually paid

5 PROPERTY CHARGED

The Owner charges the Property with full title guarantee and by way of legal mortgage subject only to the Incumbrances and the Prior Mortgage as a continuing security with the payment to the Company on demand of the Secured Liabilities

6 COVENANTS

The Owner covenants with the Company that until this security has been discharged the Owner will

6 1 keep the Property in a good state of repair and in good working order and condition and renew and replace the fixtures and fittings about the Property when they become obsolete worn out or destroyed

6 2 insure and keep insured in the joint names of the Owner and the Company such of the Property as is of an insurable nature against loss or damage to its full insurable value with such insurer and against such risks and in such amounts and otherwise upon such terms as the Company may require and (failing such requirement) in accordance with businesslike practice in respect of such terms of the same type

- 6 3 (subject only to the provisions of the Prior Mortgage) procure that all moneys payable under any insurance in respect of loss or damage to the Property whether effected or maintained pursuant to the covenants contained in this Charge or otherwise shall be paid to the Company or if the same shall be paid to the Owner hold all moneys received in trust for the Company an account to the Company accordingly and all such moneys shall at the option of the Company and in its absolute discretion be applied in making good or recouping the expenditure in respect of the loss or damage for which such moneys are received or in or towards discharge or reduction of any of the Secured Liabilities
- 6 4 (If the Owner's title to the Property is leasehold) if under the terms of the Lease the Property is insured by some other party procure compliance so far as is possible with sub-clauses 7 2 and 7 3
- 6 5 give to the Company or any person duly authorised by the Company on demand such information about the Property as the Company may reasonably require
- 6 6 permit the Company or any person duly authorised by the Company to enter all buildings erections or structures forming part of the Property (without prejudice to the powers conferred by this Charge and without becoming mortgagee in possession) on reasonable prior notice for any reasonable purpose to view the state of same
- 6 7 Pay all rents rates taxes levies assessments impositions and outgoings whatever whether governmental municipal or otherwise which may be imposed upon or in respect of the Property as and when the same shall become payable on demand to produce the receipt for such payments
- 6 8 (subject only to the provisions of the Prior Mortgage) forthwith on receipt by the Owner give notice to the Company of and pending direction from the Company hold in trust for the Company any monetary compensation relating to the property paid to the Owner whether in exercise of statutory provisions or otherwise and subject as aforesaid use such compensation in the repair or maintenance of the Property or its services or amenities or in reduction of the monies owing to the Company under this Charge as the Company shall in its absolute discretion decide
- 6 9 forthwith give notice to the Company of any defect damage injury or depreciation relating to the Property giving or which may give rise to a right to claim for damages compensation or indemnity whether as of right or ex gratia or otherwise
- 6 10 (If the net proceeds of sale of the Property by the Company shall be insufficient to pay the Secured Liabilities) pay to the Company the deficiency on demand with interest on such deficiency from completion of the sale at the interest rate payable immediately before such completion as well after as before judgement
- 6 11 observe any and every enactment relating to or affecting the property or the use of the Property for any purpose and execute all works and provide and maintain all arrangements which by any authorised person authority or body are or may be recommended directed or required to be executed provided or maintained at any time
- 6 12 within seven days after becoming aware thereof give full particulars to the Company of any notice order direction designated resolution or proposal having specific application to the Property or to the locality in which it is situate given or made by any planning authority or other public body or authority whatsoever and (if the Company so requires) forthwith at the costs of the Owner take all reasonable and necessary steps to comply with any such notice order direction designation or resolution and make or join with the

Company in making objections or representations in respect of any such proposal as the Company may require

- 6 13 observe and perform all the Incumbrances (if any) on the Owner's part to be observed and performed and (if the Company so requires) produce to the Company evidence sufficient to satisfy the Company that all such matters have been observed and performed
- 6 14 (if the Owner's title to the Property is leasehold) to enforce observance and performance of the Landlord's covenants contained in the Lease and if the Owner shall receive any notice served under Section 146 of the Law of Property Act 1925 or any proceedings shall be commenced for forfeiture of any such lease or any superior lease or the landlord or any superior landlord shall attempt to re-enter under the provisions of such lease give immediate notice in writing to the company and at the request of the Company but at the expense of the Owner to take all such steps as the Company may require
- 6 15 not without the prior written consent of the Company to permit any person to be registered under the Land Registration Act 1925 or any substituted statutory provision as the proprietor of the Property and if the Company shall enter any Caution against any such registration the cost incurred by the Company in so doing shall be deemed to have been properly incurred by the Company in exercise of a power conferred by this Charge and shall be repayable on demand by the Owner
- 6 16 not without the prior written consent of the Company grant or agree to grant any lease in respect of the Property to accept or agree to accept any surrender if any lease in respect of the Property (whether such Lease subsists at the date of this Charge or is created hereafter with or without the Company's consent)
- 6 17 not to sell or dispose of the Property or any estate or interest in the Property or share or part with possession or occupation of the Property
- 6 18 not without the prior written consent of the Company allow any person to become entitled to assert any proprietary or other right or interest over the Property
- 6 19 (save only for the Prior Mortgage) not without the written consent of the Company create or permit to subsist any mortgage pledge charge incumbrance lien or security interest in the Property other than this security
- 6 20 not without the previous consent in writing of the Company nor otherwise then in accordance with plans and elevations and specifications previously submitted to and approved by the company in writing make any alterations to any buildings erections of structures fixtures or fittings for the time being forming part of the Property or put up or erect any new buildings at the Property
- 6 21 not without the previous consent in writing of the Company nor otherwise then in accordance any approval for the sale given in writing by the Company carry out at the Property any development as defined for the purpose of the Planning Acts
- 6 22 pay on demand on the footing of a full indemnity by the Owner from and against the same all costs charges and expenses and the fees and disbursements of engineers valuers lawyers and other professionals (whether in the nature or income or capital) incurred by the Company or by any receiver appointed by it in or in connection with the taking and perfecting of this Charge the exercise of any powers conferred by this Charge or by statute of which they or either of them shall incur in or in connection with the

recovery or attempted recovery of the Secured Liabilities or the preservation or attempt preservation of this security or of the Property and the remuneration of any receiver

6 23 execute on demand any deed of priority the Company may wish to enter into with the Prior Mortgagee

6 24 execute and do all such assurances and things as the Company may on demand require for perfecting this security or preserving the Property or for facilitating the realisation of the Property in such manner as the Company may think fit and shall direct and for exercising all powers authorities and discretions conferred by this Charge or by law on the Company or any receiver appointed by it

7 STATUTORY POWERS

7 1 The statutory powers conferred on the Company as varied and extended by this Charge and all other powers conferred in this Charge shall in favour of a purchaser (as defined in section 205 of the Law of Property Act 1925) or person dealing in good faith be deemed to arise and be exercisable immediately after the execution of this Charge

7 2 The restriction on the right of consolidating mortgage securities which is contained in Section 93 of the Law of Property Act 1925 shall not apply to this security

7 3 The Owner shall not exercise any of the powers of leasing or accepting surrenders of lease conferred by sections 99 and 100 of the Law of Property Act 1925 or by common law without the consent in writing previously obtained from the Company which shall be entitled to grant or accept the surrenders of lease without restriction after the power of sale shall have become exercisable

7 4 Section 103 of the Law of Property Act 1925 shall not apply to this security and failing payment of the Secured Liabilities as and when they become due or other breach of the covenants and conditions on the Owner's part contained in this Charge this security shall become enforceable and the powers on the Company by the said Act and this Charge immediately exercisable without the restrictions contained in the said Act as to the giving of notice or otherwise with respect to the whole or any part of the Property

7 5 In its application to this Security Section 103(1)(l) of the Land Registrations Act 1925 shall have effect as if the words " subject to proper provision being made for payment of costs " had been omitted therefrom

8 COMPANY'S DEFAULT POWERS

If default shall be made in the performance of any obligation imposed on the Owner by this Charge or otherwise affecting the property then the Company shall in its absolute discretion without prejudice to any other remedy available to the Company under this Charge and without responsibility to the Owner for any decision it may make in the matter be at liberty to perform such obligation in whole or in part and to pay all costs expenses and damages occasioned by such default and all costs losses expenses and damages incurred sustained or paid by the Company in so doing shall be deemed to have been properly incurred by the Company in exercise of a power conferred by this Charge and shall be repayable on demand by the Owner

9 CHARGE ENFORCEABLE

9 1 All statutory contractual or other powers (howsoever arising) on the Company's part as

mortgagee or chargee to enforce payment of the Secured Liabilities (or any of them) or otherwise to realise its interest in the Property shall arise on the happening of the first to occur of any of the Events as defined above

9 2 Notwithstanding the generality of the foregoing nothing contained in this Clause shall be construed do as to exclude restrict limit or otherwise prejudice the right of the Company to bring proceedings at any time to enforce any of the covenants on the Owner's part contained in this Legal Charge

9 3 The Company shall have all of the powers set out in sections 101 and 102 of the Law of Property Act 1925 as if the same had been set out herein and from the first occurrence of any of the Events the Company shall be entitled to exercise any of the said powers free so far as they apply of any restrictions contained in Sections 103 and 109 of that Act

10 TAKING POSSESSION OF THE PROPERTY

If the Company enters into possession of the Property under the provisions of this Charge then it shall not be accountable to the Owner as a mortgagee in possession on the footing of wilful default

11 APPOINTMENT OF RECEIVER

11 1 The power of appointing a receiver hereunder may be exercised in writing under the hand of any director or the company secretary for the time being of the Company or any person authorised in writing by any of them and so far as is practicable shall have the powers contained in Schedule 1 of the Insolvency Act 1986 in addition to the powers contained in this Charge

11 2 If two or more individuals shall hold office as receivers of the Property then such individuals shall have the right to exercise any of their powers severally as well as jointly

12 RECEIVERS' POWERS

Any receivers appointed by the Company under this Charge shall be the agent of the Owner and the Owner shall be solely responsible for his acts and remuneration costs and expenses as well as for any defaults committed by him and further the receiver shall in addition to the powers conferred on him by the Law of Property Act 1925 have power (if the Company so directs),

12 1 to sell the Property in such manner and generally upon such terms and conditions as he thinks fit and to transfer convey or assign the same in the name and on behalf of the Owner,

12 2 to do all acts and things as an absolute owner could do in the management of the Property and in particular

(a) to borrow from the Company such monies as he may require and such monies shall be monies due from the Owner to the Company, and

(b) to compromise or settle any claims arising out of or against the Property,

(c) to undertake or complete any works or repair building or development of the Property,

(d) to grant or accept surrenders of any leases or tenancies affecting the Property upon such

terms and subject to such conditions as he thinks fit

- 12 3 charge such sum by way of remuneration (in addition to all costs charges and expenses incurred by him) as the Company may prescribe or agree with the receiver,

and the Owner hereby irrevocably appoints each such receiver to be the Owner's attorney for the above purposes and these powers shall be in addition to all powers given by statute to the Company or to any such receiver

13 RECEIVER'S APPLICATION OF MONIES

All monies received by any receiver appointed hereunder shall be applied (subject to claims of any secured or unsecured creditors having priority to this Charge) for the following purposes and in the following order -

- 13 1 in payment of all costs charges and expenses of and in relation to his appointment and the exercise of his powers and if any other expenses properly discharged by him,
- 13 2 in payment of his remuneration as agreed between him and the person who appointed him,
- 13 3 in discharge of all rents taxes rates and outgoings whatsoever affecting the Property,
- 13 4 in payment of all annual sums and other payments and the interest on all principal sums having priority to the Secured Liabilities secured by this Charge,
- 13 5 in payment of any costs relating to the realisation of the Property,
- 13 6 in or on account of the discharge of the Secured Liabilities together with any interest thereon,
- 13 7 in or towards the discharge of any security over which the security has priority, and
- 13 8 (if the Owner is not insolvent) in payment of any surplus to the Owner

and the provisions of Section 109(8) of the Law of Property Act 1925 shall be varied accordingly

14 CHATTELS

If the Company or any receiver appointed by the Company shall take possession of the Property and the Owner shall not within fourteen days remove any chattels left in or upon the Property then the Company or the receiver shall be entitled at the Owner's expense and risk (but not so as to give the Company any security thereon or otherwise so as to constitute this Charge as a Bill of Sale)

- 14 1 to sell such chattels or any of them either separately or with the Property (and if sold with the Property to apportion the total purchase between the Property and the chattels), or
- 14 2 to store such chattels or any of them and pay the storage charges and any money resulting from the sale of such chattels or of the property may be used to pay the expenses incurred under this clause and the Company or the receiver shall not be liable to account to the Owner for such money until all the said chattels have been sold or possession of those not sold has been resumed by the Owner against any liability arising

pursuant to the exercise of the rights at sub-clauses 15.1 and 15.2 of this clause

15 PRIOR MORTGAGE

At any time after the happening of the first to occur of any of the Events as defined or after any powers conferred by the Prior Mortgage or other Incumbrance having priority to this Charge shall have become exercisable then the Company may redeem the same or procure the transfer hereof to itself and may settle and pass the accounts of the prior mortgage, charge holder or Incumbrancer and any accounts so settled and passed shall be conclusive and binding upon the Owner and all monies paid by the Company to the Incumbrancer in accordance with such accounts shall as from such payment be due from the Owner to the Company on current account and shall bear interest and be secured as part of the Secured Liabilities

16 DEEDS OF PRIORITY

- 16.1 The Owner for all purposes required by law including (without limitation any requirement of the Land Registration Act 1925 and any applicable legislation) hereby irrevocably authorises the Company and the Prior Mortgagee and without further need for his involvement to enter into any such deed or other arrangement on any such terms as they may in their absolute discretion think fit to regulate the distribution between the two companies of the net proceeds of sale of the Property and any insurance moneys that may be payable in respect of the damage or destruction of the Property
- 16.2 The Owner also hereby irrevocably authorises the Company and the Prior Mortgagee to exchange information with regard to the operation of his respective accounts with the two companies and notwithstanding that to do so would in the absence of this consent amount to a breach of any duty of confidentiality either company may otherwise owe to him
- 16.3 The Owner also hereby irrevocably acknowledges the absolute right of the Company and the Prior Mortgagee to regulate the priorities of their respective securities and covenants with both companies that in the event either or both enforce their respective securities he will not require or attempt to enforce any application of the said monies available for application under the provisions of such arrangement or deed otherwise than in accordance with the provisions agreed between the two companies and that he will not in any way prejudice or seek to affect the enforcement of the provisions of any such arrangement or deed affecting priorities or do so or suffer anything to be done which would be a breach of the terms of such arrangement or deed
- 16.4 The Owner hereby acknowledges that the Prior Mortgagee shall enjoy all such right to the full extent accorded by law to rely on the powers rights and discretion's conferred on it by this deed including (but without limitation) all such rights conferred by section 56 of the Law of Property Act 1925 and the Contracts (Rights of Third Parties) Act 1999

17 SUSPENSE ACCOUNT

All monies received or realised by the Company under this Charge may in the sole and absolute discretion of the Company be credited to any suspense or impersonal account and shall bear interest at such rate if any as may be agreed in writing between the Company and the Owner and in the absence of any such agreement computed and compounded in accordance with clause 4 and may be held in such account for so long as the Company may think fit pending the application from time to time (as the Company shall be entitled to do so as it may think fit) of such monies and accrued interest thereon

if any in or towards the discharge of any of the Secured Liabilities hereby secured

18 CHARGE ADDITIONAL TO OTHER SECURITIES

This Charge shall be in addition to and shall be independent of every other security which the Company may at any time hold for any of the Secured Liabilities and it is hereby declared that nothing in this Charge shall operate so as to merge or otherwise prejudice or affect any bill note guarantee mortgage charge or other security which the company may for the time being have for any Secured Liabilities due or incurred by the Owner to the Company or any right or remedy of the Company thereunder

19 WAIVER

The Company may in its sole and absolute discretion grant time or other indulgence or make any other arrangement variation or release with any person not a party hereto who has provided a guarantee and/or indemnity in respect of the obligations of the Owner to the Company or where there are two or more persons comprised in the expression "the Owner" with any of such persons (whether or not such persons are jointly liable with the Owner) in respect of any of the Secured Liabilities or of any other security therefor without prejudice either to this Charge or to the liability of the Owner for the Secured Liabilities

20 NOTICE OF SUBSEQUENT CHARGE

If the Company receives notice of any subsequent charge or other interest affecting all or any part of the Property then the Company may open a new account or accounts for the Owner in its books and if the Company does not do so then unless the Company gives express written notice to the contrary to the Owner as from the time of receipt of such notice by the Company all payments made by the Owner to the Company in the absence of any express appropriation by the Owner to the contrary shall be treated as having been credited to a new account of the Owner and not as having been applied in reduction of the amount due owing or incurred from the Owner at the time when it received such notice

21 OTHER ACCOUNTS

In case the Company shall have more than one account for the Owner in its books the Company may at any time after this Charge has become enforceable or the Company has received notice of any subsequent charge or other interest affecting all or any part of the Property and without prior notice in that behalf forthwith transfer all or any part of the balance standing to credit of such account to any such account which may be in debit but the Company shall notify Owner of the transfer having been made

22 ASSIGNMENT OF CHARGE

The Company may at any time transfer the benefit of this Charge whereupon the monies liabilities and interest owing under it shall be treated as monies already due and bear interest (payable monthly on the last day of every month) from the date of the transfer at the interest rate payable immediately before such transfer AND a transferee taking the benefit of this Charge shall have all the powers conferred on mortgagees by the Law of Property Act 1926 and every statement contained in any such transfer as to the amount outstanding under this Charge and the rate of interest chargeable thereunder shall for all purposes be conclusive

23 ATTORNMENT

The Owner irrevocably and by way of security appoints each of them the Company and any person nominated in writing under hand for the purpose by the Company by a director of the Company or any person on whom power to execute any deed or other document for and behalf of the Company or to appoint a receiver to any security taken by the Company has been conferred by the Company (including ever receiver appointed by the Company) severally as attorney of the Owner for the Owner and in the name of the Owner and on behalf of the Owner and as the Owner's act and deed to execute seal and deliver and otherwise perfect and do any deed assurance agreement instrument act of thing which the Owner ought to execute and do under the covenants undertakings and provisions express or implied in this Charge or which may be required or deemed prior in the exercise of any rights or powers under this Charge or otherwise for any of the purposes of this security and the Owner covenants with the Company to ratify and confirm all acts or things made done or executed by such attorney as specified above

24 NOTICE

- 24 1 Any notice to be given or served on the Owner may be served by posting such notice to the Property or if different to the latest address for such persons in the Company's records
- 24 2 Any notice to be given or served on their respective personal representative or the trustee in bankruptcy of the Owner may be served by posting such notice to the latest address for such person in the Company's records and without naming such personal representatives or trustee in bankruptcy
- 24 3 Any notice sent by post to any of the aforesaid shall be assumed to have reached the addressee within 72 hours of being placed in the post
- 24 4 If any such notice is to be served on more than one person any notice shall
- 24 5 Any notice to be served on the Company may be served by posting it by Recorded Delivery to the Directors of the Company and its Registered Office.

25 GENERAL TERMS

The Company and the Owner hereby agree that

- 25 1 this Charge shall also secure further advances (including re-advances) made to the Owner by the Company but without any obligation on the Company to make any such advances
- 25 2 this Charge shall remain in full force and effect as a continuing security unless and until the Company discharges this Charge
- 25 3 the rights and remedies of the Company herein provided are in addition to and not in substitution for any rights or remedies provided by law
- 25 4 until the discharge of this Charge and the performance of all the Owner's obligations to the Company the Owner shall not be entitled to the benefit of nor claim to be subrogated to any other charge or lien or security held by the Company for the due performance of their respective obligations to the Company nor shall the Company be under any obligation to enforce them for the Owner's benefit

- 25 5 save as expressed to the contrary nothing in this deed is intended to benefit any non-party and no consent from any non-party is required for the rescission or amendment of this deed

26 MISCELLANEOUS

- 26 1 Neither the security hereby created nor any other charge lien or security provided by anyone in respect of the obligations of the Owner to the Company or in respect of their responsibilities for the obligations of the Owner to the Company nor any other responsibility they may have to the Company whether as principal guarantor or by the way of indemnity shall be discharged determined or any other way affected by the following events or any of them
- (a) by the giving of time by the Company or by the failure on the part of the Company to institute or pursue any proceedings against or to otherwise enforce any remedy (judicial or otherwise) against the Owner or anyone else responsible to the Company in respect of the obligations of the Owner to the Company, or
 - (b) by the release from its or their obligations to the Company of the Owner or anyone else responsible to the Company in respect of the obligations of the Owner to the Company, or
 - (c) by the Company releasing in whole or in part any charge lien or other security taken from the Owner or anyone else responsible to the Company in respect of the obligations of the Owner to the Company, or
 - (d) by any lack of capacity or of borrowing powers on the part of the Owner or by any defect in any security given by the Owner or any other person in respect of the obligations of the Owner to the Company or by any lack of actual authority of any agent of the Owner or of any officer of the Owner if the Owner be a body corporate apparently acting on behalf of the Owner
- 26 2 The Owner shall not be entitled to enforce or otherwise exercise against the interests of the Company any claim they may have in or against any security or other right given by any person in respect of its or his respective obligations to the Company for the obligations of the Owner to the Company unless the Company has been paid in full and for this purpose any payment by such person to the Company shall be deemed (to the extent appropriate) not to have been made if it is later set aside or reduced under the law relating to insolvency and the Company shall be entitled accordingly to re-open any settlement between the Company and such person or the Owner
- 26 3 Each of the provisions of this Charge is severable and distinct from the others and its at any time one or more such provisions is or becomes invalid illegal or unenforceable then the validity legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby
- 26 4 The amount owing at any time to the Company from the Owner may be conclusively determined as against the Owner by a certificate in writing signed by a Director of the Company and served on the Owner as if it were a demand hereunder
- 26 5 Any change in the constitution of the Company or its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person

shall not in any way prejudice or affect its rights hereunder

26 6 Save as expressly stated herein it is not the intention of the parties that this Charge shall confer any benefit on anyone not a party to this Charge whether by reason of the Contracts (Rights of Third Parties) Act 1999 or otherwise

26 7 Further the parties hereto shall have full right and power on their own absolute discretion by agreement to release any security provided by this Charge or to vary waive or suspend on terms so agreed any covenant or other obligation contained or implied in this Charge without need for consent from anyone not a party to this Charge and without liability to any person not a party to this Charge and nothing contained in this Charge shall affect the right any party may have by reason of anything contained or implied herein or at law to unilaterally waive full compliance with any covenant or other obligation contained or implied in this Charge

27 OWNER'S ACKNOWLEDGEMENT

The Owner hereby acknowledges that

27 1 the Client's solicitors have recommended that the Owner seeks and have provided the Owner with an opportunity to seek independent legal advice regarding the contents of this Charge and the consequence of signing this Charge as the owner and occupier of the Property

27 2 the Owner recognises that its right to occupy the Property may be terminated and that its right to take or to share in the net proceeds of sale of the Property and to have insurance moneys in respect of any insurance of the Property applied to the repair or rebuilding of the Property may be lost or reduced if the Company exercises any of its rights as a mortgagee

27 3 the Owner has not relied upon any statement made by the Company or by its solicitors save those contained in this Charge and in correspondence between the Owner and the Company or between the Company's solicitors and the Owner and/or any solicitor the Owner may instruct to provide independent legal advice regarding the subject matter of this Charge.

28 APPLICATION TO LAND REGISTRY

The Owner hereby applies to the Chief Land Registrar to enter on the Register a restriction in the following terms

"RESTRICTION. No disposition of the registered estate by the proprietor of the registered estate is to be registered without the written consent of the proprietor for the time being of the charge dated () in favour of Leumi ABL Limited (company number 00620951) "referred to in the charges register"

IN WITNESS of which this document has been executed and, on the date set out above, delivered as a deed

SIGNED as a deed (and delivered when dated)

by **WILLIAM SINCLAIR HORTICULTURE LIMITED**

acting by one director in the presence of

Witness Signature

Witness Name

Witness Occupation

Witness Address

SIGNED as a deed by

Attorney for **LEUMI ABL LIMITED**

And

Attorney for **LEUMI ABL LIMITED**

as attorneys for

LEUMI ABL LIMITED

under a power of attorney dated

14th August 2012 in the presence of

Name

Address

Occupation

SCHEDULE 1

THE PROPERTY

All that freehold property situate at and being land Firth Road, Lincoln, title to which is registered at HM Land Registry under title number LL27223

Save for material redacted pursuant
to s 859G of the Companies Act 2006

We hereby certify that this is a
true and correct copy of the original

Dated 13/11/2014
Squire Patton Boggs (UK) LLP
SQUIRE PATTON BOGGS (UK) LLP
RUTLAND HOUSE
148 EDMUND STREET
BIRMINGHAM
B3 2JR

DATED 7th November 2014

WILLIAM SINCLAIR HORTICULTURE (1)
LIMITED

And

LEUMI ABL LIMITED (2)

LEGAL CHARGE

all that freehold property situate at and being land at
Firth Road, Lincoln is registered at HM Land Registry
under title number LL27223

CONTENTS

1	DEFINITIONS AND INTERPRETATION	1
2	COVENANT TO PAY	5
3	DUE DATE FOR PAYMENT	5
4	INTEREST IN ABSENCE OF AGREEMENT	5
5	PROPERTY CHARGED	5
6	COVENANTS	5
7	STATUTORY POWERS	8
8	COMPANY'S DEFAULT POWERS	8
9	CHARGE ENFORCEABLE	9
10	TAKING POSSESSION OF THE PROPERTY	9
11	APPOINTMENT OF RECEIVER	9
12	RECEIVERS' POWERS	9
13	RECEIVER'S APPLICATION OF MONIES	10
14	CHATTELS	10
15	PRIOR MORTGAGE	11
16	DEEDS OF PRIORITY	11
17	SUSPENSE ACCOUNT	12
18	CHARGE ADDITIONAL TO OTHER SECURITIES	12
19	WAIVER	12
20	NOTICE OF SUBSEQUENT CHARGE	12
21	OTHER ACCOUNTS	12
22	ASSIGNMENT OF CHARGE	13
23	ATTORNMENT	13
24	NOTICE	13
25	GENERAL TERMS	13
26	MISCELLANEOUS	14
27	OWNER'S ACKNOWLEDGEMENT	15

DATE OF LEGAL CHARGE

7th November

2014

PARTIES

- (1) **WILLIAM SINCLAIR HORTICULTURE LIMITED** (Company number 00007633) whose registered office is at Firth Road, Lincoln, Lincolnshire LN6 7AH the "**Owner**", and
- (2) **LEUMI ABL LIMITED** (Company Number 00620951) whose registered office is at 126 Dyke Road, Brighton, East Sussex, BN1 3TE (the "**Company**")

INTRODUCTION

- A The Owner is registered at the Land Registry as proprietor with freehold Title Absolute in respect of the Property described in Schedule 1 of this Charge **SUBJECT** to the Incumbrances (defined below) and the Prior Mortgage **BUT OTHERWISE** free from encumbrances
- B The Owner has already been granted or may hereafter be granted facilities from time to time by the Company in some one or other of the modes in which facilities are granted to their customers by those who provide finance through (amongst other things) the factoring or discounting of receivables and the Owner is now indebted to the Company
- C It has now been agreed between the Owner and the Company that all moneys now owing or which shall hereafter become owing on a general balance of account or otherwise between the Owner and the Company (with all interest costs charges and other moneys specified below) shall be secured in the manner and upon the terms hereinafter appearing

NOW THIS DEED WITNESSES as follows

1 DEFINITIONS AND INTERPRETATION

1.1 In this Charge

- (a) the "**Company**" includes its assigns to this security
- (b) the "**Events**" mean
 - (i) the non-payment or discharge of any of the Secured Liabilities by the Owner when the same ought to be paid and/or discharged by the Owner (whether on demand or at scheduled maturity or by acceleration or otherwise as the case may be), or
 - (ii) the occurrence of a breach on the part of the Owner of any obligations owed to the Company which breach (if capable of remedy) has not been remedied to the satisfaction of the Company before the expiry of 7 days after notice calling upon the person concerned to do so, or
 - (iii) the Insolvency of the Owner, or

- (iv) the making of any order for the compulsory acquisition or demolition of the Property made by any competent authority, or
 - (v) the Conveyance transfer or assignment of the Property and/or the creation of any fixed (legal or equitable) or floating charge over the Property made or created (as the case may be) without the express prior written consent of the Company, or
 - (vi) the giving of notice by anyone terminating or purporting to terminate any guarantee and/or indemnity given by anyone to the Company in respect of the obligations of the Owner to the Company, or
 - (vii) the enforcement of its security over the Property by any secured creditor of the Owner whether by the exercise of a power of sale taking possession of the Property by the appointment of a receiver or otherwise, or
 - (viii) the levying or threat of execution of distress on any part of the Property, or
 - (ix) the breach of any implied covenant or other obligation on the Owner's part including covenants for title implied under the Law of Property (Miscellaneous Provisions) Act 1994 and covenants and other obligations on the Owner's part implied or otherwise deriving from Sections 28 and 103(1) of the Land Registration Act 1925, or
 - (x) the occurrence of any event which has been agreed in writing between the Owner and the Company as an event upon the occurrence of which this or any other security for all or any of the Secured Liabilities shall become enforceable, or
 - (xi) the occurrence of any other event that puts in jeopardy the value or utility of any security supplied by anyone in respect of the obligations of the Owner to the Company or in respect of any guarantee and/or indemnity given by anyone to the Company in respect of the obligations of the Owner, or
 - (xii) the termination or purported termination of any guarantee and/or indemnity given by anyone to the Company in respect of the obligations of the Owner to the Company
- (c) **"Incumbrances"** in relation to the Property mean all matters contained or referred to on the title to the Property including but not limited to those the subject of any indemnity covenant implied hereunder including all easements rights and privileged agreements and declarations restrictive and other covenants and the matters (save only the Prior Mortgage) and all overriding interests as that expression is defined by Section 70(1) the Land Registration Act 1925 (as amended) so far as the same are still subsisting and capable of taking effect and affect or are otherwise appurtenant to the Property

- (d) **"Insolvency"** shall be deemed to occur on the happening of the following events or any of them
- (i) on the presentation of a petition for the winding up of the Owner or for an administration order in relation to the Owner pursuant to the Insolvency Act 1986, or
 - (ii) if the Owner is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or
 - (iii) on the appointment of a receiver of any part of the Owner's income or assets, or
 - (iv) on the making of a garnishee order nisi against any debtor of the Owner in relation to any judgement debt owned by the Owner at law or in equity, or
 - (v) if a proposal is made for a voluntary arrangement between the Owner and its creditors whether pursuant to the Insolvency Act 1986 or otherwise
- (e) the **"Lease"** means the lease (if any) referred to in the Introduction to this Charge and shall include all other deeds and documents varying same or that are otherwise supplemental to the said lease
- (f) the **"Owner"** includes its successors in title to the Property
- (g) the **"Parties"** to this Legal Charge are the persons corporate or otherwise named herein as the Owner and the Company or their respective successors in title to the Property and the rights and obligations on the part of the Owner created by this Charge
- (h) the **"Planning Acts"** means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991 and all statutes regulations and orders included by virtue of sub-clause 1 20
- (i) the **"Property"** means the property described in Schedule 1 and reference herein to "the Property" includes all fixed plant and machinery fixtures and fittings in or about the property and all and every interest of the Owner in the Property or in the proceeds of sale of the Property which the Owner may charge at law or in equity, and reference herein to "the Property" is a reference to the Property in its entirety and to each and every part of the Property
- (j) the **"Prior Mortgage"** means the Security Agreement dated 18 March 2014 and entered into between the Prior Mortgagee and the Owner and registered at the Land Registry on 21 March 2014.
- (k) **"Prior Mortgagee"** means the Trustees and includes their successors in title to the Prior Mortgage
- (l) the **"Secured Liabilities"** mean

- (i) all monies obligations and liabilities whatsoever whether for principal or interest or otherwise or whether certain or contingent which are now or may at any time hereafter be due from or owned or incurred by the Owner to the Company on any current or other account or in any manner whatsoever (and whether alone or jointly with any other person and in whatever style or name and whether as principal or surety)
 - (ii) (as well after as before any demand made or judgement obtained) interest to date of repayment at such rate as may from time to time be charged by the Company in accordance with the agreements entered into with the Owner or otherwise hereunder, and
 - (iii) all other interest commission fees and legal and other lawful costs charges and expenses computed and compounded from time to time in accordance with the terms agreed (if any) between the Owner and the Company relating thereto and in the absence of any such agreed terms computed and compounded in accordance with Clause 4 hereof, and
 - (iv) all losses and damages sustained by or otherwise due to the Company in relation to the breach of any implied covenant or other obligation on the Owner's part including covenants for title implied under the Law of Property (Miscellaneous Provisions) Act 1994 and covenants and other obligations on the Owner's part implied or otherwise deriving from Sections 28 and 103(1) of the Land Registration Act 1925, and
 - (v) all costs charges and expenses and the fees and disbursements of engineers valuers lawyers and other professionals covenanted to be paid by the Owner
- (m) **the "Trustees"** means Michael John Airey and Caroline Isobel Murray as trustees of the William Sinclair Holdings plc Pension Fund
- 1 2 words herein importing one gender are to be construed as importing any other gender, words importing the singular are to be construed as importing the plural and vice versa and words importing persons shall be construed as importing a corporate body and/or a partnership and vice versa
- 1 3 If two or more persons are included in the expression the "**Owner**" then this Charge shall by construed so as apply to the indebtedness of the Company of each of them severally and of any or all of them jointly or jointly and severally and their obligations hereunder shall be joint and several
- 1 4 Reference hereto to the obligations of any person to the Company mean all such obligations however arising including but not restricted to those arising under any separate agreement or arrangement whereby a guarantee or indemnity is given for such obligations or any of them under this Charge
- 1 5 The clause headings do not form part of this Charge and must not be taken into account in the construction in the construction or interpretation of this Charge
- 1 6 Any reference in this Charge to a clause or sub-clause further designation is to be construed as a reference to the clause or sub-clause of this Charge so numbered

1 7 Reference in this Charge to any named Act of Parliament shall include any and such Act save only as may be expressly stated below every applicable Act of Parliament and any and every applicable statutory instrument or other legislative material already or subsequently amending such Act save only as may be expressly stated below

1 8 Reference in this Charge to enactments generally include any and every Act of Parliament already or subsequently passed and any and every applicable statutory instrument or other legislative material already or subsequently amending such Act

1 9 Any covenant by any person not to do an act or thing shall be deemed to include an obligation not to cause permit or suffer such act or thing to be done by another person

2 COVENANT TO PAY

The Owner covenants with the Company that as and when the Secured Liabilities or any part of them are due for payment the Owner shall pay to the Company the Secured Liabilities or as the case may be the part of them due to be paid

3 DUE DATE FOR PAYMENT

3 1 It is agreed and declared that all the Secured Liabilities shall be due for payment on the happening of the first to occur of any of the Events as defined above, but

3 2 (in the absence of the occurrence of an Event) it is agreed and declared that the due date for payment of the Secured Liabilities taken individually shall be such date as shall have been expressly agreed in writing between the Company and the Owner for the same but in the absence of express contrary agreement regarding any of the Secured Liabilities they shall be payable to the Company on demand

4 INTEREST IN ABSENCE OF AGREEMENT

In the absence of any prior agreement to the contrary the Owner will pay interest on all Secured Liabilities due to the Company (whether under this Charge or on any judgement which may be recovered therefor) on the last day of each calendar month and accruing from day to day at five per cent above the Base Rate from time to time of Lloyds TSB Bank PLC and such interest shall be compounded monthly in the event of not being punctually paid

5 PROPERTY CHARGED

The Owner charges the Property with full title guarantee and by way of legal mortgage subject only to the Incumbrances and the Prior Mortgage as a continuing security with the payment to the Company on demand of the Secured Liabilities

6 COVENANTS

The Owner covenants with the Company that until this security has been discharged the Owner will

6 1 keep the Property in a good state of repair and in good working order and condition and renew and replace the fixtures and fittings about the Property when they become obsolete worn out or destroyed

- 6 2 insure and keep insured in the joint names of the Owner and the Company such of the Property as is of an insurable nature against loss or damage to its full insurable value with such insurer and against such risks and in such amounts and otherwise upon such terms as the Company may require and (failing such requirement) in accordance with businesslike practice in respect of such terms of the same type
- 6 3 (subject only to the provisions of the Prior Mortgage) procure that all moneys payable under any insurance in respect of loss or damage to the Property whether effected or maintained pursuant to the covenants contained in this Charge or otherwise shall be paid to the Company or if the same shall be paid to the Owner hold all moneys received in trust for the Company an account to the Company accordingly and all such moneys shall at the option of the Company and in its absolute discretion be applied in making good or recouping the expenditure in respect of the loss or damage for which such moneys are received or in or towards discharge or reduction of any of the Secured Liabilities
- 6 4 (If the Owner's title to the Property is leasehold) if under the terms of the Lease the Property is insured by some other party procure compliance so far as is possible with sub-clauses 7 2 and 7 3
- 6 5 give to the Company or any person duly authorised by the Company on demand such information about the Property as the Company may reasonably require
- 6 6 permit the Company or any person duly authorised by the Company to enter all buildings erections or structures forming part of the Property (without prejudice to the powers conferred by this Charge and without becoming mortgagee in possession) on reasonable prior notice for any reasonable purpose to view the state of same
- 6 7 Pay all rents rates taxes levies assessments impositions and outgoings whatever whether governmental municipal or otherwise which may be imposed upon or in respect of the Property as and when the same shall become payable on demand to produce the receipt for such payments
- 6 8 (subject only to the provisions of the Prior Mortgage) forthwith on receipt by the Owner give notice to the Company of and pending direction from the Company hold in trust for the Company any monetary compensation relating to the property paid to the Owner whether in exercise of statutory provisions or otherwise and subject as aforesaid use such compensation in the repair or maintenance of the Property or its services or amenities or in reduction of the monies owing to the Company under this Charge as the Company shall in its absolute discretion decide
- 6 9 forthwith give notice to the Company of any defect damage injury or depreciation relating to the Property giving or which may give rise to a right to claim for damages compensation or indemnity whether as of right or ex gratia or otherwise
- 6 10 (If the net proceeds of sale of the Property by the Company shall be insufficient to pay the Secured Liabilities) pay to the Company the deficiency on demand with interest on such deficiency from completion of the sale at the interest rate payable immediately before such completion as well after as before judgement
- 6 11 observe any and every enactment relating to or affecting the property or the use of the Property for any purpose and execute all works and provide and maintain all arrangements which by any authorised person authority or body are or may be recommended directed or required to be executed provided or maintained at any time

- 6 12 within seven days after becoming aware thereof give full particulars to the Company of any notice order direction designated resolution or proposal having specific application to the Property or to the locality in which it is situate given or made by any planning authority or other public body or authority whatsoever and (if the Company so requires) forthwith at the costs of the Owner take all reasonable and necessary steps to comply with any such notice order direction designation or resolution and make or join with the Company in making objections or representations in respect of any such proposal as the Company may require
- 6 13 observe and perform all the Incumbrances (if any) on the Owner's part to be observed and performed and (if the Company so requires) produce to the Company evidence sufficient to satisfy the Company that all such matters have been observed and performed
- 6 14 (if the Owner's title to the Property is leasehold) to enforce observance and performance of the Landlord's covenants contained in the Lease and if the Owner shall receive any notice served under Section 146 of the Law of Property Act 1925 or any proceedings shall be commenced for forfeiture of any such lease or any superior lease or the landlord or any superior landlord shall attempt to re-enter under the provisions of such lease give immediate notice in writing to the company and at the request of the Company but at the expense of the Owner to take all such steps as the Company may require
- 6 15 not without the prior written consent of the Company to permit any person to be registered under the Land Registration Act 1925 or any substituted statutory provision as the proprietor of the Property and if the Company shall enter any Caution against any such registration the cost incurred by the Company in so doing shall be deemed to have been properly incurred by the Company in exercise of a power conferred by this Charge and shall be repayable on demand by the Owner
- 6 16 not without the prior written consent of the Company grant or agree to grant any lease in respect of the Property to accept or agree to accept any surrender if any lease in respect of the Property (whether such Lease subsists at the date of this Charge or is created hereafter with or without the Company's consent)
- 6 17 not to sell or dispose of the Property or any estate or interest in the Property or share or part with possession or occupation of the Property
- 6 18 not without the prior written consent of the Company allow any person to become entitled to assert any proprietary or other right or interest over the Property
- 6 19 (save only for the Prior Mortgage) not without the written consent of the Company create or permit to subsist any mortgage pledge charge incumbrance lien or security interest in the Property other than this security
- 6 20 not without the previous consent in writing of the Company nor otherwise then in accordance with plans and elevations and specifications previously submitted to and approved by the company in writing make any alterations to any buildings erections of structures fixtures or fittings for the time being forming part of the Property or put up or erect any new buildings at the Property
- 6 21 not without the previous consent in writing of the Company nor otherwise then in accordance any approval for the sale given in writing by the Company carry out at the Property any development as defined for the purpose of the Planning Acts

- 6 22 pay on demand on the footing of a full indemnity by the Owner from and against the same all costs charges and expenses and the fees and disbursements of engineers valuers lawyers and other professionals (whether in the nature or income or capital) incurred by the Company or by any receiver appointed by it in or in connection with the taking and perfecting of this Charge the exercise of any powers conferred by this Charge or by statute of which they or either of them shall incur in or in connection with the recovery or attempted recovery of the Secured Liabilities or the preservation or attempt preservation of this security or of the Property and the remuneration of any receiver
- 6 23 execute on demand any deed of priority the Company may wish to enter into with the Prior Mortgagee
- 6 24 execute and do all such assurances and things as the Company may on demand require for perfecting this security or preserving the Property or for facilitating the realisation of the Property in such manner as the Company may think fit and shall direct and for exercising all powers authorities and discretions conferred by this Charge or by law on the Company or any receiver appointed by it

7 STATUTORY POWERS

- 7 1 The statutory powers conferred on the Company as varied and extended by this Charge and all other powers conferred in this Charge shall in favour of a purchaser (as defined in section 205 of the Law of Property Act 1925) or person dealing in good faith be deemed to arise and be exercisable immediately after the execution of this Charge
- 7 2 The restriction on the right of consolidating mortgage securities which is contained in Section 93 of the Law of Property Act 1925 shall not apply to this security
- 7 3 The Owner shall not exercise any of the powers of leasing or accepting surrenders of lease conferred by sections 99 and 100 of the Law of Property Act 1925 or by common law without the consent in writing previously obtained from the Company which shall be entitled to grant or accept the surrenders of lease without restriction after the power of sale shall have become exercisable
- 7 4 Section 103 of the Law of Property Act 1925 shall not apply to this security and failing payment of the Secured Liabilities as and when they become due or other breach of the covenants and conditions on the Owner's part contained in this Charge this security shall become enforceable and the powers on the Company by the said Act and this Charge immediately exercisable without the restrictions contained in the said Act as to the giving of notice or otherwise with respect to the whole or any part of the Property
- 7 5 In its application to this Security Section 103(1)(i) of the Land Registrations Act 1925 shall have effect as if the words " subject to proper provision being made for payment of costs " had been omitted therefrom

8 COMPANY'S DEFAULT POWERS

If default shall be made in the performance of any obligation imposed on the Owner by this Charge or otherwise affecting the property then the Company shall in its absolute discretion without prejudice to any other remedy available to the Company under this Charge and without responsibility to the Owner for any decision it may make in the matter be at liberty to perform such obligation in whole or in part and to pay all costs expenses and damages occasioned by such default and all costs losses expenses and damages incurred sustained or paid by the Company in so doing shall be deemed to have been

properly incurred by the Company in exercise of a power conferred by this Charge and shall be repayable on demand by the Owner

9 CHARGE ENFORCEABLE

- 9 1 All statutory contractual or other powers (howsoever arising) on the Company's part as mortgagee or chargee to enforce payment of the Secured Liabilities (or any of them) or otherwise to realise its interest in the Property shall arise on the happening of the first to occur of any of the Events as defined above
- 9 2 Notwithstanding the generality of the foregoing nothing contained in this Clause shall be construed do as to exclude restrict limit or otherwise prejudice the right of the Company to bring proceedings at any time to enforce any of the covenants on the Owner's part contained in this Legal Charge
- 9 3 The Company shall have all of the powers set out in sections 101 and 102 of the Law of Property Act 1925 as if the same had been set out herein and from the first occurrence of any of the Events the Company shall be entitled to exercise any of the said powers free so far as they apply of any restrictions contained in Sections 103 and 109 of that Act

10 TAKING POSSESSION OF THE PROPERTY

If the Company enters into possession of the Property under the provisions of this Charge then it shall not be accountable to the Owner as a mortgagee in possession on the footing of wilful default

11 APPOINTMENT OF RECEIVER

- 11 1 The power of appointing a receiver hereunder may be exercised in writing under the hand of any director or the company secretary for the time being of the Company or any person authorised in writing by any of them and so far as is practicable shall have the powers contained in Schedule 1 of the Insolvency Act 1986 in addition to the powers contained in this Charge
- 11 2 If two or more individuals shall hold office as receivers of the Property then such individuals shall have the right to exercise any of their powers severally as well as jointly

12 RECEIVERS' POWERS

Any receivers appointed by the Company under this Charge shall be the agent of the Owner and the Owner shall be solely responsible for his acts and remuneration costs and expenses as well as for any defaults committed by him and further the receiver shall in addition to the powers conferred on him by the Law of Property Act 1925 have power (if the Company so directs),

- 12 1 to sell the Property in such manner and generally upon such terms and conditions as he thinks fit and to transfer convey or assign the same in the name and on behalf of the Owner,
- 12 2 to do all acts and things as an absolute owner could do in the management of the Property and in particular
- (a) to borrow from the Company such monies as he may require and such monies shall be monies due from the Owner to the Company, and

- (b) to compromise or settle any claims arising out of or against the Property,
 - (c) to undertake or complete any works or repair building or development of the Property,
 - (d) to grant or accept surrenders of any leases or tenancies affecting the Property upon such terms and subject to such conditions as he thinks fit
- 12 3 charge such sum by way of remuneration (in addition to all costs charges and expenses incurred by him) as the Company may prescribe or agree with the receiver,

and the Owner hereby irrevocably appoints each such receiver to be the Owner's attorney for the above purposes and these powers shall be in addition to all powers given by statute to the Company or to any such receiver

13 RECEIVER'S APPLICATION OF MONIES

All monies received by any receiver appointed hereunder shall be applied (subject to claims of any secured or unsecured creditors having priority to this Charge) for the following purposes and in the following order -

- 13 1 in payment of all costs charges and expenses of and in relation to his appointment and the exercise of his powers and if any other expenses properly discharged by him,
- 13 2 in payment of his remuneration as agreed between him and the person who appointed him,
- 13 3 in discharge of all rents taxes rates and outgoings whatsoever affecting the Property,
- 13 4 in payment of all annual sums and other payments and the interest on all principal sums having priority to the Secured Liabilities secured by this Charge,
- 13 5 in payment of any costs relating to the realisation of the Property,
- 13 6 in or on account of the discharge of the Secured Liabilities together with any interest thereon,
- 13 7 in or towards the discharge of any security over which the security has priority, and
- 13 8 (if the Owner is not insolvent) in payment of any surplus to the Owner

and the provisions of Section 109(8) of the Law of Property Act 1925 shall be varied accordingly

14 CHATTELS

If the Company or any receiver appointed by the Company shall take possession of the Property and the Owner shall not within fourteen days remove any chattels left in or upon the Property then the Company or the receiver shall be entitled at the Owner's expense and risk (but not so as to give the Company any security thereon or otherwise so as to constitute this Charge as a Bill of Sale)

- 14 1 to sell such chattels or any of them either separately or with the Property (and if sold with the Property to apportion the total purchase between the Property and the chattels), or

- 14 2 to store such chattels or any if them and pay the storage charges and any money resulting from the sale of such chattels or of the property may be used to pay the expenses incurred under this clause and the Company or the receiver shall not be liable to account to the Owner for such money until all the said chattels have been sold or possession of those not sold ha been resumed by the Owner against any liability arising pursuant to the exercise of the rights at sun-clauses 15 1 and 15 2 of this clause

15 PRIOR MORTGAGE

At any time after the happening of the first to occur of any of the Events as defined or after any powers conferred by the Prior Mortgage or other Incumbrance having priority to this Charge shall have become exercisable then the Company may redeem the same or procure the transfer hereof to itself and may settle and pass the accounts of the prior mortgage, charge holder or Incumbrancer and any accounts so settled and passed shall be conclusive and binding upon the Owner and all monies paid by the Company to the Incumbrancer in accordance with such accounts shall as from such payment be due from the Owner to the Company on current account and shall bear interest and be secured as part of the Secured Liabilities

16 DEEDS OF PRIORITY

- 16 1 The Owner for all purposes require by law including (without limitation any requirement of the Land Registration Act 1925 and any applicable legislation) hereby irrevocably authorises the Company and the Prior Mortgagee and without further need for his involvement to enter into any such deed or other arrangement on any such terms as they may in their absolute discretion think fit to regulate the distribution between the two companies of the net proceeds of sale of the Property and any insurance moneys that may be payable in respect of the damage or destruction of the Property
- 16 2 The Owner also hereby irrevocably authorises the Company and the Prior Mortgagee to exchange information with regard to the operation of his respective accounts with the two companies and notwithstanding that to do so would in the absence of this consent amount to a breach of any duty of confidentiality either company may otherwise owe to him
- 16 3 The Owner also hereby irrevocably acknowledges the absolute right of the Company and the Prior Mortgagee to regulate the priorities of their respective securities and covenants *with both companies that in the event either or both enforce their respective securities he will not require or attempt to enforce any application of the said monies available for application under the provisions of such arrangement or deed otherwise then in accordance with the provisions agreed between the two companies and that he will not in any way prejudice or seek to affect the enforcement of the provisions of any such arrangement or deed affecting priorities or do so or suffer anything to be done which would be a breach of the terms of such arrangement or deed*
- 16 4 The Owner hereby acknowledges that the Prior Mortgagee shall enjoy all such right to the full extent accorded by law to rely on the powers rights and discretion's conferred on it by this deed including (but without limitation) all such rights conferred by section 56 of the Law of Property Act 1925 and the Contracts (Rights of Third Parties) Act 1999

17 SUSPENSE ACCOUNT

All monies received or realised by the Company under this Charge may in the sole and absolute discretion of the Company be credited to any suspense or impersonal account and shall bear interest at such rate if any as may be agreed in writing between the Company and the Owner and in the absence of any such agreement computed and compounded in accordance with clause 4 and may be held in such account for so long as the Company may think fit pending the application from time to time (as the Company shall be entitled to do so as it may think fit) of such monies and accrued interest thereon if any in or towards the discharge of any of the Secured Liabilities hereby secured

18 CHARGE ADDITIONAL TO OTHER SECURITIES

This Charge shall be in addition to and shall be independent of every other security which the Company may at any time hold for any of the Secured Liabilities and it is hereby declared that nothing in this Charge shall operate so as to merge or otherwise prejudice or affect any bill note guarantee mortgage charge or other security which the company may for the time being have for any Secured Liabilities due or incurred by the Owner to the Company or any right or remedy of the Company thereunder

19 WAIVER

The Company may in its sole and absolute discretion grant time or other indulgence or make any other arrangement variation or release with any person not a party hereto who has provided a guarantee and/or indemnity in respect of the obligations of the Owner to the Company or where there are two or more persons comprised in the expression "the Owner" with any of such persons (whether or not such persons are jointly liable with the Owner) in respect of any of the Secured Liabilities or of any other security therefor without prejudice either to this Charge or to the liability of the Owner for the Secured Liabilities

20 NOTICE OF SUBSEQUENT CHARGE

If the Company receives notice of any subsequent charge or other interest affecting all or any part of the Property then the Company may open a new account or accounts for the Owner in its books and if the Company does not do so then unless the Company gives express written notice to the contrary to the Owner as from the time of receipt of such notice by the Company all payments made by the Owner to the Company in the absence of any express appropriation by the Owner to the contrary shall be treated as having been credited to a new account of the Owner and not as having been applied in reduction of the amount due owing or incurred from the Owner at the time when it received such notice

21 OTHER ACCOUNTS

In case the Company shall have more than one account for the Owner in its books the Company may at any time after this Charge has become enforceable or the Company has received notice of any subsequent charge or other interest affecting all or any part of the Property and without prior notice in that behalf forthwith transfer all or any part of the balance standing to credit of such account to any such account which may be in debit but the Company shall notify Owner of the transfer having been made

22 ASSIGNMENT OF CHARGE

The Company may at any time transfer the benefit of this Charge whereupon the monies liabilities and interest owing under it shall be treated as monies already due and bear interest (payable monthly on the last day of every month) from the date of the transfer at the interest rate payable immediately before such transfer AND a transferee taking the benefit of this Charge shall have all the powers conferred on mortgagees by the Law of Property Act 1926 and every statement contained in any such transfer as to the amount outstanding under this Charge and the rate of interest chargeable thereunder shall for all purposes be conclusive

23 ATTORNMENT

The Owner irrevocably and by way of security appoints each of them the Company and any person nominated in writing under hand for the purpose by the Company by a director of the Company or any person on whom power to execute any deed or other document for and behalf of the Company or to appoint a receiver to any security taken by the Company has been conferred by the Company (including ever receiver appointed by the Company) severally as attorney of the Owner for the Owner and in the name of the Owner and on behalf of the Owner and as the Owner's act and deed to execute seal and deliver and otherwise perfect and do any deed assurance agreement instrument act of thing which the Owner ought to execute and do under the covenants undertakings and provisions express or implied in this Charge or which may be required or deemed prior in the exercise of any rights or powers under this Charge or otherwise for any of the purposes of this security and the Owner covenants with the Company to ratify and confirm all acts or things made done or executed by such attorney as specified above

24 NOTICE

- 24 1 Any notice to be given or served on the Owner may be served by posting such notice to the Property or if different to the latest address for such persons in the Company's records
- 24 2 Any notice to be given or served on their respective personal representative or the trustee in bankruptcy of the Owner may be served by posting such notice to the latest address for such person in the Company's records and without naming such personal representatives or trustee in bankruptcy
- 24 3 Any notice sent by post to any of the aforesaid shall be assumed to have reached the addressee within 72 hours of being placed in the post
- 24 4 If any such notice is to be served on more then one person any notice shall
- 24 5 Any notice to be served on the Company may be served by posting it by Recorded Delivery to the Directors of the Company and its Registered Office

25 GENERAL TERMS

The Company and the Owner hereby agree that

- 25 1 this Charge shall also secure further advances (including re-advances) made to the Owner by the Company but without any obligation on the Company to make any such advances

- 25 2 this Charge shall remain in full force and effect as a continuing security unless and until the Company discharges this Charge
- 25 3 the rights and remedies of the Company herein provided are in addition to and not in substitution for any rights or remedies provided by law
- 25 4 until the discharge of this Charge and the performance of all the Owner's obligations to the Company the Owner shall not be entitled to the benefit of nor claim to be subrogated to any other charge or lien or security held by the Company for the due performance of their respective obligations to the Company nor shall the Company be under any obligation to enforce them for the Owner's benefit
- 25 5 save as expressed to the contrary nothing in this deed is intended to benefit any non-party and no consent from any non-party is required for the rescission or amendment of this deed

26 MISCELLANEOUS

- 26 1 Neither the security hereby created nor any other charge lien or security provided by anyone in respect of the obligations of the Owner to the Company or in respect of their responsibilities for the obligations of the Owner to the Company nor any other responsibility they may have to the Company whether as principal guarantor or by the way of indemnity shall be discharged determined or any other way affected by the following events or any of them
- (a) by the giving of time by the Company or by the failure on the part of the Company to institute or pursue any proceedings against or to otherwise enforce any remedy (judicial or otherwise) against the Owner or anyone else responsible to the Company in respect of the obligations of the Owner to the Company, or
 - (b) by the release from its or their obligations to the Company of the Owner or anyone else responsible to the Company in respect of the obligations of the Owner to the Company, or
 - (c) by the Company releasing in whole or in part any charge lien or other security taken from the Owner or anyone else responsible to the Company in respect of the obligations of the Owner to the Company, or
 - (d) by any lack of capacity or of borrowing powers on the part of the Owner or by any defect in any security given by the Owner or any other person in respect of the obligations of the Owner to the Company or by any lack of actual authority of any agent of the Owner or of any officer of the Owner if the Owner be a body corporate apparently acting on behalf of the Owner
- 26 2 The Owner shall not be entitled to enforce or otherwise exercise against the interests of the Company any claim they may have in or against any security or other right given by any person in respect of its or his respective obligations to the Company for the obligations of the Owner to the Company unless the Company has been paid in full and for this purpose any payment by such person to the Company shall be deemed (to the extent appropriate) not to have been made if it is later set aside or reduced under the law relating to insolvency and the Company shall be entitled accordingly to re-open any settlement between the Company and such person or the Owner

- 26 3 Each of the provisions of this Charge is severable and distinct from the others and its at any time one or more such provisions is or becomes invalid illegal or unenforceable then the validity legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby
- 26 4 The amount owing at any time to the Company from the Owner may be conclusively determined as against the Owner by a certificate in writing signed by a Director of the Company and served on the Owner as if it were a demand hereunder
- 26 5 Any change in the constitution of the Company or its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights hereunder
- 26 6 Save as expressly stated herein it is not the intention of the parties that this Charge shall confer any benefit on anyone not a party to this Charge whether by reason of the Contracts (Rights of Third Parties) Act 1999 or otherwise
- 26 7 Further the parties hereto shall have full right and power on their own absolute discretion by agreement to release any security provided by this Charge or to vary waive or suspend on terms so agreed any covenant or other obligation contained or implied in this Charge without need for consent from anyone not a party to this Charge and without liability to any person not a party to this Charge and nothing contained in this Charge shall affect the right any party may have by reason of anything contained or implied herein or at law to unilaterally waive full compliance with any covenant or other obligation contained or implied in this Charge

27 OWNER'S ACKNOWLEDGEMENT

The Owner hereby acknowledges that

- 27 1 the Client's solicitors have recommended that the Owner seeks and have provided the Owner with an opportunity to seek independent legal advice regarding the contents of this Charge and the consequence of signing this Charge as the owner and occupier of the Property
- 27 2 the Owner recognises that its right to occupy the Property may be terminated and that its right to take or to share in the net proceeds of sale of the Property and to have insurance moneys in respect of any insurance of the Property applied to the repair or rebuilding of the Property may be lost or reduced of the Company exercises any of its rights as a mortgagee
- 27 3 the Owner has not relied upon any statement made by the Company or by its solicitors save those contained in this Charge and in correspondence between the Owner and the Company or between the Company's solicitors and the Owner and/or any solicitor the Owner may instruct to provide independent legal advice regarding the subject matter of this Charge

28 APPLICATION TO LAND REGISTRY

The Owner hereby applies to the Chief Land Registrar to enter on the Register a restriction in the following terms

*"**RESTRICTION.** No disposition of the registered estate by the proprietor of the registered estate is to be registered without the written consent of the proprietor for the time being of the charge dated () in favour of Leumi ABL Limited (company number 00620951) 'referred to in the charges register'"*

IN WITNESS of which this document has been executed and, on the date set out above, delivered as a deed

SIGNED as a deed (and delivered when dated)

by **WILLIAM SINCLAIR HORTICULTURE LIMITED**

acting by one director in the presence of

Witness Signature

Witness Name

Witness Occupation

Witness Address

SIGNED as a deed by

And

as attorneys for

LEUMI ABL LIMITED

under a power of attorney dated

14th August 2012 in the presence of


Attorney for **LEUMI ABL LIMITED**


Attorney for **LEUMI ABL LIMITED**


Name

Address

Occupation

SCHEDULE 1

THE PROPERTY

All that freehold property situate at and being land Firth Road, Lincoln, title to which is registered at HM Land Registry under title number LL27223